

K.

Case No. 18,305.

KEENAN v. UNITED STATES.

[2 Hayw. & H. 341.]<sup>1</sup>

Circuit Court, District of Columbia.

May 19, 1860.

RAPE—AIDING AND ABETTING.

The aiding, abetting, and assisting others to commit rape is punishable under the penitentiary act of March 2, 1831 [4 Stat. 448].

Writ of error to the criminal court.

At law. Indictment for rape, and aiding and abetting, and assisting to commit rape. The indictment consisted of two counts. The first, that Patrick Keenan, &c, did make an assault, and her, the said Laura Swingman, then and there forcibly and against her will feloniously did ravish and carnally know against, &c. The second, that the said Patrick Keenan, &c, was present aiding, abetting and assisting (certain persons mentioned) the felony and rape aforesaid to do and commit against, &c. The jury brought in a verdict of guilty on the second count.

The United States, by their attorney, prayed judgment upon the verdict. And the prisoner, by his attorneys, saith that the court ought not to proceed to render judgment because: First, It does not appear from any law in force in this District that the prisoner is punishable under the second count of the indictment, and upon which alone he was found guilty by the jury. Second, The penitentiary act of March 2, 1831 [4 Stat. 448], and under which the indictment seems to have been formed, punishes parties who commit rape and such as are accessories before the fact but is silent as to abettors of a rape. Third, There is nothing in such act, or any other act in force in this District which embraces the charge upon which the prisoner was convicted.

Daniel Ratcliff and Thomas W. Berry, for prisoner.

Robert Ould, for the United States.

On appeal to the circuit court, THE CIRCUIT COURT, affirmed the judgment of the criminal court, that Patrick Keenan suffer imprisonment in the penitentiary of the District of Columbia for the period of ten years.

<sup>1</sup> [Reported by John A. Hayward, Esq., and Geo. C. Hazleton, Esq.]