

HOMICIDE—ASSAULT WITH INTENT TO KILL—WHAT CONSTITUTES INTENT.—The defendant, a clergyman, was convicted of assault with intent to kill in a prosecution arising out of his shooting the church janitor. *Held*, malice and intent to kill may both be presumed if the accused deliberately fired the gun aimed at the janitor. *People v. Wilson* (Ill. 1930) 174 N. E. 398.

It is normally said by the Courts that to constitute assault with intent to kill or to murder the defendant must have had a specific intent to kill, which must be proved to be actually present and cannot be presumed on the basis of any set of facts. *State v. Fair* (Mo. 1915) 177 S. W. 355; *People v. Santoro* (1920) 229 N. Y. 227, 128 N. E. 234; *Perkins v. State* (1925) 168 Ark. 710, 271 S. W. 326. Essentially assault with intent to kill is an attempt to commit either murder or manslaughter and specific intent is theoretically a necessary element in all attempts. 1 WHARTON, CRIMINAL LAW (1885) sec. 176; but see Arnold, Criminal Attempts (1930) 40 YALE L. J. 53. The general truth that such a state of mind is required is recognized in Illinois. *People v. Bashic* (1922) 306 Ill. 341, 173 N. E. 809. The result in the present case was reached by applying the doctrine that every sane person "shall be presumed . . . to intend the natural and probable consequences of his deliberate acts." Obviously this would eliminate the necessity of the jury's actually finding any present intent. Unfortunately it is not clear from the present case exactly how the jury should be instructed with reference to their being bound to follow this "presumption."

Several states have similarly dispensed with any specific intent to kill. In Georgia it is well settled that reckless disregard of human life in acts intentionally done is sufficient. *Looney v. State* (Ga. App. 1930) 153 S. E. 372. In Texas a conviction is possible when the act was done with such recklessness that the law would imply malice. *Hernandez v. State* (1916) 78 Tex. Crim. 604, 182 S. W. 492. When the accused shot into a crowd with a rifle, not caring whether he killed some one, he committed assault with intent to kill. *Phillips v. U. S.* (1909) 2 Okla. Crim. App. 628, 103 Pac. 861. In Missouri it has been held that if the accused deliberately fired a pistol aimed at the person wounded this was conclusive evidence of his intent to kill and that evidence that the accused merely intended to frighten was inadmissible. *State v. Hamilton* (1902) 170 Mo. 377, 70 S. W. 876.

It is not necessary at common law and in most states that the intent be to kill the person actually hit, provided there is an intent to kill someone. *State v. Thomas* (1910) 127 La. 576, 53 So. 868; note (1911) 37 L. R. A. (N. S.) 172. Under the terms of the Missouri statute there must be an intent to kill the person actually injured. R. S. Mo. (1929) sec. 4014.

In Illinois there is no statutory offense corresponding to the Missouri crime of felonious wounding, for which no intent to kill is required but which entails a more severe punishment than is possible for common assault. The crime is committed where the accused would have been guilty of murder or manslaughter if his victim had died. R. S. Mo. (1929) sec. 4016; R. S. Ill. (Cahill, 1929) 38. Under such condition the temptation

is very great to try to convict the accused of the only offense which carries a penalty at all commensurate with what he would have received if his victim had not had such a strong constitution. G. W. S., '33.

INTERNATIONAL LAW—FOREIGN CORPORATIONS—SUIT WHERE GOVERNMENT NOT RECOGNIZED.—An act of Congress provides that "whenever the United States shall requisition any contract, . . . requisition, acquire or take over any ship," it shall make just compensation therefor, and that in case of dissatisfaction as to the amount awarded an action may be instituted against the United States in the Court of Claims for the alleged difference. The plaintiff was a Russian corporation organized under the Kerensky government and was the assignee of certain ship-building contracts which were taken over by the United States. The Kerensky regime was later overthrown and with the institution of the new government an edict was issued whereby all corporations were abolished and their assets confiscated. In a suit for additional compensation for the taking of the contracts, it was held that the corporation could maintain an action in the Court of Claims, no point being made of the plaintiff's corporate capacity, irrespective both of the non-recognition by the United States of the present Russian government, and of the lack of right on the part of American citizens to prosecute claims against the Russian government. *Russian Volunteer Fleet v. U. S.* (1931) 51 S. Ct. 229.

A court need not recognize the decrees of a government which has not been recognized either as a de facto or as a de jure government. *Nueva Anna* (1821) 6 Wheat. (U. S.) 193. The cases intimate, however, that courts may in their discretion, with a view to international policy and justice between the parties, accord such decrees extraterritorial effect in certain particular instances. Note (1925) 37 A. L. R. 747; see *Sokoloff v. Nat. City Bank* (1924) 239 N. Y. 158, 145 N. E. 917; *Aksionairnoye Obschestvo v. Sagor* (1921) 1 K. B. 456, reversed on other grounds (1921) 3 K. B. 532.

However, the question arises, as to right of the remaining directors of the corporation to sue and receive money for the corporation, its existence in Russia having been terminated, its assets confiscated, its function ended, and its stockholders scattered. No issue is made of this point in the present case, the defendants admitting the right of the plaintiffs to maintain this action for and in the name of the corporation. In a similar situation where an action was brought by the remaining directors of a Russian corporation for money deposited in a New York bank, the New York court held that it made no difference that the corporation had been abolished and that the purpose for which it had been created had ceased; as long as there was a sufficient representation of the corporation the suit could be maintained in spite of the possibility of the defendant being subject to double liability. *Petrogradsky Mejunardony Kommerchesky v. Nat. City Bank* (1930) 253 N. Y. 23, 170 N. E. 479. In concluding the court said, "The directors, men of honor presumably, will be charged with the duties of trustees and will be