

v.43F, no.6-28

UNITED STATES v. CURTAIN.

District Court, W. D. South Carolina.

August 12, 1890.

FALSE PRETENSE—WHAT CONSTITUTES.

In order to convict a defendant indicted under Act Cong. April 18, 1884, for obtaining money or other valuable thing by falsely assuming to be an officer or agent of the United States, it is necessary for the jury to find that he assumed to be the officer mentioned in the indictment; that such assumption was false; that he made such false assumption with intent to defraud; and that he carried out such intent.

At Law.

A. Lathrop, U. S. Dist. Atty., for plaintiff.

T. H. Cooke, for defendant.

SIMONTON, J., (*charging jury.*) The defendant stands indicted under the act of congress of April 18, 1884. The testimony for the government is to the effect that he, alleging that he was a post-office inspector, visited one Crane, a postmaster, and charged him with illegal sale of stamps; that Crane admitted the charge, whereupon defendant received from him \$150, giving him a receipt in full for stamps illegally used signing it post-office inspector. The defendant, the only witness on his Own behalf, admits the main facts. He insists, however, that the sole purpose of his assumption of the character of post-office inspector was to obtain information, for which some newspaper would pay him.

The act of congress, under which he is indicted, creates two offenses. The one is where, with intent to defraud the United States, or any person, any one falsely pretends to be an officer or employe, acting under the authority of the United States, or any department or any officer thereof, and takes upon himself to act as such. The other is where one, falsely assuming such pretended character, shall demand or obtain from any person, or from the United States, or any department or officer thereof, any money, paper, document, or other valuable thing. The defendant is indicted under this last subdivision of the act. In order to convict him, you must answer these questions in the affirmative: (1) Did this defendant assume or pretend to be a post-office inspector, acting under the authority of the department? (2) Was such assumption or pretense false? (3) Did he make this false pretense or assumption with intent to defraud Crane, the postmaster? (4) Did he carry out this intent, and did he in this, his assumed or pretended, character, or because of his false assumption or pretense, defraud, or attempt to defraud, Crane?