

Our are the Plans of our delightful Peace, Unwarp'd by Party Rage to livelike Brothers.

Circuit Court of the U. States. FIFTH DISTRICT. At Raleigh, November 6, 1801.

The following Trial was taken in short-hand by the Editor of this Register.

Nathan Baggot, Of Jobson County.

Was indicted for having in his possession on the 20th of August last, a Note, purporting to have been issued by the Bank of the United States, and to bear date, Philadelphia, May 11, 1799, No. 2132, to have been signed by Thomas Willing, and payable to K. Harper, or bearer, on demand, and for having published the same, knowing it to be false.

Mr. Woods, in support of the indictment, produced the following evidence.

JOHN STEVENS Deposed, that on or about the 20th of August, he was at Mr. Davison's in Smithfield, when the prisoner rode up and called for some spirits, which on being told he might have, he alighted, and asked the deponent if he could give him cash for a Bank Note, or if there was any person in town who would give cash for Bank Notes; that the deponent asked to look at his notes, when the prisoner shewed him three of twenty dollars and two of five dollars, which after looking at them, he returned.

Questions by Mr. Woods. Did you not think the bills counterfeit?

A. Yes; if I had thought them good, I should have given cash for them.

Is this one of the bills (shewing him the five dollar note stated in the bill of indictment) the prisoner offered you?

A. It looks much like one, and I believe it to be the same.

By the Court. Do you think all the bills which the prisoner produced were counterfeit?

A. I did not tell the prisoner what I thought of them.

JOHN SMITH Deposed, that about the 20th of August, he was at the house of Bryan Smith, when the prisoner rode up and asked how far it was to Isaac Williams's; that after some time he asked for some grog, but said that he had no money, having been after a stray creature; that wishing to stay all night, he was told he might; that, in the course of the evening, he produced three Bank Notes, one of 30 dollars and two of 5 dollars; that the prisoner said he was not much acquainted with this money; that he had received it from a man in Edgecomb, who told him if they did not pass, he would exchange them for other money; that the prisoner asked the deponent if he would change them, which he declined; the prisoner said he knew the bills were good, as he had sent them by a woman to Fayetteville to have their goodness ascertained; that afterwards the prisoner said he would tell the truth about the bills, and then declared he had found the bills; that the deponent asked the prisoner if he had advertised them, and he said he had.

Question by Mr. Woods. Should you know the bills again?

A. I should know one of them. [The five dollar note above mentioned being shewn him, he said that he knew it by certain marks on it.]

By Mr. R. Williams (the Prisoner's Counsel)

Did not the prisoner appear much intoxicated?

A. No, he did not.

JOHN A. BRYAN Deposed, that about the 1st or 2d of Sept. he was in company with the prisoner and another person, when they were talking about these notes; that the deponent heard the prisoner say, that if the notes were not good, the man he received them of would make them good; that some time afterwards, he heard the prisoner say he found them on the road from Smithfield to Averyborough, and then at Budd Thornton's flax-break.

SAMUEL NORSWORTHY Deposed, that about the 2d or 3d of Sept. the prisoner rode up to Mr. Watson's, at Smithfield, where

he was; that after some conversation, he enquired the way to Mr. Richardson's, and if the houses were thick on the road; that after he had got a little way from the door, he asked if any person would give dollars for Bank Notes of the U. States; that the deponent directed the prisoner to Mr. Handy, as a person likely to give him cash for his notes; that not finding Mr. H. at home, he returned to seek him; that after the prisoner was apprehended, the deponent asked him where he got his notes; he said he received them from a man in Edgecomb for debt; afterwards, he said that he found them at a flax-break.

Question by Mr. R. Williams. Was not the prisoner intoxicated? A. No, not at all, when I first spoke to him; after he was taken he affected to be so.

DOCTOR NEGUS Deposed, that on the 2d or 3d of September, he was at Smithfield, when the prisoner came to Mr. Watson's, and said he was in pursuit of a horse that had strayed from him; that afterwards, when the deponent was in company with Mr. Connelly, a pedlar, the prisoner came up to them, and enquired if any person would give silver for bank notes; that Mr. Connelly answered, if they were good, he would rather have them than cash; that the prisoner produced a 20 dollar and a 5 dollar note, which they thought counterfeit; that the deponent then asking him how he came by them, he said he received them in Edgecomb for a debt; that the deponent advised the prisoner to go before a magistrate and certify where he got the notes; that afterwards, the prisoner said he found the notes.

Questions by Mr. R. Williams. What part of the day did you see the prisoner?

A. About nine in the morning.

What time was it when he was apprehended?

A. In the afternoon.

Did you not then think him intoxicated?

A. I saw him a few minutes before his apprehension, and he was not; after he was taken, he appeared to be so.

Do you not conceive the prisoner to be a very ignorant man?

A. He appears to be so.

Mr. Duncan Cameron and Joseph Gales were called upon to prove the five dollar note in question a counterfeit one. Both were of opinion, from the badness of the engraving, the coarse quality of the paper, and the dissimilarity of the writing and signatures from the good notes, that the note was a counterfeit.

Mr. R. Williams, in behalf of the prisoner, informed the Court and Jury, that he should attempt to prove that the prisoner found the bill on which he stood indicted, on the side of a public road; that tho' he offered the bill for payment, he did not do it with a fraudulent intent; that after he found it, he had made the matter notorious by advertising it.

For this purpose was called DANIEL HINSON

(A Boy, who, on being questioned by the Court, said he was 17 years of age)

He deposed, that as he was sitting at Budd Thornton's flax-break, he saw the prisoner, along with a man named Lassiter, walking on the road, and observed the former pick up a piece of paper, and heard him say to Lassiter, "What is this I've found?" And, after opening it, and seeing what it was, asked Lassiter if he should advertise it, who replied he should.

Questions by the Court. Do you know the day of the month that this happened?

A. Lassiter said it was near about the 6th of August.

Did you know Baggot at that time?

A. Yes, I used to work near him. Were there several pieces of paper, or only one?

A. There were three pieces: I heard Lassiter say there were two 20 dollar notes and one 5 dollar. They were wrapped in a piece of paper.

Were nobody present but you, Lassiter and Baggot?

A. No.

Where is Lassiter now?

A. I cannot tell.

Mr. Williams said, that Lassiter had been subpoenaed, but had declined coming, because he was under the necessity of attending Sampson Court.

Mr. Williams called Wm. Bryan, and asked him whether he had not heard the prisoner had found some bank notes?

A. Yes, a little after our election, I heard that he had found 30 dollars; that the deponent did not know whether it was in notes or dollars, but thought it had been dollars.

Did you not hear it publicly?

A. I heard it from some person.

Did you not see it advertised?

A. No: I do not believe it was advertised.

Is not Baggot an ignorant man?

A. I know nothing of him; he has lived little more than a year near me.

By the Jury. Are you acquainted with Lassiter? What is his general character?

A. I know nothing against him, I have known him from a child.

John Johnson was called, and questioned by Mr. R. Williams.

Did you not hear it talked of publicly before Johnston Court, that Baggot had found the money?

A. Yes: I did.

Did you not see it advertised?

A. I did not: Baggot told me he had desired a man to do it.

Do you not consider Baggot as an ignorant man?

A. I cannot tell.

Is he not an industrious man?

The Court enquired whether Mr. Williams meant to put the prisoner's general character in question.

Mr. Williams again enquired if the prisoner was considered as a hard-working man?

A. Tolerably so; not reckoned a lazy man.

Does he drink?

A. When he can get it.

Mr. Woods said, that as Mr. Williams had thought proper to go into the general character of the prisoner, there would be no impropriety in making some enquiry into Lassiter's character.

Judge Potter thought not, since what had passed, it was possible that the prisoner and Lassiter might be connected in the scheme of dropping these notes, for the purpose of picking them up in presence of the boy, who had been produced as a witness.

The enquiry was then made of several witnesses, and the result was not in favour of Lassiter.

Mr. Woods then addressed the jury, stating, that as Major Williams had made some observations to them, in favour of the prisoner, it would not be more than candid in him to say a few words on the evidence which had been adduced. It would be first necessary to consider whether the note in question was a counterfeit, and of that he believed there could be no doubt: in the next place, whether the prisoner published it as a true bill, and this had been proved by his offering it at different times and places; the identity of the note had been ascertained. The only remaining question was, whether the prisoner knew the bill to be counterfeit at the time he offered it. It is impossible, said Mr. W. except from circumstances, to know what passes in men's minds, but I can hardly think, from the evidence, that there can be the smallest doubt on this point. If the prisoner had come honestly by the bills, and it had been a real, instead of pretended finding, still he had an opportunity of knowing they were counterfeit, as he had for 20 days been offering them for exchange, and from their being so grossly false, had been driven into many contradictory stories as to his manner of coming by them. But, from the character of Lassiter, it is most likely, that the finding was a contrivance between Baggot and him, to shield them from prosecution, if detected. Indeed there was scarcely any room for a doubt on the subject; and he had merely made these observations to give the Prisoner's Counsel an opportunity of making his defence.

Mr. R. Williams said, as an introduction to the defence he should make for the prisoner, he would read the law under which he was

tried, [He here read the law.]

The words of the act used in referring to this case, he said, are "utter and publish;" the word "utter" it was well known, had a technical legal meaning, but the Indictment charged the prisoner with publishing only, which word, he said, had no technical or definite signification. Mr. W. had searched all the books, & could not find that it had any other meaning than that in which it was received in common parlance. Taken in this point of view, it was no crime at all to publish or make manifest the note in question. It was doing no more than was the duty of every honest man. This it appears the prisoner did. As soon as he found it on the road, he made it public, and probably advertised it, though this had not been proved. So that indicting the man for publishing the bill, was indicting him for no crime at all. It was true the bill of indictment went on to say that the note had been falsely and fraudulently published. How this could be reconciled in common logic, he could not tell. Mr. W. asked whether the proofs adduced were sufficient to support the charges in the indictment? It was said that the prisoner offered a bill in exchange for gold or silver; that he told contrary stories. This may be reconciled by considering the man's situation, and from his being frequently intoxicated with spirits, as had appeared. It had been proved that he was a very ignorant man; that he had picked the Notes up on the road, not knowing what they were. Mr. Woods had said the Notes being so grossly false was against the prisoner; Mr. Williams, on the contrary, thought this was in his favour, because no person who had known any thing of bills, would have offered them being so grossly bad, in payment. Indeed, from the whole tenor of the conduct of the prisoner, there appeared no fraud, no corruption of heart. Besides, all the testimony which had been adduced in support of this charge was no more than circumstantial, and circumstantial proof ought not to induce you, Gentlemen of the Jury, to say this man is guilty; for it may have been a contrivance of Lassiter, or some other person, to bring this man into difficulty. These things being enveloped in the dark, such conclusions cannot be drawn from them, as to form any precise crime against the prisoner. Mr. W. said, he should conclude what he had to say, with a dictum of Lord Hale, that "all presumptive evidence of Felony should be admitted cautiously, for the law holds that it is better than ten guilty persons should escape punishment, than that one innocent man should suffer." If, Gentlemen of the Jury, you should, therefore, esteem the proofs of the facts proposed to be established inconclusive, and as much for the prisoner as against him, and then raise up the dictum of Lord Hale in the prisoner's favour, you will say he is not guilty of the crimes charged in the indictment.

Judge Hall—Gentlemen of the Jury, there are two questions for your consideration; the first, whether the bill produced is a counterfeit; secondly, whether the prisoner knew it to be such at the time he published it. [The Judge here recapitulated the evidence.] If the prisoner had really found the bills, it appeared extraordinary that he should have told such a variety of tales about them. If, however, you believe the boy produced, and do not think the finding was a contrivance between Lassiter and this man, to bring in this boy, as an instrument of their wickedness, to prove the notes were found, you will act accordingly. It is for you to weigh all the circumstances, and to decide as your consciences direct.

Judge Potter. Gentlemen of the Jury, nothing further is necessary to be said about the validity of the note, or whether the one in Court is the same which was offered for exchange. The evidence on these points is recent and fresh upon your minds. Passing these over then, the next enquiry is, whether there was a publication of the Note, and whether the prisoner had a knowledge of its baleness at the time. The publication is proved in this

way. The prisoner enquired at Smithfield if any person in town would give cash for Bank Notes; he expressed a wish several times to exchange them for cash, and with that view delivered them to some of the witnesses. It was contended, in behalf of the prisoner, that the word "publish;" has no precise meaning. In labels, it is held to be a publication, if one man writes to another and the letter is received. Therefore in this case, as the prisoner put forth this paper into the hands of others, with an avowed intent to give it currency, there can be no question as to its being published. Did the prisoner know this paper was counterfeit? From the contradictory accounts which he gave of the manner in which he got it, there can be little doubt on this head. But it is said, by the Defendant's Counsel, that circumstantial proof is not sufficient to convict in criminal cases. This is contradicted by law, reason and usage. It is for you to ascertain whether the circumstances are so strong as to satisfy your minds that the charge is true.

It is quite immaterial whether the prisoner found the note, or received it in Edgecomb; it is immaterial how he came by it. If he came by it honestly, and had a knowledge of its baleness, he is equally guilty. If the notes were really found, why did the prisoner tell so many different tales about them? You must satisfy yourselves whether the finding was a scheme laid for the purpose of publishing and giving the notes currency, or they were really found. If they were not found they are unaccounted for, except they were received in Edgecomb. It is said, however, that the prisoner was intoxicated when he told these different tales. The witnesses assert the contrary, before the arrest; and these contradictory stories, were made before, as well as after the arrest. Under these circumstances, you will consider, Gentlemen of the Jury, whether from the prisoner's saying he had sent to Fayetteville to have the bills examined, from the general character of Lassiter with whom he was connected, and all the circumstances of that part of the case, you can say, he had a knowledge of the baleness of this bill; if he had a knowledge of its baleness, you are constrained to say the prisoner is guilty. But if you think not, you will do your duty, and say he is not guilty.

[The Jury returned a verdict of "Guilty," without leaving the bar.]

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LANDS FOR SALE.

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All which Lands, with their Boundaries and Bounding, will better appear by Reference being had to the respective Grants, which will be produced at the Time, and Place of Sale, and a true and sufficient Copy given to the Purchaser by NATHAN WILSON BANKER, Raleigh, 1801.