

ships^a; and it must be admitted, I think, that if this use of it be correct, it might be applied, *à fortiori*, to the question now under consideration. For it is more legitimate to argue from the seizure of enemies' goods and contraband to that of enemies' persons, which would be a right of the same kind, than to the seizure of deserters or seamen, which would be a right of a different kind, and a mere enforcement of municipal law. But the analogy is, in truth, of little value for either purpose. Bynkershoek's explanation of the right to take enemies' goods is not very satisfactory, since the neutral carrier

^a Thus a writer in the *Edinburgh Review*, xi. 22:—"There seems to be no good reason for excepting the case of deserters from this right, [the right of search]. If the crew belonging to an English man-of-war escape on board of American merchantmen, it is difficult to discover why they should not be pursued there, and brought back by their lawful commanders. It is preposterous to call each merchant-ship a portion of the territory of the State, because the jurisdiction of the State extends to the persons on board of it. The same jurisdiction extends to the subjects of the State, though by any accident they should be swimming at a distance from the vessel. An Englishman who should commit murder in this situation on the high seas would be tried at the Admiralty sessions; and yet he was on no part of the English territory. An English vessel, too, in a foreign port is held to be foreign territory. If, then, deserters are pursued into a merchant-ship on the high seas, they are only pursued on common ground; and no violation of territory takes place, any more than if they were picked up swimming at sea in their attempt to escape."

Can we wonder that Americans should ask, "If deserters, why not rebels?" But the English reasoning was wrong in two material points:—1. English law governs the persons on board of an English merchant-ship on the high seas, not only *ratione personarum*, but *ratione loci*; 2. The reviewer confounds a *belligerent* right, permitted by international law to be exercised over a neutral ship, with the claim to enforce English *municipal* law on board a foreign ship, which international law no more allows in time of war than in time of peace.