

to be considered, and that if the person thus acting under compulsion continued in the treasonable acts longer than was necessary, the defence *pro timore mortis* will not be available. This principle finds further support in the case of *U. S. v. Greiner*, tried for treason, reported in 4 Phila. 396 in the following language: 'The only force which excuses on the grounds of compulsion is force upon the person, and present fear of death, which force and fear must continue during all the time of military service; and that it is incumbent in such a case who makes force his defence to show an actual force, and that he quitted the service as soon as he could.' 1 Whart. Crim. Law, s. 94, under the head of 'Persons under Compulsion,' says: 'Compulsion may be viewed in two aspects: (1) When the immediate agent is physically forced to do the injury—as when his hand is seized by a person of superior strength, and is used against his will to strike a blow, in which case no guilt attaches to the person so coerced; (2) when the force applied is that of authority or fear. Thus when a person, not intending wrong, is swept along by a party of persons whom he cannot resist, he is not responsible if he is compelled to do wrong by threats on the part of the offenders instantly to kill him, or to do him grievous bodily harm, if he refuses; but threats of future injury, or the command of any one not the husband of the offender, do not excuse any offence. Thus it is a defence to an indictment for treason that the defendant was acting in obedience to a *de facto* Government, or to such concurring and overbearing sense of the community in which he resided as to imperil his life in case of dissent.' In section 1,803a of the same author (Wharton) it is said: 'No matter what may be the shape compulsion takes, if it affects the person, and be yielded to *bona fide*, it is a legitimate defence.'

We have examined the cases cited by Mr. Wharton to sustain the text, and find them to be cases of treason or fear from the party slain, and in none of them is there a rule different from that declared in the common law authorities cited by us. Bishop, Crim. Law, sections 346-348, treats of the rules of law applicable to acts done under necessity and compulsion. It is here declared 'that always an act done from compulsion or necessity is not a crime. To this proposition the law knows no exception. Whatever it is necessary for a man to do to save his life is, in general, to be considered as compelled.' The cases cited to these propositions show the facts to be different from those under consider-