

UNITED STATES *v.* GOWDY.

*District Court, E. D. South Carolina.*

January 12, 1889.

CLAIMS AGAINST UNITED STATES—FALSE AFFIDAVIT.

It Is not a ground for quashing an indictment drawn under Rev. St. U. S. § 6479, for aiding and procuring one to make a false affidavit for the purpose of procuring a pension, that the affidavit was in fact made before a proper officer, as that section applies also to the offense Of using a genuine but false instrument, knowing it to be false, with intent to defraud the United States.

Indictment under Rev. St. § 5479. On motion to quash.

*H. A. De Saussure* and *C. M. Furman*, Asst. U. S, Attys.

*T. M. Gilland* and *J. A. Kelly*, for defendant.

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SIMONTON, J. Defendant is indicted under section 5479, Rev. St. The charge in the indictment is that he procured and aided one Mary Conyers to make an affidavit stating certain things which are false, for the purpose of obtaining a pension and arrears of a pension as the widow of a soldier of the war of 1812. The motion proceeds upon the ground that this section 5479 does not apply to a case in which the affidavit used was in fact taken before the proper officer, even though the statements made in it are false. In the case of *U. S. v. Stoats*, 8 How. 41, the statute of 3d March, 1823, was construed. This statute was subsequently amended by act of 8th June, 1872, by the insertion of the word "affidavit" among the other writings mentioned in the statute, and is incorporated in the Revised Statutes as section 5479. In that case it was held that the act punished not only the crime of forging certain instruments, or altering them when forged, but also the offense of using a genuine but false instrument, knowing it to be false, in support of a claim with intent to defraud the government. This case is decisive of the point made. The motion to quash is refused.