

Case No. 15,387a.

[38 Niles, Reg. 256.]

UNITED STATES v. HOPKINS.

Circuit Court, D. Georgia.

May, 1830.

CRIMINAL LAW—FEDERAL JURISDICTION—FORTS AND ARSENALS.

[Under the Georgia statute ceding jurisdiction to the United States only in places purchased by them “for forts or fortifications,” with the proviso that “forts and fortifications be erected thereon,” the federal courts have no jurisdiction to punish a crime committed upon lands purchased and used for the purposes of an arsenal only.]

The case had its origin in the duel which occurred near Augusta some time since, and terminated in the death of Mr. Nixon. The people of Augusta made application to the governor of this state to demand the offenders. The governor submitted the affidavits to the attorney general, and the attorney general returned them with the answer, that the offence had been committed in a place within the jurisdiction of the United States, and must be prosecuted in their courts. They were accordingly transmitted to the district attorney of the United States, who accordingly preferred bills against the principals and seconds for murder, and also severally against the seconds, for a misdemeanor under the laws of the state, which, as to offences, are made of force in the places ceded to the United States. A motion was now submitted for bench warrants to issue into Carolina, against the parties indicted, and the court took time to look into the acts of the United States and Georgia, to determine whether the United States possessed jurisdiction over the place where the offence was committed. The place was the old arsenal near Augusta, but the act of Georgia then in force cedes jurisdiction only in places purchased by the United States for “forts or fortifications,” and with the proviso that “forts and fortifications be erected thereon.” This was purchased for an arsenal, and nothing but the buildings appropriate for an arsenal were erected thereon.

THE COURT (JOHNSON, Circuit Justice) were therefore clearly of opinion that the cession of Georgia did not extend to it, and accordingly refused the bench warrant, ordering United States prosecution to be entered, nol. pros, and the papers to be remitted to the executive of Georgia.