

sale of lands, &c., suspended until March 31, 1820, in favour of purchasers. Act of May 10, 1800, ch. 55. See act of March 30, 1820, ch. 26.

States north-west of the Ohio, and above the mouth of Kentucky river," be, and the same is hereby, suspended until the thirty-first day of March, one thousand eight hundred and twenty, in favour of the purchasers of public lands at any of the land offices of the United States: *Provided*, That the benefit of this act shall not be extended to any one purchaser for a greater quantity than six hundred and forty acres of land.

APPROVED, March 3, 1819.

STATUTE II.

March 3, 1819. CHAP. LXXV.—*An Act in addition to "An act concerning tonnage and discriminating duties in certain cases."*

Act of April 20, 1818, ch. 112.

The act of 20th April, 1818, extended to the vessels of Prussia, Hamburg and Bremen.

The act of 3d March, 1815, ch. 76, the act April 20, 1818, ch. 112, and this act to cease on 1st Jan., 1824.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the act passed on the twentieth of April, one thousand eight hundred and eighteen, entitled "An act concerning tonnage and discriminating duties in certain cases," be, and the same hereby is, extended, in all its provisions and limitations, to the vessels of Prussia, of the city of Hamburg, and of the city of Bremen.

SEC. 2. *And be it further enacted*, That the act passed on the third of March, eighteen hundred and fifteen, entitled "An act to repeal so much of the several acts imposing duties on the tonnage of [of] ships and vessels, and on goods, wares, and merchandise, imported into the United States, as imposes a discriminating duty on tonnage, between foreign vessels and vessels of the United States, and between goods imported into the United States in foreign vessels and vessels of the United States," and also the act to which this is an addition, together with this act, shall cease and expire on the first day of January, eighteen hundred and twenty-four.

APPROVED, March 3, 1819.

STATUTE II.

March 3, 1819.

Act of March 3, 1819, ch. 100.

Act of May 10, 1800, ch. 51. The President authorized to

CHAP. LXXVII.—*An Act to protect the commerce of the United States, and punish the crime of piracy. (a)*

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be, and hereby is, authorized and requested to employ

(a) The decisions of the courts of the United States upon prosecutions for piracy, have been: *Piracy*.—A robbery committed on the high seas, although such robbery, if committed on land, would not, by the laws of the United States, be punishable with death, is piracy, under the act of Congress of 1790; and the circuit courts have jurisdiction thereof. *United States v. Palmer*, 3 Wheat. 610; 4 Cond. Rep. 352.

The crime of robbery, as mentioned in the act, is the crime of robbery as recognised and defined at common law. *Ibid.*

The crime of robbery, committed by a person who is not a citizen of the United States, on the high seas, on board of a ship belonging exclusively to subjects of a foreign state, or on persons in a foreign vessel, is not piracy under the act, and is not punishable in the courts of the United States. *Ibid.*

When a civil war rages in a foreign nation, one part of which separates itself from the old established government, and erects itself into a distinct government, the courts of the United States must view such newly constituted government as it is viewed by the legislative and executive departments of the government of the United States. If that government remains neutral, but recognises the existence of a civil war, the courts of the Union cannot consider as criminal, those acts of hostility which war authorizes, and which the new government may direct against its enemy. *Ibid.*

The same testimony which would be sufficient to prove that a vessel or person is in the service of an acknowledged state, is admissible to prove that they are in the service of such newly created government. Its seal cannot be allowed to prove itself, but may be proved by such testimony as the nature of the case admits; and the fact that a vessel or person is in the service of such government may be established otherwise, should it be impracticable to prove the seal. *Ibid.*

A commission issued by Aury, as "brigadier of the Mexican republic," (a republic whose existence is unknown and unacknowledged,) or as "generalissimo of the Floridas," (a province in the possession of Spain,) will not authorize armed vessels to make captures at sea. *United States v. Klintock*, 5 Wheat. 144; 4 Cond. Rep. 614.

so many of the public armed vessels, as, in his judgment, the service may require, with suitable instructions to the commanders thereof, in protecting the merchant vessels of the United States and their crews from piratical aggressions and depredations. employ the public armed vessels to protect merchant vessels.

Query, Whether a person, acting with good faith under such a commission, may be guilty of piracy? *Ibid.*

However this may be, in general, under the particular circumstances of this case, showing that the seizure was made not *jure belli*, but *animo furandi*, the commission was held not to exempt the prisoner from the charge of piracy. *Ibid.*

The act of the 30th of April, 1790, ch. 9, extends to all persons, on board all vessels, which throw off their national character by cruising piratically, and committing piracy on other vessels. *Ibid.*

The act of the 3rd March, 1819, ch. 77, sec. 5, referring to the law of nations for a definition of the crime of piracy, is a constitutional exercise of the power of Congress to define and punish that crime. *United States v. Smith*, 5 Wheat. 153; 4 Cond. Rep. 619.

The crime of piracy is defined by the law of nations with reasonable certainty. *Ibid.*

Robbery, or forcible depredation, upon the sea, *animo furandi*, is piracy by the law of nations, and by the act of Congress. *Ibid.*

The eighth section of the act of the 30th of April, 1790, ch. 9, for the punishment of certain crimes against the United States, is not repealed by the act of the 3d of March, 1819, ch. 77, to protect the commerce of the United States, and to punish the crime of piracy. *United States v. Furlong*, alias *Hobson et al.*, 5 Wheat. 184; 4 Cond. Rep. 623.

In an indictment for a piratical murder (under the act of the 30th of April, 1790, ch. 9, sec. 8), it is not necessary that it should allege the prisoner to be a citizen of the United States, nor that the crime was committed on board a vessel belonging to citizens of the United States; but it is sufficient to charge it as committed from on board such a vessel, by a mariner sailing on board such a vessel. *Ibid.*

The words "out of the jurisdiction of any particular state," in the act of the 30th of April, 1790, ch. 9, sec. 8, are construed to mean, out of the jurisdiction of any particular state of the Union. *Ibid.* A vessel lying in an open roadstead of a foreign country, is "upon the high seas" within the act of 1790, ch. 9, sec. 8. *Ibid.*

A citizen of the United States fitting out a vessel in a port of the United States, to cruise against a power in amity with the United States, is not protected by a foreign commission from punishment for any offence committed against the property of citizens of the United States. *Ibid.*

The courts of the United States have jurisdiction of a murder committed on the high seas from a vessel belonging to the United States, by a foreigner being on board such vessel, upon another foreigner being on board of a foreign vessel. It is not necessary to produce documentary evidence, in order to prove the national character of a vessel, on an indictment for piracy. *Ibid.*

The courts of the United States have not jurisdiction of a murder committed by one foreigner on another foreigner, both being on board a foreign vessel. *Ibid.*

It is competent in an indictment for piracy, for the jury to find that a vessel within a marine league of the shore, at anchor, in an open roadstead, where vessels only ride under shelter of the land at a season when the course of the winds is invariable, is upon the high seas. *Ibid.*

The act of the 3d of March, 1819, ch. 77, sec. 5, furnishes a sufficient definition of piracy; and it is defined to be "robbery on the seas." *Ibid.*

A vessel loses her national character by assuming a piratical character; and a piracy committed by a foreigner from on board such a vessel, upon any other vessel whatever, is punishable under the eighth section of the act of the 30th of April, 1790, ch. 9. *Ibid.*

On an indictment for piracy, the jury may find the national character of a vessel upon such evidence as will satisfy their minds; without the certificate of registry, or other documentary evidence, being produced; and without proof of their having been seen on board. *Ibid.*

On an indictment for piracy, the national character of a merchant vessel of the United States may be proved without evidence of her certificate of registry. *Ibid.*

The courts of the United States have jurisdiction under the act of the 30th of April, 1790, ch. 9, of murder or robbery committed on the high seas; although not committed on board a vessel belonging to citizens of the United States, as if she had no national character; but was held by pirates, or persons not lawfully sailing under the flag of any foreign nation. *United States v. Holmes*, 5 Wheat. 412; 4 Cond. Rep. 708.

In the same case, and under the same act, if the offence be committed on board of a foreign vessel by a citizen of the United States; or on board a vessel of the United States by a foreigner; or by a citizen or foreigner on board of a piratical vessel; the offence is equally cognisable by the courts of the United States. *Ibid.*

It makes no difference in such a case, and under the same act, whether the offence was committed on board of a vessel, or on the sea; as by throwing the deceased overboard and drowning him, or by shooting him when in the sea though he was not thrown overboard. *Ibid.*

In such a case, and under the same act, where the vessel from on board of which the offence was committed, sailed from Buenos Ayres, where she had enlisted her crew; but it did not appear by legal proof that she had a commission from the government of Buenos Ayres, or any ships' papers or documents from that government, or that she was ever recognised as a ship of that nation, or of its subjects, or who were the owners, where they resided, or when or where the vessel was armed and equipped; but it did appear in proof, that the captain and crew were chiefly Englishmen, Frenchmen, and citizens of the United States; that the captain was by birth a citizen of the United States, domiciled at Baltimore, where the privateer was built: *Held*, that the burthen of proof of the national character of the vessel, was on the prisoners. *Ibid.*

General piracy, or murder, or robbery, committed by persons on board a vessel, not at the time belonging to the subjects of any foreign power, but in possession of a crew, acting in defiance of all law, and acknowledging obedience to no government whatever, is within the 8th section of the ac

The President authorized to instruct commanders of public armed vessels to take and

SEC. 2. *And be it further enacted*, That the President of the United States be, and hereby is, authorized to instruct the commanders of the public armed vessels of the United States to subdue, seize, take, and send into any port of the United States, any armed vessel or boat, or any vessel or

of Congress of April 30th, 1790, ch. 9, and is punishable in the courts of the United States. *United States v. Furlong*, 5 Wheat. 185; 4 Cond. Rep. 623.

There is a distinction between the crimes of murder and piracy. The latter is an offence within the criminal jurisdiction of all nations: not so with murder, it is punishable under the laws of each state. *Ibid.*

It is not necessary to produce documentary evidence, to prove the national character of a vessel, on an indictment for piracy. *Ibid.*

Upon a piratical capture, the property of the original owners cannot be forfeited for the misconduct of the captors, in violating the municipal laws of the country where the captors have carried the property. *The Josefa Segunda*, 5 Wheat. 338; 4 Cond. Rep. 672.

Pirates may be lawfully captured by the public or private ships of any nation, in peace or in war; for they are *hostes humani generis*. *The Marianna Flora*, 11 Wheat. 1; 6 Cond. Rep. 201.

On a question of probable cause of seizure, under the piracy acts of 3d of March, 1819, ch. 77, and of the 15th of May, 1820, ch. 113; although the crew may be protected by a commission *bona fide* received, and acted under, from the consequences attaching to the offence of piracy by the general law of nations; although such commission was irregularly issued; yet if the defects in the commission be such as, connected with the insubordination and predatory spirit of the crew, to excite a justly founded suspicion, it is sufficient, under the act of Congress, to justify the captors for bringing in the vessel for adjudication, and to exempt them from costs and damages. *The Palmyra*, 12 Wheat. 1; 6 Cond. Rep. 397.

Whatever difficulty there may be, under our municipal institutions, in punishing as pirates, citizens of the United States who take from a state at war with Spain, a commission to cruise against that power, contrary to the 14th article of the Spanish treaty: yet there is no doubt that such acts are to be considered as piratical acts for all civil purposes, and the offending parties cannot appear, and claim in our courts the property thus taken. *The Bello Corrunes*, 6 Wheat. 152; 5 Cond. Rep. 45.

To constitute the offence of piracy, within the act of 1790, ch. 9, by "piratically and feloniously" running away with a vessel, personal force and violence is not necessary. *United States v. Tully*, 1 Gallis. C. C. R. 247.

The "piratically and feloniously" running away with a vessel, within the act, is the running away with a vessel, with an intent to convert the same to the taker's own use, against the will of the owner. The intent must be *animo furandi*. *Ibid.*

The circuit court has cognisance, under the act of 1790, ch. 9, sec. 8, of piracy on board an American ship, although committed in an open roadstead, adjacent to a foreign territory, and within half a mile of the shore. *United States v. Ross*, 1 Gallis. C. C. R. 524.

Where the defendant was indicted for robbery and piracy, on the high seas, on board a brig called *L'Eclair*, a foreign vessel, belonging exclusively to French owners, and sailing under the French flag: *Held*, that under the acts of Congress, the circuit court had no jurisdiction to try and punish the offence. *United States v. Kessler*, 1 Baldwin's C. C. R. 25.

Whether the offence was committed within or without a marine league of the coast of the United States, makes no difference. *Ibid.*

The defendant who was the first lieutenant of an American privateer, the *Revenge*, was indicted for piracy committed on a Portuguese vessel, and for assaulting the crew, and putting them in bodily fear, &c. The defendant was charged with boarding the vessel, and by force and intimidation, taking from her money and other articles, not claiming the vessel as prize; but pretending that the *Revenge* was an English vessel, and that the articles would be paid for by an order on the English consul. *Held*, that the eighth section of the act for the punishment of certain crimes, makes murder and robbery on the high seas acts of piracy. The words, "which if committed in the body of a county," do not relate to "murder and robbery," but to the words immediately preceding them, or any other offence. *United States v. Jones*, 3 Wash. C. C. R. 209.

To define the meaning of "robbery," the common law must be resorted to: wherever a statute of the United States uses a technical term, which is known, and its meaning clearly ascertained by the common law or civil law, from one or other of which it is obviously borrowed, it is proper to refer for its meaning to the source from which it is taken. *Ibid.*

The act of Congress of 1812, for the government of the navy of the United States, does not repeal the provisions of the law relating to piracy, contained in the act of Congress passed 30th April, 1790. The general rule of law, that robbery on the high seas is piracy, has no exception or qualification in favour of commissioned privateers, in any act of Congress, in the common law, or in the law of nations. Robbery is the felonious taking of goods from the person of another; or in his presence by violence; or by putting him in fear, and against his will. *Ibid.*

As there was no proof under the indictment, that in the first instance any unlawful acts were meditated by the commander of the *Revenge*, and his officers; it was held to be insufficient to charge the defendants, who were part of the crew, with piracy, by proving acts of robbery committed by the crew in general. It must be proved that the defendants, who were part of the crew, participated in the taking; and that they did it feloniously. The captain of the *Revenge* may have been guilty of robbery, and those who executed his orders may have been innocent. *Ibid.*

The crimes of piracy mentioned in the 8th section of the act for the punishment of certain crimes, passed 30th April, 1790, are such as are committed by citizens of the United States, or on board of vessels of the United States; and the 10th and 11th sections of the act, which refer to accessaries, refer to acts of piracy mentioned in the 8th section. *United States v. Howard et al.*, 3 Wash. C. C. R. 340.

An endeavour by a mariner to corrupt the master of a vessel, and to induce him to go over to pirates, is within the provisions of the eighth section of the law. *Ibid.*

boat, the crew whereof shall be armed, and which shall have attempted or committed any piratical aggression, search, restraint, depredation or seizure, upon any vessel of the United States, or of the citizens thereof, or upon any other vessel; and also to retake any vessel of the United States, or its citizens, which may have been unlawfully captured upon the high seas.

SEC. 3. *And be it further enacted*, That the commander and crew of any merchant vessel of the United States, owned wholly, or in part, by a citizen thereof, may oppose and defend against any aggression, search, restraint, depredation, or seizure, which shall be attempted upon such vessel, or upon any other vessel owned as aforesaid by the commander or crew of any armed vessel whatsoever, not being a public armed vessel of some nation in amity with the United States; and may subdue and capture the same; and may also retake any vessel, owned as aforesaid, which may have been captured by the commander or crew of any such armed vessel, and send the same into any port of the United States.

SEC. 4. *And be it further enacted*, That whenever any vessel or boat, from which any piratical aggression, search, restraint, depredation or seizure shall have been first attempted or made, shall be captured and brought into any port of the United States, the same shall and may be adjudged and condemned to their use, and that of the captors, after due process and trial, in any court having admiralty jurisdiction, and which shall be holden for the district into which such captured vessel shall be brought; and the same court shall thereupon order a sale and distribution thereof accordingly, and at their discretion.

SEC. 5. *And be it further enacted*, That if any person or persons whatsoever, shall, on the high seas, commit the crime of piracy, as defined

send into port armed vessels, &c. which have attempted or committed piratical aggression, &c.

Merchant vessels may defend against aggression, &c. by any armed vessel other than a public armed vessel of a nation in amity.

Vessels from which piratical aggression, &c. has been attempted or made, when taken may be condemned.

Sale and distribution.

To establish the crime of confederacy, there must be some proof of criminal intentions in the persons charged. *Ibid.*

The language of the 12th section of the law, implies compact and association with pirates, as well in relation to the past as to the future. Any intercourse with them which is calculated to promote their views, is within the provisions of the law. *Ibid.*

In order to affect all the officers and crew of a piratical vessel with guilt, the original voyage must have been undertaken with a piratical design; and the officers and crew have acted upon such design; otherwise those only are guilty who co-operated actively in the piracy. *United States v. Gibert*, 2 Sumner's C. C. R. 19.

It would not be sufficient to affect them with such, if they had known the voyage was to be an illegal one, as in the slave trade, contrary to the laws of Spain. *Ibid.*

The simple fact of presence on board the piratical vessel, where there was no original piratical design, is not of itself sufficient to affect a party with the crime. All who are present, acting and assisting in the piracy, are to be deemed principals. *Ibid.*

The act of 1790, ch. 9, sec. 8, for the punishment of certain crimes, passed by Congress, as well as the act of 1820, ch. 113, applies to all murders and robberies committed on board of, or upon American ships on the high seas. *Ibid.*

The indictment charged the piracy to have been committed "on the high seas within the admiralty and maritime jurisdiction of the United States, and out of the jurisdiction of a particular state." Held, that this was a sufficient statement of the venue, without a further specification of the place. *Ibid.*

Under the act of Congress of 1819, ch. 77, any armed vessel may be seized which shall have attempted or committed any piratical aggression, &c., and the proceeds of the vessel when sold divided between the United States and the captors at the discretion of the court. *Harmony et al. v. The United States*, 2 Howard, 210.

It is no matter whether the vessel be armed for offence or defence, provided she commits the unlawful acts specified. *Ibid.*

To bring a vessel within the act, it is not necessary that there should be actual plunder or intent to plunder; if the act be committed from hatred or an abuse of power, or a spirit of mischief, it is sufficient. *Ibid.*

The word "piratical" in the act is not to be limited in its construction to such acts as by the laws of nations are denominated piracy, but includes such as pirates are in the habit of committing. *Ibid.*

A piratical aggression, search, restraint or seizure, is as much within the act, as a piratical depredation. *Ibid.*

The innocence or ignorance on the part of the owner of the vessel, of these prohibited acts, will not exempt the vessel from condemnation. *Ibid.*

The condemnation of the cargo is not authorized by the act of 1819. Neither does the law of nations require the condemnation of the cargo for petty offences, unless the owner thereof co-operates in and authorizes the unlawful act. An exception exists in the enforcement of belligerent rights. *Ibid.*

Where the innocence of the owners was established, it was proper to throw the costs on the vessel which was condemned, to the exception of the cargo which was liberated. *Ibid.*

Persons committing the crime of piracy on the high seas, to be punished with death.

by the law of nations, and such offender or offenders, shall afterwards be brought into or found in the United States, every such offender or offenders shall, upon conviction thereof, before the circuit court of the United States for the district into which he or they may be brought, or in which he or they shall be found, be punished with death.

SEC. 6. *And be it further enacted*, That this act shall be in force until the end of the next session of Congress.

APPROVED, March 3, 1819.

STATUTE II.

March 3, 1819.

CHAP. LXXX.—*An Act to continue in force, for a further term, the act entitled "An act for establishing trading houses with the Indian tribes," and for other purposes.*

Act of March 2, 1811, ch. 30.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the act entitled "An act for establishing trading houses with the Indian tribes," passed on the second day of March, one thousand eight hundred and eleven, and which was, by subsequent acts, continued in force until the first day of March, one thousand eight hundred and nineteen, shall be, and the same is hereby, further continued in force until the first day of March, one thousand eight hundred and twenty, and no longer.

The act continued until 1st March, 1820.

Act of April 20, 1818, ch. 104. The President may transfer Indian agents.

SEC. 2. *And be it further enacted*, That the President of the United States shall have power, and he is hereby authorized, in every case where he shall judge it expedient, to transfer any of the Indian agents, whose compensation was fixed by the act, entitled "An act fixing the compensation of Indian agents and factors," from the places designated by the said act for the discharge of their duties, respectively, to such other places as the public service may require; and shall also have power to appoint, by and with the consent and advice of the Senate, an Indian agent for the Upper Missouri, whose annual compensation shall be one thousand eight hundred dollars.

Indian agent for Upper Missouri with a salary of \$1800.

APPROVED, March 3, 1819.

STATUTE II.

March 3, 1819.

CHAP. LXXXI.—*An Act regulating the payments to invalid pensioners.*

Affidavit of two credible surgeons, &c., stating the continuance and rate of disability, &c., to accompany the application for payment.

Proviso; affidavit not necessary in case of total disability, &c.

Act of March 18, 1818, ch. 19.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That in all cases of application for the payment of pensions to invalids, under the several laws of Congress granting pensions to invalids, the affidavit of two surgeons or physicians, whose credibility, as such, shall be certified by the magistrate before whom the affidavit is made, stating the continuance of the disability for which the pension was originally granted, (describing it,) and the rate of such disability at the time of making the affidavit, shall accompany the application of the first payment which shall fall due after the fourth day of March next, and at the end of every two years thereafter; and if, in a case of a continued disability, it shall be stated at a rate below that for which the pension was originally granted, the applicant shall only be paid at the rate stated in the affidavit: *Provided*, That where the pension shall have been originally granted for a total disability, in consequence of the loss of a limb, or other cause which cannot, either in whole or in part, be removed, the above affidavit shall not be necessary to entitle the applicant to payment: *And provided, also*, That this act shall not extend to the invalids of the revolution, who have been, or shall be, placed on the pension list, pursuant to an act of Congress, entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war," approved the