

UNITED STATES v. DOLAN.

[5 Blatchf. 284.]¹

Circuit Court, E. D. New York.

Dec., 1865.

ASSAULT WITH INTENT TO KILL—WHETHER
INDICTABLE UNDER UNITED STATES STATUTE.

The circuit court of the United States for the Eastern district of New York has, by virtue of the act of March 3, 1825 (4 Stat. 115), jurisdiction of an indictment for an assault with intent to kill, committed in the navy yard at Brooklyn.

This was an indictment [against Philip Dolan] for an assault with intent to kill, committed in the navy yard at Brooklyn. The defendant now moved to quash the indictment, on the ground that the act of March 3, 1825 (4 Stat. 115), on which it was founded, did not create the offence charged, and that there was no statute of the United States creating the offence.

THE COURT (BENEDICT, District Judge) held, that the act of March 3d, 1825, covered the case; that the question had been substantially decided by the supreme court, in the case of *U. S. v. Paul*, 6 Pet. [31 U. S.] 141, and that Mr. Justice Thompson, Mr. Justice Nelson, and Judge Betts, had held, in the United States courts for the Southern district of New York, that the act of 1825 applied to cases of the kind. Motion denied.

¹ [Reported by Hon, Samuel Blatchford, District Judge. and here reprinted by premission.]

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