

mislead, or shall actually mislead the public, so as the effect described cannot be produced by the means specified, then, and in such cases, the verdict and judgment shall be for the defendant.

Patent fees.

SEC. 7. *And be it further enacted*, That such patentee as aforesaid, shall, before he receives his patent, pay the following fees to the several officers employed in making out and perfecting the same, to wit: For receiving and filing the petition, fifty cents; for filing specifications, per copy-sheet containing one hundred words, ten cents; for making out patent, two dollars; for affixing great seal, one dollar; for indorsing the day of delivering the same to the patentee, including all intermediate services, twenty cents.

APPROVED, April 10, 1790.

STATUTE II.

April 15, 1790.

CHAP. VIII.—*An Act further to suspend part of an act intituled "An act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares and merchandises imported into the United States," and to amend the said act.*

Repealed. Act of Aug. 4, 1790, chap. 35, sec. 74.

Restriction by a former act, on vessels bound up the Potomac, suspended until first May, 1791.

Act of July 31, 1789, ch. 5.

Additional ports of delivery in Connecticut.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That so much of an act, intituled, "An act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares and merchandises imported into the United States," as obliges ships or vessels bound up the river Potomac to come to, and deposit manifests of their cargoes with the officers at Saint Mary's and Yeocomico, before they proceed to their port of delivery, shall be and is hereby further suspended, from the first day of May next, to the first of May in the year one thousand seven hundred and ninety-one.

SEC. 2. *And be it further enacted, by the authority aforesaid*, That the landing places in Windsor and East Windsor, in the State of Connecticut, shall be ports of delivery, and be included in the district of New London.

APPROVED, April 15, 1790.

STATUTE II.

April 30, 1790.

CHAP. IX.—*An Act for the Punishment of certain Crimes against the United States.*

Act of April 2, 1792, ch. 16, sec. 19. Act of May 27, 1796, ch. 36, sec. 7. Jan. 30, 1799, ch. 1. Act of April 24, 1800, ch. 35. Act of March 26, 1804, ch. 40. Act of March 3, 1825, ch. 65.

What cases shall be adjudged treason. How proved and punished.

Misprision of treason.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any person or persons, owing allegiance to the United States of America, shall levy war against them, or shall adhere to their enemies, giving them aid and comfort within the United States or elsewhere, and shall be thereof convicted, on confession in open court, or on the testimony of two witnesses to the same overt act of the treason whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death.(a)

SEC. 2. *And be it [further] enacted*, That if any person or persons, having knowledge of the commission of any of the treasons aforesaid, shall conceal and not as soon as may be disclose and make known the same to the President of the United States, or some one of the judges thereof, or to the president or governor of a particular state, or some one of the judges or justices thereof, such person or persons on conviction shall be adjudged guilty of misprision of treason, and shall be imprisoned not exceeding seven years, and fined not exceeding one thousand dollars.

(a) *Treason*.—To constitute a levying of war, there must be an assemblage of persons for the purpose of effecting by force, a treasonable purpose. Ex parte Bollman and Swartwout, 4 Cranch, 75; 2 Cond. Rep. 33. The United States v. Vigol, 2 Dall. 346. The United States v. Vilatto, 2 Dall. 370. The United States v. The Insurgents of Pennsylvania, 2 Dall. 335. The United States v. Mitchell, 2 Dall. 348. The United States v. Stuart, 2 Dall. 343; 1 Burr's Trial, 14; 2 Burr's Trial, 401.

SEC. 3. *And be it [further] enacted*, That if any person or persons shall, within any fort, arsenal, dock-yard, magazine, or in any other place or district of country, under the sole and exclusive jurisdiction of the United States, commit the crime of wilful murder, such person or persons on being thereof convicted shall suffer death. (a)

SEC. 4. *And be it also enacted*, That the court before whom any person shall be convicted of the crime of murder, for which he or she shall be sentenced to suffer death, may at their discretion, add to the judgment, that the body of such offender shall be delivered to a surgeon for dissection; and the marshal who is to cause such sentence to be executed, shall accordingly deliver the body of such offender, after execution done, to such surgeon as the court shall direct, for the purpose aforesaid: *Provided*, That such surgeon, or some other person by him appointed for the purpose, shall attend to receive and take away the dead body at the time of the execution of such offender.

SEC. 5. *And be it further enacted*, That if any person or persons shall, after such execution had, by force rescue or attempt to rescue the body of such offender out of the custody of the marshal or his officers, during the conveyance of such body to any place for dissection as aforesaid; or shall by force rescue or attempt to rescue such body from the house of any surgeon, where the same shall have been deposited in pursuance of this act; every person so offending, shall be liable to a fine not exceeding one hundred dollars, and an imprisonment not exceeding twelve months.

SEC. 6. *And be it [further] enacted*, That if any person or persons having knowledge of the actual commission of the crime of wilful murder or other felony, upon the high seas, or within any fort, arsenal, dock-yard, magazine, or other place or district of country, under the sole and exclusive jurisdiction of the United States, shall conceal, and not as soon as may be disclose and make known the same to some one of the judges or other persons in civil or military authority under the United States, on conviction thereof, such person or persons shall be adjudged guilty of misprision of felony, and shall be imprisoned not exceeding three years, and fined not exceeding five hundred dollars.

SEC. 7. *And be it [further] enacted*, That if any person or persons shall within any fort, arsenal, dock-yard, magazine, or other place or district of country, under the sole and exclusive jurisdiction of the United States, commit the crime of manslaughter, and shall be thereof convicted, such person or persons shall be imprisoned not exceeding three years, and fined not exceeding one thousand dollars.

SEC. 8. *And be it [further] enacted*, That if any person or persons shall commit upon the high seas, or in any river, haven, basin or bay, out of the jurisdiction of any particular state, murder or robbery, or any other offence which if committed within the body of a county, would by the

Murder in a fort or arsenal, under the exclusive jurisdiction of the U. S. to punish with death.

Act of March 3, 1825, ch. 65, sec. 4. and court may order offender's body to be dissected.

Rescue of a body ordered for dissection, punishment for.

Misprision of felony, what cases shall be judged, and how punished.

Manslaughter in a fort, arsenal, &c. how punished.

Act of March 3, 1825, ch. 65, sec. 4, 6, 7.

Act of March 3, 1829, ch. 64.

Piracy and felony, what cases shall be judged, where

(a) *Murder*.—Congress have not in the 8th section of the act of April 30, 1790, for the prevention of certain crimes against the United States, exercised the power, if any such is given by the constitution of the United States, of conferring jurisdiction on the courts of the United States of a murder committed on the waters of a State where the tide ebbs and flows. *United States v. Bevans*, 3 Wheat. 336; 4 Cond. Rep. 275.

The 3d article of the constitution of the United States, which declares that "the judicial power of the United States shall extend to all cases of admiralty and maritime jurisdiction," vests in the United States exclusive jurisdiction of all such cases; and a murder committed on the waters of a State where the tide ebbs and flows, is a case of admiralty and maritime jurisdiction. *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 of such vessel, upon another foreigner being on board of another vessel. 5 Wheat. 184; 4 Cond. Rep. 623.

The courts of the United States have jurisdiction, under the act of April 30, 1790, of a murder committed on the high seas, although not committed on board of a vessel of the United States, as if she had no national character, but was held by pirates or persons not sailing under the flag of any foreign nation. *The United States v. Holmes et al.*, 5 Wheat. 412; 4 Cond. Rep. 708. See also *United States v. Magill*, 1 Wash. C. C. R. 463. *United States v. Drew*, 5 Mason's C. C. R. 28. *United States v. Freeman*, 4 Mason's C. C. R. 505. *United States v. Ross*, 1 Gallis. C. C. R. 624. *Dexter v. Spear*, 4 Mason's C. C. R. 115. *The United States v. Cornell*, 2 Mason's C. C. R. 91.

tried and how punished.

Act of May 15, 1820, ch. 113.

laws of the United States be punishable with death; or if any captain or mariner of any ship or other vessel, shall piratically and feloniously run away with such ship or vessel, or any goods or merchandise to the value of fifty dollars, or yield up such ship or vessel voluntarily to any pirate; or if any seaman shall lay violent hands upon his commander, thereby to hinder and prevent his fighting in defence of his ship or goods committed to his trust, or shall make a revolt in the ship; every such offender shall be deemed, taken and adjudged to be a pirate and felon, and being thereof convicted, shall suffer death; and the trial of crimes committed on the high seas, or in any place out of the jurisdiction of any particular state, shall be in the district where the offender is apprehended, or into which he may first be brought. (a)

SEC. 9. *And be it [further] enacted*, That if any citizen shall commit any piracy or robbery aforesaid, or any act of hostility against the United States, or any citizen thereof, upon the high sea, under colour of any commission from any foreign prince, or state, or on pretence of authority from any person, such offender shall, notwithstanding the pretence of any such authority, be deemed, adjudged and taken to be a pirate, felon, and robber, and on being thereof convicted shall suffer death.

Accessaries therein, how punished.

SEC. 10. *And be it [further] enacted*, That every person who shall, either upon the land or the seas, knowingly and wittingly aid and assist, procure, command, counsel or advise any person or persons, to do or commit any murder or robbery, or other piracy aforesaid, upon the sea, which shall affect the life of such person, and such person or persons shall thereupon do or commit any such piracy or robbery, then all and every such person so as aforesaid aiding, assisting, procuring, commanding, counselling or advising the same, either upon the land or the sea, shall be, and they are hereby declared, deemed and adjudged to be accessory to such piracies before the fact, and every such person being thereof convicted shall suffer death.

Concealing a pirate or property taken by a pirate.

SEC. 11. *And be it [further] enacted*, That after any murder, felony, robbery, or other piracy whatsoever aforesaid, is or shall be committed by any pirate or robber, every person who knowing that such pirate or robber has done or committed any such piracy or robbery, shall on the land or at sea receive, entertain or conceal any such pirate or robber, or receive or take into his custody any ship, vessel, goods or chattels, which have been by any such pirate or robber piratically and feloniously taken, shall be, and are hereby declared, deemed and adjudged to be accessory to such piracy or robbery, after the fact; and on conviction thereof, shall be imprisoned not exceeding three years, and fined not exceeding five hundred dollars.

(a) 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 8th section of the law of the United States; 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 recognized at common law. *Ibid.* See also *United States v. Klinton*, 5 Wheat. 144; 4 Cond. Rep. 614. *The United States v. Smith*, 5 Wheat. 153; 4 Cond. Rep. 619. *United States v. Furlong et al.*, 5 Wheat. 184; 4 Cond. Rep. 623. *United States v. Holmes*, 5 Wheat. 412; 4 Cond. Rep. 708.

Pirates may be lawfully captured by the public or private ships of any nation, in peace or war, for they are *hostes humani generis*. *The Marianna Flora*, 11 Wheat. 1; 6 Cond. Rep. 201. See also *The Josefa Segunda*, 5 Wheat. 338; 4 Cond. Rep. 672. *The Palmyra*, 12 Wheat. 1; 6 Cond. Rep. 397. *The Bello Corrunnes*, 6 Wheat. 152; 5 Cond. Rep. 45.

To constitute the offence of piracy within the act of 1790, "by piratically and feloniously running away with a vessel," personal force and violence are not necessary. 1 *Gallis' C. C. R.* 247. See also *The United States v. Ross*, 1 *Gallis' C. C. R.* 624. *United States v. Kessler*, 1 *Baldwin's C. C. R.* 15. *United States v. Gibert*, 2 *Sumner's C. C. R.* 19.

In the act of April 30, 1790, the description of places contained in the 8th section, within which the offences therein enumerated must be committed, in order to give the courts of the United States jurisdiction over them, cannot be transferred to the 12th section, so as to give those courts jurisdiction over a manslaughter committed in a port of a foreign country, and not on the high seas. *The Hoppet v. The United States*, 7 *Cranch*, 339; 2 *Cond. Rep.* 542. See *United States v. Wiltberger*, 5 *Wheat.* 76; 4 *Cond. Rep.* 593.

SEC. 12. *And be it [further] enacted*, That if any seaman or other person shall commit manslaughter upon the high seas, or confederate, or attempt or endeavour to corrupt any commander, master, officer or mariner, to yield up or to run away with any ship or vessel, or with any goods, wares, or merchandise, or to turn pirate, or to go over to or confederate with pirates, or in any wise trade with any pirate knowing him to be such, or shall furnish such pirate with any ammunition, stores or provisions of any kind, or shall fit out any vessel knowingly and with a design to trade with or supply or correspond with any pirate or robber upon the seas; or if any person or persons shall any ways consult, combine, confederate or correspond with any pirate or robber on the seas, knowing him to be guilty of any such piracy or robbery; or if any seaman shall confine the master of any ship or other vessel, or endeavour to make a revolt in such ship; (a) such person or persons so offending, and being thereof convicted, shall be imprisoned not exceeding three years, and fined not exceeding one thousand dollars.

Confederacy to become pirates, how punished.
Act of March 3, 1825, ch. 65, sec. 6, sec. 22.

SEC. 13. *And be it [further] enacted*, That if any person or persons, within any of the places upon the land under the sole and exclusive jurisdiction of the United States, or upon the high seas, in any vessel belonging to the United States, or to any citizen or citizens thereof, on purpose and of malice aforethought, shall unlawfully cut off the ear or ears, or cut out or disable the tongue, put out an eye, slit the nose, cut off the nose or a lip, or cut off or disable any limb or member of any person, with intention in so doing to maim or disfigure such person in any the manners before mentioned, then and in every such case the person or persons so offending, their counsellors, aiders and abettors (knowing of and privy to the offence aforesaid) shall on conviction, be imprisoned not exceeding seven years, and fined not exceeding one thousand dollars.

Maiming, what cases shall be judged, and how punished.

Act of March 3, 1825, ch. 65, sec. 22.

SEC. 14. *And be it [further] enacted*, That if any person or persons shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly act or assist in the false making, altering, forging or counterfeiting any certificate, indent, or other public security of the United States, or shall utter, put off, or offer, or cause to be uttered, put off, or offered in payment or for sale any such false, forged, altered or counterfeited certificate, indent or other public security, with intention to defraud any person, knowing the same to be false, altered, forged or counterfeited, and shall be thereof convicted, every such person shall suffer death. (b)

Forgery, what cases shall be judged, and how punished.

Act of March 3, 1825, ch. 65, sec. 17, 18, 19, 20, act of March 3, 1823, ch. 36.

SEC. 15. *And be it [further] enacted*, That if any person shall feloniously steal, take away, alter, falsify, or otherwise avoid any record, writ, process, or other proceedings in any of the courts of the United States, by means whereof any judgment shall be reversed, made void, or not take effect, or if any person shall acknowledge or procure to be acknowledged in any of the courts aforesaid, any recognizance, bail or judgment, in the name or names of any other person or persons not privy or consenting to the same, every such person or persons on conviction thereof, shall be fined not exceeding five thousand dollars, or be impris-

Stealing or falsifying any record, process, &c. how punished.

(a) Although the crimes act of 1790, sec. 12, does not define the offence of endeavouring to make a revolt, it is competent for the court to give a judicial definition of it. *United States v. Kelley*, 11 Wheat. 417; 6 Cond. Rep. 370.

A revolt, is the usurpation of the authority and command of the ship, and an overthrow of that of the master, or commanding officer. Any conspiracy to accomplish such an object, or to resist a lawful command of the master for such purpose; any endeavour to stir up others of the crew to such resistance, is an endeavour to make a revolt, within the meaning of the 12th section of the act of 1790. *United States v. Hemmer et al.*, 4 Mason's C. C. R. 105. See also *United States v. Keefe*, 3 Mason's C. C. R. 475; 5 Mason's C. C. R. 460. *United States v. Smith*, 1 Mason's C. C. R. 147. *United States v. Hamilton*, 1 Mason's C. C. R. 443. *United States v. Kelley*, 4 Wash. C. C. R. 528.

(b) See *United States v. Turner*, 7 Peters, 132. *United States v. Brewster*, 7 Peters, 164. *United States v. Stewart*, 4 Wash. C. C. R. 226. *United States v. Reuben Moses*, 4 Wash. C. C. R. 726. *United States v. Morrow*, 4 Wash. C. C. R. 733. *United States v. Britton*, 2 Mason's C. C. R. 464. *United States v. Hinman*, 1 Baldwin's C. C. R. 292. *United States v. Mitchell*, 1 Baldwin's C. C. R. 366.

Exceptions.

soned not exceeding seven years, and whipped not exceeding thirty-nine stripes. *Provided nevertheless*, That this act shall not extend to the acknowledgment of any judgment or judgments by any attorney or attorneys, duly admitted for any person or persons against whom any such judgment or judgments shall be had or given.

Larceny, what cases shall be judged, and how punished.
Act of March 3, 1825, ch. 27.

SEC. 16. *And be it [further] enacted*, That if any person within any of the places under the sole and exclusive jurisdiction of the United States, or upon the high seas, shall take and carry away, with an intent to steal or purloin the personal goods of another; or if any person or persons, having at any time hereafter the charge or custody of any arms, ordnance, munition, shot, powder, or habiliments of war belonging to the United States, or of any victuals provided for the victualing of any soldiers, gunners, marines or pioneers, shall for any lucre or gain, or wittingly, advisedly, and of purpose to hinder or impede the service of the United States, embezzle, purloin or convey away any of the said arms, ordnance, munition, shot or powder, habiliments of war, or victuals, that then and in every of the cases aforesaid, the person or persons so offending, their counsellors, aiders and abettors (knowing of and privy to the offences aforesaid) shall, on conviction, be fined not exceeding the fourfold value of the property so stolen, embezzled or purloined; the one moiety to be paid to the owner of the goods, or the United States, as the case may be, and the other moiety to the informer and prosecutor, and be publicly whipped, not exceeding thirty-nine stripes. (a)

Receivers of stolen goods, &c. how punished.
Act of March 3, 1825, ch. 27.

SEC. 17. *And be it further enacted*, That if any person or persons, within any part of the jurisdiction of the United States as aforesaid, shall receive or buy any goods or chattels that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, or shall receive, harbour or conceal any felons or thieves, knowing them to be so, he or they being of either of the said offences legally convicted, shall be liable to the like punishments as in the case of larceny before are prescribed.

Perjury how punished.

SEC. 18. *And be it [further] enacted*, That if any person shall wilfully and corruptly commit perjury, (b) or shall by any means procure any person to commit corrupt and wilful perjury, on his or her oath or affirmation in any suit, controversy, matter or cause depending in any of the courts of the United States, or in any deposition taken pursuant to the laws of the United States, every person so offending, and being thereof convicted, shall be imprisoned not exceeding three years, and fined not exceeding eight hundred dollars; and shall stand in the pillory for one hour, and be thereafter rendered incapable of giving testimony in any of the courts of the United States, until such time as the judgment so given against the said offender shall be reversed.

In prosecutions for perjury, shall be sufficient to set forth substance of the charge.

SEC. 19. *And be it [further] enacted*, That in every presentment or indictment to be prosecuted against any person for wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court, or before whom the oath or affirmation was taken, (averring such court, or person or persons to have a competent authority to administer the same) together with the proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned; without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding, either in law or equity, other than as aforesaid, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed.

SEC. 20. *And be it further enacted*, That in every presentment or

(a) United States v. Davis, 5 Mason's C. C. R. 356. United States v. Clew, 4 Wash. C. C. R. 700. United States v. Hamilton, 1 Mason's C. C. R. 152. United States v. Lawrence Coombs, 12 Peters, 72.

(b) United States v. Bailey, 9 Peters, 298. United States v. Kendrick, 2 Mason's C. C. R. 69. United States v. Clark, 1 Gallis' C. C. R. 497. United States v. Passmore, 4 Dall. 372, 378.

indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding, either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed.

Proceedings for subornation of perjury.

SEC. 21. *And be it [further] enacted,* That if any person shall, directly or indirectly, give any sum or sums of money, or any other bribe, present or reward, or any promise, contract, obligation or security, for the payment or delivery of any money, present or reward, or any other thing to obtain or procure the opinion, judgment or decree of any judge or judges of the United States, in any suit, controversy, matter or cause depending before him or them, and shall be thereof convicted, such person or persons so giving, promising, contracting or securing to be given, paid or delivered, any sum or sums of money, present, reward or other bribe as aforesaid, and the judge or judges who shall in any wise accept or receive the same, on conviction thereof shall be fined and imprisoned at the discretion of the court; and shall forever be disqualified to hold any office of honour, trust or profit under the United States. (a)

Bribery, what cases shall be judged, and how punished.

SEC. 22. *And be it [further] enacted,* That if any person or persons shall knowingly and wilfully obstruct, resist or oppose any officer of the United States, in serving or attempting to serve or execute any mesne process, or warrant, or any rule or order of any of the courts of the United States, or any other legal or judicial writ or process whatsoever, or shall assault, beat or wound any officer, or other person duly authorized, in serving or executing any writ, rule, order, process or warrant aforesaid, every person so knowingly and wilfully offending in the premises, shall, on conviction thereof, be imprisoned not exceeding twelve months, and fined not exceeding three hundred dollars. (b)

Obstruction of process, how punished.

SEC. 23. *And be it further enacted,* That if any person or persons shall by force set at liberty, or rescue any person who shall be found guilty of treason, murder, or any other capital crime, or rescue any person convicted of any of the said crimes, going to execution, or during execution, every person so offending, and being thereof convicted, shall suffer death. And if any person shall by force set at liberty, or rescue any person who before conviction shall stand committed for any of the capital offences aforesaid; or if any person or persons shall by force set at liberty, or rescue any person committed for or convicted of any other offence against the United States, every person so offending shall, on conviction, be fined not exceeding five hundred dollars, and imprisoned not exceeding one year.

Rescue of persons convicted, or before conviction to be punished by death.

Rescue before conviction.

SEC. 24. *Provided always, and be it enacted,* That no conviction or judgment for any of the offences aforesaid, shall work corruption of blood, or any forfeiture of estate.

No conviction to work corruption of blood, or forfeiture of estate.

SEC. 25. *And be it [further] enacted,* That if any writ or process shall at any time hereafter be sued forth or prosecuted by any person or persons, in any of the courts of the United States, or in any of the courts

Article 3, sec. 2, Constitution U. States.

(a) An offer of a bribe made in a letter directed to New York, and put into the post-office in Philadelphia, will sustain an indictment in the district of Pennsylvania. *United States v. Worrall*, 2 Dall. 388.

(b) The offence of obstructing process consists in refusing to give up possession, or opposing or obstructing the execution of the writ by threats of violence, which it is in the power of the person to enforce; and thus preventing the officer from executing his writ. *United States v. Lowry*, 2 Wash. C. C. R. 169.

The 22d section of the act of 1790, prohibits the obstruction of process of every species, legal and judicial; whether issued by the court in session, or by a judge or magistrate acting in that capacity out of court, in execution of the laws of the United States. On an indictment under this section, for resisting an officer, it is not necessary that it should appear that the accused used, or even threatened violence. *United States v. Lukins*, 3 Wash. C. C. R. 335.

Process sued in any court of the U. States, or of a particular state, against a foreign minister, void ; and

Persons suing the same, how punished :

Exception as to debts contracted prior to entering into the service of ambassador, &c.

Violation of a safe conduct, or to the person of public minister, how punished.

In cases of treason, prisoner shall have copy of indictment, list of the jury and witnesses, &c.

In other capital cases, copy of indictment and list of the jury ; also to be allowed counsel.

of a particular state, or by any judge or justice therein respectively, whereby the person of any ambassador or other public minister of any foreign prince or state, authorized and received as such by the President of the United States, or any domestic or domestic servant of any such ambassador or other public minister, may be arrested or imprisoned, or his or their goods or chattels be distrained, seized or attached, such writ or process shall be deemed and adjudged to be utterly null and void to all intents, construction and purposes whatsoever. (a)

SEC. 26. *And be it [further] enacted*, That in case any person or person shall sue forth or prosecute any such writ or process, such person or persons, and all attorneys or solicitors prosecuting or soliciting in such case, and all officers executing any such writ or process, being thereof convicted, shall be deemed violaters of the laws of nations, and disturbers of the public repose, and imprisoned not exceeding three years, and fined at the discretion of the court.

SEC. 27. *Provided nevertheless*, That no citizen or inhabitant of the United States, who shall have contracted debts prior to his entering into the service of any ambassador or other public minister, which debts shall be still due and unpaid, shall have, take or receive any benefit of this act ; nor shall any person be proceeded against by virtue of this act, for having arrested or sued any other domestic servant of any ambassador or other public minister, unless the name of such servant be first registered in the office of the Secretary of State, and by such secretary transmitted to the marshal of the district in which Congress shall reside, who shall upon receipt thereof affix the same in some public place in his office, whereto all persons may resort and take copies without fee or reward.

SEC. 28. *And be it [further] enacted*, That if any person shall violate any safe-conduct or passport duly obtained and issued under the authority of the United States, or shall assault, strike, wound, imprison, or in any other manner infract the law of nations, by offering violence to the person of an ambassador or other public minister, such person so offending, on conviction, shall be imprisoned not exceeding three years, and fined at the discretion of the court.

SEC. 29. *And be it [further] enacted*, That any person who shall be accused and indicted of treason, shall have a copy of the indictment, and a list of the jury and witnesses, to be produced on the trial for proving the said indictment, mentioning the names and places of abode of such witnesses and jurors, delivered unto him at least three entire days before he shall be tried for the same ; and in other capital offences, shall have such copy of the indictment and list of the jury two entire days at least before the trial : And that every person so accused and indicted for any of the crimes aforesaid, shall also be allowed and admitted to make his full defence by counsel learned in the law ; and the court before whom such person shall be tried, or some judge thereof, shall, and they are hereby authorized and required immediately upon his request to assign to such person such counsel, not exceeding two, as such person shall desire, to whom such counsel shall have free access at all reasonable hours ; and every such person or persons accused or in-

(a) The decisions of the courts of the United States upon the provisions of the sections of this statute, relative to process against foreign ministers and officers, for the violation of their immunities, have been : *The United States v. Hand*, 2 Wash. C. C. R. 435. *United States v. William Liddle*, 2 Wash. C. C. R. 205. *Ex parte Cabrera*, 1 Wash. C. C. R. 232.

An indictment under the 27th section of the act of 1790, for infracting the laws of nations by offering violence to the person of a foreign minister, is not a case affecting ambassadors, other public ministers, and consuls, within the first clause of the 2d section of the 3d article of the constitution of the United States. *The United States v. Ortega*, 11 Wheat. 467 ; 6 Cond. Rep. 394.

If a foreign minister commits the first assault, he forfeits his immunity, so far as to excuse the defendant for returning it. *Ibid.*

It is no defence upon such indictment, that the defendant was ignorant of the public character of the minister. *Ibid.* See also *United States v. Benner*, Baldwin's C. C. R. 240.

dicted of the crimes aforesaid, shall be allowed and admitted in his said defence to make any proof that he or they can produce, by lawful witness or witnesses, and shall have the like process of the court where he or they shall be tried, to compel his or their witnesses to appear at his or their trial, as is usually granted to compel witnesses to appear on the prosecution against them.

and with process to compel the attendance of witnesses.

SEC. 30. *And be it further enacted*, That if any person or persons be indicted of treason against the United States, and shall stand mute or refuse to plead, or shall challenge peremptorily above the number of thirty-five of the jury; or if any person or persons be indicted of any other of the offences herein before set forth, for which the punishment is declared to be death, if he or they shall also stand mute or will not answer to the indictment, or challenge peremptorily above the number of twenty persons of the jury; the court, in any of the cases aforesaid, shall notwithstanding proceed to the trial of the person or persons so standing mute or challenging, as if he or they had pleaded not guilty, and render judgment thereon accordingly.

In cases of treason or other capital offence, prisoner standing mute, how to be proceeded against.

Act of March 3, 1825, ch. 65, sec. 14.

SEC. 31. *And be it further enacted*, That the benefit of clergy shall not be used or allowed, upon conviction of any crime, for which, by any statute of the United States, the punishment is or shall be declared to be death.

No benefit of clergy in cases where the punishment is death.

SEC. 32. *And be it further enacted*, That no person or persons shall be prosecuted, tried or punished for treason or other capital offence aforesaid, wilful murder or forgery excepted, unless the indictment for the same shall be found by a grand jury within three years next after the treason or capital offence aforesaid shall be done or committed; nor shall any person be prosecuted, tried or punished for any offence, not capital, nor for any fine or forfeiture under any penal statute, unless the indictment or information for the same shall be found or instituted within two years from the time of committing the offence, or incurring the fine or forfeiture aforesaid: *Provided*, That nothing herein contained shall extend to any person or persons fleeing from justice.

No prosecution or punishment for treason or other capital offence unless indictment be found within three years, nor in other cases unless within two years;

except the offender flee.

SEC. 33. *And be it further enacted*, That the manner of inflicting the punishment of death, shall be by hanging the person convicted by the neck until dead.

Punishment of death to be by hanging.

APPROVED, April 30, 1790.

STATUTE II.

CHAP. X.—*An Act for regulating the Military Establishment of the United States.*

April 30, 1790.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the commissioned officers herein after mentioned, and the number of one thousand two hundred and sixteen non-commissioned officers, privates and musicians, shall be raised for the service of the United States, for the period of three years, unless they should previously by law be discharged.

Repealed by Act of March 3, 1795, ch. 44, sec. 18.

Number of troops, and term of service.

SEC. 2. *And be it further enacted*, That the non-commissioned officers and privates aforesaid shall, at the time of their enlistments respectively, be able-bodied men, not under five feet six inches in height, without shoes; nor under the age of eighteen, nor above the age of forty-six years.

Of what size and age.

SEC. 3. *And be it further enacted*, That the commissioned officers herein after mentioned, and the said non-commissioned officers, privates and musicians, shall be formed into one regiment of infantry, to consist of three battalions, and one battalion of artillery. The regiment of infantry to be composed of one lieutenant-colonel commandant, three majors, three adjutants, three quartermasters, one paymaster, one surgeon, two surgeon's mates, and twelve companies, each of which shall consist of one captain, one lieutenant, one ensign, four sergeants, four

How formed into regiments and battalions.