

THE STATE vs. WHITMORE.

Where three indictments charge the same person, on their face, with three separate and distinct offences, they cannot be quashed on motion, on the ground that they are for the same offence. If they are so, it must be pleaded in bar.

These were three separate indictments, found at the same time against Ira B. Whitmore, and quashed by the Pulaski Circuit Court, in June, 1843, before the Hon. JOHN J. CLENDENIN, one of the circuit judges. The statement of the cases will be found in the opinion. The State brought error, and the cases were argued here by *Hempstead*, Att'y Gen., *pro tem.*, for the State, and *Ashley & Watkins*, contra.

By the Court, LACY, J. There was a motion to quash these indictments in the court below, which was sustained upon the ground that they charged the prisoner with the commission of one and the same offence. We are at a loss to perceive how the court arrived at such a conclusion. The indictments on their face charge separate and distinct offences: one charges the prisoner with appearing and making a die to counterfeit the current coin of the United States: another, with employing and using the die in counterfeiting the said coin; and another, with keeping and concealing the die of such counterfeiting. The indictments copy the statute literally, and it enacts each and all these offences. The prisoner may be charged in different ways in several counts in the same indictment, and should

there be several indictments for the same indential offence, he may plead the matter in bar; and if his plea is supported by proof, may have all the indictments except one quashed. But here the defendant has not even attempted to show by plea or proof that the indictments are for the same offence. The court on his mere motion quashed these several indictments, each charging a different offence. In this there is manifest error.

Judgment reversed.
