

Respublica Vs. Sweers

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Court : US Supreme Court

Decided On : 1779

Appeal No. : 1 U.S. 41

Appellant : Respublica

Respondent : Sweers

Judgement :

RESPUBLICA v. SWEERS - 1 U.S. 41 (1779)

U.S. Supreme Court RESPUBLICA v. SWEERS, 1 U.S. 41 (1779)

1 U.S. 41 (Dall.)

Respublica

v.

Cornelius Sweers

Supreme Court of Pennsylvania

April Term, 1779

At a court of Oyer and Terminer &c.; held at Philadelphia in November, 1778, the Defendant was indicted for Forgery upon two bills. The proceedings were removed by certiorari returnable into this Court, on the 5th day of December following; and

the issues, on not guilty pleaded, were tried before a Special Jury on the 14th April, 1779, when the Defendant was convicted upon both indictments. Afterwards he filed reasons in arrest of judgment, of which a recapitulation will be found in the sentence of the Court; and these reasons were argued, and over-ruled, on the 19th day of the same month.

The first indictment was for altering a bill of parcels and receipt given by Margaret Duncan, for goods bought from her, with intent to defraud the United States; and the charge was set forth in the following words:

'Philadelphia County ss.'

'The Jurors for the Commonwealth of Pennsylvania, upon their oaths and affirmations, do present, that Cornelius Sweers, late of the county aforesaid yeoman, on the 4th day of February, in the year of our Lord 1778, and long before, and since, was a Deputy Commissary General of military stores, in the armies of the United States of America, and entrusted and employed by Colonel Benjamin Flowers, the Commissary General of military stores in the armies aforesaid, and by the honorable continental Congress, to make purchases of military stores, and of divers other articles, necessary and fitting in the preparation of military stores, for the use of the armies aforesaid, and to make payments, and take receipts, bills of parcels, and other vouchers therefor. And the Jurors aforesaid, upon their oaths and affirmations aforesaid, do say, and further present, that the said Cornelius Sweers, [*Respublica v. Sweers* [1 U.S. 41](#) (1779)

on the same 4th day of February, in the year aforesaid, at the city of Philadelphia, in the county aforesaid, having in his custody and possession a certain bill of parcels or account, with a certificate and receipt, all in writing, for a parcel or quantity of flannel cloth, by him purchased of one Margaret Duncan, for the use of the Laboratory of the same armies, and which said writing was in the words, figures, cyphers and letters following; that is to say:

'United States of America

'To Margaret Duncan Dr.

'1778, Feb. 4th To 57 & a qr, yard Flannel 32s6d L 83 5 7

'To 9 yds Do. 35s 15 15 0

'To 107 & 3 qr. yds Do. 52s6 282 16 10

381 17 5

'I do certify that the above was purchased and delivered to me for the use of the Laboratory at Carlisle.

Isaac Coran, Captain of the Artillery.

'and on the back side of which said writing is indorsed and written the words following; that is to say: Received the within contents in full Margaret Duncan: He the said Cornelius Sweers afterwards, to wit, on the same day and year aforesaid, at Philadelphia aforesaid, in the county aforesaid, with force and arms, the said bill of parcels or writing, falsely, fraudulently, and deceitfully, did alter, and cause to be altered, by falsely making, forging and tiding the figure 4 to and before the figure [42-Continued.]

9, in the second item of the said bill of parcels or writing, which figures and letters did, before such last mentioned forgery, import and signify nine yards, but by reason and means of such last mentioned forgery and addition, did become, import, and signify forty nine yards; and also by forging and altering the figure 1, in the sum of the said second item in the bill of parcels or writing aforesaid, to the figure 8; which figures did, before such last mentioned alteration and forgery, import and signify fifteen pounds, and fifteen shillings, but, by reason and means of such last mentioned alteration and forgery, did become, import and signify eighty five pounds and fifteen shillings; and also by falsely forging and altering the figure 3 to the figure 4, and the figure 8 to the figure 5, in the sum total or amount of the said bill of parcels or writing; which figures did, before such last mentioned

forgery and alteration, import and signify three hundred and eighty one pounds, seventeen shillings and five pence, but, by reason and means of such last mentioned forgery and alteration, did become, import and signify four hundred and fifty one pounds, seventeen shillings and five pence, with intention to defraud the United States of America aforesaid, of seventy pounds of lawful money of Pennsylvania, to the evil example of all others, in like case offending, to the great damage of the said United States, and against the peace and dignity of the Commonwealth of Pennsylvania.'

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The second indictment was for forging a receipt, purporting to be a receipt from one Adam Foulke, with intent to defraud the United States. It was expressed in the following words:

'Philadelphia County ss.

'The Jurors for the Commonwealth of Pennsylvania, upon their oaths and affirmations, do present, that Cornelius Sweers, late of the county aforesaid, yeoman, on the first day of July, in the year of our Lord one thousand seven hundred and seventy seven, and long before, and since, was a clerk to the department of the Commissary General of military stores, in the armies of the United States of America, and entrusted and employed by Colonel Benjamin Flowers, the Commissary General of military stores in the armies aforesaid, and by the honorable continental Congress, to make payments, and take receipts, bills of parcels, and other vouchers, for military stores, and for divers articles, necessary and fitting in the preparation of military stores, purchased for the use of the armies aforesaid, and to keep the accounts thereof: And the Jurors aforesaid, upon their oaths and affirmations aforesaid, do further present, that the same Cornelius Sweers, on the same day and year aforesaid, at the city of Philadelphia, in the county aforesaid, contriving and intending, falsely and fraudulently, to deceive and defraud the United States aforesaid, with force and arms, falsely, wickedly and unlawfully, did make, forge and counterfeit, and cause to be made, forged and counterfeited, a

certain writing, purporting to be a receipt for one thousand and twenty pounds and fifteen shillings, and purporting to be signed in the name of one Adam Foulk, in the words and figures following, to wit, '3 Rec'd 1st July 1777 of Col. B. Flower, C. G. M. S. one thousand and twenty pounds 15s. for 820 bayonet belts, and 920 cartouch boxes, for the use of the army.

Adam Foulk.

'to the evil example of all others in like case offending, to the great damage of the United States, and against the peace and dignity of the Commonwealth of Pennsylvania. And the Jurors aforesaid, upon their oaths and affirmations aforesaid, do further present, that the said Cornelius Sweers, contriving and intending the said United States, falsely and fraudulently, to deceive and defraud, then and there, with force and arms, the said writing, so as aforesaid falsely made and counterfeited, purporting to be a receipt for the sum of one thousand and twenty pounds and fifteen shillings, and purporting to be signed in the name of the said Adam Foulk, wickedly, unlawfully and fraudulently, did publish, and cause to be published, as and for a true writing and receipt of the said Adam Foulke; which said falsely forged and counterfeited

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writing, is in the words and figures following to wit '3 Rec'd 1st July 1777 of Col. B. Flower, C. G. M. S. one thousand and twenty pounds 15s. for 820 bayonet bolts and 920 cartouch boxes for the use of the army. Adam Foulke. (he the said Cornelius Sweers, at the time of publishing the said false and counterfeit writing there by him in form aforesaid, well knowing the said writing to have been falsely forged and counterfeited as aforesaid,) to the evil example of all others in like case offending, to the great damage of the said United States, and against the peace and dignity of the Commonwealth of Pennsylvania.' The prisoner being brought before the Court to receive sentence, M'KEAN, Chief Justice, addressed him to the following effect: Cornelius Sweers: After a fair and full trial, you have been convicted of the crime of Forgery, upon two indictments, by a Special Jury of your

country. The offence stated in the first indictment, is that of altering a receipt given by Margaret Duncan; and the charge contained in the second indictment, is that of forging a receipt, purporting to be the receipt of Adam Foulke. Your council have taken several exceptions to the form and substance of these indictments, upon a motion in arrest of judgment. The first exception was, 'that, at the time of the offence charged, the United States were not a body corporate known in law.' But the Court are of a different opinion. From the moment of their association, the United States necessarily became a body corporate; for, there was no superior from whom that character could otherwise be derived. In England, the king, lords, and commons, are certainly a body corporate; and yet there never was any charter or statute, by which they were expressly so created. An indictment, however, may be sufficiently maintained upon 'an intent to deceive my liege subjects;' and to that purpose there is a positive authority, not referred to by the council, where a person was indicted, for having in his custody a piece of base metal, in the similitude of a six-pence, knowing it to be false, with intent to defraud the liege subjects &c.; The second exception was, 'that the charges in the indictments, were not direct and positive, but only argumentative.' On this point we cannot hesitate to declare, that the charges appear to us to be as direct and positive, as it was possible to express them. The third exception was, 'that the indictments do not charge 'that any person was actually defrauded.' But in the King versus Webb 2 Ld. Ray. 1461, all the Judges declared, that if the cheat be prejudicial, that is, of such a nature as may prejudice, an indictment

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would well lie. In the case of forgery, properly so called, which includes only records, deeds, wills, or public instruments, it may, perhaps, be necessary that some person should be actually prejudiced. This rule, however, does not extend to cheats of the present description; in which it is sufficient, that the act be of a prejudicial nature.

Upon the whole, we are of opinion, that your conviction has been legal, as well as just; and, therefore, it only remains to pronounce the sentence of the Court.

Sentence, on the first indictment: A fine of L. 70. and imprisonment until the 4th of July, the anniversary of American Independence.

Sentence, on the second indictment A fine of L. 1020. Imprisonment until the next annual election for Pennsylvania, and standing in the pillory for one hour.

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