*The Gran Para : The Consul-General of Portugal, Libellant.

Prize.—Breach of neutrality.

Prizes made by armed vessels which have violated the statutes for preserving the neutrality of th United States, will be restored, if brought into our ports.

This court has never decided, that the offence adheres to the vessel, under whatever change of circumstances that may take place, nor that it cannot be deposited, at the termination of thee cruise, in preparing for which it was committed ; but if this termination be merely colorable, and the vessel was originally equipped with the intention of being employed on the cruise, during which the capture was made, the *delictum* is not purged.

Appeal from the Circuit Court of Maryland. This was a libel filed in the district court of Maryland, by the consul-general of Portugal, alleging that a large sum of money, in silver and gold coins, had been, in the year 1818, taken out of the Portuguese ship Gran Para, then bound on a voyage from Rio Janeiro to Lisbon, by a private armed vessel called the Irresistible, which had been fitted out in the United States, in violation of the neutrality acts ; that the said sum of money had been brought within our territorial jurisdiction, and deposited in the Marine Bank of Baltimore ; and praying that the same might be restored to the original Portuguese owners.

A claim was filed by one Stansbury, as agent for John D. Daniels, master and owner of the Irresistible, stating him to be a citizen of the Oriental Republic, which was at war with Portugal, and that he was cruising under the flag *and commission of that republic, at the time the capture was made, as set forth in the libel, and insisting on his title to the money, as lawful prize of war. [*472

By the proofs taken the cause, it appeared, that the capturing vessel was built in the port of Baltimore, in the year 1817, and was, in all respects constructed for the purposes of war. On the 17th of February 1818, after being launched, she was purchased by the claimant, Daniels, then a citizen of the United States. A crew of about fifty men were enlisted in Baltimore, and she cleared out for Teneriffe, having in her hold 12 eighteen-pound gunnades, with their carriages, and a number of small arms, and a quantity of ammunition, entered outwards as cargo. The vessel proceeded directly for Buenos Ayres, where she remained a few weeks, during which time the crew was discharged. Having obtained a commission from the government at that place to cruise against Spain, a crew was enlisted, consisting chiefly of the same persons who had come in the vessel from Baltimore, and she sailed in June 1818, on a cruise, under the command of the claimant. The next day after she left the port, a commission from General Artigas, as chief of the Oriental Republic, was produced, under which the claimant declared that he intended to cruise, and that granted by the government of Buenos Ayres was sent back to that place. During this cruise, several Portuguese vessels were captured, and the money, the restitution of which was prayed for by the libellant, was taken out of them. In September 1818, the Irresistible returned to Baltimore, *and a large sum of money, captured during the cruise, was deposited in the bank. [*473

Decrees were entered in the district and circuit courts, restoring the property to the original owners, and the cause was brought by appeal to this court.

February 20th. *Winder*, for the appellant and claimant, made the following points :—1. That the manner in which the Irresistible left the United States, on her voyage to Buenos Ayres, was not in violation of the statutes of congress, or the neutral obligations of the United States by the law of nations. 2. It was not contrary to the law of nations, for the Oriental Republic, finding the Irresistible in the river La Plata, under the circumstances in which she was, to take her into their service as a cruiser against their enemies. 3. That the conduct of Daniels, and any others who went out in her, in entering into the service of the Oriental Republic, was not contrary to the law of nations, nor in violation of the duties of neutrality imposed on the United States by the law of nations. 4. But even if the appellant's counsel should be mistaken in this respect, yet there is no evidence in this cause, to show that the money attached was taken from the ship Gran Para, nor that any such ship was captured by the Irresistible.

D. Hoffman, contrà, after commenting on the testimony to establish the American ownership, and the illegal outfit at Baltimore, of the privateer, *474] argued : *1. That the neutrality and laws of this country having been violated by the captors, this court will decree restitution on that ground, though the commissions under which they acted were wholly unimpeachable ; a fact which is not admitted in this case, as the commissions of Artigas stand upon grounds essentially different from those which justify the commissions of Buenos Ayres, the Republic of Colombia, &c. The law on this subject has become too well-settled and familiar, to justify much reference to, or comment on, authorities. It was at one time supposed, that neutral nations were, in all cases, obliged by their amity and neutrality, to rescue the captured and his property from the power of his enemy, who had brought them *infra præsidia* of the neutral country, and to award restitution by a species of *jus postliminii*. This was, certainly, at one time, the doctrine of the English courts and jurists, and obtains in some countries on the continent of Europe. 2 Azuni 222, 223, 250, 261 ; Marten's Priv. 44 ; 1 Molloy 58, 60, 66, 76, 87, 100 ; 6 Vin. Abr. 515, 517, 519, 534 ; 16 Ibid. 347, 350 ; Beawes, Lex. Mer. 241, 243, 244 ; 2 Bro. Civ. & Adm. Law 214, 215. The rule, however, of the courts of this country, has been established to be exactly the reverse. As a general rule, a neutral court has no such power. The inquiry as to the validity and efficiency of a belligerent capture, is referred to the courts of the captors ; and the restoring power, exercised on various occasions by the courts of this country, springs from *475] *certain exceptions, which have been engrafted on the general rule. This court will inquire into every seizure on the high seas, for the purpose of ascertaining whether the taking were lawful or piratical ; for if there be no commission, the seizure is piracy *de facto* and *de jure*, and renders the captors responsible *civiliter et criminaliter*. If there be a commission which, at the time of taking, was amortised, or abused *animo depredandi*, they would be responsible certainly *civiliter*, perhaps *criminaliter*. If the commission were granted by an incompetent power, every presumption would be in their favor, in a criminal proceeding against them ; but they

would be civilly responsible, before any tribunal administering the *jus gentium*. Every such tribunal, therefore, will inquire, first, into the fact of the existence of a commission; secondly, the competency of the power granting it; both of which are essential in order to distinguish capture from piracy, and the commission issued by a state or nation from that which is granted by a few associated persons, or an isolated individual, who have assumed the exercise of sovereign power. *Talbot* v. *Jansen*, 3 Dall. 133; *The Invincible*, 1 Wheat. 258; *Rose* v. *Himely*, 4 Cranch 241. With regard to the exceptions to the general rule which refers the question of prize or no prize to the courts of the captors, and repudiates the right in a neutral to restore the *res capta* to those from whom it has been taken, it is said, that there are now only two: first, where the capture was made within the *neutral territory (Grotius, *de Jure Belli ac Pacis*, lib. 3, c. 4; Bynk. *Q. J. Pub.* lib. 1, c. 8; Vattel, *Droit des Gens*, lib. 3, c. 7, § 132; 5 Rob. 15, 373; Bee 204); and secondly, where the capturing vessel was, in the whole, or in any part, owned or equipped, or her force in any degree augmented, within the dominion of such neutral state, and this by the general principles of international law, independently of all statutory inhibitions of such ownership, equipment, &c. Pres. Messages, vol. 1, pp. 21, 24, 27, 36, 42, 47, 48, 56, 61, 62, 72, 73, 78, 82, 87, 95; 9 Cranch 365; 4 Wheat. 310, 311. The uniform series of decisions of the American courts awards restitution to the original owners, of property thus taken, and the facts of the present case will be found, it is presumed, much stronger than in most others which have occurred. Bee 9, 11, 28, 60, 73, 114, 292, 299; 3 Dall. 285, 307, 319; 2 Pet. Adm. 345; *The Alerta*, 9 Cranch 359; *The Divina Pastora*, 4 Wheat. 53; *The Estrella*, 4 Ibid. 298; *The Nuestra Senora*, Ibid. 695; *The Amistad de Rues*, 5 Ibid. 385; *The Bello Corrunes*, 6 Ibid. 152; *The Nueva Anna*, Ibid. 193; *The Conception*, Ibid. 335. [*476

2. This court is competent to restore property to the respondent, by the general principles or maritime and international law, without any reference to the proof that the neutrality and laws of this country have been violated by the captors, but on the sole ground that the taking was not *jure belli*, but wholly without commission; as Artigas does not represent a state or nation competent to grant a commission to war against Portugal. The principles established by *the cases recently decided by this court, do not impugn the doctrine contended for, as they occurred in the case of commissions granted by such of the South American provinces, as our government, in the opinion of the court, had recognised to be in a civil war with Spain, the mother country, and which commissions only operated against such parent state. Our government and this court having, in no instance whatever, recognised Artigas as engaged in a war, even with Spain, the mother country, and certainly not with Portugal, he is wholly incompetent to issue commissions of prize, as much so as any other individual in the Spanish provinces. This court, therefore, is competent, as an instance court, to decree restitution and damages, as in ordinary cases of maritime tort, and to decide (negatively) that the Banda Oriental is not a state or nation invested with the attributes of sovereignty, the former or ancient state of things being presumed to remain *de facto*, as well as *de jure*. The government of the United States has, in no instance, recognised Artigas as engaged in a civil war with Spain, or in a war of any kind with Portugal. [*477

If we refer to the documents recognising the South American provinces, as engaged in a civil war with Spain, we shall find no mention made of such a war by Artigas, or the Banda Oriental. 9 Niles' Reg. 393, 396; Letter Sec. State, 19th January 1816; Mess. 17th November 1818, 4 Wheat. App'x, 23; Mess. 17th December 1819; Mess. 8th March 1822. The general
*478] expression, "South American provinces," is *qualified by the express mention of Buenos Ayres and Venezuela. But if the Banda Oriental, as modified by Artigas, might be embraced under such a general recognition of the South American provinces being engaged in a civil war with Spain, still it would be incumbent on the claimant, to prove that this country ever was a province of Spain: it may have been a part of a province: we have no historical or geographical account of the country that is by any means satisfactory; and if Artigas, and his wretched and savage followers be recognised as qualified to wage war, then may every township, district, city, village, hamlet or individual, claim the same high prerogative. If Artigas, and a few adherents, can segregate themselves from the common cause, and constitute themselves a state or nation, competent to wage either a civil or public war, may not every individual in the Spanish provinces claim the same right? Where is the boundary, or clear line of demarcation? By what principle, can such a right be regulated, except by requiring that the power claiming the right should be possessed of the elements or constituents of a nation, such as a fixed domain, a national treasury, a national force, a code of laws (Sir L. Jenk. 424, 791; Bynk. Q. J. Pub. lib. 1, c. 17; Grot. lib. 1, c. 3, § 34; lib. 3, c. 3, § 1, 2; Cic. Phill. 4, cap. 4); and perhaps, in order to wage a maritime war, sea-ports? Nor will Grotius, or his enlightened commentator, allow a company or horde of men to be a state or nation, although they may observe some kind of government and equity among
*479] themselves. *All that we know of Artigas and his adherents, proclaims him a mere adventurer, and them a lawless band to whom he is the sole tie of union. Artigas is mentioned by these documents to be engaged in a contest with Buenos Ayres; but it is nowhere stated, that he is the chief magistrate of a province engaged in a civil war with Spain. The only executive notice of the Banda Oriental, is in the president's message of the 17th November 1818. On submitting to congress the documents furnished him by our commissioners, he states, that "it appears from these commnications, that the government of Buenos Ayres declared itself independent, in July, 1816; that the Banda Oriental, Entre Rios and Paraguay, with the city of Santa Fé, all of which are also independent, are," &c. This, surely, is not a recognition of their independence; for the executive, I presume, has no power to make such recognition; nor is it a recognition of the existence of a civil war between the Banda Oriental and Spain. It will also be observed, that in the late message of the president, 8th March 1822, no mention whatever is made of the Banda Oriental.

But if it be admitted, *argumenti gratia*, that the Banda Oriental was a South American province, engaged in a civil war with Spain, the mother country, would such a partial recognition clothe its chieftain with the power of waging war against a nation in no way connected with Spain? The sound doctrine, perhaps, is, that a colony, though competent to disenthral itself
*480] from the despotism of an unnatural *parent, and therefore, to wage a civil war, does not thereby become a nation or state, invested with all

the high privileges of sovereignty. What would be the consequences of a contrary doctrine? Every minute division of an empire might *per saltum* become a nation, claiming and asserting all the prerogatives of free and independent states. These new-fledged, self-constituted, unorganized hordes of people, perhaps, only half civilized, might then well assert their claim to sit in the councils of the great family of nations. They would claim the rights of embassy, of establishing consuls, and of inflicting all the rigors of public wars, as blockades, visitation and search, impressions, seizure and confiscation of contraband. Such an individual as Artigas, whom no one knows, might, under this doctrine, claim to exercise every belligerent right, and, in waging his triple war, might capture, under the right of blockades, the vessels of every nation presuming to enter Buenos Ayres, Maldonado, Lisbon or the mouth of the Tagus, though he possessed not a single seaport, or a single vessel of his own. It is, therefore, presumed, that every colony recognised as engaged in a civil war for the assertion of its independence, must rigidly restrict itself to the contest with the parent country and its allies; and cannot wage a distinct and independent war with other nations. If, therefore, the Banda Oriental be regarded as on the same footing with Buenos Ayres or Venezuela, it cannot war against Portugal: for no alliance is pretended between Spain and Portugal, and if it were *asserted, it must be proved. 1 Ves. 283, 292. The contest between Artigas and [*481 Portugal originated in a special cause, and was prosecuted for a special purpose, viz., the recovery of Monte Video, which had been taken possession of by the Portuguese, because Spanish supremacy having ceased to operate there, the Spaniards had carried on a series of the most vexatious depredations on the adjoining Portuguese provinces, which it became the imperious duty of Portugal to check and terminate. Spain, on the other hand, was engaged in a war with some of its provinces, for general, and very different objects: the conflict, therefore, between Portugal and Artigas, could not, by implication, make the former an ally of Spain. If the government recognition be a limited and partial one (as it certainly is), so should the effects of such recognition be partial. The fact recognised by this government, is, that a civil war rages between Spain and her South American provinces. In regard to Buenos Ayres and Venezuela, this was certainly the fact: but government did not mean, thereby, to acknowledge the independence of these provinces. The effect of this recognition is defined by the court, in *Palmer's case*, and that of *The Divina Pastora*, to be, that the courts of this country will not regard as criminal, those acts of hostility which the province may direct against its the enemy; nor will they undertake to judge of the validity of captures made under their commission, unless the maintenance of our laws and neutality should require it. *The acknowledged [*482 competency, therefore, of these provinces, to wage a civil war, does not clothe them with any powers beyond the sphere of the necessary operation of this right: they have no right to war with other nations, nor to claim the attributes and powers of sovereign state. If this be sound in regard to the known provinces, it must be emphatically so in relation to the Banda Oriental and its chieftain; who claims not only to war with Spain and her provinces, but with Portugal likewise, which is no way connected with either.

Again, there having been no express recognition of the existence of a

civil war between Jose Artigas and Spain; can this court imply such recognition, from any circumstances? It would seem not. The power to regard a people emerging from barbarism to civilization and government; or from a colonial to an independent state, is a prerogative exclusively of the government. 9 Ves. 347; 10 Ibid. 353; *Rose* v. *Himely*, 4 Cranch 272; *Gelston* v. *Hoyt*, 3 Wheat. 289, 295, 324. Courts are bound to regard the ancient state of things as remaining, until there be a recognition by the proper authority, and therefore, though it be competent for courts to declare that a people do not constitute a state, they cannot affirmately declare, that they are a state. Nor is it competent for this court to recognise the existence of a civil war: this also is a government power, and if there be no such express recognition of the fact of a civil war between the Banda Oriental and Spain, this court will not infer it, from the use a general
*483] *expression, such as, "South American provinces." The doctrine laid down by this court in *Palmer's case*, 3 Wheat. 610 (in which a distinction was taken between an unqualified recognition of the independence of a people, and a partial recognition resulting from the admission of the existence of a civil war between a colony and the parent state), is in no degree at variance with the principle established in the previous cases of *Rose* v. *Himely*, and *Gelston* v. *Hoyt*, "that courts do not possess the power of first recognising the national character of a people." Whether the recognition be unqualified or partial, the government must speak distinctly; otherwise, the courts will regard the ancient state of things; and all acts done on the high seas, under the authority of such separated people, will be looked on as wholly unauthorized and null.

3. The claimant, Daniels, is a citizen of the United States, and appears before this court as a claimant for property procured through means forbidden by the laws of the country, and the duties and obligations of a good citizen. He is an unworthy claimant, and as such, will not be permitted to claim the result of his own wrongs and illegal acts. "A claim," says Sir William Scott, "founded on piracy, or any other act, which, in the general estimation of mankind, is held to be illegal or immoral, might, I presume, be rejected in any court, on that ground alone." *The Diana*, 1 Dods. 95, 100.
*484] And Mr. Justice Johnson, in the case of **The Bello Corrunes*, expresses himself emphatically to the same effect. 6 Wheat. 172.

4. With respect to there being no proof as to the seizure of the Gran Para, from which the money libelled is alleged to have been taken, it is presumed, that this is altogether immaterial. The libel states the fact of the seizure of the Gran Para, and other Portuguese vessels; the answer expressly admits the taking of the money in controversy, and other money, from Portuguese vessels, and the inquiry is, whether it be the Portuguese property, and if so, whether it were rightfully taken.

Winder, in reply, insisted, that the court would confine its interference to such cases of illegal capture, as would make the United States responsible to the injured foreign country, by the law of nations, or to such acts as are in violation of our statutes of neutrality; restraining their operation to such provisions as are required and justified by the public law. He compared this case to the analogous one of carrying contraband. The neutral nation was not responsible. The building of ships for sale was a lawful

branch of commerce, and even if they were armed and equipped for war, they could only be considered as contraband; and though they might be subject to the penalty of confiscation, if taken in their transit to a belligerent, yet, if once incorporated into the mass of his military marine, they could be considered by neutrals, in no other light than the rest of his naval force.

But even supposing the original *outfit in the ports of the United States to have been illegal, the vessel was not commissioned as a [*485
privateer, nor did she attempt to act as one, until her arrival in the river La Plata, when a lawful commission was obtained, and the crew re-enlisted. Even if she had made captures on her outward voyage, the *delictum* would be purged by the termination of that voyage, according to the analogies of the maritime law in other cases. This court has never yet determined, that the original offence is indelible, and that it adheres to the vessel, whatever changes may have taken place, and that it cannot be deposited at the termination of the cruise, in preparing for which, the offence was committed; and as the Irresistible made no captures on her passage from Baltimore to the river La Plata, and even if she had, the offence was deposited at the latter port, the court cannot connect her subsequent cruise with the transactions at Baltimore, or those which might have happened on her outward voyage.

The learned counsel also argued, that the Banda Oriental was a sovereign state *de facto*, which had been acknowledged by the executive government of this country, as one of the parties to the war between Spain and her colonies, and which was engaged in an incidental contest with Portugal, which gave it the rights of war in respect to that power. He also insisted on such of the points in his argument, on a former day, in the case of *The Santissima Trinidad*, as were applicable to the present. But as they will be found reported *at large in that case (*ante*, p. 290–96), it is not [*486
deemed necessary to repeat them in this place.

March 13th, 1822. MARSHALL, Ch. J., delivered the opinion of the court, and after stating the facts, proceeded as follows:—The principle is now firmly settled, that prizes made by vessels which have violated the acts of congress, that have been enacted for the preservation of the neutrality of the United States, if brought within their territory, shall be restored. The only question, therefore, is, does this case come within the principle?

That the Irresistible was purchased, and that she sailed out of the port of Baltimore, armed and manned as a vessel of war, for the purpose of being employed as a cruiser against a nation with whom the United States were at peace, is too clear for controversy. That the arms and ammunition were cleared out as cargo, cannot vary the case. Nor is it thought to be material, that the men were enlisted in form as for a common mercantile voyage. There is nothing resembling a commercial adventure in any part of the transaction. The vessel was constructed for war, and not for commerce. There was no cargo on board but what was adapted to the purposes of war. The crew was too numerous for a merchantman, and was sufficient for a privateer. These circumstances demonstrate the intent with which the Irresistible sailed out of the port of Baltimore.

*But she was not commissioned as a privateer, nor did she attempt [*487

to act as one, until she reached the river La Plata, when a commission was obtained, and the crew re-enlisted. This court has never decided, that the offence adheres to the vessel, whatever changes may have taken place, and cannot be deposited at the termination of the cruise in preparing for which it was committed; and as the Irresistible made no prize on her passage from Baltimore to the river La Plata, it is contended, that her offence was deposited there, and that the court cannot connect her subsequent cruise with the transactions at Baltimore. If this were to be admitted, in such a case as this, the laws for the preservation of our neutrality would be completely eluded, so far as this enforcement depends on the restitution of prizes made in violation of them. Vessels completely fitted in our ports for military operations, need only sail to a belligerent port, and there, after obtaining a commission, go through the ceremony of discharging and re-enlisting their crew, to become perfectly legitimate cruisers, purified from every taint contracted at the place where all their real force and capacity for annoyance was acquired. This would, indeed, be a fraudulent neutrality, disgraceful to our own government, and of which no nation would be the dupe. It is impossible, for a moment, to disguise the facts, that the arms and ammunition taken on board the Irresistible, at Baltimore, were taken for the purpose of being used on a cruise, and that the men there enlisted,
*488] though engaged, in form, as for a *commercial voyage, were not so engaged in fact. There was no commercial voyage, and no individual of the crew could believe that there was one. Although there might be no express stipulation to serve on board the Irresistible, after her reaching the La Plata, and obtaining a commission, it must be completely understood that such was to have been the fact. For what other purpose could they have undertaken this voyage? Everything they saw, everything that was done, spoke a language too plain to be misunderstood.

The act of June 1794, c. 296, declares, that "if any person shall, within the territory or jurisdiction of the United States," "hire or retain another person to go beyond the limits or jurisdiction of the United States, with intent to be enlisted or entered in the service of any foreign prince or state as a soldier, or as a mariner or seaman, on board of any vessel of war, letter of marque or privateer, every person so offending, shall be guilty of a high misdemeanor," &c. Now, if the crew of the Irresistible were not enlisted in the port of Baltimore, to cruise under the commission afterwards obtained, it cannot, we think, be doubted, but that they were "hired or retained to go beyond the limits or jurisdiction of the United States, with intent to be enlisted or entered" into that service. For what other purpose were they hired in the port of Baltimore, for the voyage to La Plata?

The third section makes it penal for any person, within any of the waters
*489] of the United States, to be *"knowingly concerned in the furnishing, fitting out, or arming of any ship or vessel, with intent that such ship or vessel shall be employed in the service of any foreign prince or state, to cruise," &c. It is too clear for controversy, that the Irresistible comes within this section of the law also.

The act of 1817, c. 58, adapts the previous laws to the actual situation of the world, by adding to the words, "of any foreign prince or state," the words, "or of any colony, district or people," &c. The act of April 1818, c. 83, re-enacts the acts of 1794, 1797 and 1817, with some additional provi-

sions. It is, therefore, very clear, that the Irresistible was armed and manned in Baltimore, in violation of the laws and of the neutral obligations of the United States. We do not think that any circumstances took place in the river La Plata, by force of which this taint was removed.

To the objection, that there is no proof that any part of the money was taken out of a vessel called the "Gran Para," it need only be answered, that the allegation of the libel is, that she was called the "Gran Para, or by some other name."

Decree affirmed, with costs.[1]

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*The Santa Maria: The Spanish Consul, Libellant. [*490

Prize.—Proprietary interest.

A question of fact respecting the proprietary interest in prize goods, captured by an armed vessel fitted out in violation of the statutes of neutrality of the United States. Restitution to the original Spanish owners decreed.

Appeal from the Circuit Court of Maryland. This was a libel filed in the district court of Maryland, by the consul of his Catholic majesty for the port of Baltimore, in behalf of the Spanish owners of certain goods alleged to have been captured on the high seas, and taken out of the Spanish ship Santa Maria, by the privateer Patriota, illegally armed and equipped in the United States.

The evidence in the cause established the fact, that the capturing vessel was owned by citizens of this country, and that she was armed, equipped and fitted out, in violation of the laws and treaties of the United States. But there was some contrariety in the testimony, as to the identity of the property, which the claimant, Burke, insisted upon his title to hold, as a *bonâ fide* purchaser, under a condemnation and sale in some prize tribunal at Galveston. There was also some evidence tending to show that Burke was a part-owner of the capturing vessel. The district court dismissed the libel, and ordered the property to be restored to the claimant, but this decree was reversed by the circuit court, and the cause was brought by appeal to this court.

*February 20th. *Winder*, for the appellant, argued upon the facts, in order to show that there was a defect of evidence of proprietary interest in the Spanish subjects, for whom the claim was given, and that there was no proof that the goods in question were taken out of the Santa Maria, or any other Spanish ship. He, therefore, insisted, that even if there was no proof on the part of the claimant and appellant, of a lawful condemnation of the goods as prize, he had a right to stand upon his title as an innocent purchaser, until some better title was shown in others. [*491

D. Hoffman, for the respondent, argued: 1. That the evidence in the cause sufficiently established that the privateer Patriota, which plundered the Santa Maria, was owned and equipped in Baltimore. All captures made under the taint of an illegal outfit, or American ownership, have invariably been declared by this court to be illegal, and the property taken has been

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[1] For a further decision in this case, see 10 Wheat. 497.