

United States v. Pitman, [27 F. Cas. 540 \(D. Mass. 1852\)](#).

Location: Plundered wreck ran aground in territorial sea of Indonesia; Plunder from wreck was then buried in sand at Holmes' Hole, Massachusetts.

Applicable Law: [Plunder of Distressed Vessel \(18 U.S.C. § 1658\)](#)

Where Law Applies: *Plunder of Distressed Vessel*: Applies in all maritime zones subject to U.S. admiralty and maritime jurisdiction, including the exclusive economic zone and high seas. Here, the law applies to a U.S.-flagged ship that runs aground on a foreign shore.

Holding:

- 1) The federal courts have jurisdiction over plundering, or stealing, property from or belonging to a vessel as specified by this statute, although the property or vessel may be a wreck run aground on the shore of a foreign nation.
- 2) If evidence proves that the property is taken from the wreck or simply belongs to the wreck, and the defendant plundered, stole, or destroyed the property, the evidence is sufficient for a guilty verdict. The term 'to plunder' is broad and encompasses the taking of another's property from a distressed or wrecked vessel, either by force, fraud, or furtively.

General Facts:

In October 1850, the ships *Sterling*, of Salem, Massachusetts, and *Missouri*, of New York, were lying together in a foreign bay waiting to load cargoes of pepper. On November 1, 1850, the *Missouri* wrecked upon the beach of the island of Sumatra after attempting to get under way. Money from the *Missouri* (about \$24,000 total) was transported to the *Sterling* that night. Thereafter, the master of the *Missouri*, Samuel N. Dixey, and the master of the *Sterling*, Henry C. Pitman (defendant), agreed to appropriate about two-thirds of the money to their own use and restore about one-third to the owners with the report that the native people stole the remainder. The *Sterling* took the master and crew to another port for a replacement vessel whereupon Dixey took part of the money for himself and to return to the owners. Pitman completed his cargo and buried his part of the money in the sand at Holmes' Hole in Massachusetts in late 1851. A reward for the money was offered, and \$7500 was discovered buried at Holmes' Hole and placed in the custody of the District Court of Massachusetts in Boston.

Procedural Posture:

Captain Pitman, as master of the ship *Sterling* of Boston, Massachusetts, was indicted, both separately and jointly with the master of the ship *Missouri* under the section 9 of the Crimes Act of 1825 for plundering and stealing from the *Missouri* on the coast of Sumatra. Pitman moved for a new trial, objecting to the Court's jurisdiction and the weight of the evidence. The District Court of Massachusetts overruled the motion for a new trial in this opinion.

Section 9 of the Crimes Act of 1825 (currently Plunder of Distressed Vessel (Plunder Statute), 18 U.S.C. § 1658) states:

That, if any person or persons shall plunder, steal, or destroy, any money, goods, merchandise, or other effects, from or belonging to any ship or vessel, or boat, or raft, which shall be in distress, or which shall be wrecked, lost, stranded, or cast away, upon the sea, or upon any reef, shoal, bank, or rocks, of the sea, or in any other place within the admiralty and maritime jurisdiction of the United States . . . every person, so offending, his or her counselors, aiders, and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding five thousand dollars, and imprisonment and confinement to hard labour, not exceeding ten years, according to the aggravation of the offence.

Court Holding and Reasoning:

The District Court addressed two issues: (1) the jurisdiction of the federal courts; and (2) the evidence required for a verdict under the statute.

On the first issue of jurisdiction, the District Court found “[t]here can be no doubt that [the ship] was stranded when she touched the shore, nor any doubt that she was then within the jurisdiction of the United States. If afterwards she had gone high and dry, she still would have been stranded and wrecked, within the meaning of the statute. She was upon a beach, or shore . . . and upon an arm, or inlet of the sea, but still upon the sea.” The Court cited *Coombs* (37 U.S. 72 (1838)), concluding that even if the plundered property was “separated from the vessel, and taken upon the shore, the . . . jurisdiction would have been sustained, under the power of congress to regulate commerce.” Here, however, the money was taken by a boat on the sea from the wrecked vessel to be transported to the defendant’s ship and was therefore within U.S. admiralty and maritime jurisdiction. U.S. federal courts have jurisdiction in cases of plunder, theft, or destruction of property from or belonging to a vessel, even though the ship may be lying upon the shore or, as in *Coombs*, the goods are separated from the vessel and lying upon the shore.

On the second issue of evidence, the Court reiterated that if the evidence shows that the property was either taken from the wreck or belonging to the vessel, and the defendant either plundered, stole, or destroyed the property, the evidence is sufficient for a guilty verdict. The Court determined that the term ‘to plunder’ is very broad and general. The word ‘plunder’ in Section 9 is used “in its popular sense, in such a sense as would be understood by seamen, for instance, and as it would be used and understood in ordinary conversation.” In examining the plain meaning and origins of the term, the Court determined that the term encompasses the taking of another’s property from a vessel, either by force or open attack; by fraud or embezzlement; or furtively, at night “or after [the vessel] has been abandoned by the crew.”

Additional Sources:

- The *Pitman* opinion specified another opinion, [*The Missouri’s Cargo*](#) (D. Mass. 1854), in a suit for libel, as a source for the facts in this case. The opinion may be found at Decisions of Hon. Peleg Sprague, in Admiralty and Maritime Causes, in the District

Court of the United States for the District of Massachusetts 1841-1861, vol. 1, 260 (T. & J. Johnson & Co., 1861).

- [An Act of March 3, 1825](#), *An Act more effectually to provide for the punishment of certain crimes against the United States, and for other purposes*, 18 Cong. ch. 65, § 9, 4 Stat. 116.