

MEMORANDUM.

{4 Cranch, C. C. 337.}¹

Circuit Court, District of Columbia. Sept. Term, 1833.

COURTS—SPECIAL SESSION.

The circuit court of the District of Columbia cannot, at a special session for the trial of criminal causes, try a cause which was pending at the preceding stated session.

A special session of the circuit court, in Washington county, for the trial of criminal causes, was holden on the 2d of September, 1833, by virtue of the following order, made at the last term, on the 29th of May, 1833:

“Ordered, that a special session for the trial of criminal causes, be held on the first Monday of September next, and that the marshal summon the usual number of grand and petit jurors;” and of the following clause of the 5th section of the judiciary act of 1789 (1 Stat. 73;) “and the circuit courts shall have power to hold special sessions for the trial of criminal causes, at any other time, at their discretion, or at the discretion of the supreme court;” and of the following clause of the act of 2d of March, 1793 (Id. 333): “That any special session may be adjourned to any time or times previous to the next stated meeting of the circuit court; that all business, depending for trial at any special court, shall, at the close thereof, be considered, as of course removed to the next stated term of the circuit court;” and the 8th section of the act of the 13th of February, 1801, which provides, “That the said circuit courts,” (that is, the circuit courts by that act established,) “shall have power, and are hereby authorized, to hold special sessions for the trial of criminal causes, at any other time or times than is hereby directed, at their discretion;” and the 3d section of the act of the 27th of February, 1801 (2

Stat. 89,) by which it is enacted, that “the said court,” (the circuit court of the District of Columbia,) “and the judges thereof, shall have all the powers vested in the circuit courts, and the judges of the circuit courts of the United States.”

A question was suggested, whether prosecutions, commenced at the last stated term, can be continued to, and tried at, this special session; and whether process upon presentments made, and indictments found, at that term, can be made returnable to this.

THE COURT (MORSELL, Circuit Judge, contra,) was, after argument, in which the following cases were cited and considered, namely, *U. S. v. Hamilton*, 3 Dall. [3 U. S.] 18; *U. S. v. Insurgents of Pennsylvania* [Case No. 15,442]; and *U. S. v. Cornell* [Id. 14,868]; decidedly of opinion that the court, at this special session, cannot try any cause which was pending at the last stated session.

¹ [Reported by Hon. William Cranch, Chief Judge.]

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