

UNITED STATES *v.* TIERNAY.

Circuit Court, E. D. Missouri. September, 1881.

CRIMINAL INFORMATION IN DISTRICT
COURT—REV. ST. § 1037—REMITTER TO CIRCUIT
COURT.

A criminal proceeding by information filed in the district court cannot be remitted to the circuit court under the provisions of section 1037 of the Revised Statutes.

Motion to Remand to District Court.

W. H. Bliss, for United States.

Marshall & Barclay, for defendant.

MCCRARY, J. This is a criminal information, filed in the district court, charging the defendant with a crime against the elective franchises, (Rev. St. § 5511,) and it is prosecuted under an information and by the authority conferred by section 1022 of the Revised Statutes. It was remitted to this court from the district court under the provisions of section 1037 of the Revised Statutes, which by its terms authorizes the district court to remit to the next session of the circuit court of the same district any *indictment* pending in said district court. Defendant moves to remand the case upon the ground that the statute did not authorize the district court to send it here, this not being an indictment. The motion must be sustained. We are not at liberty to presume that the term, "indictment," in section 1037 of the Revised Statutes, was intended to include an information. We cannot enlarge or change the plain meaning of the language of a criminal statute. It must be strictly construed

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