

so entitled by the Chinese government, etc.; in each case to be evidenced by a certificate issued by such government, which certificate shall be in the English language, etc. * * * The certificate provided for in this act, and the identity of the person named therein, shall, before such person goes on board of any vessel to proceed to the United States, be viséd by the indorsement of the diplomatic representatives of the United States in the foreign country from which said certificate issues, or of the consular representatives, etc. * * * Such certificate, viséd as aforesaid, shall be *prima facie* evidence of the facts set forth therein, and shall be produced to the collector of customs in the port of the district of the United States at which the person named therein shall arrive, and afterwards produced to the proper authorities of the United States, whenever lawfully demanded, and shall be the sole evidence permissible on the part of the person so producing the same to establish a right to entry into the United States."

No such certificate has been produced or was obtained by the petitioner in this case. It is contended on her part that the certificate is declared to be the sole evidence permissible on the part of the person so producing the same, and that, inasmuch as this person has not produced any certificate, parol testimony is admissible to show that she does not belong to the prohibited class. The language of the act is certainly infelicitous, but its meaning is obvious. It is that the certificate is required to be produced by all Chinese persons, other than laborers, claiming the right to enter this country; and such certificate is to be the sole evidence of their right to land. Unless, therefore, the whole section is to be disregarded, and the obvious intention of congress frustrated, the certificate must in all cases be exacted. To say that because the applicant has utterly neglected to comply with the law, and has produced no certificate, therefore her right to land may be established by other evidence, would be an absurd conclusion, founded upon the mere letter of the statute, and in obvious contravention of its spirit and meaning. The petitioner must be remanded.

UNITED STATES v. PENN.

(Circuit Court, E. D. Virginia. July, 1880.)

CRIMINAL LAW—JURISDICTION OF FEDERAL COURTS—ARLINGTON NATIONAL CEMETERY.

Const. U. S. art. 1, § 8, cl. 17, giving congress the exclusive right of legislation over any places purchased by the United States, with the consent of the state in which the same are situated, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings, confers no jurisdiction upon the federal courts to try a person for a petty larceny committed in the National Cemetery on the Arlington estate, which was purchased by the United States at a tax-sale, without the consent of the state of Virginia.

At Law. Information against Dennis Penn for a petty larceny committed in the National Cemetery on the Arlington estate, Alexandria county, Va. On plea to the jurisdiction, and demurrer thereto. Plea sustained.

The United States purchased the Arlington estate during the war at a tax-sale, and has held possession ever since, but jurisdiction thereof was never ceded by the state of Virginia. The plea was based upon this fact.

L. L. Lewis, for the United States.

Charles E. Stuart, for defendant.

HUGHES, J. The eighth section of the first article of the constitution of the United States, in the seventeenth clause, gives the right of exclusive legislation to the United States, to exercise authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings. The purchase of lands for the United States, for public purposes, does not of itself oust the jurisdiction of such state over the lands purchased. *U. S. v. Cornell*, 2 Mason, 60. The constitution prescribes the only mode by which they can acquire land as a sovereign power; and therefore they hold only as an individual when they obtain it in any other manner. *Com. v. Young*, Brightly, N. P. 303; *People v. Godfrey*, 17 Johns. 225; *U. S. v. Travers*, 2 Wheeler, Crim. Cas. 490; *People v. Lent*, Id. 548. If there be no cession by a state, the state jurisdiction still remains. *Com. v. Young*, 1 Hall, Law J. 47; 1 Kent Comm. 403, 404; and Story, Const. § 1127, where Judge Story says:

"If there has been no cession by the state of the place, although it has been constantly occupied and used, under purchase or otherwise, by the United States, for a fort, arsenal, or other constitutional purpose, the state jurisdiction still remains complete and perfect."

It seems too plain for doubt, much as we may regret the fact in this particular case, that this court has no jurisdiction in the premises; and the demurrer accordingly must be overruled, and the plea sustained.

UNITED STATES v. PARTELLO.

(Circuit Court, D. Montana. November 23, 1891.)

1. INDIANS—FEDERAL JURISDICTION—RAPE IN "INDIAN COUNTRY."

Rev. St. U. S. § 5345, provides for the punishment of rape committed in any of the places mentioned in section 5139, and the latter section specifies, among others, "any fort * * * or district of country under the exclusive jurisdiction of the United States." Section 2145 declares that, "except as to crimes the punishment of which is expressly provided for in this title, the general laws of the United States as to the punishment of crimes committed within the sole and exclusive jurisdiction of the United States * * * shall extend to the Indian country." Held that, as the punishment of rape is not specified in the title mentioned, a rape committed in "the Indian country" is punishable under section 5345.

2. SAME—WHAT IS "INDIAN COUNTRY"—RESERVATIONS.

Prior to the admission of Montana as a state, the Crow Indian reservation situated therein was part of the "Indian country," within the meaning of Rev. St. § 2145, extending the general criminal laws of the United States over the Indian country.