

seriously the enforcement of federal laws, it will be for Congress in its discretion to amend § 33 so that the words "on account of" shall be enlarged to mean that any prosecution of a federal officer for any state offense which can be shown by evidence to have had its motive in a wish to hinder him in the enforcement of federal law, may be removed for trial to the proper federal court. We are not now considering or intimating whether such an enlargement would be valid; but what we wish to be understood as deciding is that the present language of § 33 can not be broadened by fair construction to give it such a meaning. These were not prosecutions, therefore, commenced on account of acts done by these defendants solely in pursuance of their federal authority. With the statute as it is, they can not have the protection of a trial in the federal court, however natural their denials under oath of inculpating circumstances. As the indictment in this case was not removable under § 33, the mandamus to the Judge of the District Court to remand it to the Circuit Court for Harford County, Maryland, must be made absolute. The writ need not issue, however, as Judge Soper's return indicates that he will act upon an expression of our views.

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MARYLAND *v.* SOPER, JUDGE. (No. 3)

PETITION FOR A WRIT OF MANDAMUS

No. 25, Original. Argued December 7, 1925.—Decided February 1, 1926.

Decided upon the authority of *Maryland v. Soper* (No. 2), *ante*, p. 36.

*Messrs. Thos. H. Robinson*, Attorney General of Maryland, and *Herbert Levy*, Assistant Attorney General of Maryland, for petitioner.

*Assistant to the Attorney General Donovan*, with whom *Solicitor General Mitchell* was on the brief, for respondent.

MR. CHIEF JUSTICE TAFT delivered the opinion of the Court.

This case is quite like that in No. 24, Original, just decided. It differs, in that here the indictment which was removed from the Circuit Court of Harford County, Maryland, to the District Court of the United States for Maryland was an indictment against E. Franklin Ely for perjury, in the inquiry made by the coroner into the circumstances of the death of Wenger, it being charged that when it was material whether he had seen Lawrence Wenger at the time he (Ely), as a government officer, lay concealed and hidden and watched the bringing of the still, he falsely stated he had not seen Wenger. In all other respects the proceedings were quite like those in the case just decided, and on the principles laid down in that case we must hold that there was no ground for removing the prosecution of Ely for perjury, and that the mandamus to require the remanding of the removal should be made absolute.

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CHARLES D. COLE, MARY COLE, HERMAN NOELKER ET AL. *v.* NORBORNE LAND DRAINAGE DISTRICT OF CARROLL COUNTY, MISSOURI, H. H. FRANKLIN, L. WILLIAMS ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MISSOURI.

No. 152. Argued January 20, 1926.—Decided February 1, 1926.

A state law (Ls. Mo. 1913) providing that establishment of a drainage district, with consequent liability for assessments, shall depend on the vote of the owners of the majority of the acreage included,