

United States Vs. Britton

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Court : US Supreme Court

Decided On : Apr-02-1883

Appeal No. : 108 U.S. 192

Appellant : United States

Respondent : Britton

Judgement :

United States v. Britton - 108 U.S. 192 (1883)

U.S. Supreme Court United States v. Britton, 108 U.S. 192 (1883)

United States v. Britton

Decided April 2, 1883

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ON CERTIFICATE OF DENIAL IN OPINION

FROM THE EASTERN DISTRICT OF MISSOURI

SYLLABUS

It is no violation of the provisions of 5440 Rev.Stat., subjecting to penalties persons conspiring to commit an offense against the United States, and persons doing acts to effect the object of the conspiracy, and no violation of 5209 Rev.Stat., subjecting to punishment a president or a director of a national banking association who willfully misapplies the money, funds, or credits of the association if the president and such a director conjointly cause shares in the capital stock of such association to be purchased with the money of the association, and held on trust for its benefit.

Indictment for conspiracy by Britton as president and Bates as director of a national banking association to injure and defraud the association by tivilful misapplication of its money. Rev.Stat. 5209, 5440. The acts which formed the subject of the alleged conspiracy are the same which are set forth in the counts in the indictment from 77 forward in *United States v. Britton*, [107 U. S. 655](#) , and which were there held, when not charged as a conspiracy, not to be violations of the statutes.

MR. JUSTICE WOODS delivered the opinion of the Court.

In this case, the indictment contained two counts. They charged a conspiracy between James H. Britton and Barton Bates, the first being president and a director and the latter a director of the same banking association, to misapply its funds by the purchase therewith of the shares of the association. The first count described the offense which defendants conspired to commit substantially as it is set forth in count seventy-seven, and the second count described the offense as the same

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is set forth in count ninety-seven in *United States v. Britton*, [107 U. S. 655](#) .

The judges of the circuit court were divided in opinion upon the question whether the counts sufficiently stated an offense under sections 5209 and 5440 of the Revised Statutes, and the same has been duly certified to us for our opinion. What we have said in *United States v. Britton*, cited above, disposes of this question.

We answer it in the negative.

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