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**Class A.**

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**CORRESPONDENCE**

WITH THE

**BRITISH COMMISSIONERS,**

AT

**SIERRA LEONE, THE HAVANA,**

**RIO DE JANEIRO, AND SURINAM,**

RELATIVE TO

**THE SLAVE TRADE.**

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1828.

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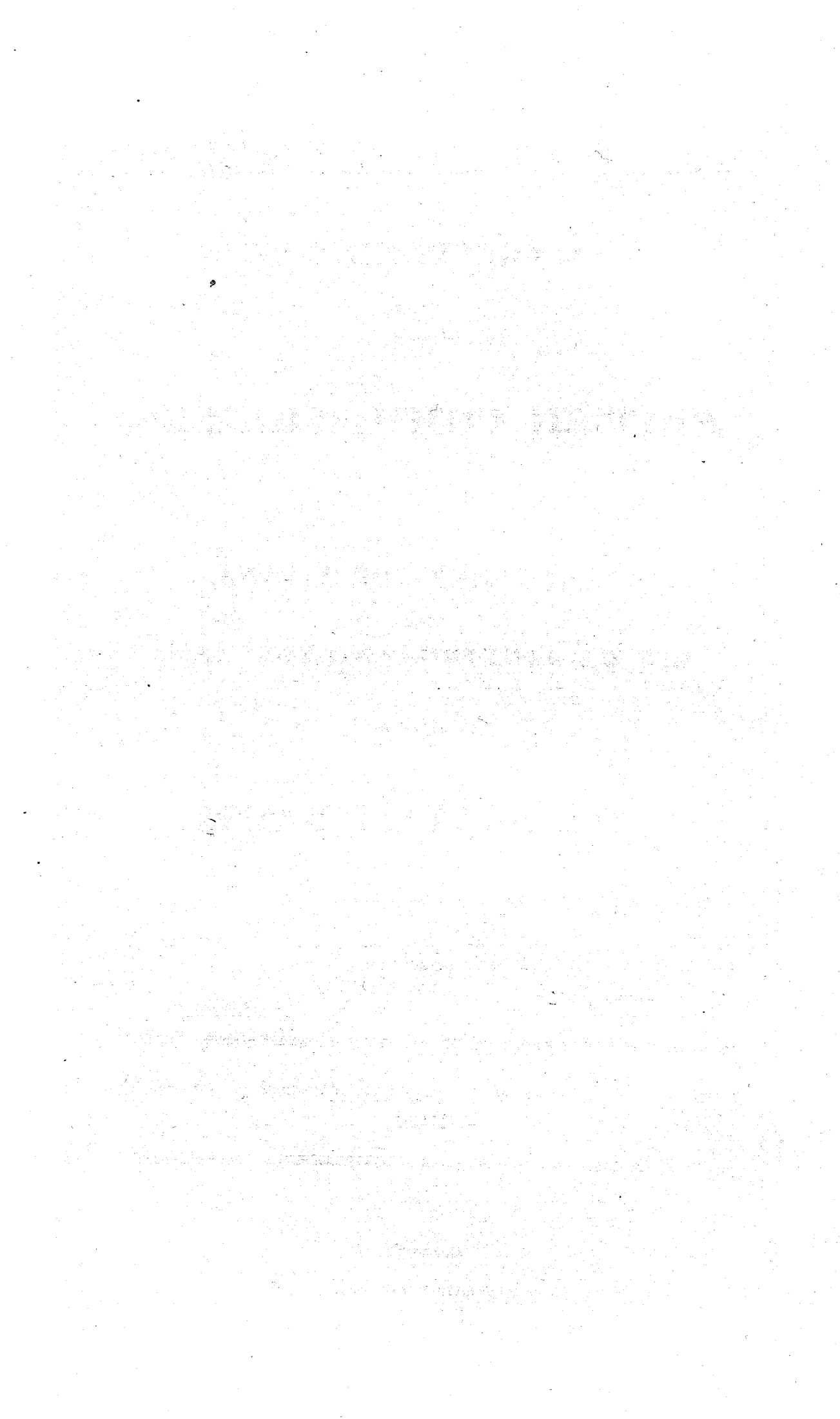
*Presented to both Houses of Parliament, by Command of His Majesty,*  
1829.

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# Class A.

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## CORRESPONDENCE

WITH THE

# BRITISH COMMISSIONERS.

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SIERRA LEONE. (General.)

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No. 1.

*The Earl of Dudley to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, January 15, 1828.*

I HEREWITH transmit to you four Instruments, bearing date the 15th day of January 1828, by which His Majesty was pleased to appoint George Jackson, Esq. to be His Majesty's Commissary Judge, and William Smith, Esq. to be His Majesty's Commissioner of Arbitration, and Joseph Reffell, Esq. to be Secretary or Registrar to the Mixed British and Foreign Commissions, which, under the Treaties and Conventions, concluded with *Spain, Portugal, The Netherlands, and Brazil*, and pursuant to the several Acts of Parliament for carrying the said Treaties and Conventions into effect, is to be established, for the prevention of illegal Slave-trade, at one of His Majesty's Possessions or Settlements on the Coast of Africa.

You will, at an early opportunity, after the receipt of this Despatch, take, in due form, the Oath prescribed to you by the enclosed Instruments, and you will administer to Mr. Joseph Reffell the Oath prescribed to be taken by him, prior to the entering upon your further respective duties, in the Characters assigned to you in His Majesty's Commission of Appointment.

You will announce these Appointments to the Foreign Members of the Mixed Commission destined to act with you under the Treaties above-mentioned.

You will follow strictly the line pointed out in the Instructions, which have heretofore been given by His Majesty's Secretary of State to His Majesty's Commissioners at Sierra Leone.

Further Instructions will, by His Majesty's Command, be transmitted to you, according as it shall appear that such Instructions shall be necessary for your guidance.

I am, &c.

*His Majesty's Commissioners.*

(Signed) DUDLEY.

## No. 2.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 10.)*

MY LORD,

Sierra Leone, January 5, 1828.

WE have the honour to forward Abstracts of the Proceedings of the past Year under the Mixed Commissions established in this Colony.

The number of Cases adjudicated under the British and *Spanish* Mixed Commission was 4, which were all deemed to be Cases for Condemnation;—the number of Slaves emancipated was 482.

The number of Cases adjudicated under the British and *Portuguese* Mixed Commission was 21, all of which were Cases for Condemnation;—the number of Slaves emancipated was 2,128.

There was only one Case for adjudication under the British and *Netherland* Mixed Court of Justice, which was deemed a Case for Condemnation;—the number of Slaves emancipated was 251.

We beg leave to enclose a List of Cases adjudicated under the Mixed Commission, to this date. Your Lordship will perceive that the number of Cases adjudged during the past Year was 26,—the number of Slaves emancipated was 2,861,—the total number of Cases adjudged since the establishment of the Mixed Commission is 108—and the total number of Slaves emancipated, up to the close of the Year 1827, is 12,187.

We have the honour to be, &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

First Enclosure in No. 2.

*Abstract of Proceedings under the British and Spanish Mixed Commission at Sierra Leone, from the 1st of January 1827 to the 1st January 1828.*

(No. 1.)—Spanish Schooner "*Paulita*." This Schooner, Antonio Ferrera, Master, cleared out from the Havannah in February 1826, furnished with the usual Papers for a licit Trading-voyage to the Islands of Princes and St. Thomas. She was captured on the 6th of December following, off Lagos, in Latitude 5. 4. North, with 221 Slaves on board, by the Boats of His Majesty's Ship "*Maidstone*," in charge of Lieutenant Tucker; 32 of this number died between the period of Capture and Condemnation; no Claim having been made in this Case, the Court met for its adjudication on the 25th of January 1827, when Sentence of Condemnation was decreed against the "*Paulita*," and the surviving 189 Slaves emancipated.

(No. 2.)—" *De Snelheid's*" Slaves.—The 23 Slaves taken on board the Dutch Vessel "*De Snelheid*," not having been considered by the Court as Dutch property were not condemned with the Vessel, they were, therefore, libelled on the 13th of February 1827, in the British and Spanish Court of Mixed Commission, and on its being clearly proved that they were purchased by the Spanish Crew, after her seizure by the Spanish armed Ship the "*Atalanta*," Sentence of Emancipation was decreed upon them, on the 16th of March, as Spanish property taken on board the *Netherland* Brigantine "*De Snelheid*," whilst in the possession of the Spaniards, by His Majesty's Ship "*Brazen*," Captain George Wickens Willes.

(No. 3.)—On the 31st of January 1827, the Boats of His Majesty's Ship "*North Star*," captured the Spanish Schooner "*Emelia*" Manoel Prevedez, Master, in the River Bonny, with 282 Slaves on board, 107 of whom died between Capture and Condemnation, owing to the usual diseases in such cases, arising from the crowded state of the Vessel. The Court adjudicated this Vessel on the 16th of March, and no Claim having been made, Sentence of Condemnation was passed upon her, and her surviving Slaves decreed to be emancipated.

(No. 4.) The Spanish Schooner "*Fama*," Joze Miguel, Master, was captured in the Old Calabar, on the 6th of February 1827, by the Boats of His Majesty's Ship "*North Star*," Septimius Arabin, Esq. Commander, with 100 Slaves on board, 5 of whom died on the passage up. This Case being clearly one of Condemnation, the Court accordingly passed that Sentence on the "*Fama*" on the 16th of March 1827, and decreed the surviving 95 Slaves to be emancipated.

(Signed) JOSH. REFFELL.  
WM. SMITH.

## Second Enclosure in No. 2.

*Abstract of Proceedings under the British and Portuguese Mixed Commission at Sierra Leone, from the 1st of January 1827 to the 1st January 1828.*

(No. 1.)—THE *Brazilian* Brigantine "*Hiroina*" of Bahia, commanded by Michael Antonio Netto, and furnished with an Imperial Passport, obligatory on her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire of Brazil, was detained off Lagos, in the Bight of Benin, in 6. 10. North Latitude, by His Majesty's Ship "*Maidstone*," Commodore Bullen, C. B., Commander. No Slaves were found on board, but the greater part of her Cargo had been landed to the Northward of the Line, at a Place called Judo, (where she had been lying at anchor 68 days), in barter for a Cargo of Slaves, and upon which ground she was seized by His Majesty's Ship. Claim was made for the "*Hiroina*" on behalf of the Owners, but the Court considered the ground of capture just and legal agreeably to the true intent and meaning of the Treaty of the 22d of January 1815, and Additional Convention thereto, dated the 28th of July 1817, between Great Britain and Portugal, and therefore Sentence of Condemnation was passed upon her, on the 24th of January 1827, and her Tackle, Apparel, and Furniture, as good and lawful Prize to His Majesty's Ship "*Maidstone*."

(No. 2.)—The *Brazilian* Schooner "*Eclipse*" was detained on the 6th of January 1827, by His Majesty's Ship "*North Star*," Septimius Arabin, Esq. Commander, off Whydah, in about Latitude 6. 20. North, and Longitude 2. 5. West, under *Brazilian* Colours. No Slaves were found on board, but she was captured on the same grounds as the preceding Vessel, the "*Hiroina*," for having landed the greater part of her Cargo to the Northward of the Line to trade for Slaves, in violation of the Treaty between Great Britain and Portugal, and of her Passport, which authorized a Voyage to Molembo to take in her Slaves, and irregularly allowing her to touch at Princes and St. Thomas.—The Court, therefore, decreed Sentence of Condemnation upon her, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden on board, on the 16th of March 1827, as good and lawful Prize to His Majesty's Ship "*North Star*." Claim was made for the "*Eclipse*" on behalf of the Owners.

(No. 3.)—The *Brazilian* Ship "*Invincival*," Jozé Antonio de Castro Guimaraes, Master, was captured on the 21st of December 1826, in the River Camaroons by the Boats of His Majesty's Ship "*Esk*," W. J. Purchas, Esq. Commander, with 440 Slaves on board, 190 of whom died between the period of Capture and Condemnation, owing to the very crowded state of the Vessel and the lengthened Passage. No Claim being made in this Case, the Court sat for adjudication on the 16th of March, when Sentence of Condemnation was passed upon her, and her surviving Slaves decreed to be emancipated.

(No. 4.)—The *Brazilian* Schooner "*Venus*," Jacinto Presa, Master, was captured in or about Latitude 2. 20. North, and Longitude 4. 20. East, by His Majesty's Ship "*Esk*," W. J. Purchas, Esq. Commander, with 191 Slaves on board, 3 of whom died on the passage to Sierra Leone. No Claim having been made, and it being clearly proved that her Slaves were taken in to the North of the Equator, the Court passed Sentence of Condemnation on her, and her Tackle, Apparel, and Furniture, on the 9th of April 1827, and emancipated the surviving Slaves.

(No. 5.)—The *Brazilian* Schooner "*Dos Amigos*," Joze Joaquim Ladislao, Master, was seized, on the 8th day of February last, in or about Latitude 1. 12. North, Longitude 8. 20. East, by His Majesty's Ship "*Esk*," W. J. Purchas, Esq. Commander, with 317 Slaves on board, taken in at Badagry, in 6. 20. North Latitude, 9 of whom, only, died on the passage to Sierra Leone. The illegality of the Voyage having been clearly proved, the Court passed Sentence of Condemnation on the "*Dos Amigos*," her Tackle, Apparel, and Furniture, on the 9th of April 1827, and decreed the emancipation of the surviving 308 Slaves.

(No. 6.)—The *Brazilian* Brigantine "*Trajano*," sailed from Bahia, furnished with an Imperial Passport to take 545 Slaves from Molembo, and obligatory on her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire, in defiance of which she was boarded to the Northward of the Line, by His Majesty's Ship "*North Star*," on the 2d of March 1827, and 11 days afterwards was captured by His Majesty's Ship "*Maidstone*," Commodore Bullen, C. B., Commander, at anchor, off the noted Slave Port, Whydah, in Latitude 6. 14. North; and the Master, as Claimant, having failed to bring forward proof that a good and sufficient cause existed for his coming to the Northward of the Equator, in direct opposition to his Imperial Passport, and in violation of the existing Treaties between Great Britain and Portugal, the Court passed Sentence of Condemnation on her, on the 30th of April 1827, together with her Cargo, Tackle, Apparel, and Furniture, for a violation of her Imperial Passport, in being found to the Northward of the Line, and for being engaged in the Slave-trade, against the 1st Article of the Treaty, and 2d Article of the Additional Convention thereto.

(No. 7.)—The *Brazilian* Schooner "*Tenterdora*," Innocencio dos Santos Lopez, Master, left Bahia on the 12th of November 1826, furnished with an Imperial Passport, authorizing her to take 518 Slaves from Molembo, and irregularly allowing her to touch at the Coast of Guinea, St. Thomas and Princes Islands, with the usual prohibition to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the subjects of the Empire. She was captured on the 14th of March 1827, by His Majesty's Ship "*Maidstone*," Commodore Charles Bullen, C. B., Commander, at anchor off Judo, in Latitude 5. 19. North, with part of her Cargo landed, at



which Place, and its immediate Neighbourhood, she had been lying for 84 days. The Defence set up by the Claimant in this Case, was the permission given her by her Passport to touch at the Coast of Guinea, and the necessity she was under to avail herself of that permission to procure provisions and water. The Court heard this Case on the 30th of April 1827, when they gave it as their opinion, that the permission contained in the Passport being illegal, no advantage could be taken of it as an excuse for being at anchor to the Northward of the Line, and, secondly, that the Claimant had not proved the necessity for his coming to the Northward of the Line to procure provisions and water, and remaining there 84 days, with a great part of the "*Tenterdora's*" Cargo landed, and accordingly condemned the Vessel, her Cargo, Tackle, Apparel, and Furniture, as good and lawful Prize, for being engaged in the Slave-trade to the Northward of the Equator.

(No. 8.)—The *Brazilian* Schooner "*Carlota*," Joze Francisco da Costa, Master, was detained on the 14th of March, at anchor off Badagry, in 6. 12. North Latitude, by His Majesty's Ship "*Maidstone*," Commodore Bullen, C. B. Commander, with a part of her Cargo landed at that Port. She was furnished with an Imperial Passport to carry Slaves from Molembo, and obligatory on her to enter solely such Ports on the Coast of Africa where the Slave-trade is permitted to the Subjects of the Empire. The Defence made by the Claimant was the same as in the Cases of the "*Trajan*" and "*Tenterdora*," the want of water and provisions obliging her to come to the Northward of the Line. But no proof having been produced of such necessity existing, or for her having been at anchor at Badagry, above 6 Weeks, with a part of her Cargo landed; the Court passed Sentence of Condemnation on the 30th of April 1827, on the Schooner "*Carlota*," her Cargo, Tackle, Apparel, and Furniture, on the same grounds as in those Cases.

(No. 9.)—The *Brazilian* Brig "*Venturosa*," sailed from Bahia on the 6th of November 1826, with an Imperial Passport, authorizing her to take a Cargo of Slaves from Molembo, and irregularly allowing her to call at the Islands of St. Thomas and Princes, with the usual prohibitory clause, not to touch at Ports where the Slave-trade is forbidden to the Subjects of the Empire.

It appears that she proceeded direct to Badagry, in 6. 12. North Latitude, under the pretence of want of fresh water and provisions, where she landed a large part of her cargo, and remained at least 80 days, and was finally captured at anchor there, on the 14th of March 1827, by His Majesty's Ship "*Maidstone*," Commodore Bullen, C. B. Commander. The Court met to adjudicate the "*Venturosa*" on the 30th of April, when the same defence was set up as in the Case of the "*Tenterdora*," to which this Case bears a strong analogy. The Court condemned her, with her Cargo, Tackle, Apparel, and Furniture, on the like grounds of the violation of the Treaty between Great Britain and *Portugal*, and the Additional Convention thereto.

(No. 10.)—The *Brazilian* Brigantine "*Providencia*," Joao Pedro de Sousa, Master, sailed from Bahia on the 15th of December 1826, furnished with an Imperial Passport, authorizing her to take in her Slaves at Molembo, and irregularly giving her permission to touch at Sierra Leone, the Coast of Guinea, St. Thomas and Princes' Islands; yet making it obligatory on her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire. She was seized on the 16th of March 1827, by His Majesty's Ship "*Maidstone*," Commodore Bullen, C. B. Commander, off Lagos, in Latitude 6. 23. North, with the greater part of her Cargo landed. The features of this Case being so similar to the preceding ones of the "*Tenterdora*" and "*Venturosa*," the Court, on the same principle, condemned her, and her Tackle, Apparel, and Furniture, as well as the Goods, Wares, and Merchandize laden on board, as good and lawful Prize to His Majesty's Ship "*Maidstone*," on the 30th of April 1827.

(No. 11.)—The *Brazilian* Schooner "*Independencia*," Jacinto Antonio Pereira Carneiro, Master, left Bahia in January 1827, with an Imperial Passport to take in Slaves at Molembo. She was seized at anchor in the Roadsted of Accra, by His Majesty's Brig "*Conflict*," for an infraction of the Treaties, as well as of her Imperial Passport, which is an integral part of them. The Defence set up in this Case was, that the Schooner sprung a leak, which obliged her to bear to the nearest Port to the Northward of the Equator for assistance, as well as to procure provisions and water. The Court, after a very minute and impartial investigation, having satisfied itself of the falsity of the grounds of defence, pronounced Sentence of Condemnation against the Schooner "*Independencia*," her Tackle, Apparel, and Furniture; and the Goods, Wares, and Merchandize found on board at the time of Capture, on the 15th day of May 1827.

(No. 12.)—The *Brazilian* Brigantine "*Conceição de Marie*," Joao Pinto de Sousa, Master, was fitted out and sailed from Bahia, with an Imperial Passport to take in Slaves at Molembo. She was captured off Whydah, in Latitude 6. 40. North, by His Majesty's Ship "*North Star*," Septimius Arabin, Esquire, Commander, with 232 Slaves on board, and arrived at Sierra Leone on the 15th of April; and on the 15th of May the Court passed Sentence of Condemnation on her, and decreed her surviving Slaves, 198 in number, to be emancipated, 34 having died between the time of Capture and Adjudication.

(No. 13.)—The *Brazilian* Schooner "*Trez Amigos*," Manoel Francisco dos Santos Pires, Master, was fitted out from Rio Janeiro, on a Commercial Voyage to Angola, and furnished with a Passport to that effect. Having discharged her cargo at Angola, she cleared from that Port for the Island of St. Jago, but distress on her Voyage obliged her to put into this Harbour, where having lain some days, and procured provisions, she departed on her Voyage to St. Jago. Information having been given, after her departure, that she had 3 female Slaves on board, concealed, Lieutenant Crofton, commanding the Tender of the "*North Star*," then lying in the Harbour, went in chase, and succeeded, finally, in coming up with her, when, after a strict search, the 3 female Slaves alluded to, were found concealed under the caboose. A claim was

made, and defended on the ground that the 3 Slaves found on board were Domesticks, but no Certificate for them as such, being produced, as required by the Treaty, their concealment during the time she lay in this Harbour, and also at the time of Capture, were circumstances which clearly established the illicit transaction. The Court, therefore, on the 15th of May, condemned the "*Trez Amigos*," her Tackle, Apparel, and Furniture, and emancipated the 3 Slaves.

(No. 14.)—The *Brazilian Sloop* "*Conceição Paquete do Rio*," Manoel Francisco de Silva Araujo, Master, from Pernambuco, with an Imperial Passport to take in Slaves at Molembo, and with leave to call at the Islands of Princes and St. Thomas, on the Coast of Africa, was captured by His Majesty's Ship "*Maidstone*," Commodore Charles Bullen, C. B., Commander, on the 22d of March 1827, off the Mouth of the River Benin, in Latitude 5. 44. North, waiting the rise of tide to go into the River. The Defence set up was the same as in the Case of the *Brazilian Schooner* "*Independencia*,"—that her having sprung a leak obliged her to steer for the nearest Port, and thus to have been found to the Northward of the Line,—as well as the usual excuse of being in want of provisions and water. The same careful survey was ordered as in that Case, and the result of which proving that no such leak existed, that she had on board a sufficient supply of provisions and water at the time of Capture, and, consequently, that her object was an illicit Traffick, the Court passed Sentence of Condemnation on the Sloop, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden on board the same, on the 15th of May 1827.

(No. 15.)—The *Brazilian Brigantine* "*Creola*," Manoel Jozé de Sousa Guimaraes, Master, furnished with an Imperial Passport from Bahia to take in a cargo of Slaves at Cabinda and Molembo, was captured by His Majesty's Ship "*Maidstone*," Commodore Bullen, C. B., Commander, between the Island of Fernando Po and the Camaroons, in about Latitude 4. 6. North, with 308 Slaves on board, 19 of whom died on the passage up. The proof of the illicit Traffick having been clearly established, the Court passed Sentence of Condemnation on the "*Creola*," her Tackle, Apparel, and Furniture, and emancipated the surviving Slaves, 289 in number, on the 9th of June 1827.

(No. 16.)—The *Brazilian Brig* "*Silveirinha*," Bernadino Joze Ferreira, Master, furnished with an Imperial Passport to take in a Cargo of Slaves at Molembo, was fitted out at Pernambuco, and captured by His Majesty's Ship "*North Star*," Captain Septimius Arabin, in the Calabar River, with 266 Slaves on board. She arrived here after a tedious passage of 11 Weeks, 57 of the Slaves having died after Capture. This being clearly a Case for Condemnation, the Court accordingly passed that Sentence, on the 19th of June, on the "*Silveirinha*," her Tackle, Apparel, and Furniture, and emancipated the surviving Slaves.

(No. 17.)—The *Brazilian Brig* "*Bahia*," commanded by Baptista de Carvalho, was fitted out at Bahia, furnished with an Imperial Passport to take in Slaves at Molembo, and obligatory on her to enter solely such Ports where the Slave-trade is permitted to the Subjects of the Empire, in direct opposition to which, she came to the Northward of the Line, to a noted Slave haunt, where she landed a part of her Cargo under the pretence of want of water and provisions; but it having been clearly proved to the Court that she had on board an abundant supply of both, and that there existed no necessity for this deviation from her Passport, Sentence of Condemnation was passed against her, her Tackle, Apparel, and Furniture, as well as the Goods, Wares, and Merchandize laden on board, on the 19th of June 1827.

(No. 18.)—The *Brazilian Brigantine* "*Copioba*," Joaquim de Araujo Braga, Master, cleared from Bahia, in February 1827, for a Slaving-voyage to Molembo, furnished with an Imperial Passport for that Port, with leave to call at the Coast of Guinea, and under the usual obligation to enter such Ports only, where the Slave-trade is permitted to the Brazilians. She was captured at anchor, in the Roads of Otodo, about 9 miles Eastward of Cape St. Paul, by His Majesty's Brig "*Clinker*," Lieutenant George William Matson, Commander, with her Derik Tackle rigged, and a considerable part of her cargo landed. The like plea of want of water and provisions, and repairs to her Masts and Sails was made to account for her being found to the Northward of the Equator, as in several of the preceding Cases, but no proof of any necessity for such deviation from the "*Copioba's*" declared Voyage, and from the tenour of her Imperial Passport, being offered, the Court pronounced her to be a lawful Prize to His Majesty's Brig "*Clinker*," and passed Sentence accordingly, on the 20th of July 1827.

(No. 19.)—The *Portuguese Schooner* "*Toninha*," Clemente Joze Alvez Martinez, Master, and owned by Manoel Antonio Martinez, of Bonavista, was detained, on the 18th of June 1827, by Captain Septimius Arabin, commanding His Majesty's Ship "*North Star*" for having 65 Slaves on board, covered by false Passports, calling them Domestick Slaves, and allowing their removal from Bissao as such, accompanying their Masters, Caetano Joze Nozzolini, and Pedro Benjanin Duceros.

The "*Toninha*" unfortunately got foul of the Steam-vessel the "*African*," sailing in company with the "*North Star*," whilst endeavouring to take her in tow, and was lost, the Slaves and Crew being saved.

On the Examination of the alleged Domesticks, as well as from the general Evidence, it clearly appeared that they actually were Slaves, none answering to their designations on the Passports, which, however, were altogether informal Documents, and doubtless surreptitiously obtained

The Court, therefore, decreed that the "*Toninha*" was engaged in the illicit Traffick in Slaves, and accordingly passed Sentence of Condemnation on her, on the 21st of July 1827, and emancipated the Slaves brought up by the "North Star," and which had been taken out of her.

(No. 20.)—The *Brazilian* Brig "*Henriqueta*," Juan Cardozo dos Santos, Master, was captured by His Majesty's Ship "*Sybille*," Francis Augustus Collier, C. B. Commander, in Latitude 5. 26. North, Longitude 3. 40. East, with 569 Slaves on board, 21 of whom died on the passage up.

This Vessel was furnished with the usual Imperial Passport to take in a Cargo of Slaves at Molembó, she steered, however, direct for Lagos, and on the 26th day, after leaving Bahia, was taken on her return there with a full Cargo of Slaves on board. She was accordingly condemned on the 29th of October 1827, with her Tackle, Apparel, and Furniture, as lawful Prize to His Majesty's Ship "*Sybille*," and the surviving Slaves emancipated.

(No. 21.)—The *Brazilian* Schooner "*Dianna*," furnished with an Imperial Passport to take a Cargo of Slaves from the River Zaire and Cabinda, was captured by His Majesty's Ship "*Sybille*," on the 12th of October 1827, in Latitude 2. 15. North, with 87 Slaves on board, declared by the Master, Thomé Guedes Pinto de Vasconcellos, in his Examination, and supported by that, of the Mate and Cook, to have been taken on board in the River Zaire, in 6. 6. South Latitude. This Evidence was contradicted by 2 of the Sailors, and 4 of the Slaves, on Examination, who proved them all to have been shipped from the Shore in the River Benin, and whose Evidence was so clear and satisfactory, that it left no doubt on the mind of the Court, that the "*Dianna*" had been illegally engaged, and had taken in her Slaves to the Northward of the Equator, and accordingly, the 8th of December 1827, passed Sentence of Condemnation against her, with her Tackle, Apparel, and Furniture, and decreed the 83 surviving Slaves to be emancipated, 4 having died previous to adjudication.

(Signed) JOSH. REFFELL.  
WM. SMITH.

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### Third Enclosure in No. 2.

#### *Abstract of Proceedings under the British and Netherland Mixed Court of Justice at Sierra Leone, from the 1st of January 1827 to the 1st of January 1828.*

(No. 1.)—THE Brig "*Lynx*," was detained on the 9th of January 1827, in Latitude 2. 20. North, and Longitude 6. 0. East, by His Majesty's Ship "*Esk*," W. J. Purchas, Esq. Commander, sailing under Netherland Colours, and commanded by Paul Eugene Terrasse, with 265 Slaves on board.—The "*Lynx*" was owned by M. Barrouette, of Martinique, from whence she sailed in August 1826, for the Danish Island of St. Thomas, and from thence she cleared for the Coast of Africa, furnished with Dutch Papers from St. Eustatius.

No Claim having been made, the Court met for adjudication on the 21st of February 1827, when Sentence of Condemnation was passed upon the "*Lynx*," her Tackle, Apparel, and Furniture, and the surviving Slaves, 251 in number, decreed to be emancipated, 14 having died between the period of Capture and Condemnation.

(Signed) JOSH. REFFELL.  
WM. SMITH.

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List of Cases Adjudged in the Courts of Mixed Commission at Sierra Leone, between the 1st January 1827, and 1st January 1828.

SIERRA LEONE. (General.)

Number of Cases Adjudged between June 1819 and 1st January 1828.	Number of Vessels Librated between June 1819 and 1st January 1828.	Number of Cases Adjudged between 1st January 1827 and 1st January 1828.	NATIONS.	NAMES of VESSELS.	CLASS.	CONDEMNED.	LIBERATED.	Number of Slaves on board at the time of Capture.	Number of Slaves Emancipated.	REMARKS.
83	9*	1	Portuguese.	Hiroina - - - - -	Brigantine -	Condemned	"	None	"	*One of these (the Brazilian Vessel "Perpetuo Defensor") restored to Claimant by Captors.
84	"	2	"	Eclipse - - - - -	Schooner -	"	"	440	250	
85	"	3	"	Invincível - - - -	Ship - - - -	"	"	191	188	
86	"	4	"	Venus - - - - -	Schooner -	"	"	317	308	
87	"	5	"	Dois Amigos - - - -	Brigantine -	"	"	None	"	Total number of Slaves emancipated between June 1819, and January 1827 - - - - - 9326
88	"	6	"	Independencia - - -	Schooner -	"	"	"	"	
89	"	7	"	Trajano - - - - -	Brig - - - -	"	"	"	"	
90	"	8	"	Tentadora - - - -	Schooner -	"	"	"	"	
91	"	9	"	Carlota - - - - -	Ditto - - - -	"	"	"	"	
92	"	10	"	Venturosa - - - - -	Brig - - - -	"	"	"	"	
93	"	11	"	Conceição de Marie	Brigantine -	"	"	232	198	
94	"	12	"	Providencia - - - -	Schooner -	"	"	None	"	Total number of Slaves emancipated between January 1st, 1827, and January 1st, 1828 - - - - - 2861
95	"	13	"	Tres Amigos - - - -	Ditto - - - -	"	"	3	3	
96	"	14	"	Conceição Paquete do Rio	Sloop - - - -	"	"	None	"	
97	"	15	"	Bahia - - - - -	Brig - - - -	"	"	"	"	
98	"	16	"	Creola - - - - -	Brigantine -	"	"	308	289	
99	"	17	"	Silveirinha - - - -	Brig - - - -	"	"	266	209	
100	"	18	"	Copioba - - - - -	"	"	"	None	"	
101	"	19	"	Toninha - - - - -	Sumacca -	"	"	65	58	
102	"	20	"	Henriqueta - - - -	Schooner -	"	"	569	542	
103	"	21	"	Dianna - - - - -	Brig - - - -	"	"	87	83	Total number of Slaves emancipated between June 1819 and 1st January 1828 - - - - - 12,187
104	"	22	Spanish.	La Paulita - - - - -	Schooner -	"	"	221	189	*These Slaves were taken on board the Netherland Brig "De Snelheid", but emancipated in the British and Spanish Court of Mixed Commission, having been purchased and put on board by Spanish subjects.
105	"	23	"	Emilia - - - - -	Ditto - - - -	"	"	282	175	
106	"	24	"	Fama - - - - -	Ditto - - - -	"	"	100	95	
107	"	25	"	- - - - -	- - - - -	"	"	"	23*	
		26	Netherlands.	Lynx - - - - -	Brig - - - -	"	"	265	251	
								3346	2861	

(Signed) JOSH. REFFELL.  
WM. SMITH.

## No. 3.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 10.)*

MY LORD,

*Sierra Leone, January 5, 1828.*

WE have the honour to transmit herewith a Copy of the Registry of Slaves emancipated by the Courts of Mixed Commission, established in this Colony for the prevention of the illicit Traffick in Slaves, during the period from the 5th day of July 1827 to the 5th day of January 1828.

You will perceive, my Lord, by this Document, that 683 have been emancipated in that period, that 682 were registered, and that 1 died between the time of emancipation and that of registration.

We have the honour to be, &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
§c. §c. §c.

Enclosure in No. 3. (*Abstract.*)

*Register of Slaves emancipated, from 5th July 1827, to 5th January 1828.*

NAME of VESSEL.	Number Registered.	Number Died.	Number Emancipated.
Toninha.....	58	"	58
Henriqueta .....	542	"	542
Dianna.....	82	1	83
Total.....	682	1	683

## No. 4.

*His Majesty's Commissioners to The Earl of Dudley.—(Received April 15.)*

MY LORD,

*Sierra Leone, February 12, 1828.*

WE had the honour of receiving, on the 10th Instant, your Lordship's Despatch, dated the 13th of December 1827, in which your Lordship is pleased to authorize us to notify to *Dr. Fergusson*, his Appointment to the Situation of Surgeon to the Mixed Commissions on their proposed Establishment at Fernando Po.

We have in consequence addressed a Letter to that Gentleman, enclosing a Copy of your Lordship's Despatch, and, on the receipt of his Answer we shall have the honour of forwarding the same to your Lordship.

We have the honour to be, &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
§c. §c. §c.

## No. 5.

*His Majesty's Commissioners to The Earl of Dudley.—(Received April 15.)*

MY LORD,

*Sierra Leone, February 12, 1828.*

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 13th of December 1827, enclosing to us Copy of a Letter from one of the Secretaries of His Majesty's Treasury to Mr. Backhouse, covering Copy of Treasury Minute, dated 20th November 1827, respecting the Expences attendant upon the subsistence of captured Negroes between the time of their Capture and that of their Condemnation.

The directions your Lordship has been pleased to give to us upon this subject shall be strictly attended to.

We have the honour to be, &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

## No. 6.

*William Smith, Esq. to The Earl of Dudley.—(Received April 15.)*

(Extract.)

*Sierra Leone, February 16, 1828.*

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, dated the 22d of November 1827, conveying to me His Majesty's gracious permission to visit England in the present Spring, for the sake of my health, for a period not exceeding Six Months residence therein.

I purpose availing myself of an opportunity offering from hence in May next, and shall not fail of acquainting your Lordship with the date of my quitting my Post, and of my subsequent arrival in England.

*The Right Hon. The Earl of Dudley,* (Signed) WM. SMITH.  
&c. &c. &c.

## No. 7.

*William Smith, Esq. to The Earl of Dudley.—(Received May 27.)*

MY LORD,

*Sierra Leone, April 7, 1828.*

I HAVE the honour to report to your Lordship the arrival here of *John William Bannister*, Esq. whom The King has been graciously pleased to appoint Chief Justice of this Colony.

In accordance with the Stipulations of the Treaties with Foreign Powers for the suppression of the Slave-trade, and in the absence of the Lieutenant-Governor, that Gentleman has assumed the Office of His Majesty's Commissary Judge, *ad interim*, and was duly sworn in to the same this day.

Mr. *Reffell* has in consequence resumed his duties as Registrar to the Courts of Mixed Commission, which Mr. Magnus, the First Clerk to His Majesty's Commissioners, filled provisionally during the period Mr. Reffell acted in the higher Situation. I have the honour to be, &c.

*The Right Hon. The Earl of Dudley,* (Signed) WM. SMITH.  
&c. &c. &c.

## No. 8.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, May 30, 1828.*

I HAVE the honour to acquaint you that The King has been pleased to accept of the Earl of Dudley's resignation of the Office of His Majesty's Prin-

Principal Secretary of State for Foreign Affairs, and to confide to me the Seals of that Department.

I am accordingly to desire, that you will in future address to me your Despatches and Letters on Publick Business to be laid before The King.

And you will receive from me such Orders and Instructions as His Majesty shall think proper to give for your guidance and direction.

I am, &c.

*His Majesty's Commissioners.*

(Signed) ABERDEEN.

No. 9.

*William Smith, Esq. to The Earl of Dudley.—(Received June 29.)*

MY LORD,

*Sierra Leone, April 25, 1828.*

I BEG most respectfully to inform your Lordship that *Lieutenant-Colonel Lumley* returned here from the Gold Coast on the 21st Instant.

Colonel Lumley has, in virtue of his being at present Lieutenant-Governor, superseded Mr. *Bannister*, the Chief Justice, in the Office of His Majesty's Commissary Judge, *ad interim*, to the Courts of Mixed Commission, and entered upon the duties of the same.

I have the honour to be, &c.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

(Signed) WM. SMITH.

No. 10.

*His Majesty's Commissioners to The Earl of Dudley.—(Received July 9.)*

MY LORD,

*Sierra Leone, May 7, 1828.*

OBEYING the Instructions which we have received from His Majesty's Government, to communicate to your Lordship such facts as come to our knowledge relative to the Slave-trade, whether carried on by the Subjects of Foreign Powers, not Parties to the Treaties with Great Britain, for the suppression of that Trade, or by the Subjects of those Powers who have entered into Treaties for that object; we have to announce to your Lordship the arrival in this Harbour, on the 12th of April, of a Schooner, under *French* Colours, named "*La Fanny*," having on board 266 Slaves, shipped in the River Calabar, which River she had left only 3 days, when she was fallen in with and detained, on the 19th of March, by His Majesty's Ship "*Sybille*," Commodore Collier, in Latitude 3. 6. North, Longitude 6. 3. East, upon suspicion of having two National Characters—*Dutch* and *French*. Commodore Collier states, that his suspicion arose from the circumstance of a French Man-of-War having very recently been into the Calabar, and captured all Vessels under the White Flag, which were found trading for Slaves in that River; he therefore inferred that the Parties on board "*La Fanny*" must have produced *Dutch* Papers to the French Officers, to have escaped seizure; which inference was strengthened by his finding, concealed under the Master's Birth, a Dutch Ensign and Pendant. Under these circumstances he felt it to be his duty to send her here for further investigation; that, if his suspicions were established, she might be proceeded against in the British and *Netherland* Mixed Court of Justice.

The Agent of Commodore Collier (Mr. Macaulay) has been at considerable labour in investigating this affair thoroughly, but could not affix any other character upon her than *French*.

The Mixed Commissions were, therefore, not authorized to entertain any question respecting her. Mr. Macaulay, in consequence, deemed it advisable that she should be delivered up to the French Government, and she will be immediately dispatched to Senegal for that purpose, under the command of the British Officer who brought her up. Mr. Macaulay detained her here until this day, in the hope that on the arrival of His Majesty's Brig "*Plumper*," on board of which he understood some of the Crew of "*La*

he might be enabled to produce the proof required to bring her into the Courts of Mixed Commission. The "Plumper" arrived here on the 14th Instant, but no new matter was elicited from any of the Crew of the "Fanny." During her stay here, 9 of the unfortunate Slaves died, and 15 in the passage up (making a total of 24) out of 279, the number said to have been on board at the period of her detention.

By the Ship's Papers of "*La Fanny*," it appears she is the property of Messrs Bonnaffe and Lariviere, of Guadaloupe, from the Government of which Island she obtained her Papers, dated at Pointe à Pitre, 20th of March 1827. These are countersigned at St. Jago de Cuba, by the French Consul there, Fleury, on the 24th of October following. Having taken on board a Cargo from Messrs. A. Joly and Co. of St. Jago de Cuba, Agents of Messrs. Bonnaffe and Lariviere, she sailed from thence on the 27th of October, direct for Africa. In the Instructions Messrs. Joly and Co. gave to the Captain, Jean Constantin, whom they appointed to that Situation in consequence of the death of a M. Lalonde (who appears on the Role d'Equipage, dated at Pointe à Pitre, 20th March 1827, as Captain; and by a marginal note on it, made at St. Jago, as having died there on the 1st of October following; and whose name is very familiar as being much concerned in the Slave-trade); they direct him "to go to the Island of Princes, and to one or more Ports on the Coast of Africa, where, having taken on board a return Cargo, he was to go to Pointe à Pitre, at Guadaloupe, the residence of Messrs. Bonnaffe and Lariviere, the Owners of the "*Fanny*."

They therein further state, that Mr. H. P. Hingelberg, the Second Captain and Conductor (Gereur) of the Voyage, possessed their entire confidence;—that he (the Captain) was to be guided by his directions, and that they had furnished him (H. P. Hingelberg) with the necessary instructions for the Voyage.

Their Instructions were written in French, with a translation in English attached. A Copy of the latter we beg to enclose, herewith, for your Lordship's information.

Those instructions, indeed, direct that he is to admit no Negroes as Passengers on board, under any pretext whatever; and profess to require him to purchase Palm Oil, assorted Woods, Ivory, &c.; but the subsequent conduct of the Parties employed in purchasing nothing but Slaves, would induce the belief, that the instructions were merely to meet the publick eye, if found in carrying on the prohibited traffick, and that there was a clear understanding that she should be employed for the purpose she was actually engaged in.

It does not appear that she called, as Messrs. Joly and Co. directed, at Princes; if she did, the vicinity of Calabar to that Island, rendered it an available and convenient Port for them to obtain such information as their real object required.

It occurred to us as being very probable, that "*La Fanny*" had made one successful Voyage to the Coast for Slaves, under the command of Lalonde, between the 20th of March and the 1st of October, the day on which he is said to have died at St. Jago, there being no Document to account for her employment in the intermediate time, and the period which elapsed between those two dates being quite sufficient for the purpose. We, therefore, made enquiry and learnt, that the Captain, Jean Constantin, acknowledged such to be the fact, he being then on board of her; that the Slaves were landed at Guadaloupe; that she did not anchor, but lay off and on while they were being disembarked at Pointe à Pitre, and immediately that was effected, made sail for St Jago. He further stated, that Lalonde was not dead, but left the Vessel from some particular motives, but what those motives were, he did not know.

We abstain from commenting on this glaring violation of the Laws of France by its own Subjects, but we deem it our bounden duty to report to your Lordship the foregoing statement, and we hope that in so doing we shall meet with your Lordship's approbation.

We have the honour to be, &c.

(Signed)

D. DENHAM.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.



Enclosure in No. 10.

(Translation.)

*Instructions to the Mate and Supercargo of the Schooner "La Fanny."*

SIR,

Santiago de Cuba, 22d October, 1827.

IN consequence of the favourable manner the French and American Consuls of this Place have recommended you to us for your integrity and abilities, in our capacity of Agents of Messrs. Bonnaffe and Lariviere, of Pointe-à-Pitre, Island of Guadaloupe, Owners of the French Schooner "Fanny," Captain John Constantin, we have thought proper, in view of the interests of said Friends, to appoint you Mate of the said Schooner, and Supercargo, during the Voyage she is on the eve of undertaking from this Port to Princes Island, thence to one or more Ports on the Coast of Africa, thence to return to Guadaloupe, agreeably to the Instructions which we now hand you.

We have to observe, that solely the necessity of presenting to the French Consulate of this City, a French Subject, as Captain of said Vessel, has obliged us to give the command to Captain Constantin, not judging him capable of fulfilling all its duties. We have therefore instructed him to hold himself in all things, and in every circumstance, subject to your order and judgment.

You will find herein, Invoice and Bill of Lading of the Cargo of the "Fanny." You will sail immediately for Princes Island, where you will call on Mr. Peter Bertrand, who, on presentation of this, which you can consider as our full authorization, will deliver to you the goods he has in his possession in the Brig "Aimable Pauline," wrecked on that Coast. You will add these goods to those you have already on board, and after having advised with Mr. Bertrand, on the most convenient Port in the Neighbourhood for the sale of your Cargo and purchase of a return one, composed of Palm Oil, assorted Woods, Ivory, &c. you will conform to his advice, and immediately sail for the Port he will have recommended, where we hope you will find a good market. As soon as your business will be concluded, you will make all sail for Point-à-Pitre, Guadaloupe, where, as aforesaid, your Owners, Messrs. Bonnaffe and Lariviere, reside.

In case of accident, we recommend particularly to you to see that Captain Constantin makes the necessary verbal Processes, Protests, &c. &c. as circumstances may be, in order that the Owners may claim from the Underwriters. We request your particular attention, as we have been informed that they experienced considerable difficulty on account of Captain Blondin's having neglected to do so.

Captain B. also acted against his orders, by taking Negroes as Passengers; we beg you to admit none on board under any pretext whatever.

We recommend the greatest economy in every thing during the Voyage. Your experience, zeal, and activity, give us reason to hope for an advantageous result for your Owners. We shall be glad not to be disappointed. Your pay as Second Captain is 320 francs monthly, and as Supercargo 5 per Cent. Commission on the gross proceeds of the sales of your return Cargo.

We wish you good health, and a lucky Voyage, and remain

Your's, &amp;c.

(Signed) A. JOLY &amp; CO.

Mr. Hans P. Hingelberg.

## No. 11.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, July 9, 1828.

I HEREWITH transmit to you, for your information, 6 Copies of the Papers, marked A. and B., relative to the Slave-trade, which have been presented to both Houses of Parliament by His Majesty's Command, in the course of the present Session.

I am &amp;c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

## No. 12.

*William Smith, Esq. to The Earl of Dudley.—(Received July 19.)*

MY LORD,

Sierra Leone, May 7, 1828.

IN reference to His Majesty's Commissioners' Despatch of the 12th of February last, I have the honour herewith to transmit to your Lordship, the Copy of a Letter which has been addressed to me by *Dr. Fergusson*, in reply

to a Communication, which was made to him respecting the Situation of Surgeon to the Mixed Commissions, on their being removed to *Fernando Po*.

I have the honour to be, &c.

*The Right Hon. The Earl of Dudley,* (Signed) WM. SMITH.  
&c. &c. &c.

Enclosure in No. 12.

*Dr. Fergusson to William Smith, Esq.*

SIR,

*Sierra Leone, April 21, 1828.*

I HAVE the honour to acknowledge the receipt of your Letter, enclosing Copy of a Despatch from the Earl of Dudley, in reply to my Application for the Appointment of Surgeon to the Courts of Mixed Commission.

I beg leave most respectfully to state, that, as his Lordship has therein signified the Salary attached to that Appointment is only to commence from the time of the arrival of the Mixed Commissions at *Fernando Po*, that were I now to accept his Lordship's gracious offer, I should be under the necessity of requesting that I might be placed on the half-pay of the Army; and as the period of the removal of the Mixed Courts to that Island is yet undefined, the probability is, that I should be for a considerable period thrown out of employment.

I have, therefore, to solicit his Lordship's favourable indulgence, through you, that I may not be called upon to accept the Appointment till the contemplated removal actually takes place.

I have the honour to be, &c.

*William Smith, Esq.*

(Signed) W. FERGUSSON, Surgn. Rl. Af. Col. Corps.

No. 13.

*William Smith, Esq. to The Earl of Dudley.—(Received July 19.)*

MY LORD,

*Sierra Leone, May 6, 1828.*

I HAVE the honour to acquaint your Lordship with the arrival here of *Lieutenant-Colonel Denham*, on the 3d Instant, whom His Majesty has been graciously pleased to appoint Lieutenant-Governor of this Colony.

Colonel Denham was sworn in, and assumed the Government on the 5th Instant.

The Treaties with Foreign Powers for the repression of the Slave-trade, as well as the Act of Parliament of the 5th George IV., Cap. 113, § 54, make it obligatory on the Gentleman holding the Office of Lieutenant-Governor, to take upon himself, when there is a vacancy, the Situation of His Majesty's Commissary-Judge, *ad interim*, in the Courts of Mixed Commission. Colonel Denham was, therefore, sworn into the latter Office this day, and entered upon the duties thereof.

I have the honour to be, &c.

*The Right Hon. The Earl of Dudley,* (Signed) WM. SMITH.  
&c. &c. &c.

No. 14.

*J. W. Bannister, Esq. to John Backhouse, Esq.—(Received Aug. 16.)*

SIR,

*Sierra Leone, May 31, 1828.*

I BEG to acquaint you, for the information of the Earl of Dudley, that on this day I have taken the Oaths of Office as Commissioner of Arbitration in the Courts of the Mixed Commission established in this Colony, and entered upon the duties thereof.

I have the honour to be, &c.

*John Backhouse, Esq.* (Signed) JOHN WM. BANNISTER.  
&c. &c. &c. Chief Justice.

## No. 15.

*John Backhouse, Esq. to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, August 22, 1828.*

WITH reference to the Despatch of Mr. Smith, of the 7th of May last, Lord Aberdeen desires me to say, that, in compliance with the request contained in the Enclosure to that Despatch, *Dr. Fergusson* will not be called upon formally to signify his acceptance of the Appointment of Surgeon to the Courts of Mixed Commission at *Fernando Po*, until the removal of the Commission to that Island shall actually take place.

I have, &amp;c.

*His Majesty's Commissioners.*

(Signed) J. BACKHOUSE.

## No. 16.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received September 12.)*

MY LORD,

*Sierra Leone, June 9, 1828.*

IT becomes my painful duty, as His Majesty's Commissioner of Arbitration, *ad interim*, to communicate to your Lordship the melancholy news of the death of *Lieutenant-Colonel Denham*, the Lieutenant-Governor, my Colleague in the Mixed Commissions. This most unhappy and much-to-be-lamented event occurred at about 9 o'clock this Morning, after a severe illness of 9 days with the remittent fever of this Country. His Majesty has been deprived, by the death of Lieutenant-Colonel Denham, of a most important and valuable Officer, whose loss is deeply mourned by all classes of society here.

*Lieutenant-Colonel Lumley*, as Senior Field-Officer, has assumed the Government of this Colony, and will accordingly be sworn in, to-morrow, to the Office of His Majesty's Commissary Judge, *ad interim*, vacant by the death of the Lieutenant-Governor.

I have the honour to be, &amp;c.

(Signed)

JOHN WILLIAM BANNISTER.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

## No. 17.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, September 27, 1828.*

I HEREWITH transmit to you, for your guidance, the Copy of an Instruction which, in accordance with the opinion of The King's Advocate, I addressed, on the 18th Instant, to His Majesty's Commissioners at the *Havannah*; upon the Question—whether the presence of the Commander of a Capturing Ship is necessary to the due adjudication of a Prize?

I am, &amp;c.

*His Majesty's Commissioners.*

(Signed)

ABERDEEN.

## No. 18.

*Joseph Reffell, Esq. to John Backhouse, Esq.—(Received September 30.)*

SIR,

*Mixed Commission Registry, Sierra Leone, July 23, 1828.*

I BEG leave most respectfully to enclose, for the information of the Right Honourable the Earl of Dudley, Copy of a Letter addressed to me by his

Honour the Lieutenant-Governor, and of the Enclosure therein referred to, reporting the Establishment at *Fernando Po* being ready to receive the Courts of Mixed Commission.

I also enclose Copy of the Answer I returned to the Lieutenant-Governor, and which I hope will be approved of.

I have the honour to be, &c.

*John Backhouse, Esq.*  
&c. &c. &c.

(Signed) JOSH. REFFELL, Regr.

First Enclosure (A.) in No. 18.

*Lieutenant-Governor Lumley to Joseph Reffell, Esq.*

SIR,

*Government-House, July 9, 1828.*

I BEG leave to request you will reply to the enclosed Copy of a Letter addressed to me by Captain Owen, R. N. Superintendent of *Fernando Po*, and that the same may be forwarded through me.

As you are the only confirmed Officer of the Mixed Commission Court at present here, the others holding but acting Appointments, is my reason for calling upon you.

I have the honour to be, &c.

*Joseph Reffell, Esq.*

(Signed) H. LUMLEY, Lt. Governor.

First Enclosure (B.) in No. 18.

*Captain Owen to Lieutenant-Governor Lumley.*

SIR,

*H. M. Ship "Eden," Sierra Leone, July 8, 1828.*

IN compliance with the Orders I am under, to report to the Governor of Sierra Leone, whenever I may be ready to receive the Mixed Commission Court, now at Sierra Leone, at the Establishment formed at "*Clarence*," on *Fernando Po*, under my superintendance; I beg to acquaint you, that we are ready to receive the Commissioners of that Court whenever it may please His Majesty's Government to order them there, and that, if they have received such orders, the Ship is ready to convey them to *Fernando Po*.

I am, &c.

*Lieutenant-Colonel Lumley.*

(Signed) W. F. W. OWEN, Captain.

Second Enclosure in No. 18.

*Joseph Reffell, Esq. to Lieutenant-Governor Lumley.*

SIR,

*Mixed Commission Registry, Sierra Leone, July 9, 1828.*

I HAVE the honour to acknowledge the receipt of your Letter of this date, covering Copy of a Communication from Captain Owen, R. N. Superintendent of *Fernando Po*, stating that the Establishment is ready to receive the Commissioners of the Mixed Commission Court now here, whenever it may please His Majesty's Government to order them to that Island, and that if they have received such Orders, His Majesty's Ship "*Eden*" is ready to convey them there.

As the only Officer of the Courts, at present in the Colony, confirmed by Commission from His Majesty, I beg leave, in obedience to your Honour's commands, to state, that as no orders or arrangements of His Majesty's Government have yet been received by the Mixed Commissions now established here, regarding their removal from hence, it is quite impossible for such a measure to be carried into effect.

I have, &c.

*Lieutenant-Colonel Lumley.*

(Signed) JOSH. REFFELL, Registrar.

No. 19.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Nov. 10.)*

MY LORD,

*Sierra Leone, July 5, 1828.*

WE have the honour to transmit, herewith, Copy of the Registry of Slaves emancipated by the Courts of Mixed Commission, established in this

Colony for the prevention of the illicit traffick in Slaves, from the 5th day of January 1828, to the 5th of July 1828.

Your Lordship will perceive by this Document, that 1,094 have been emancipated, and registered in that period.

We have the honour to be, &c.

(Signed)

H. LUMLEY.

*The Right Hon. The Earl of Dudley,*  
&c. &c.

JOHN WM. BANNISTER.

Enclosure in No. 19. (Abstract.)

*Register of Slaves emancipated, from 5th January to 5th July 1828.*

NAME OF VESSEL.	Number Registered.	Number Died.	Number Emancipated.
Gertrudes - - - -	155	„	155
Fanny - - - - -	252	„	252
Voadora - - - - -	61	„	61
Vingador - - - -	624	„	624
Feliz Victoria - - -	2	„	2
Total - - - -	1,094	„	1,094

No. 20.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Nov. 10.)*

MY LORD,

*Sierra Leone, July 7, 1828.*

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 4th of November 1827, in reply to His Majesty's Commissioners' Communication, on the subject of the purchase and sale, by His Majesty's Naval Officers, of Vessels, which had previously been condemned as Slave-traders.

We have the honour to be, &c.

(Signed)

H. LUMLEY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

JOHN WM. BANNISTER.

No. 21.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 4, 1828.*

IT is with deep regret that I have the painful duty of acquainting your Lordship with the death of the late Lieutenant-Colonel Denham's Successor in this Government.—His Honour *Lieutenant-Colonel Lumley*, His Majesty's Commissary Judge, *ad interim*, and my Colleague in the Mixed Commission, fell a victim on the 2d Instant, to the fever of this Country, after a short but severe illness of 7 days. He is succeeded in the Government, in the absence of a Field-Officer, by The King's Advocate of this Colony, *Mr. Smart*, who will, in the event of the business of the Mixed Commission requiring his services before the arrival of Mr. Jackson, be sworn in to the Office of His Majesty's Commissary Judge. I have the honour to be, &c.

(Signed)

JOHN WILLIAM BANNISTER.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

## No. 22.

*Samuel Smart, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 6, 1828.*

I HAVE the honour to acquaint your Lordship that, by the unfortunate death of the late Lieutenant-Governor, Lieutenant-Colonel Lumley, and by virtue of His Majesty's Charter to this Colony, its Government has devolved upon me.

The business of the Mixed Commission Courts requiring that I should, as Acting Governor, assume the Office of His Majesty's Commissary Judge, *ad interim*, I have accordingly taken the necessary Oaths before the Chief Justice, and entered upon the duties of that Situation.

I have the honour to be, &c.

*The Right Hon. The Earl of Dudley.*

(Signed)

S. SMART.

&c.

&c.

&c.

## No. 23.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 16, 1828.*

IT has become my duty, by the death of the late Lieutenant-Governor, His Majesty's Commissary Judge, *ad interim*, to report the Cases of the several Vessels undermentioned: viz. the *Spanish Schooner "Musquito,"* or "*Elizabeth*;" the *Brazilian Schooner "Voadora*;" the *Brazilian Brig "Vengador*;" the *Brazilian Schooner "Terceira Rosalia*;" the *Spanish Schooner "Feliz Victoria*;" and the *Spanish Schooner "Emprendador*;" adjudicated by the late Lieutenant-Colonel Lumley and myself, before that lamented event; which, I trust your Lordship will receive as a sufficient reason why those Reports, and the Despatches covering the same, bear my Signature only.

I have the honour to be, &c.

(Signed)

JOHN WM. BANNISTER.

*The Right Hon. The Earl of Dudley,*

&c.

&c.

&c.

## No. 24.

*George Jackson, Esq. to The Earl of Aberdeen.—(Received November 18.)*

MY LORD,

*Sierra Leone, September 2, 1828.*

I TAKE the earliest opportunity of informing your Lordship of my arrival here, on the 26th Ultimo, His Majesty's Ship "*Medina*" having been detained at Lisbon upwards of 3 Weeks for Mr. *Consul Goodwin's* Exequatur, and again for 1 Month at Madeira.

The Government of this Colony having devolved on Mr. *Smart*, The King's Advocate, in consequence of the death of Colonel Lumley, I lost no time, in obedience to the Instructions contained in the Earl of Dudley's Despatch of the 15th of January last, addressed to Mr. Smith and myself, in taking, before the Chief Justice, the several Oaths prescribed by the Instruments enclosed in that Despatch, in conjunction with Mr. *Smart*, as Acting Commissioner of Arbitration, in virtue of his, *ad interim*, Office of Governor, and in administering to Mr. *Joseph Reffell* those required of him in his character of Secretary or Registrar to the Mixed British and Foreign Commissions.

No Foreign Commissioner is at present at Sierra Leone, and Mr. Smith, His Majesty's Commissioner of Arbitration, had, as your Lordship is aware, availed himself of his leave of absence prior to my arrival; but I have received from Mr. *Magnus* the Archives of these Commissions, brought down, with the greatest regularity, to the present moment; and I have great pleasure in acknowledging my obligations, both to Mr. *Reffell* and to that Gentleman, for the information and assistance which their long and zealous services, in their respective Departments, so well qualified them to afford me in entering upon my present duties, in the pursuance of which I shall not fail to follow, strictly, the line pointed out by the Instructions heretofore given to my Predecessors, or which may, in future, be transmitted to me by His Majesty's Secretary of State, for my guidance.

I have the honour to be, &c.

(Signed)

GEORGE JACKSON.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

No. 25.

*George Jackson, Esq. to The Earl of Aberdeen.—(Received Nov. 18.)*

MY LORD,

*Sierra Leone, September 3, 1828.*

I HAVE the honour to acknowledge the receipt of your Lordship's Circular Despatch of the 30th of May last, addressed to His Majesty's Commissioners at this Place, acquainting them, that The King has been pleased to accept of the Earl of Dudley's resignation of the Office of His Majesty's Principal Secretary of State for Foreign Affairs, and to confide to you the Seals of that Department.

I beg leave to offer to your Lordship my sincere congratulations on so distinguished a mark of His Majesty's favour and confidence, and to assure you of my best endeavours, satisfactorily to fulfil any Instructions which your Lordship may have occasion to transmit to me.

I have the honour to be, &c.

(Signed)

GEORGE JACKSON.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

No. 26.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, December 10, 1828.*

I HAVE received your Despatches, up to the date of the 19th of September, of this Year.

Reserving for a future occasion the Instructions which I may probably have to transmit to you upon some of the subjects treated of in those Despatches, I avail myself of this opportunity of observing to you, that all Official Communications from the Court of Mixed Commission ought to bear the signatures of both the Commissioners, or Acting Commissioners, a formality which has been neglected with respect to the above-mentioned Despatches, which are signed by Mr. George Jackson alone.

I have also to remark to you, that no Despatch should treat upon two distinct subjects, as was the case with that of the 19th of September; (*Portugal and Brazil.*) in which the Cases of two separate Vessels were reported.

I am, &c.

(Signed)

ABERDEEN.

*His Majesty's Commissioners.*

## No. 27.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, December 29, 1828.

I HAVE again to remark, that the Despatches are, with the exception of those upon the pecuniary Accounts of the Commission, signed by Mr. George Jackson alone; and that many of the latter treat of more than one subject: one of them relating to the Cases of no less than 5 Vessels.

I have also to remark, that the Communications upon the Vessels adjudicated are less full than usual; in the Cases of the "*Henriette*," and the "*Sociedade*," even the period of the arrival of those Vessels at Sierra Leone, and the date of the issue of the Monition is omitted: it is not stated whether the Monition was properly answered or returned. Neither is it mentioned, in respect of the "*Henriette*," whether the Slaves were or were not landed previously to adjudication.

The Reports should contain a full detail of all the Evidence delivered: and the Despatches, enclosing those Reports, should state every material fact, accompanied with whatever observations may be necessary to put His Majesty's Government in possession of all the features of each Case.

I am, &amp;c.

*His Majesty's Commissioners.*

(Signed) ABERDEEN.

## No. 28.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, December 31, 1828.

WITH reference to the several Despatches of His Majesty's Commissioners, dated August 8th, I have to acquaint you, that the attention of the Lords Commissioners of the Admiralty has been called, to the insufficiency of the Certificate under which the Slaves from the "*Musquito*" were landed at Fernando Po,—to the irregularity of Captain Owen in suffering the Master of the Vessel in question to remain at that Island,—to the impropriety of his administering to the Master of the Vessel an Oath, under which the Report of the Case was drawn up by him,—to his deviation from the "Instructions," in detaining at Fernando Po the Vessels "*Musquito*," "*Voadora*," and "*Felix Victoria*,"—and to his unauthorised conduct in directing the sale of the Stores and Cargo of the latter Vessel:—and the Lords of the Admiralty have been moved to require from that Officer an explanation of his conduct, and to enjoin to him, in future, a more strict attention to the Instructions annexed to the Treaties with Foreign Powers for the abolition of the Slave-Trade.

The Sentences of His Majesty's Commissioners, which condemned the "*Musquito*," alias "*Elizabeth*," the "*Voadora*," and the "*Felix Victoria*," and emancipated the Slaves found on board of these Vessels, were perfectly correct and proper; and Mr. Bannister acted with propriety in noticing the irregularities alluded to for the consideration of His Majesty's Government.

I have, &amp;c.

*His Majesty's Commissioners.*

(Signed) ABERDEEN.



## SIERRA LEONE. (Spain.)

No. 29.

*His Majesty's Commissioners to The Earl of Dudley.—(Received April 15.)*

MY LORD,

*Sierra Leone, February 14, 1828.*

WE have the honour to enclose herewith, the Report of the Case of the Spanish Schooner "*Gertrudis*," Francisco Sans, Master, condemned in the British and Spanish Court of Mixed Commission established here, on the 2d Instant, for being engaged in the illicit Traffick in Slaves, in violation of the Treaty between Great Britain and Spain.

This Vessel, sailing under Spanish Colours, and owned by her Commander, was detained on the 12th of last Month, off the Gallinas, by a Boat of His Majesty's Ship "*Sybille*," having on board 155 Slaves, shipped two days previously at that Port, and reached this on the 24th of January with the Slaves in good health.

From the Evidence of the Master it appeared, that this Vessel was purchased by him at the Havannah, in August last, from one James Francis, an American, for 5,000 Dollars, she being at the time called the "*Julia*," and that the Slaves on board were to have been delivered on the Coast of Havannah, for the risk and benefit of himself and one Isidro Romagoza, the Owner and Consignee of them.

The violation of the Treaty in the Case of this Vessel, is so clear as to render it unnecessary for us to trouble your Lordship with further details.

We have the honour to be, &c.

(Signed)

JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 29.

*Report of the Case of the Spanish Schooner "Gertrudis," Francisco Sans, Master.*

THIS Vessel, of the burthen of 77 Spanish Tons, and manned with 20 Officers and Mariners, was detained, on the 12th day of January 1828, in or about Latitude 6. 27. North, Longitude 11. 54. West, by a Boat of His Majesty's Ship "*Sybille*," under the command of Lieutenant Turner, of that Ship, and having at the time on board 155 Slaves, said to have been shipped at the Gallinas.

On the 24th of January 1828, she arrived here with the Slaves in good health, when the Papers of the Vessel were brought into Court, and the usual Monition prayed for and granted.

From the Evidence of the Master, a Subject of The King of Spain, examined on behalf of the Captors, it appeared that the Owner and Consignee of the Slaves was one Isidro Romagoza, of the Havannah, but that the Vessel belonged solely to himself; that the present Voyage began at the Havannah, and was to have ended there, the Vessel having touched in the course of it at Princes Island, Cape Mount, and the Gallinas;—at Cape Mount to take in Rice and Water, and at the Gallinas to embark the Slaves found on board her, and which latter Place she had only left 2 days when she was captured.

No Claim being made in this Case, and the Monition returned, certified to have been duly served, the Court met on the 2d of February 1828, and the proof of illicit Slave-dealing, in violation of the Treaty between Great Britain and Spain, having been clearly established, condemned the Vessel her Tackle, Apparel, and Furniture, as good and lawful Prize to the Governments of Great Britain and Spain, and decreed the emancipation of the Slaves found on board her, 155 in number, and as so seized and prosecuted by Commodore Collier, and the Officers and Crew of His Majesty's Ship "*Sybille*."

(Signed)

JOSH. REFFELL.  
WM. SMITH.

## No. 30.

*His Majesty's Commissioners to The Earl of Dudley.—(Received May 27.)*

MY LORD,

*Sierra Leone, March 26, 1828.*

WE beg to acknowledge the receipt of your Lordship's Despatch, dated the 31st of December 1827, instructing us, as regards the Case of the Brigantine "Isabella," captured by His Majesty's Ship Redwing, that it would not be proper that the Mixed Commission should do any act with reference to the Ship and Slaves not brought within their jurisdiction, and with regard to which no regular Evidence is presented to them.

This Communication from your Lordship is very satisfactory, as affording a precedent to us for our guidance in future Cases of a similar nature.

The 45 Slaves, which the Captor states he had taken from the "Isabella," in order to afford more room and accommodation to the remainder left on board, were transferred by him to a Spanish Schooner, named the "Ana," which he had captured about the same period.

That Vessel arrived here in safety, was prosecuted in the British and Spanish Court of Mixed Commission, for being engaged in the illicit traffick in Slaves, and was condemned on the 3d of January 1826, when the survivors of the said 45 Slaves, some having died on their passage up, were emancipated and delivered over to the Colonial Government.

We have the honour to be, &c.

(Signed) JOSH. REFFELL.

WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
 &c. &c. &c.

## No. 31.

*His Majesty's Commissioners to John Backhouse, Esq.—*  
*(Received November 10.)*

SIR,

*Sierra Leone, July 5, 1828.*

IN pursuance of the 75th Clause of the Act, passed in the Fifth Year of the Reign of His present Majesty, entitled "An Act to amend and consolidate the Laws relating to the abolition of the Slave-trade," we beg to enclose a Return of all the Cases of *Spanish Vessels* adjudicated in the British and Spanish Court of Mixed Commission, established here, from the 1st of January 1828, to the 1st of July 1828.

We have the honour to be, &c.

(Signed) H. LUMLEY.

JOHN WM. BANNISTER.

*John Backhouse, Esq.*  
 &c. &c. &c.

Enclosure in No. 31.

*Return of Spanish Vessels Adjudicated by the British and Spanish Court of Mixed Commission established at Sierra Leone, from the 1st day of January 1828, to the 1st day of July 1828.*

NAME of VESSELS.	Date of Seizure.	Property Seized.	SEIZOR.	Date of Sentence.	Decretal part of Sentence, whether forfeiture or restitution.	Whether Property condemned has been sold or converted, and whether any part remains unsold, and in whose hands the proceeds remain.
Gertrudis.	Jan. 12, 1828.	{ Schooner and 155 Slaves. }	{ F. A. Collier, } { H.M.S. Sybille. }	Feb. 2, 1828.	{ Condemned for illicitly trading in Slaves. }	{ The Schooner sold by publick auction, and the Proceeds lodged in the Colonial Chest. }
Musquito (al.) Elizabeth.	April 14, 1828.	{ Schooner and 126 Slaves. }	{ W. F. W. Owen, } { H. M. S. Eden. }	June 16, 1828.	{ Condemned for illicitly trading in Slaves. }	{ Both of the Schooners, and their Cargoes, were sold by publick auction, but the Proceeds remain in the hands of the Commissioners of Appraisement and Sale, the Accounts not having yet been returned into the Registry. }
Feliz Victoria.	Feb. 3, 1828.	{ Schooner and 2 Slaves. }	{ W. F. W. Owen, } { H. M. S. Eden. }	June 23, 1828.	{ Condemned for illicitly trading in Slaves. }	

Sierra Leone, July 1, 1828.  
JOSH. REFFELL, Registrar.

(Signed) H. LUMLEY,  
JOHN WM. BANNISTER.

No. 32.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received Nov. 10.)*

MY LORD,

Sierra Leone, August 8, 1828.

HEREWITH I have the honour to enlose, for your Lordship's information, the Report of the Case of the Spanish Schooner "*Musquito*" alias "*Elizabeth*," condemned on the 16th of June last, in the British and Spanish Court of Mixed Commission, established here, when the surviving Slaves who were on board of her were emancipated.

This Vessel was seized, on the 14th of April last, within the entrance of the Old Calabar River, by Lieutenant Robinson, R. N. in a Boat belonging to His Majesty's Ship "*Eden*," she having at the time 126 Slaves on board.

On the 21st of May following, the Vessel arrived here from Fernando Po, to which Island she had been taken after Capture, and where 124 Slaves were landed by order of Captain Owen, 2 having jumped overboard on the passage to that Island.

The only Papers (the Spanish having been concealed or made away with) on board this Vessel were *French*, under which Colours she was seized, on information of her being *bond fide* a Spanish Vessel, and in the Evidence

brought before the Court, this was not only clearly established, but further that the French Papers were surreptitiously obtained at St. Thomas, to which Island the Vessel was conducted from Porto Rico, under Spanish Colours, and by the Spanish Master.

At St. Thomas she received on board some of the Crew and the French Master, who commanded her when she was seized; the Spanish Master, who was also Supercargo and part Owner of the Slaves, having remained behind in the Calabar with a further number of 125, whom he declined risking on the present occasion for fear of Capture.

From the Evidence of the Spanish Papers, it is not clear whether the outward bound Cargo was shipped at Porto Rico, or St. Thomas, but from the Owner of the Vessel living in the Havannah, where the Cargo of Slaves was to be delivered, little or no doubt can exist of its having been put on board at the former of these Places, and that her having been conducted to St. Thomas was merely to cover the illegal transaction she was engaged in, by procuring French Papers, and a Master of that Nation. The circumstance of this being Spanish property, is also avowed in a Report of the Case (entirely corroborative of the Evidence of the Witnesses) by the French Master, which Document was sworn to before Captain Owen at Fernando Po, and sent here with the Ship's Papers; in this he, after setting forth that the Vessel left Porto Rico with an entire Spanish Crew, states that the Owner, Francisco Suler, came from that Port to St. Thomas, and made proposals to him, (the French Master) to make this Voyage, for which he (Suler) procured French Papers, which cost him 150 dollars, the Vessel likewise having Spanish Papers on board in charge of Juan Llansana, the Spanish Supercargo, who, he further states, was left behind in the Calabar with a part of the Slaves.

It here becomes my duty to draw your Lordship's attention, as in the Case of the "*Voadora*," to the circumstance of Captain Owen having landed the Slaves belonging to this Vessel, at Fernando Po.

I consider it necessary also to mention to your Lordship, that it appears from Documents filed in this Case, that Captain Owen took out of this Vessel, for the Publick Service, 3 sweeps, valued by 2 Persons under his directions at £2 5s., and also 46 dollars found on board her, and for both which amounts he states he is accountable to the Court; as however his Agent here has not paid the same into the Registry, and the Proceeds of the Vessel have since been lodged in the Military Chest, it will remain for Captain Owen to account to the Lords of His Majesty's Treasury for the amount.

I have the honour to be, &c.

(Signed) JOHN WM. BANNISTER.

*The Right Hon. The Earl of Dudley,*  
 &c.            &c.            &c.

Enclosure in No. 32.

*Report of the Case of the Spanish Schooner "Musquito," alias "Elizabeth,"  
 Bartholomew Rochefort, Master.*

THIS Vessel, with 126 Slaves on board, was seized, on the 14th of April 1828, at anchor about 5 miles within the entrance of the Old Calabar River, by Lieutenant Robinson, R. N., commanding 2 Boats of His Majesty's Ship "*Eden*." This Officer certifies, "that he detained her in pursuance of orders received from Captain Owen, of His Majesty's said Ship, who had information that she was a Spanish Vessel, and the majority of her Crew being Spaniards, but when boarded she was under a French Flag;" and further, "that he (Lieutenant Robinson) dispatched her immediately to Clarence Cove for Captain Owen to dispose of, having a Crew of 21 persons, and the Spanish Master being left on Shore at Calabar."

On the 16th of April, Captain Owen, with reference to this Vessel, then at Clarence, Fernando Po, certifies, that he had "detained, for adjudication, the Spanish Schooner "*Moskito*," or "*Murinho*," or "*Isabella*," or "*Elizabeth*," of Porto Rico, and had received from Mr. Bartholomew Rochefort certain Papers in the French Language, purporting to be an Act of Francis-

sation, a Role d'Equipage, a Port Clearance, and Manifest of the Cargo, all dated at Pointe à Pitre, in Guadaloupe, the 10th and 11th of August last, except the Act of Francisation, which is dated in 1819." He further goes on to state, that "these Papers are proved to have been received at St. Thomas, and to be false, by the testimony of Antonio Barry, William Knight, and Jean Julien, and acknowledged to be so by Mr. Rochefort himself, and that these all state the Vessel herself has not been at the Island of Guadaloupe this Voyage."

On the 17th of April 1828, the Vessel still lying at Fernando Po, Captain Owen issued an Order, in which, after stating that in consequence of the Report made to him by the Assistant-Surgeon and another Officer of His Majesty's Ship "Eden," "it would be inhuman to suffer all the Slaves now on board the "Musquito" or "Elizabeth" to proceed on the Voyage to Sierra Leone, and he therefore directed that all the Men and Women Slaves then on board the said Schooner should be landed, and delivered to Captain H. C. Harrison, R. N., the Superintendent of the Works at Clarence, and that the male and female Children under 13 Years of age should be retained on board for the Voyage here." By virtue of this authority, the whole of the surviving Slaves, stated to be 88 males and 36 females, 2 Men having been drowned on the passage from the Place of Capture to Fernando Po), were landed, and it must therefore be presumed that none of them were under the prescribed age.

The Vessel arrived here on the 21st of May 1828, and, on the following day, her Papers were brought into the Registry and filed, and the usual Monition went forth, returnable on the 2d of June 1828, on which date it was certified to have been duly exhibited.

From the Evidence of the Chief Mate, and two other Witnesses examined on behalf of the Captors, (the Master having chosen to remain at Fernando Po), it appeared that this Vessel was owned by one Don Francisco Suler, a Merchant in Porto Rico; that she had 2 Masters, and was furnished with 2 sets of Papers, (French and Spanish), the former calling her the "Elizabeth," and the latter the "Marinheiro;" that the Spanish Master, John Llansana, took the command of the Vessel in Porto Rico, from whence she proceeded, under Spanish Colours, to St. Thomas, to procure the French Papers: she there, also, took on board the French Master, Rochefort, and proceeded to the River Calabar, where she hoisted French Colours, and commenced trading for Slaves, the Spanish Master acting as Supercargo; and further, that the Vessel there took on board the 126 Slaves, with which she was captured, and left behind, in that River, the Spanish Master and Supercargo, with 125 more Slaves, which, although purchased, he would not ship, for fear of being captured. The Evidence of these Witnesses went further to prove, that the Spanish Master, together with the aforesaid Suler, and another Merchant, in the Havannah, were the Owners of the Slaves, which were to have been landed at Porto Rico, or the Matanzas, on their united account: they differed, however, in their Evidence, as to what became of the Spanish Papers, the Chief Mate swearing that they were retained by the Spanish Master and Supercargo, and the other 2 Witnesses that they were made away with on board the Vessel about the time of Capture.

The Court met to adjudicate this Vessel on the 16th of June 1828; and, as the Evidence clearly established her to be a Spanish Vessel engaged in the Slave-traffic to the Northward of the Equator, for the real account, risk, and benefit of Spanish Subjects, unhesitatingly condemned the "Musquito," alias "Elizabeth," for a breach of the Treaty between Great Britain and Spain, and declared the emancipation of the 124 Slaves (or the survivors of them) landed at Fernando Po; and, also, that there were on board the Vessel, when captured, 126 Slaves, the said Vessel having been seized and detained by Captain Owen and the Officers and Crew of His Majesty's Ship "Eden."

(Signed) JOHN WM. BANNISTER.

### No. 33.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received Nov. 10.)*

MY LORD,

*Sierra Leone, August 8, 1828.*

I HAVE the honour to enclose, for your Lordship's information, the Report of the Case of the Spanish Schooner "*Feliz Victoria*," condemned on the 23d of June 1828, in the British and Spanish Court of Mixed Commission established here, when the Slaves on board of her were emancipated.

This Vessel, although seized on the 3d of February 1828, did not reach here for adjudication until the 9th of June following, after a delay of upwards of 4 Months, a great portion of which time she was detained by the Captor at Fernando Po, having only left that Island on the 13th of May. Having been abandoned by the Master and Crew, with the exception of 2 men, one of whom died before she was sent here from Fernando Po, the only Evidence to prove that she was engaged in the Slave-traffic, and that the 2 Negroes found on board her were Slaves, was the surviving Seaman, Manoel Joaquim, alias James Harry. From his testimony, however, it was clear, that the Vessel sailed direct from the Havannah to the River St. John, to the Northward of the Equator, for the purpose of procuring a Cargo of Slaves, and that

150 were ready to be embarked, when she was seized at anchor in that River with only 2 of her intended Cargo on board.

I beg to draw your Lordship's attention not only to the circumstance of the Captain in this Case having detained this Vessel for the long period he did at Fernando Po, but also to his having taken out of her, and landed at that Island, the Cargo and Stores she had on board, which were sold under his direction, and the nett proceeds, with 496 dollars found on board the Vessel, and paid into the Treasury at Fernando Po, amounting to £222 5s. 1½d. remitted to the Registrar, in a Bill on the Lords of His Majesty's Treasury. The full particulars of these Sales will be before your Lordship, with the Account Sales of the Vessel, when the Bill in question will also be forwarded.

I have the honour to be, &c.

(Signed) JOHN WM. BANNISTER.

*The Right Hon The Earl of Dudley,*  
 &c.                    &c.                    &c.

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Enclosure in No. 33.

*Report of the Case of the Spanish Schooner, "Feliz Victoria," José Roquer, Master.*

THIS Vessel was seized, on the 3d of February 1828, at anchor in the River St. John, by the Tender of his Majesty's Ship "Eden," with a Boat of His Majesty's said Ship on board her, under the command of Lieutenant Badgley, who states in his Declaration, under date the 25th of that Month, that he had detained her for having 2 Slaves on board, viz. 1 Man, and 1 Boy; and further that the Master and Crew deserted her, with the exception of 2 Men, 1 of whom had since died from fever.

The Vessel after Capture was taken to Fernando Po, where she was detained until May following, and then sent here for adjudication, with the two Slaves on board, and arrived on the 9th of June 1828. On the 12th of that Month, the Ship's Papers were brought into the Registry and filed, and the usual Monition went forth, returnable on the 21st, on which date it was certified to have been duly executed.

The only Witness produced in this Case, was the surviving Seaman belonging to the Vessel, named Manoel Joaquim, alias James Harry. The Evidence he gave on the Standing Interrogatories proved, that the Master took possession of the Vessel in the Havannah, about 5 Months before Capture, at which Port the present Voyage began and was to have ended; that the only Port or Place the Vessel touched and anchored at, since leaving the Havannah, was the River St. John, or New River; that she only touched there for the purpose of trading in Slaves, in the course of which she was seized, while at anchor, with the only 2 Slaves which had been embarked on board her, the remainder of the Cargo, 150 in number, not having been sent off.

From the Vessel's Papers it cannot be learnt who is the Owner; the Witness examined calls him "Don Vill," a Merchant in the Havannah. The Vessel was furnished with a Commercial Passport, shewing her to be bound for St. Thomas, and with Clearances and other Documents, dated Havannah, the 3d October 1827, and from her Log it appeared that she sailed from thence on the 9th of that Month.

This being, as far as the Evidence went, a clear Case of a Spanish Vessel engaged in the Slave-trade, and seized to the Northward of the Equator, the Court, which met for its adjudication on the 23d of June 1828, had no hesitation in declaring her to have been justly seized and detained, and accordingly condemned the Vessel, together with her Cargo, Tackle, Apparel, and Furniture, as good and lawful Prize to the Crowns of Great Britain and Spain; and the Court further decreed the emancipation of the 2 Slaves found on board her, and that the said Vessel was seized and prosecuted by Captain William Fitzwilliam Owen, and the Officers and Crew of His Majesty's Ship "Eden."

(Signed) JOHN WM. BANNISTER.

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No. 34.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 16, 1828.*

HEREWITH I have the honour to enclose, for your Lordship's information, the Report of the Case of the Spanish Schooner "*Emprendador*," Ramon Clavell, Master, condemned in the British and Spanish Court of Mixed Commission established here, on the 14th day of July 1828, when the 3 Slaves found on board her were emancipated.

This Vessel was seized by His Majesty's Ship "Eden," on the 11th of June 1828, in Latitude 2. 0. North, and Longitude 8. 30. East, and sent to this Place for adjudication, for having 3 Negroes secreted in her hold. She arrived here on the 28th of the same Month.

From the Evidence filed in the Case, it was established to the satisfaction of the Court, that although these Africans went on board the Vessel at Little Popoe voluntarily, still it was evidently the intention of the Master of her to carry them off the Coast as Slaves; in furtherance of this it was proved that he had quitted that part of the Coast where he was pledged to land these Africans, and, when captured, was at least 450 Miles distant from it.

I beg leave to refer your Lordship to the Report for the full particulars of this Case, which I have felt it my duty to detail very fully for your Lordship's information.

The Master having applied for Copies of the Evidence, the same have been accordingly furnished him.

I have, &c.

(Signed)

JOHN WILLIAM BANNISTER.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 34.

*Report of the Case of the Spanish Schooner "Emprendador," Ramon Clavell, Master.*

THIS Vessel, of the burthen of 117 Spanish tons, with a Crew of 39 Persons on her Muster Roll, and a Clearance, dated the 18th of March 1828, left the Havannah on the 30th of that Month, being also furnished with a Passport and other Papers, dated the 14th of the same Month, shewing her to be bound for the Islands of Princes and St. Thomas, on this Coast.

On the 11th June 1828, being then in or about Latitude 2. 0. North, Longitude 8. 30. East, this Vessel was seen from His Majesty's Ship "Eden," commanded by Captain Owen, who certifies, that she was then about 14 Miles to the South West of His Majesty's Ship, and in company with a Schooner, that His Majesty's Ship chased the said Vessel "Emprendador" from that time until about 2 P. M. on the following day, when she was boarded, and found to be from the Havannah bound to Princes Island.

Captain Owen further certifies, as his reasons for detaining this Vessel, that, on searching her, 3 Negroes were found secreted in her hold, and that her Cargo had apparently been taken by plunder, as she had no Manifest of it, nor any notice taken of it in her Port Clearance, and, moreover, that she was fully equipped with a Slave-deck, Slave-boilers, irons and water-casks for a Slave-cargo.

This Vessel after Capture was conducted to Princes Island, at which Place the 3 Slaves found secreted on board her, were, by direction of Captain Owen, removed to His Majesty's Ship "Eden" for the passage here, and as stated, "for greater security and to prevent their being tampered with by the Spanish Master.

She arrived in this Harbour for adjudication, in charge of Lieutenant Robinson, of His Majesty's said Ship, on the 28th of June 1828, and on the 30th following, her Papers were brought into the Registry and filed, and the Monition, citing all Parties to appear, issued, returnable, on the 7th of July 1828, on which date it was certified by the Marshal to have been duly executed.

On the 5th of July 1828, the Master, Ramon Clavell, filed a Claim for the Vessel, and about one half of the Cargo on board her, as the property of Salvador Felice, an Inhabitant of the Havannah, in Cuba; and for the remaining half of the Cargo, as the property of him, the Master, and, in his Attestation, in support thereof, set forth, "that at the time of the Capture of the Vessel, there were on board 3 Free Africans, one being a Native Pilot, one the Son of the Chief of a part of the Coast, who had come with the Cane or Insignia of the said Chief, with a message unto this Deponent, and the other a Relative to the said Messenger; the Pilot spoke English, the Messenger Portuguese, and the Lad spoke no other language than that of his Country. That this Deponent never made any trade unless for a few fowls and cassada, with 5 handkerchiefs for the use of the said Vessel; that the Chief, who had sent the aforesaid Messenger on board, had sent as a present unto this Deponent, a sheep and a few fowls, and that no Slave or Slaves were at any time received on board the said Brigantine during her said Voyage."

The Witnesses examined in this Case, on behalf of the Captors, were the Master, the Carpenter, and a Seaman of the Vessel, on the Standing, and on Special Interrogatories, as also 2 of the Slaves on the latter; and on the part of the Claimant, the 3 Slaves were examined on Special Interrogatories, put with permission of the Court.

The Evidence of the Master, in answer to the 2d, 7th, 11th, and 13th Standing Interrogatories, went to prove, "that he, himself, and the Chief Mate, named Salvador Felice, were the Owners of the Vessel and Cargo, with the exception of a small Venture of one of the Officers, and that he, the Master, appointed himself to the command of her, in the Havannah, about 4 Months ago, the said Chief Mate, Salvador Felice, giving him the possession, and also that the said Cargo was

to be delivered at Princes Island, or St. Thomas, for the real account or risk of them, the said Owners, and no others.

This, however, is contradicted by the Evidence of the Carpenter, on the 4th, 11th, and 13th Standing Interrogatories, wherein he states, "that Don Francisco Rowsay, of the Havannah, is the Lader and Chief Owner of the Vessel and Cargo, (which is owned by a Company,) and that he, Francisco Rowsay, appointed the Master to the command of her, and delivered the possession to him." The Evidence of the Seaman on these points, (who seems to know very little respecting the Voyage,) merely went to prove that the Vessel and Cargo were owned by several persons in the Havannah, whom he knew by sight, but not their names, and that they appointed the Master to the command of her.

The further Evidence of these Witnesses, on the Standing Interrogatories, went to prove, that the Voyage of this Vessel commenced at the Havannah, and was to have ended there, that in the course of it she touched at the Gallinas, Little Popoe, and Petit Bassa, and they all agree in declaring that no Slaves had been taken on board the Vessel during the present Voyage, although the Carpenter and Seaman acknowledge that 3 Negroes were received on board at Little Popoe, whom the former swears the Master told him were Pilots, and that when the Capturing Ship was seen, he, (this Witness, the Carpenter,) by the Master's direction, confined the said Negroes forward, by nailing down the forehold.

The Master, in answer to the Special Interrogatories, swears "that the Vessel was bound from the Havannah to Princes Island and St. Thomas, and that he touched at the Gallinas, and the other Places, sworn to in reply to the Standing Interrogatories, to purchase fresh provisions; that at Popoe he received on board 3 Africans, viz. one a Pilot to take the Vessel to Onim, (this man, he adds, did not know the Compass, but was guided by the Land,) the second a Son of the King of the former Place, and the third his little Brother; those 3 Africans, he states, were below when the Capturing Ship's Boat boarded, but that he did not give any orders respecting their being secreted or confined; on the contrary, that they themselves, at the time of Capture, asked to go below, and did so of their own will and accord, but he does not know for what reason.

He further swears "that there were coppers on board the Vessel, but that he does not know that they were for cooking for Slaves, having found them on board, as well as some irons for confining such of the Vessel's Crew as might behave ill, the number of which he does not know, and he adds, that the List, containing a description of his Cargo, (found amongst the Papers,) is the only Document of the kind received from the Customs at the Havannah."

The Carpenter, in answer to the Special Interrogatories swears "that he does not know what course the Vessel steered, but that they did not steer direct for St. Thomas, and that the first Land made on the Coast was the Gallinas, at which Place she touched, and for no other reason, that he knows of, but to get fresh provisions, in consequence of the Crew grumbling for want of such, but that the quantity being small, (some fowls and goats,) a further supply was required, and the Vessel, therefore, took provisions on board at Popoe."

This Witness also further swears "that he had not the slightest knowledge what the Vessel's Homeward Cargo was to consist of, as he and the Crew had nothing to do with it; nor had he seen any coppers on board, but had heard there were some; he had seen irons on board, but he does not know the number: they were in a box, in the Cabin of the Vessel; he further swears, after stating that the 3 Africans on board were treated very well, "that when the Capturing Ship was near to them, he (the Witness) was ordered by the Master to put them (the Africans) below, and fasten the Hatch over them, which he accordingly did, in the fore part of the Vessel.

The Seaman, in answering the same Interrogatories, swears "that the Vessel received her Cargo on board at Casa Blanca, in the Harbour of Havannah, where Guinea-men usually load, and that from the Havannah they steered as the winds permitted, but not direct for St. Thomas; and, after swearing that the Vessel had an abundance of salt provisions, but no fresh, he corroborates the testimony of the Captain and Carpenter, as to the Vessel's touching at the Gallinas, at which Place, however, he says no provisions were taken on board, although yams were received at Popoe, and some goats and fowls at Petit Bassa;" he further swears "that there were Slave-coppers and irons on board the Vessel, and of the latter he supposes 130 or 140 pairs," and in conclusion, this Witness fully corroborates the Evidence of the Carpenter, as to the 3 Africans being secreted and confined below, by order of the Master, at the time of Capture.

The Evidence of the 3 Africans, on the Special Interrogatories of both Captor and Claimant, went to prove that two of them, Jack and Messah, were Free Men, and Sons of the Head Man of Popoe, and that the third (the Boy) was a Slave of their Father; and, further, that Jack, who is a Fisherman by trade, went on board this Vessel at Popoe, to conduct her to Lagos, because the Master "did not know the path," and for which service the Master was to pay him; he was accompanied by his Brother and the Boy, the former, who understands Portuguese, as an Interpreter between him (Jack) and the Master, and the latter (the Boy) to learn Portuguese. The Evidence of the 2 free Africans, on the Special Interrogatories on the part of the Captor, went also, distinctly to prove that they did not hide themselves below of their own accord, (and one of them (Jack) very appositely adds, that he had no occasion to hide himself, as he was not afraid, not being a Slave, but an Englishman), but that, they then being on deck, the Spanish Master made them go below, to which they objected, Messah saying, "they were not Slaves, and did not want to be secreted;" the Spanish Master, however, told them they must do so, because if they did not, "when those people" (meaning the Capturing Ship then near to the Vessel) "come see them, they say they were Slaves, he (the Spanish Master) go buy." This Witness (Messah) further adds, in answer to one of the Special Interrogatories, "that he has heard the Portuguese have an Island called Princes, living in the middle of the water."

Before reverting to the circumstances which influenced the decision of the Court in this Case, it will be necessary to take a retrospective view of some parts of the Evidence, and to make a few remarks on it. The avowed object, as appears by the Vessel's Papers, on her leaving the Havannah, was simply a Voyage to the Islands of Princes and St. Thomas, in the lawful commerce of this Coast, yet, from the Evidence of the Carpenter and Seaman, it is shewn that the Vessel's course was not steered direct for those Ports, but, on the contrary, that the first land made on the Coast



was the Gallinas, at which Place the Vessel touched, as well as at the Anchorages of Petit Bassa and Little Popoe; and here it is necessary to observe, that the excuse for so doing, appears most frivolous, as well from the small quantity of fresh provisions (there being abundance of salt on board) said to have been received on board at those Places, with reference to the number of the Crew, as to the loss of time it must have occasioned; the circumstance, however, of a part of the Coast being made, so distant from the stated destination of the Vessel as the Gallinas, in the Neighbourhood of this Colony, further serves to shew that other purposes than the mere obtaining a few fowls and yams, led to the Vessel's anchoring at that Place, noted as a Spanish Slave-haunt, as well as to her proceeding onwards to Little Popoe, and the more frequented Slave Factories in the Bight of Benin.

In the Bight of Benin the Vessel first anchors at Little Popoe, where she receives on board 3 Africans; and, from the Evidence of these Persons themselves, it is clear that their so embarking was voluntary, and with a view to their own advantage; it is, however, equally satisfactorily proved from the Evidence of 2 of them (the third not having been examined to this point), that they could not have contemplated being taken to Princes Island or St. Thomas; they both distinctly state where the Vessel was said to be going to, and both are indeed ignorant where such Islands exist; one of them (Messah) does say he has heard that the Portuguese had such an Island "living in the middle of the Water," but it never can be inferred from their Evidence, that they embarked under any other impression or belief than that they were to be landed at Onim or Badagry.—There is some discrepancy on the part of the Master, in his Evidence as to the designation of these Africans; but this is of little importance in comparison with his unblushing effrontery in repeatedly swearing, that he did not give any orders respecting their being secreted or confined; but that, on the contrary, they went below of their own free will and accord, when the opposite is so positively sworn to by all the other Witnesses; it, however, only serves to shew that this Man, having (as he evidently finds he had) been guilty of an act, which *prima facie* shewed his real intentions with respect to these Africans, is capable of even perjury to make the contrary appear in Evidence; his further Testimony, also, that he did not know the coppers were for cooking for Slaves, and that he was unacquainted with the number of irons on board (which were merely for confining such of the Crew as behaved ill), is further illustrative of his disinclination to tell the truth—he does not, however, attempt to deny that such were on board; and the Seaman supplies the deficiency, by swearing, that there were 130 or 140 pairs of the latter kept in a Box in the Cabin, and consequently in constant view of the Master; if, after this, additional proof of his little regard to truth were required, it is to be found where he swears, that the List of his Cargo, found on board the Vessel, was the only Document respecting it, delivered to him by the Customs at the Havannah, when the same is a mere dirty piece of Paper, without any Signature, which evidently had never emanated from any Authority; and, in fact, from there being no mention of Cargo in the Clearance of the Vessel, there is great probability it was clandestinely shipped or procured.

Looking, therefore, at the Evidence altogether, no doubt can exist that the object of this Vessel was to prosecute the Slave-trade, and that to the Northward of the Equator; and that her clearing for Princes and St. Thomas, was to conceal the real object of the Voyage, while it gave to the Master the advantage of availing himself of the use of those Ports (alike open to the Slave-dealer as the legal Trader), should untoward circumstances render it necessary. The equipment and conducting of the Vessel most distinctly shew this to be the case, for it is absurd to believe that 130 or 140 pairs of shackles were on board, for the purpose of coercing a Crew of 39 persons; or that she, being a Merchant Vessel, would be furnished with useless coppers; in fact, the very circumstance of the number of her Crew, is sufficient to shew that the innocent Commerce of this Coast was not her object, while her sailing from Slave-haunt to Slave-haunt, instead of prosecuting her avowed Voyage, is further conclusive of it. Strong, however, as such proof may be, it is not sufficient, in the contemplation of the Treaty between Great Britain and Spain, to warrant the condemnation of a Vessel so circumstanced, although it cannot fail to excite strong suspicion of the object of Parties, so engaged, in embarking Africans on board their Vessels, under any circumstances or pretence whatever. In this Case, therefore, although there is no doubt of the Negroes, found secreted in the Vessel, having gone on board of their own free will and accord, still it is not the less clear that the Master, having thus got them within his power, intended to take them off the Coast as Slaves; his real intention, indeed, cannot be doubted, when it is seen that, instead of proceeding to Onim or Lagos, at one of which Places he had pledged himself to land these Africans, he steers away from the Coast, and, when captured, is in the Neighbourhood of Princes Island, distant at least 450 Miles from the Port he pretended to be bound for on leaving Little Popoe; and which deviation he has not attempted to account for, or explain, in any manner whatever. The consciousness of his intention to convert these unfortunate persons into Slaves, is further evident from his desire to conceal them at the time of Capture; for it never can be believed that, if his object had been to restore them to their friends, that he would have ordered them to be confined below, against their own inclinations, knowing as he must, from their superior intelligence, that they would have fully satisfied any enquiries as to their being Free Persons on board his Vessel; the fact would rather appear to be, that he had his doubts, whether they would not at once have gone forward to the Officer who might board from the Capturing Ship, and complain of his (the Master's) breach of faith in having thus taken them from the Coast, when it was expressly understood, on their embarking, that he was to land them at some friendly Port not very distant from their own Town, and from which opportunities offered for returning to their friends. The opinion here formed of the intention of the Master, with respect to these Africans, may, perhaps, be doubted, from a consideration that it would have the effect of preventing his carrying on his intended Trade on that part of the Coast from whence he had taken them, and which is well known to be common to the Slave-traffic. In this instance, however, this does not appear to have much weight, as, from the Vessel leaving those Ports on the Coast, in the Bight of Benin, it was most likely the Master's intention to proceed to some other Point where the circumstance would be unknown, and very probably into one or other of the large Rivers in the Neighbourhood of Princes Island; and here it may be observed, that dis-

appointment at not being able to make trade at Little Popoe, or some other imaginary grievances, might have influenced the Master of a Vessel, so illegally conducted as this was, in thus kidnaping these unfortunate People; more particularly when the suspicious character of the Individual concerned, and the little regard to moral feeling, which he has shewn in giving his Evidence, is considered.

This, therefore, being the view of the Case, as taken by the Court, which met for adjudication on the 14th of July 1828, the Vessel was accordingly condemned for a breach of the existing Treaty between Great Britain and Spain, in having taken on board, to the North of the Equator, 3 Africans, for the purpose of the Slave-traffic; together with her Guns, Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden on board her, as good and lawful Prize to the Crowns of Great Britain and Spain. The Court further decreed the emancipation of the said 3 Slaves, and that this Vessel had been seized and prosecuted by W. F. W. Owen, Captain, and the Officers and Crew of His Majesty's Ship "Eden."

(Signed) JOHN WM. BANNISTER.

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SIERRA LEONE. (*Portugal and Brazil.*)

No. 35.

*His Majesty's Commissioners to The Earl of Dudley.—*  
(Received January 18, 1828.)

MY LORD,

*Sierra Leone, December 13, 1827.*

WE have the honour to enclose, herewith, the Report of the Case of the *Brazilian Schooner "Dianna,"* condemned in the British and Portuguese Court of Mixed Commission, on the 8th day of December 1827, for being engaged in the illicit Traffick in Slaves.

This Vessel was seized, in Latitude 2. 15. North of the Equator, Longitude 4. 14. East, having at the time on board 87 Slaves, by His Majesty's Ship "Sybille," Commodore Francis Augustus Collier, C.B. Commander, and arrived in this Harbour, with the loss of only 3 of the Slaves, on the 3d of November 1827.

We beg leave most respectfully to refer your Lordship, for the full particulars of this Case, to our Decision, which embraces every material part of the Evidence, observing that it was most painfully contradictory, as shewing the little regard of a solemn oath on the part of the Persons engaged in the illicit Slave-traffick, while it was necessarily extended beyond what is usual in such Cases, from the desire the Court had to arrive at the truth of the conflicting testimony of the Witnesses, some of whom, and among them the Master and Mate, swearing that the Slaves were shipped in the River Zaire, or Congo, within the limits defined by the Treaty, to the Southward of the Equator, and the Slaves and some of the Crew declaring, that the Africans on board her were shipped in the River Benin, to the Northward of the Line.

The 83 Slaves in existence at the time of the condemnation of the Vessel, 1 having died after being landed, were emancipated at the same time by the Court.

We have the honour to be, &c.

(Signed)

JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 35.

*Report of the Case of the Brazilian Schooner "Dianna," Thomé Guedes Pinto de Vasconcellas, Master.*

THIS Vessel was furnished with a Passport, numbered 497, dated Rio de Janeiro, the 20th of March 1827, stating her to be bound to the Ports of the River Zaire, and Cabinda, from whence she was to return to Rio Janeiro, and authorising her to carry 327 Slaves.

On the 12th of October 1827, being then in Latitude 2. 15. North of the Equator, with 87 Slaves on board, she was detained by reason of being employed in the Traffick in Slaves, contrary to the existing Treaties between Great Britain and Portugal, by His Majesty's Ship "Sybille," Commodore Francis Augustus Collier, C. B., Commander, who stated in his Declaration, that the Master, Thomé Guedes Pinto de Vasconcellas, declared her to be bound from Molembo to Rio Janeiro, but that part of the Crew and the Slaves declared they came from the River Benin.

The Vessel arrived in this Harbour on the 3d of November 1827, in charge of an Admiralty Mate of His Majesty's Ship, having only lost 3 of the Slaves by death, on the passage; owing, however, to the illness of the Officer in command, the Papers, amongst which there was no Log to the Coast, were not brought into Court, and authenticated, until the 8th of the Month; on the following day, the 9th of November, the usual Mouition went forth, and was returned, certified to have been duly served on the 19th.

In this state of the proceedings, and on the 10th of November, it was represented to the Court by the Medical Officer, that sickness had appeared among the Slaves, and that it was therefore desirable they should be landed; such permission was accordingly given, the Liberated African Department having consented to receive them, to be kept in their character of Slaves pending adjudication.

On the 14th of November, the Master filed his Claim for the Vessel, her Tackle, Apparel, and Furniture, and her Cargo, as the sole property of Jozé Bothelho de Sequeira Mathos Araujo and Company, Inhabitants of Rio de Janeiro, and in his Affidavit, in support of it, set forth that the Africans on board her were purchased and shipped in the River Congo, or Zaire, in Latitude 6 6. South of the Equator, from which River she was conducted to Molembo, for the purpose of enabling him, the Deponent, to communicate with the Master of a Brazilian Vessel there lying at anchor; and that the Vessel being found to the Northward of the Equator was owing to the strength of the Currents, and to his being seized with fever on the 9th and 10th day after setting sail from Molembo, and continuing ill until the time of Capture, and to the Pilot or Mate being confined to his Cabin by severe ulcers on his right foot; which latter circumstances were the cause the Vessel was not properly conducted, but left entirely to the management of the remainder of the Crew, none of whom were Nautical Men, or capable of properly Navigating the Vessel.

To corroborate this Affidavit, the only Witness produced by the Claimant for examination was, José Guedes Pinto, said to be a Passenger on board, and calling himself the Claimant's Son. His testimony mainly corroborated that of the Master, Mate, and the Cook, who had been previously examined on the Standing Interrogatories on the part of the Captor, except in the name of the Town where the Slaves were shipped, which the Master and Mate denominated Congo Grande, and this Witness called Boni.

The Evidence of the Master, Mate, Cook, and the Witness produced by the Claimant, went to prove, that the present Voyage commenced at Rio de Janeiro, and was to have ended there, and that the Slaves on board were shipped in the River Zaire, or Congo, while the Evidence of 4 of the Slaves, confirmed by the subsequent Examination of the Carpenter, and another Person on board the Vessel, was equally distinct as to the Slaves having been taken on board in the River Benin. As detailing this contradictory Evidence is not necessary to the Case, the Court having, in its decision, alluded to every important point of it, it will be only requisite to remark, that a Petition of the Claimant's Proctor, to reject the Evidence of the Slaves, was refused, as well as the request for their being examined in open Court, although permission was granted to him to put such Questions to them through the Registrar under the usual direction, as he might desire, but which, with a similar leave obtained to put certain Interrogatories to the Carpenter and the other Witness, who corroborated his Evidence, the Proctor did not avail himself of, although reminded so to do by the Court before taking the Case into consideration.

Owing to the number of Witnesses to be examined, and the mass of Evidence brought forward, the Case was not closed until the 1st of December 1827, when the Court was petitioned, on behalf of the Captor, for a day of trial, which being fixed for the 8th of the Month, and the Court having met, and heard the Arguments of the Proctors for and against the condemnation of the Vessel, delivered the following Decision;

This is the Case of a Vessel, which, under Brazilian Colours, and furnished with an Imperial Passport, authorizing her to take Slaves from the River Zaire and Cabinda, Places to the Southward of the Equator, was detained, with 87 Slaves on board, by His Majesty's Ship Sybille, in Latitude 2. 15. North of the Line.

The defence set up, is, that she was engaged in the lawful Traffick in Slaves, in conformity with the Treaty and Convention between Great Britain and Portugal, having shipped the said Slaves within the limits defined by the Treaty to the Southward of the Equator, and, as such, her restoration is claimed with Costs, Damages, and Expences.

The Convention under which the Claimant petitions for the restoration of the Vessel and Cargo, expressly states, in the 5th Article of the Instructions for the British and Portuguese Ships of War, employed to prevent the illicit Traffick in Slaves, "That, with regard to all Slave-ships detained to the North of the Equator, the proof of the legality of the Voyage is to be furnished by the Vessel so detained." The Place of Capture being, therefore, in the proscribed Latitude, the burden of the proof of the legality of this Voyage rests upon the Claimant. The Court will, therefore, first consider the Evidence which goes to support this Claim.

The Master, Mate, Cook, and the Person alleged to be a Passenger on board, in their answers to the Interrogatories, all agree in saying, that the Vessel sailed direct from Rio de Janeiro to the River Zaire, or Congo, from which Place the Slaves were taken on board of her; and they further corroborate one another in the number being about 100. The Evidence of the Master and the Mate, however, is at variance with that of the Cook, as regards the number of deaths; the two first swearing that 13 died before Capture, and the latter only 2. There is also a further discrepancy in the Evidence of the Witnesses, as regards the Vessels going to Molembo, the Cook contradicting the testimony of the other three, he saying that the River Zaire was the only Place the Vessel touched at during the Voyage; and certainly, had she been at anchor at Molembo, as is asserted by them, for some hours, he (the Cook) must have known that circumstance. Another no less remarkable variation, in the swearing of these Witnesses, is found in the name of the Town, at which the Slaves are said to have been embarked. The Master and Mate, in answer to the Special Interrogatories put by the Captor's Proctor, by permission of the Court, calling it Congo Grande, while the evidence of the Passenger makes it to be a Town called Boni; this, with the apparent ignorance of the Cook on this point, after being, as appears by the Evidence, nearly 5 Months in the River, is materially against the veracity of the Master and Mate.

To support these assertions, however, no Log-book of the Voyage from Rio Janeiro to the River Zaire is produced; and the Master, when questioned on this point, says, "it got wet, and spoiled, and he tore it up;" this the Mate in some measure contradicts; for, although he admits it was torn up for waste paper, he says nothing whatever of its getting wet; yet both most distinctly swore, in answer to the 17th Standing Interrogatory, "That no Papers, Bills of Lading, Letters, or other Writings, were torn, thrown overboard, destroyed or cancelled, concealed, or attempted to be concealed." Next to the Passport or Register of a Vessel, the most important

Paper is the Log. It is of paramount consequence to any Vessel, to shew the innocence of the Voyage in which she is engaged; and, in this Case, it would have been the most satisfactory Document that could have been produced in support of the Claim; its non-existence must subject the Parties to all the suspicion arising from its non-production to bear out the testimony of the Witnesses, whose Evidence being, therefore, unsupported, and the discrepancy on many points considered, creates well-founded suspicions of its truth; for, allowing the Log got wet, could it not have been dried? or wherefore, if fraudulent actions were not to be concealed, was it destroyed?

The production of the paper writing in pencil, which states it to be a Log from the Zaire to Rio Janeiro, cannot but be most suspiciously considered, and the Evidence given by the Witnesses respecting it, impresses the Court with a strong conviction of its falsity; on examining this Paper it will be found that there is no distance marked in any one of the day's work in it, and one day's work (the 9th, when the Vessel must have been close in with the Island of St. Thomas,) is omitted entirely, although it is evident the calculations are made by dead reckoning. The winds appear therein to have been from West to South West, and the course West North West, which took her deep into the Bight of Benin, passing close by the Island of St. Thomas, and to windward of Princes, both of which (on laying the course and distance off on the Chart,) she could most readily have fetched.

Had this Vessel, indeed, actually sailed from the Zaire, would she not have stretched away to the Southward from that River? for having the wind, on the day she sailed from the West, she could have done so free, which would have been as good a course as could have been steered for Rio de Janeiro, where she was bound.

That this Log is fictitious, there is, indeed, strong proof. The Master swears it was commenced on the 3d of October, the day the "Dianna" left the Zaire, the Mate who kept it, swears it was on the 1st of October, which makes it perfectly evident, that they neither knew which day positively to fix for its beginning, thereby convicting themselves, and this gains additional strength, for, on referring to that Paper itself, it will be seen that it begins on the 4th of November, exactly 1 Month subsequent to their departure. That a mistake might happen of inserting one month for another, for one day may be very probable, and had it been for one day only, it would have that appearance, but unfortunately for the Claimant, the Mate appears to have been in such a hurry to get it done, that, with the exception of the 2d day of the Voyage, in which he has inserted "8 bre," the Month is stated throughout to be November. This, therefore, together with its being written in pencil, and the very frail excuse given for this unknown practice, (of the Master and Mate being too ill to hold a pen,) can leave no doubt of its being false, and prepared for production in the event of Capture.

The Master in his Affidavit in support of the Claim, in accounting for the circumstance of his being to the Northward of the Equator, says, "He got ill 9 or 10 days after leaving Molembo, which, together with the Mate being confined to his Cabin by severe ulcers on his right foot, were the causes the Vessel was not properly conducted, but left entirely to the management of the Crew, none of whom were nautical men, or capable of properly navigating the said Schooner, and, added to the strength of the currents, occasioned the said Schooner to be found at the time of Capture to the North of the Equator." Admitting this Affidavit, deliberately drawn up, under the direction of his Legal Adviser, to convey the meaning of the Master, it would appear that, as the Vessel was seized on the 8th day after leaving Molembo, his illness must have commenced after Capture, and consequently disproves his assertion, that he was prevented from navigating the Vessel. The Court, however, having in evidence that the Master was ill when the Vessel was captured, cannot reconcile this contradiction, and will, therefore, only remark, that admitting the reasons assigned, it appears quite clear, from the shewing of the produced Log, that the Master and Mate must have been aware of the Vessel's daily proceeding to the Northward, although, with the other Witnesses, they swear, in reply to the 9th Standing Interrogatory, "that the Vessel was constantly directed towards her destined Port, Rio de Janeiro, and they might, therefore, have ordered measures to prevent it.

The Master further swears, that the reason of his having so few Slaves on board, when his Passport authorizes his taking in 327, was, that he had but a small quantity of goods on board, and the Slaves at that Place were very dear, and yet at the very time of stating it, he being then under examination, he produced the Invoice of Goods and Merchandise laden on board the Vessel, which amounted to 29,331 Milreis, equal to, if not more than £6,500, and taking the average of each Slave received for that amount, it would be £65, or 300 Milreis, a sum more than each Slave would sell for in the Brazils, and, when it is well known enormous profits are realized by slaving, cannot for one moment be entertained. The Mate accounts otherwise, for, after asserting that the Slaves were very dear, he says, the remaining Cargo was not adapted to the Trade.

Under these contradictory circumstances, the absence of the outward-bound "Log," and the fraudulent appearance of the one produced, (loose sheets of paper, written in pencil), the Court do most decidedly pronounce, that the Claim is left unsupported by that due proof and specification required; indeed, it is a remarkable circumstance, that notwithstanding the permission of the Court was obtained to put Interrogatories to some Witnesses on the part of the Claimant, he only has availed himself of the Evidence of the alleged Passenger, who contradicts the assertions of the Master and Mate, whose Witness he is, on the important difference in the name of the Town where the Slaves were shipped.

The Court will now consider the further Evidence which has been filed in this Case on behalf of the Captors, in support of the Declaration of the Seizing Officer, that the Slaves were shipped in the Benin.

Slaves, themselves, although brought here in the most abject state of wretchedness and woe, have still their recollections from whence they came, where they were shipped, and other particulars, which lead to the disclosure of the truth, and the Claimant and his Witnesses in this Case, having pertinaciously adhered to their coming from the River Zaire, the Court was petitioned to allow some of the Slaves taken on board this Vessel to be interrogated on that important point, and, in doing so, considered it a justifiable mode of ascertaining the fact, when every other circumstance in the Case went strongly to prove that the "Dianna" was illicitly

engaged. Nor can the Court consider the testimony of these Slaves at all inadmissible, from the fact that it was impossible for them to know what effect it would have, and therefore their Evidence was much more unobjectionable than that of the Master and Mate, both of whom, in addition to the general interest they must have in this Decision, having, from their own confession, Slaves and ivory on board, were consequently interested Witnesses. Four of the Slaves were therefore examined, in the absence, from illness, of the Registrar, by a Sworn Examiner, in the presence of the Commissioners, separately, and by different Interpreters, nor was one allowed the opportunity of hearing what another said, so that no collusion could possibly occur among them. Their testimony, beyond all doubt, proves, "that the Slaves on board this Vessel were shipped in the River Benin, some from a Town called Bobee, and others from one further up the same River, called Arobo, both of which Places may be observed on the Chart, and the former bearing almost the same pronunciation as the Town named by the alleged Passenger in his Examination, and being situated on the right bank of the River, as Congo Grande is asserted to be by the Master. They all concur in the same points, that the Vessel was only 5 or 6 days at Sea previous to Capture, that she got aground on the Bar, coming out of the River, that the Vessel touched at no Place after leaving the Benin, (which is also confirmatory of that part of the Cook's Evidence,) that two bullocks had been taken on board in the Benin, and that fresh beef was on board at the time of Capture, while 3 out of 4 Slaves say, that only 3 of their Comrades died before Capture, (the 4th not knowing how many,) which also agrees more nearly with the Cook's testimony on that head, than the Evidence of the Master and Mate.

Had no other testimony been produced than what has already been stated, it alone would have been sufficient to pronounce the "*Dianna*" a legal Capture, but fortunately for the ends of Justice, and highly satisfactory to the Court, the Case has been rendered clearer by the Evidence of Joao Jambom, Carpenter, and Joseph Gremont, also belonging to the Vessel, whose Statement, on oath, to the Interrogatories, of the illicit transaction in which the "*Dianna*" was engaged, corroborates that of the Slaves, as to their having been shipped in the River Benin, to which River the Vessel steered direct from Rio Janeiro, and confirms the other particulars given by the Slaves, in a manner amply sufficient of that fact; added to which, their Evidence, as relates to certain Papers, with a shot being sewed up in a bag, during the Chase, would leave little doubt that the real Log was disposed of by being thrown overboard. The Court is, therefore, of opinion that the "*Dianna*" was legally detained, and that the Slaves on board her were shipped to the Northward of the Line, that is to say, in the River Benin, and do consequently condemn the "*Dianna*," her Tackle, Apparel, and Furniture, as good and lawful Prize to the Governments of Great Britain and Brazil, and emancipate the surviving Slaves, 83 in number, declaring that at the time of Capture, there were on board 87 Slaves, and that the said Schooner, "*Dianna*," was so seized by His Majesty's Ship "*Sybilie*," Commanded by Francis Augustus Collier, C. B. Commander.

(Signed) JOSH. REFFELL.  
WM. SMITH.

## No. 36.

*The Earl of Dudley to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, February 27, 1828.

I HEREWITH transmit to you, for your information and guidance, 6 Copies of the Convention, which was concluded at Rio de Janeiro on the 23d of November 1826, between His Majesty and The Emperor of *Brazil*, for the Regulation and final Abolition of the African Slave-trade; and 6 Copies of the Act, which was passed in the 8th Year of the Reign of His present Majesty, for carrying the said Convention into effect; as well as 6 Copies of the Act, which was passed in the 58th Year of the Reign of His late Majesty George III., for carrying into effect a Convention between His Majesty and The King of *Portugal*, for preventing illegal Traffick in Slaves.

I am, &amp;c.

*His Majesty's Commissioners.*

(Signed) DUDLEY.

## No. 37.

*His Majesty's Commissioners to John Backhouse, Esq.—(Received March 10.)*

SIR,

*Sierra Leone, January 5, 1828.*

IN pursuance of the 75th Clause of the Act, passed in the 5th Year of the reign of His present Majesty, entitled "An Act to amend and consolidate the Laws relating to the Abolition of the Slave-trade," and in conformity with the Instructions received from Mr. Secretary Canning, we beg leave to enclose, in Duplicate, a Return of all the Cases of *Portuguese* Vessels, adjudicated in the British and Portuguese Court of Mixed Commission, established here, from 1st day of July 1827, to the 1st day of January 1828.

We have the honour to be, &amp;c.

*John Backhouse, Esq.*  
&c. &c. &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

Enclosure in No. 37.

Return of Portuguese Vessels adjudicated by the British and Portuguese Court of Mixed Commission established at Sierra Leone, from the 1st day of July 1827 to the 1st day of January 1828.

Name of Vessel.	Date of Seizure.	Property Seized.	SEIZOR.	Date of Sentence.	Decretal part of Sentence, whether Forfeiture or Restitution.	Whether Property condemned has been sold or converted, and whether any part remains unsold, and in whose hands the Proceeds remain.
Copioba . . . . .	May 15, 1827 . . . . .	{ Sumacca and Cargo of Merchandize . . . . . }	{ George Matson, H. M. B. Clinker }	July 20, 1827 . . . . .	{ Condemned for being irregularly licensed to call at Guinea Coast, on the Coast of Africa, in her Imperial Passport, marked No. 6, dated Bahia, the 8th of February 1827, which said Imperial Passport made it obligatory upon her to enter solely such Ports on the Coast of Africa where the Slave-trade is permitted to the Subjects of the Empire of Brazil, and having been captured to the North of the Line, at a Place called Otoco, with the greater part of her Cargo landed in barter for Slaves . . . . . }	{ The Sumacca and Cargo sold by publick auction, and Proceeds paid into the Military Chest. }
Toninha . . . . .	June 18, — . . . . .	{ Schooner and 65 Slaves . . . . . }	{ Septimus Arabin, H. M. S. North, Star . . . . . }	July 21, — . . . . .	Condemned for being engaged in the illicit Traffick in Slaves . . . . .	{ This Vessel was sunk, having unfortunately got foul of the Colonial Steam-vessel "African," whereby the Schooner and her Cargo were lost. }
Henriqueta . . . . .	Sept. 6, — . . . . .	{ Brig and 569 Slaves . . . . . }	{ F. A. Collier, C. B., H. M. S. Sybille. }	Oct. 29, — . . . . .	Condemned for being engaged in the illicit Traffick in Slaves . . . . .	{ The Brig and Cargo sold by publick auction, and the Proceeds paid into the Military Chest. }
Dianna . . . . .	Oct. 12, — . . . . .	{ Schooner and 87 Slaves . . . . . }	{ F. A. Collier, C. B., H. M. S. Sybille. }	Dec. 8, — . . . . .	Condemned for being engaged in the illicit Traffick in Slaves . . . . .	{ The Schooner and Cargo sold by publick auction, but the Proceeds remain in the hands of the Commissioners of Appraisement and Sale,—the Accounts not having yet been returned into the Registry. }

Mem.—The Proceeds of the Sale of the Schooner "Independencia," Brigs "Conceição de Marié," "Silveirinha," and "Bahia;" Brigantine "Creola;" and Sloop "Conceição Paquete do Rio;" reported in the last Returns as being in the hands of the Commissioners of Appraisement and Sale, have since been paid into the Military Chest. There were no Proceeds, after Payment of the Contingent Expences, in the Case of the Schooner "Trez Amigos," reported in the last Return.

(Signed) JOSH. REFFELL.  
WM. SMITH.

## No. 38.

*His Majesty's Commissioners to The Earl of Dudley.*—(Received March 10.)

MY LORD,

*Sierra Leone, January 8, 1828.*

WE have the honour to acquaint your Lordship, that, owing to some unaccountable neglect in the delivery of the Mail, on the part of the Master, (who is since dead) of the Merchant Ship "Surry," which Vessel arrived here on the 4th of November last, your Lordship's Despatch, dated the 31st of August, with its Enclosure, was only received by us Yesterday.

We beg to assure your Lordship, that the approbation of His Majesty's Government, as conveyed in that Despatch, of the construction we put on the Compacts between Great Britain and *Brazil*, in the Cases of certain *Brazilian* Vessels therein referred to, and which led to their condemnation in the Mixed British and *Portuguese* Court established here, has been most gratifying to us; and that we shall continue, in such future Cases as may come before us, to be guided in strict accordance with the spirit of the Contracts between the two Governments.

We have the honour to be, &amp;c.

(Signed) JOSH. REFFELL.  
WM. SMITH.*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

## No. 39.

*His Majesty's Commissioners to The Earl of Dudley.*—(Received March 26.)

(Extract.)

*Sierra Leone, January 22, 1828.*

WE have the honour to enclose, herewith, the Report of the Case of the *Brazilian* Sumacca "*St Joao Voador*," restored to the Claimant by Decree of the Court of British and Portuguese Mixed Commission, established here, on the 19th Instant, on the ground of her detention being unauthorized by the Treaty and Convention with *Portugal*, as adopted and renewed with the Government of *Brazil*.

This Vessel, furnished with a Commercial Passport from the Vice-President of Bahia, dated the 4th of July 1827, numbered 392, and other Papers, authorizing her to trade on the Coast of Mina, for palm oil and other produce, was detained, on the 23d of October 1827, off Quitta, to the Northward of the Equator, by the "African," Colonial Steam-vessel, having a Jolly-boat of His Majesty's Ship "Eden" on board, under the command of Lieutenant Badgley, of that Ship. From his Declaration it would appear, that he considered her to be engaged in the illicit Traffick in Slaves, (and for which illicit Traffick she was subsequently proceeded against by the Commander of His Majesty's Ship "Eden,") for, although he does not distinctly state this, it may be presumed from his description of her equipment. The informality of this Document having been noticed by the Court in its Judgment, we deem it proper to enclose a Copy of the same for your Lordship's information.

From the Evidence filed in this Case, and from the Vessel's fitting and equipment, we strongly suspect that her ultimate object to the Northward of the Equator, was, for the purpose of clandestinely shipping a Cargo of Slaves.

We, however, felt it our duty to decree the restoration of the Vessel, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize, laden on board her, together with all Costs of Suit, and such Special Damages and Expences, only, as had been occasioned to her, by the detention; the ascertaining the amount thereof being referred to the Registrar to report to the Court.



In giving this Decree, we felt it necessary, acting on the principle laid down in the 8th Article of the Regulations for the Mixed Commission, to refuse the Claimant's demand for demurrage; considering that the Vessel being found to the Northward of the Equator, fitted and equipped as Slave-vessels usually are, had led the Captor into error.

Your Lordship will perceive in the Report, some mention made of this Vessel being furnished with 2 Passports, one of them for the Slave-trade, and this point was strongly urged by the Proctor for the Captor, as a ground for her condemnation, but it being merely an assertion, unsupported by due proof, the Court could not consider it to be sufficiently conclusive that such was the fact.

We further beg to bring to your Lordship's notice, that the Commercial Passport with which this Vessel was furnished, denominated her the "*St. Joao Voador*," at the same time the Alvarà of the Vice-President of the Province of Bahia, together with her Custom-House Clearances, &c. of the same date, call her the "*St. Joao Vencedore*," the latter of which names is most clumsily altered, so as to make it appear "*Voador*," to correspond with the Passport.

This, in our opinion, could only have been done to cover gross fraud, and it is probable, from this circumstance, that she was furnished with a Slaving Passport, as well as a Commercial one, which point, had it been duly proved, would have been sufficient to have condemned her, upon the principles under which we have lately acted in such Cases, and which have been approved by your Lordship.

We deem it necessary to observe to your Lordship, in order to account for the period occupied since the Capture of the Vessel, that it arose from the length of time she was reaching this (the 26th of December 1827,) having, after detention, been conducted to Fernando Po, in order to communicate with the Commander of His Majesty's Ship "*Eden*."

The Report of the further proceedings pending in this Case, relative to the Costs and Special Damages and Expences allowed to the Claimant, will be transmitted to your Lordship when completed.

Hoping that our decision in this Case, for which we had no precedent on record in the Courts here, will meet with your Lordship's approval,

We have the honour, &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

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First Enclosure in No. 39.

*Report of the Case of the Brazilian Sumacca, "St. Joao Voador," Antonio Jozé Galvao, Master.*

THIS Vessel, sailing under the *Brazilian* Flag, and manned with 24 Officers and Mariners, was detained, for being engaged in the illicit Traffick in Slaves, on the 23d of October 1827, by Lieutenant Badgley, of the Royal Navy, who stated in his Declaration, "that he boarded her in the "*Hay*," Jolly-boat of His Majesty's Ship "*Eden*," Quitta Fort bearing N.N.W. 7 or 8 Miles, and that he found her furnished with a Passport from the Governor of Bahia to trade on the Coast of Mina for Palm-oil and Country cloths; that he saw no trading Cargo on board, but on the contrary, found her provided with a Slave-deck and beams, fitted and numbered, bolts and shackles for Slaves, ring-bolts to drive into the deck to secure the Slaves down to, her after-hold filled with farinha and yams, forehold with jerk beef, and main-hold with 10 or 12 two or three ton leaguers, filled with fresh water, and a number of water casks empty; and further, that she had no Journal of her proceedings whatever."

On the 26th of December 1827, the Vessel arrived here from Fernando Po, having been conducted there after detention in order to meet with His Majesty's Ship "*Eden*," and the Papers were brought into Court on the 28th of that Month. The usual Motion in such Cases having been prayed for, the same went forth on the following day (the 29th), and was returned duly certified on the 11th of January 1828.

On the 2d of January 1828, the Master, Antonio Jozé Galvao, put in his Claim for the said Sumacca, her Tackle, Apparel and Furniture, and her Cargo, as the sole property of himself, Joao Jose de Sâm Payo, José Joao de Cunha, and Antonio Dias, all Inhabitants of Bahia, and in his Affidavit in support thereof, declared that the original Cargo, brought from thence by the

Vessel was intended for exchange and barter on the Coast, for ivory, wax, palm-oil, and other lawful commerce, and that it had been landed at Popoe and Whydah, for repayment in such description of produce, and not for Slaves, and that when captured the Vessel was on her way from the former Place to Quitta, for the purpose of purchasing live stock and provisions for the return Voyage to Bahia.

The material Evidence of the Master, on the Standing and on Special Interrogatories, went to prove, that he was placed in command of the Vessel by the Managing Owner, Joao José de Sam Payo, and that he took possession of her accordingly in the Month of May 1827, at Bahia, from whence she sailed, on the 16th of July following, for the Coast, provided with a Commercial Passport, and laden with a Cargo to the value of about 13,000 Mil reis, shipped by the Four Owners of the Vessel, consisting of aquadente, tobacco, and other merchandize, for which return was to be made in palm-oil, country cloths and ivory; that the Vessel during the present Voyage had touched at St. Paul's, Accra, Popoe, and Whydah; at the first Place to purchase provisions; at the second to barter aquadente and tobacco for cowries and 4 canoes; and at the two latter to land cargo; that the Papers of the Vessel were all true and fair, and that her being called the "*St. Joao Vencedore*" in some of the Receipts shewn to him (which he stated were not Government Documents), must have arisen from error, as, since she was purchased by him and the rest of the Owners, she has always been called the "*St. Joao Voador*," and that the alteration to that Name in the Alvarà and Custom-House Clearances, from what appears to have been "*St. Joao Vencedore*" must have been made at the Publick Offices from whence those Papers were issued, as no such alterations have been made since they came into his possession; that there being no Log-book, or Journal, on board was owing to the Mate (who kept it, in consequence of his, the Master's, illness) having taken it on Shore at Ajuda (Whydah), and further, that the farinha and jerk beef on board was for the maintenance of the Crew, and the reason for having so much, the uncertainty attending a trading Voyage on the Coast.

This Evidence of the Master was uncontradicted by the other Witnesses, one of whom, however, (the Cook), swore that there was on board a quantity of bricks, sufficient to complete a galley, for the reception of a large copper, independent of the one fitted in the Vessel, and that when he (the Deponent) was one day about to throw some of these bricks overboard, the Master stopped him and said they were intended for that purpose.

One of the Seamen, also, (Joze de Almeida), who had been examined at the time of detention by the Seizing Officer, and then detailed matters, which it would seem partly led the Captor into error, when examined on Special Interrogatories, denied that he had given the information attributed to him, although he acknowledged to having informed Captain Owen, the Commander of His Majesty's Ship "*Eden*," that the "*Voador*" had 2 Passports, 1 for Slaves, and 1 for a common trading Voyage; but that he did so, under the impression that he should, by that means, avoid being obliged to go on Shore at Fernando Po, to labour towards the construction of the Houses then building; but which, on his Examination, he declared to be a false Statement;—further confirmation of this Witness having, while at Fernando Po, openly and freely avowed the object of the Voyage in which the Vessel was engaged to be for Slaves, was obtained from an Affidavit of a Master's Assistant of His Majesty's Ship "*Eden*," filed in the Case.

The Captor's Proctor having prayed, that a Commission of Inspection and Survey might go forth, in order to ascertain whether the Vessel was not fully equipped and furnished, as customary and necessary for a Slave-trading Voyage, the same was granted, and the Report of the Commissioners filed in Evidence, on the 8th of January;—after describing her to be of about 100 tons burthen, the Report entered fully into the particulars of her Equipment, from which it appeared, that there were leaguers and casks sufficient on board to contain 7,112 gallons of water; 49 pieces of plank, numbered and fitted for a Slave-deck; and 3 tons of jerk beef, and 200 bushels of farinha; 1 large medicine chest, as is usually found on board Slave-vessels; and the main-hatchways, fitted with gratings and close hatches. At the conclusion of this Report, the Commissioners certify that it appears to them, that the Vessel was equipped for the conveyance of Slaves.

No Evidence was filed in support of the Master's Claim, but, on learning that the Captors had closed their Case, his Proctor prayed the Judgment of the Court on the Evidence before it.

On the 19th of January 1828, the Court met to adjudicate this Case, and after hearing the arguments of the Proctors, on both sides, delivered an Opinion to the following effect:—

This is the first instance of a Vessel, ostensibly fitted out for the innocent Commerce of Africa, having been, while navigating on this Coast, detained and proceeded against in this Court, under the Treaties between Great Britain and Brazil, for being engaged in the illicit Traffick in Slaves; and a Case that has, in consequence, occupied much of the attention of the Court, which, having maturely considered the Evidence brought forward by the Captor, as well as all the circumstances under which this Seizure was made, will now proceed to its Judgment.

The Declaration sets forth, that this Vessel was boarded off Quitta, by the "*Hay*," a Jolly-boat of His Majesty's Ship "*Eden*," under the command of Lieutenant Badgley of that Ship, she being fitted for the Slave-trade, and, as it would appear, detained on this ground, and the statements of two of the Crew, that Slaves were to be shipped on board her from the Shore, as well as upon the information given by a 3d Person unconnected with the Vessel; and here the Court must remark, that a more irregular Document than this Declaration has never been brought to its notice, for the Capturing Officer had not the right of taking Evidence, and submitting it to the Court, as has been done in this instance, nor can the Court allow the Evidence, so irregularly procured, to be entertained in the Case. The Master and those of the Crew brought forward by the Captors, so far from proving that this Vessel was engaged in the Slave-trade, most positively deny that she was so employed, or in any other manner occupied than as authorized, by the Passport and Papers she sailed under, nor is there a single point throughout, their Evidence, either in answer to the Standing or Special Interrogatories, that shews the fact to be otherwise, further than it may be inferred from the extreme improbability which attaches to the Master's reasons for having so large a quantity of jerk beef and farinha on board, and from the suspicions which are excited, by there being no Log-book (which is sworn in the Answers to Special Inter-

rogatories to have arisen from its being taken on Shore by the Mate at Ajuda) as well as by his (the Master's) purchasing 4 Canoes at Accra. This inference and suspicion is more particularly strengthened, when the discrepancy of his Evidence, given in the 15th Standing Interrogatory, "that the Vessel's Papers were all true and fair," is compared with his replies to the Special Questions, on the subject of the alteration in the name of the Sumacca, in most of those Papers, and which deception could only have been practised to cover some nefarious dealing, which she was, most probably, engaged in.

That this Vessel's ultimate object was the prosecution of the illicit Slave-trade, the Court most strongly suspects: she was found fitted and equipped to the Northward of the Line as Vessels, engaged in that Traffick, usually are, which is fully proved by the Surveyors' Report, and thereby confirms that part of the Seizor's Declaration, with the exception that he states that shackles and irons were on board at the time of Capture, but which the Surveyors have not mentioned, nor have they alluded to the bricks, sworn to in the Affidavit of one of the Witnesses, and therefore the Court must presume neither were there, or they would still have been in the Vessel, and such important points would, doubtless, have been noticed by the Surveyors. This fitting-up and equipment is, in fact, the only Evidence on which the Court can proceed to found its Judgment in this Case, for it is of opinion that no cognizance can be taken under the present Treaties between Great Britain and *Brazil*, of the implied intention of a Vessel, although thus circumstanced, to the Northward of the Line, when, as in this Case, she is not licensed for the Slave-traffic, but, on the contrary, sailing as a legitimate Trader under a Commercial Passport, rendering it lawful for her to be on that part of the Coast; it is therefore unnecessary to revert to the indirect Evidence filed by the Captor, in confirmation of the alleged intention of this Vessel to Ship a Cargo of Slaves in the neighbourhood of her detention.

The several Articles and provisions of the Treaty and Convention with *Portugal*, for the suppression of the illicit Traffick in Slaves, are adopted and renewed by the 2d Article of the Convention between His Majesty and The Emperor of *Brazil*, dated the 23d of November 1826, as the conditions under which Vessels of that Nation, illegally employed in the Slave-trade, are to be adjudged.

In this Treaty and the Convention thereto, there is no stipulation that Vessels found equipped for the Slave-trade should be held to be engaged in the illicit Traffick in Slaves.

On the 8th of May 1823, a Communication was made by Mr. Under Secretary Planta, under the direction of the late Mr Canning, to His Majesty's Chargé d'Affaires at Lisbon (E. M. Ward, Esq.) enclosing a Copy of the Additional Article to the Treaty with The King of the Netherlands, whereby a Vessel fitted out, or equipped as a Slave-trader should be subject, under certain conditions to Capture and Condemnation; instructing him to propose that a similar Article to the Treaty with *Portugal* might be drawn out conformably to it. To this measure, however, it does not appear that the Portuguese Government consented, for, very recently, a like proposal, having the effect of the Additional Articles contained in the Treaties with *The Netherlands* and *Sweden*, has been directed to be made to the Government of *Brazil*.

It is, therefore, perfectly evident that the British Government have contemplated the employment of Vessels, so equipped, in the illicit Traffick in Slaves, and that the Treaty with *Portugal* for the repression of that traffick, as confirmed by the late Convention with *Brazil*, does not contain any stipulation that would authorise the detention and subsequent condemnation of Vessels so circumstanced, otherwise no necessity would exist for the adoption of an Additional Article, so framed as to meet the end desired, viz. that the equipment of a Vessel alone should be held *prima facie* Evidence of her being illegally employed, and subject her to detention and condemnation.

A number of Vessels, that were adjudicated by this Court in 1827, had no Slaves on board, and in that point bore resemblance to the Case now before it, but this material difference occurs between them,—they cleared out from *Brazil* for the legitimate Traffick in Slaves to the Southward of the Line, and were furnished with the Imperial Passport (which Passport forms an integral part of the Convention) making it obligatory on them to enter solely such Ports where the Slave-trade is still permitted to be legally carried on, and were, notwithstanding, found at anchor at notorious Slave-baunts to the Northward of the Line, without assigning any just cause for so glaring a violation of the conditions of their Passports, and infraction of that part of the Treaty, which led to their condemnation. The Case now before the Court presents very different features. The "St. Joao Voador," cleared out for the Coast, as is clear from all the Papers found on board her, on a trading-voyage for palm-oil and other legitimate produce, furnished with a Mercantile Passport for that object, and under the protection of which she had an undoubted right to be on the Northward or Southward Coast, or any point where trading with the Natives is allowed to every Power—here, therefore is no violation of Passport, having reference to any Article of the Treaty and Convention relative to the Slave-trade.

It appears to this Court that Vessels circumstanced as the "St. Joao Voador," avowedly coming to the Coast for legitimate produce, and with Papers shewing such to be the object of the Voyage, cannot, as the Treaty and Convention now stand, be legally interfered with, upon suspicion of being illicitly engaged, and that, however well founded such suspicions may be, it is not sufficient to warrant detention without their then having Slaves actually on board, or having had Slaves during the existing Voyage, neither of which points has been attempted to be proved in this Case. This opinion is strengthened by what has been already mentioned of the act of the British Government, in urging upon the Court of *Brazil*, the adoption of an Additional Article, similar to that of *The Netherlands*, so as to bring Vessels thus circumstanced within the scope of the *Portuguese* Treaty and Convention. Under these circumstances, it is the imperative duty of this Court to restore this Vessel to the Claimant, and it therefore decrees, that the said Sumacca "St. Joao Voador," her Tackle, Apparel, and Furniture, and the Goods, Wares and Merchandize laden on board the same, be restored to the Claimant, for the use and benefit of the Owners thereof, with costs of suit and such special damages and expenses only as may have been occasioned to the said Sumacca "St. Joao Voador" by her detention by the Boat of His Majesty's Ship "Eden;" William FitzWilliam Owen, Esq. Commander, and the Court refers it to the Registrar to ascertain the amount thereof, and to report the same to the Court for its award thereon.

But whereas it has been fully proved to the satisfaction of the Court, that by reason of the said Sumacca "*St. Joao Voador*" being fitted and equipped as Slave-vessels usually are, which fitting and equipment are perfectly unnecessary for a Voyage in legitimate Commerce, and that through the act of the Master of the said Sumacca "*St. Joao Voador*," in coming to the Northward of the Equator, where the Slave-trade is interdicted to the Subjects of the Empire of Brazil, with his Vessel so fitted and equipped for the reception of Slaves, the Captor was led into error by his voluntary and reprehensible fault. The Court Decrees that no demurrage is due to the "*St. Joao Voador*," and that none be paid for the period of her detention.

And whereas it will materially facilitate the closing of the proceedings pending in this Case, and guide the Registrar in estimating the amount of the costs, damages, and expences, which the Court has referred to him to ascertain, to declare its opinion on the 4th stipulation of the 8th Article for the Regulation of the Mixed Commission, in Cases of restitution, not of total loss; which says "the Claimant shall be indemnified for any deterioration of Cargo or Slaves on board at the time of detention," the Court do further Decree, that for such deterioration of Cargo as is now on board; or was actually on board at the time of the detention of the "*St. Joao Voador*," as, upon due proof, is found to be the Case, shall be all the Claimant has a right to receive.

(Signed), JOSH. REFFELL.  
WM. SMITH.

### Second Enclosure in No. 39.

#### *Declaration of the Captor, in the Case of the Brazilian Sumacca "St. João Voador."*

THE "*St. Joao de Voadore*" was boarded by me, in the "Hay," Jolly-boat of His Majesty's Ship "Eden," on the 23d of October, Quitta Fort bearing N. N. W. 7 or 8 Miles. When boarded, I found a Passport from the Governor of Bahia, to trade on the Coast of Mina for palm-oil and country cloths. I saw no trading Cargo, but, on the contrary, I found her provided with a Slave-deck and beams, fitted and numbered, bolts and shackles for Slaves, ring-bolts to drive into the deck, to secure the Slaves down to; her after-hold is filled with farinha and yams, the forehold with jerk beef; in the main-hold she has 10 or 12 2 or 3 ton leaguers, filled with fresh water, beside a number of water casks, empty. Her Supercargo told me that she was going to Quitta to complete her water, after which they were to return to Little Popoe and Whydah.

Mr. Ettridge, the Supercargo of a Brig, belonging to Mr Atkin of Sierra Leone, has been trading on this part of the Coast for some time, but cannot procure any palm oil; he knows Senior Joaquim, the Supercargo of the "*Voadore*," as he lived at Popoe some days, and was in the habit of seeing him daily; he knows that the trade he is concerned in is the Slave-trade, and also that he has been procuring a Cargo to ship in this Vessel; her Log-book is destroyed, lost, or thrown overboard; in fact, she has no Journal of her proceedings whatever.

"Jose D'Almeida" (Seaman) joined at Bahia 4 Months ago; the Captain told him, that they were coming for Slaves expressly; and promised them (the Crew), if successful in carrying a Cargo across, that they should have 150 mill reis each; if unsuccessful, nothing; although, in the Papers which were left at Bahia, they are down for 50 mill reis each;—he says that she has 2 sets of Papers, 1 for Slaves from Molembó, the other to trade for oil and cloths;—her Captain shewed him these;—he says, the Supercargo has 2 or 300 Slaves ready for embarkation at Whydah or Adjudah;—the Second Mate is now on Shore with her Jolly-boat, arranging for the embarkation of the Slaves;—the Supercargo has been at Adjudah for the last 12 Months, collecting Cargoes for Vessels;—she came on this Coast some time ago, landed the Supercargo and Cargo, and was soon after obliged to return to Brazil for repairs, and to be fresh coppered;—that she left Brazil about 4 Months ago, and has been upon this part of the Coast ever since;—that she embarked 300 Slave-irons at Bahia, which, with the coppers, were landed at Adjudah;—that as soon as they had completed their water at Quitta, the Slave-deck should have been laid and their Cargo embarked, and the Vessel off the Coast in a few days. Jose d'Almeida is ready to swear to the above. In the presence of Lieutenant Badgley, Commander of the "*African*."

(Signed)

JAS. METCALFE, Mate.

JOHN SCHEARER, Master's Assistant;  
His Majesty's Ship "Eden."

"Louis de Silva" (Seaman) joined at Bahia;—never saw the irons or bolts found on board;—the 30 tons of water were to allow the Crew the indulgence of washing their clothes in fresh water;—was told he was going on a trading-voyage. The farinha and beef were for the Crew, engaged at 50 mill reis for Voyage.

"Jose Francisque" (Seaman) joined the "*Voadore*," the day before she sailed from Bahia, for 50 mill reis the Voyage;—knows nothing about the object of her Voyage;—never saw the irons I found.

"Manoel Jose Ment" joined the "*Voadore*," 30 days before she sailed from Bahia;—never saw the irons I found, although he assisted in stowing the hold;—says the Slave-deck was to lay on water-casks;—knows there was no palm oil purchased;—has 50 mill reis for Voyage;—the quantity of fresh water on board was to trim the Ship.

"Joze d'Albert" says, Slave-deck was to build house with, at Adjudah, does not know what so much water or irons were for.

"Francisco Antonio," 12 days on board before Vessel sailed from Bahia, partly stowed the hold, cannot tell what Slave-deck was for, had 50 mill reis for Voyage.

"Joseph Sento," 8 days on board before Vessel sailed from Bahia; he does not know what the irons on board were for, has 50 mill reis for the Voyage; says, the Slave-deck was to lay the Country cloths upon.

"Manoel de Almeida," 8 days on board before Ship sailed from Bahia; partly stowed Cargo; cannot give any reason why she had so much water; never saw the irons I found.

"Byhe," shipped at Bahia, understood she was going on a trading-voyage, and that the beef and farinha were to purchase fresh provisions for Crew; that Slave-deck was to stow the cloths upon—50 mill reis for the Voyage.

"Joze Antonio" understood she was going on a trading-voyage, has 50 mill reis per Month—says the farinha and beef were to purchase fresh provisions.

"Augustine José," belonged to "Henriquette," was sent on board "Vencedore," by Commodore Collier, remained one day and one night on board Schooner, heard her called "Voadore" by all her Crew, who told him that that was her name positively, although she had another tor occasions; has been nearly a Month on board the "St. Joao de Voadore," but merely gets his passage and provisions to Bahia, without wages.

"John Thomas," Native of Port au Prince, St. Domingo, has been living at Adjudah 6 Months, knows Senior Joaquim well, knows that he has a great deal to do with Slaves, joined the "Joao de Voadore" as Cook for 25 \$ for the run—was only 2 days on board when this Vessel was captured, and therefore did not know much of her history; but although the Officers and Crew told him she was trading for palm-oil and cloth, and that the Slave-deck was to cover the oil casks, and to stow the cloths on, yet he knows that had she not been interrupted, that the night before she was to leave Adjudah, the Slaves would have been embarked, and at day-light the following day she would have been off.

The above Men are ready to take Oath to the truth of these Assertions,—examined in the presence of,

(Signed) JAMES BADGLEY, Lieutenant and Commander of "African;"  
JAMES METCALFE, Mate of His Majesty's Steam Vessel.  
JOHN SCHEARER, Master's Assistant.

*His Majesty's Steam Vessel, "African," at Sea, 25th October 1827.*

## No. 40.

*The Earl of Dudley to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, March 31, 1828.

I HAVE received your Despatches up to the date of the 22d of January 1828.

The view which you have taken of the Case of the *Brazilian* Sumacca "St. Joao Voador," as contradistinguished from those of the *Brazilian* Vessels adjudicated by you in the Year 1827, appears to His Majesty's Government to be sound and proper; and the Decree which you pronounced in consequence, in the Case of the "St. Joao Voador," in declaring the restitution of that Vessel, appears to His Majesty's Government to be founded on a just interpretation of the existing Stipulations of the Compacts between Great and *Brazil*; which unfortunately have not, as yet, provided against the artifices, which the ingenuity of illegal Slave-traders devise, for evading the spirit of those Compacts, but against which evasions the Article proposed to the *Portuguese* Government, through Mr. Ward, in the Year 1823, and, more recently, to the *Brazilian* Government, through Mr. Gordon, are specially intended to provide.

*His Majesty's Commissioners.*

I am, &amp;c.

(Signed) DUDLEY.

## No. 41.

*His Majesty's Commissioners to The Earl of Dudley.—(Received April 15.)*

MY LORD,

Sierra Leone, January 31, 1828.

WE have the honour to enclose with the present Despatch, the Report of the Case of the *Brazilian* Schooner "Vencedora," Joao Maria Evangelista, Master.

The "Vencedora" cleared out from the Port of Bahia, for a legitimate Voyage, to procure palm-oil, ivory, gold, and country cloths, on the Coast of Mina, furnished with a Commercial Passport from the Vice President of the Province of Bahia, dated the 31st of August 1827, for that object, and was detained, off Whydah, on the 24th of October last, under the suspicion that she was engaged in the illicit Traffick in Slaves, by Lieutenant Badgley, of

His Majesty's Ship "Eden," he being then in command of the Colonial Steam Vessel "African," having a Boat of His Majesty's said Ship on board of her.

She arrived here on the 30th of December 1827, and was proceeded against for a breach of the Treaty and Convention with *Portugal*, for the repression of the Slave-trade.

At the hearing of this Case, on the 26th Instant, no attempt was made, on the part of the Captors, to prove that the "*Vencedora*," had a Slave or Slaves on board during the Voyage, nor did the Evidence before the Court even show that she was engaged in the illicit Traffick; the Court therefore decreed the restitution of the "*Vencedora*" to the Claimant, together with such Costs of Suit, and Special Damages and Expences, only, as had been incurred by her detention, and referred it to the Registrar to ascertain the Amount thereof, and report the same to the Court.

It having, however, been proved satisfactorily, that in many points this Vessel was fitted and equipped as Slave-vessels usually are, and that her being so fitted and equipped at anchor off that notorious Slave Port, Whydah, had led the Captor into error by the voluntary and reprehensible fault of the Master, the Court decreed, as in the Case of the "*St. Joao Voador*," lately reported to your Lordship, that no demurrage should be paid for the period of the "*Vencedora*'s," detention.

In this Case, as in that of the "*St. Joao Voador*," there appears, from the Ship's Papers filed in Court, to have been some gross fraud in contemplation. The whole of the Government Papers, viz. Passport, Custom-House Clearances, Fort Pass and Muster Roll, denominate her the "*Vencedora*," while at the same Date the managing Owner, Antonio de Padua, in sending on board Cargo, calls her the "*Voador*," and in the Log-book of the Master, it has evidently been the same name; this however has subsequently been attempted to be altered to "*Vencedora*," which he (the Master) deposed to being the latter name abbreviated; and here we most respectfully beg to draw your Lordship's attention to the uncommon and justly suspicious circumstance of this Vessel having the same real and fictitious Names as the "*St. Joao Voador*," which conveys to an unprejudiced mind the want of due caution, at least, on the part of the *Brazilian* Government, in being thus evidently deceived by its Subjects.

The principles under which we deemed it our duty to restore the "*Vencedora*," having been fully detailed in our Report of the "*St. Joao Voador*," both of which Cases exactly resembled each other, we have thought that it would not be necessary to enter again into them in the present Report, to which we beg to refer your Lordship for the particulars of this Case.

The Declaration of the Capturing Officer having been referred to in the Decision of the Court, we have felt it our duty to transmit a Copy of the same for your Lordship's information, and to observe, that the mystery he alludes to, as connected with this Vessel's purchase here, after a former seizure and condemnation, and the remark respecting the Governor having a claim on her, may be explained by the simple fact of her having been disposed of (she being then called the "*Eclipse*,") under a Decree of the *British and Portuguese* Court, by publick auction, and purchased by a Resident in this Town, of the Name of Henriott, who subsequently transferred her to a Foreigner, to convey from this to the Brazils the Crews of several condemned Slave-vessels; in which employment she left the Colony.

We shall have the honour to report in a short time the further and final proceedings now pending.

Hoping that our conduct may meet with your Lorship's approval,

We have the honour to be, &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

The Right Hon. The Earl of Dudley,  
&c. &c. &c.

## First Enclosure in No. 41.

*Report of the Case of the Brazilian Schooner "Vencedora," Joao Maria Evangelista, Master.*

THIS Vessel left Bahia on the 9th of September 1827, for an avowed legitimate trading-voyage on the Coast of Mina, being furnished with a Commercial Passport from the Vice-President of Bahia (numbered 473, and dated the 31st of August preceding) for that object, and on the 24th of October 1827, was detained at anchor off Whydah, to the Northward of the Equator, by Lieutenant Badgley, of His Majesty's Ship "Eden," (then in command of the Colonial Steam Vessel "African," having a Boat of His Majesty's said Ship on board her) on suspicion of being engaged in the illicit Traffick in Slaves.

On the 30th of December 1827 the "Vencedora" arrived in this Harbour, having after Seizure been conducted to Fernando Po, and on the following day the Vessel's Papers were brought into Court, and proceedings instituted against her. The Monition in such Cases having been prayed for, went forth on the 2d of January 1828, and was returned, certified to have been duly executed, on the 11th of that Month.

On the 5th of January, the Master filed his Claim on behalf of the Owners, (Joao Antonio Montiero, Manoel Antonio da Cruz, Manoel Joaquim Alves, and Antonio de Padua d'Acunha Pimentel, all of Bahia) for the Vessel, her Tackle, Apparel, and Furniture, and the Goods, Wares and Merchandise, on board the same, and in his Affidavit in support of it, set forth, that the outward bound Cargo of the Vessel, consisting of tobacco, rum, and dry goods, had been landed at Whydah, for which payment was about to be made in palm-oil, cloths, and other lawful produce, when she was seized; and in support of this being the object she was engaged in, a Certificate of the Seizing Officer (Lieutenant Badgley,) was attached, dated in the Forenoon of the Day he detained her, and to this effect: "that the "Vencedora" had been examined, and that he had found no cause for detaining her."

The material Evidence of the Master, as confirmed by the other Witnesses produced, went to prove, that the Vessel sailed direct from Bahia, and anchored and touched at Whydah, where she landed her outward bound Cargo, with the exception of 150 rolls of tobacco, and was to have received in return palm-oil, cloths, and other lawful Produce, and that she was neither sent to the Coast for the Slave-traffick, nor had been engaged in it.

On the 11th of January, on Petition of the Captor's Proctor, a Commission for Inspection and Survey of the Vessel was issued, in pursuance of which the Commissioners reported, that "having carefully examined, surveyed and inspected her, they found her of the burthen of about 120 tons; that she had, stowed in her hold, 10 large leaguers, 7 pipes, 2 puncheons, and 2 quarter casks, capable of containing about 4,200 gallons of water; that there were on board 35 planks, 17 feet long, rough as cut from the tree, and neither numbered, marked or fitted in any way; that the main and half-deck hatchways were fitted complete with open gratings; that there was also on board 23 cwt. of jerk beef, and from 150 to 200 bushels of farinha, part in bags, and part in bulk, and one medicine chest, fitted complete, about 2½ feet long, and 15 inches in height, much too large, in their opinion, for an ordinary mercantile voyage for a Vessel of her size, and further, that there were no coppers on board, and that her cabouse was such as is generally used in Brazilian Vessels.

The only other Evidence of consequence filed in this Case, was an Affidavit of a Mr. Etheridge, Supercargo of an English Merchant Vessel, to shew that palm-oil could not be procured at Whydah: but this was satisfactorily rebutted by the Evidence of a Mr. Spence, who, as Owner and Master of an English Merchant Vessel, had been for many Years, and is still, in the African-trade.

The Evidence in this Case being all filed, and the Proctors, on behalf of the Captor and Claimant, having closed their proceedings, the Court met on the 26th of January 1828, and pronounced Judgment as follows:—

This is the second instance of a Brazilian Vessel, ostensibly fitted out and engaged in the lawful Commerce of Africa, and furnished with a Commercial Passport and other Papers for that purpose, being detained by the same Captor, and proceeded against on similar Evidence in this Court, for being engaged in the illicit Traffick in Slaves, and a Case, therefore, so very similar in facts and principle to that of the former, the "St. Joao Voador," lately adjudicated, as greatly to facilitate the Court in forming its Judgment.

The Declaration of the Captor, which is dated the 27th of October, at Sea, does not state the day of the Vessel's detention; but, from the Affidavit of Mr. Schewrer, Master's Assistant of His Majesty's Ship "Eden," on bringing the Ship's Papers into Court, it appears to have been made on the 24th of that Month, when, as is seen from the Declaration of Lieutenant Badgley (the Captor), she was boarded by a Jolly-boat of His Majesty's Ship "Eden," being then at anchor off Whydah. From this Document, which, the Court must here observe, is even more irregular than that of the "St. Joao Voador," which it had reason to remark on, it does not appear, except from her equipment and the quantity of jerk beef and farinha on board, that she was intended to be otherwise employed than as contemplated by the Passport and Papers she sailed with. The Court will not here enter into all the irregularities of this Document. The Evidence taken by the Captors, as in the Case of the "St. Joao Voador," cannot be entertained; nor can the observations, and other details he has entered into, have any influence in its Decision.

The Evidence, produced in support of this Case by the Captors, does not prove, in the most distant degree, that this Vessel, when detained, was engaged in the illicit Traffick in Slaves. The Witnesses examined on the Interrogatories establish the fact to be otherwise, and they all agree in the same statement without the slightest discrepancy. The Affidavit of Mr. Etheridge (Supercargo of a Merchant Vessel, who had been 2 Months trading on that part of the Coast), is the only Evidence to shake this Testimony, and that is any thing but satisfactory; a more vague Document could not well have been produced; his surmises and opinions are not proofs; and his not being able to barter for palm-oil and ivory in the Neighbourhood of this Vessel's detention, is not

to be entertained as Evidence; — that therefore such articles could not be procured, and that a Vessel trading in those Parts could only be engaged in the Slave-traffic. This point, however, is fairly and fully met by the Affidavit of Captain Spence, who swears directly to the contrary, and whose long experience of the trade of that part of the Coast, as set forth in that Evidence, is certainly to be preferred to Mr. Etheridge's short knowledge in the same Neighbourhood.

The principal Evidence in support of the Declaration is in the Report of Survey; for, although the Surveyors do not state this Vessel to be so fully fitted and equipped for a Slaving-voyage as Vessels engaged in that Traffick usually are, yet there are sufficient points in the equipment, as set forth by them, which, not being at all required for a legitimate Voyage, naturally led the Captor, finding her thus circumstanced, to the Northward of the Line, and in the Neighbourhood of noted Slave-haunts, to believe the illicit Traffick in Slaves to be her object; and although, in the first instance, he gave the Master a Certificate that he found no cause for detaining her, still, on more mature consideration of the nature of the Case, and the information he afterwards received, that act did not prevent him from subsequently doing so.

As there is no proof in the whole of his Evidence of a Slave or Slaves having been taken on board this Vessel, for the purpose of the Traffick, during the present Voyage, nor that she was otherwise engaged than in the licit Commerce of Africa, as permitted to her by the Passport she sailed under, which also authorized her to come to the Northward Coast, there has been no violation of that part of the Convention with *Portugal*, relative to the illegal Shipment of Slaves, nor any breach of Passport, as in the Cases of several Vessels, adjudicated in this Court in the past Year, and which warranted their condemnation. This Court must therefore, governing itself on the same principles as laid down in the Case of the "*St. Joao Voador*," restore this Vessel to the Claimant, and accordingly decrees that the "*Vencedora*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize on board her, be restored to the Claimant, for the use of the Owners and Proprietors thereof, with all Costs of Suit, and such Special Damages and Expenses only, as have been incurred by her detention by His Majesty's Ship "*Eden*," William Fitz-William Owen, Esquire, Commander, and refers it to the Registrar to ascertain the amount thereof.

But whereas it has been proved to the satisfaction of the Court, that by reason of the said Schooner "*Vencedora*," being partly fitted and equipped as Slave-vessels usually are, which fitting and equipment are perfectly unnecessary for a Voyage in legitimate Commerce, and that through the act of the Master of the said Schooner "*Vencedora*," having his Vessel so fitted and equipped, in the immediate Neighbourhood of noted Slave-haunts to the Northward of the Equator, where the Slave-trade is interdicted to the Subjects of the Empire of *Brazil*, the Captor in this Case was led into error by his voluntary and reprehensible fault; the Court Decrees that no Demurrage is due to the "*Vencedora*," and that none be paid for the period of her detention.

(Signed)

JOSH. REFFELL.  
WM. SMITH.

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### Second Enclosure in No. 41.

#### *Declaration of Captor, in the Case of the Brazilian Schooner, "Vencedora."*

THE "*Vencedora*," Brazilian Schooner, belonging to Bahia, 150 or 160 tons, 25 men, 1 gun, Joao Maria Evangelista, Master or Captain, was boarded by me in the "*Hay*" Jolly-boat of His Majesty's Ship "*Eden*," at anchor of Whydah or Adjudah. I found her provided with a similar Passport to the "*St. Joao de Voadore*," authorizing her to trade for palm-oil and country cloths on the Coast of Mina. I found on board of her at the time of Capture, a Negro belonging to Whydah, (whom the Captain told me was head Trade or Slave man,) with 3 large Canoes, apparently to land the remaining aquadente. The Crew were at this time employed clearing away the main hold, in which I found a complete Slave-deck; and some men actually employed in laying the after part of it; in it were also 10, 3 or 2-ton, leaguers of fresh water, besides many other water-casks filled with salt water; her after-hold was filled with jerk beef and farinha in bulk. The fore-hold with the same articles; and, in the eyes of her and main-hold, a quantity of roll-tobacco. This Vessel was captured at the same anchorage several Months ago, and sent with some others under similar circumstances to Sierra Leone, where they were all condemned: some mystery hangs over the purchase of this Vessel at Sierra Leone, as her Crew say, that the Governor has a claim on her; her log ceases from the day of making the land; it calls her the "*Voadore*," but the Master, or some other interested Person, has endeavoured to transform this word into "*Vencedore*," thus "*Avodore* and *Vodore*;" when I first obtained possession of the Log-book, the colour of the ink was so light, and the alteration in the name so palpable, as not only to cause me and Mr. Metcalfe to remark it, but also Augustine Jose, one of the Crew of the "*Joao de Voadore*," who reads and writes the language well.

This Augustine Jose swears to her name being "*Voadore*," and not "*Vencedore*," as I have remarked in his examination with the Crew of the "*Joao Voadore*." I also found some orders from some people (Merchants or others) at Bahia to the Contremestre, or Boatswain, to receive on board the "*Voadore*," casks of aquadente and other articles, a day or two previous to her Passports and Papers being signed; when captured, the only articles of trade were 2 pipes of aquadente and the tobacco. Her Supercargo has been living on Shore since her arrival, 12 days previous to Capture, and together with the Master, has purchased some palm-oil, which, from information from her Crew, through Augustine Jose, proves to be Slaves, which were to be embarked as soon as the aquadente was landed, and for which purpose the canoes were alongside; the Crew tell Augustine, that they cannot tell the exact number, but they are positive that they were soon to have been embarked; this information, I am inclined to think is correct, from find-



ing them preparing the deck, the Crew also informs him that a Piratical Brig boarded her a few days previous to Capture, and threatened the Captain with instant death, unless he immediately delivered up all the irons he had, which were accordingly handed over to him, to between 200 and 360, they cannot swear to the number, as they were sent forward. (Jose d'Almeida says, that he is confident these men will deny all this, whenever they are examined again, he knows from experience what his Countrymen are.)

(No. 1.)—John Stevens, from Oporto, but of English Descendants, joined the Schooner as the “*Vencedora*,” but does not know that it is her name, never had the curiosity to enquire; 120 Mill reis for the Voyage, which he understood was a trading-voyage.

(No. 2.)—Gregory Jose Musons, joined at Bahia, generally heard her called “*Vencedore*,” says he understood she was going on a trading-voyage; says Slave-deck was brought over for “*Chacha*,” at Whydah; that the farinha and jerk beef were for the Canoe men.

(No. 3.)—Jose Domenjue, shipped at Bahia, heard her called “*Vencedore*,” does not know Master's name; has 138 Mill reis for Voyage.

(No. 4.)—Antonio Jose, shipped as Captain's Cook, the day she sailed; understood it to be a trading-voyage; says her name is the “*Vencedore*,” 120 Mill reis for 6 Months.

(No. 5.)—Joaquim Jose, 5 days on board before she sailed from Bahia, has heard her called “*Vencedora*,” but knows not to a certainty that such is her name; when they sailed, understood they were going on a trading-voyage for oil and cloths; says that 200 casks of oil are ready, which were to have been started into the leaguers; 120 Mill reis for the Voyage.

(No. 6.)—Manoel Jose, shipped the day before she sailed, heard her called “*Vencedora*,” understood she was going trading for oil and cloth; was robbed by a Pirate of several barrels, but cannot swear to their contents; has 100 Mill reis for the Voyage.

(No. 7.)—Jose Francisco, does not know her name, joined when in point of sailing. Says, the Slave-deck was to nail against Ship's side, to prevent the leakage of the Vessel; has 150 Mill reis for Voyage.

(No. 8.)—Jose Antonio, has always heard her called “*Vencedora*,” says the Slave-deck was to stop leaks; has 60 Mill reis for Voyage.

(No. 9.)—Jose Francisco Joao, has heard her called “*Vencedore*” and “*Voadore*,” but never enquired what her proper name was; says that a Pirate robbed the Vessel of a great many things as her Boat returned 3 different times; cannot say what she took, as the Crew were sent forward; has 100 Mill reis for Voyage. “*This man, in Captain Owen's presence, asserted that the Vessel's name was positively “Voadore,” not 2 hours ago.*”

(No. 10.)—Joao d'Alveirez Diez, the Vessel's name is “*Vencedore*,” but has frequently heard her called the “*Voadore*.” *This man also, not two hours ago, asserted, positively, that the Vessel's name is “Voadore,” three different times.* Her Slave-deck is one moment to stop leaks, and the next to cover the tobacco and rum on Shore. (This is very probable). Has 60 Mill reis for Voyage.

The above men are ready to make oath to the truth of their assertions.

Examined in the presence of James Bagdley, Lieutenant, and Commanding His Majesty's Steam-Vessel “*African*.”

(Signed) JAMES METCALFE, Mate of Ditto.  
JOHN SCHEARER, Master's Assistant.

His Majesty's Steam Vessel, “*African*,”  
at Sea, 27th October 1827.

The Proprietor named in the Passport is not the same as marked in the Log-book, and Evangelista is Chief Mate in her Papers, and Manoel Dias is the Master.

(Signed) W. F. W. OWEN.

## No. 42.

His Majesty's Commissioners to The Earl of Dudley.—(Received April 15.)

MY LORD,

Sierra Leone, February 12, 1828.

WE have the honour to acknowledge the receipt of your Lordship's Despatch, dated 13th of December 1827, enclosing to us Copy of a Letter addressed to your Lordship by Messrs. Mello, Robertson, and Co. relative to Copies of Proceedings had under the Mixed Commission Court here, in the Cases of the *Brazilian* Vessels, “*Commerciante*” and “*Conceicao*,” and also Copy of the Reply, which, under your Lordship's directions, was addressed to them by Mr. Backhouse.

We beg to assure your Lordship that no application has been made for the Papers referred to by Messrs. Mello, Robertson and Co. within the last 3 Years, and, from the enquiries we have instituted, we cannot learn that any such request had been made at an earlier period.

We have, according to your Lordship's commands, given general directions to the Registrar, to furnish Copies of the Proceedings in all Cases had before the Mixed Commission Court, to Parties offering to pay for them; and on the application of the Agent of Messrs. Mello, Robertson and Co., the Papers which they solicited your Lordship to direct might be prepared for them, will be furnished.

We shall not fail to use due caution that no opinion of the Court, on the object for which the Documents may be required, shall be given.

We have the honour to be, &c.

(Signed)

JOSH. REFFELL.

WM. SMITH.

The Right Hon. The Earl of Dudley,  
&c. &c. &c.

No. 43.

*His Majesty's Commissioners to The Earl of Dudley.—(Received May 9.)*

MY LORD,

Sierra Leone, February 25, 1828.

WITH reference to our Despatch of the 22d of January last, we now have the honour to transmit, herewith, to your Lordship, the Supplementary Report of the Case of the *Brazilian* Sumacca "*St. Joao Voador.*"

In our Report of the first part of the Proceedings had in this Case, we stated fully our opinions for not giving the Claimant other Damages than the Costs of Suit, and such Special Damages and Expences, only, as had been incurred by the detention of this Vessel, as her Slave-trading outfit and equipment had led the Captor into error.

Notwithstanding the Decree of the Court, the Claimant preferred Charges for other Damages, he said he had sustained, inconsistent with such Decree, and even unsupported by any proof whatsoever, and which the Acting Registrar, therefore, very properly, in our opinion, refused to allow.

Copies of the Schedule of Costs, Damages, and Expences, as submitted to the Registrar,—the Affidavits of the Claimant, and the Prize-Officer, Lieutenant Robinson, and a Mr. Metcalfe,—together with the Registrar's Report, accompany this, for your Lordship's information.

After the Registrar had made his Report in this Case, on the 5th Instant, the Proctor for the Claimant, on the 7th following, prayed that an Affidavit of the Steward of the Vessel, Bernardo José da Sousa, in answer to the Affidavit of the Prize-Officer, might be taken and filed on behalf of the Claimant.

This Petition the Court refused, on the grounds that whatever proofs the Parties in the Case had to bring forward, should have been produced before the Registrar had made his Report, and that such irregularity would protract the proceedings *ad infinitum.*

A Copy of the Registrar's Report has been asked for; but as we consider that Report to have been made solely for the assistance of the Court in making its Award (a Copy of which Award has been given to both Captor and Claimant,) and not a part of the Evidence filed in the Case, it has also been refused.

We think it proper to put your Lordship in possession of these facts, as the Parties interested have applied for Copies of the Evidence, in order, as we understand, to prosecute an Appeal against our Decision to the *Brazilian* Government, according to the 12th Article of the Regulations for the Mixed Commission, and it is possible that, in so doing, they may impute wrong motives to this Court on this account.

It is painful to us to have to report to your Lordship that, in Cases of the present nature, we labour under difficulties in estimating the sum to be awarded for the Damages claimed. The Parties claiming restitution have, for the most

part, no regard whatever to the obligation of an Oath, nor do they, in any way, consider that sacred act binding on their consciences, in any matter connected with the Slave-trade; the consequence is, therefore, generally speaking, that they perjure themselves, in order to augment the amount of their Damages, to an inconceivable extent; and, in the present Case, the Claimant swore that the usual freight for palm-oil from Africa to the Brazils, was 70 Milreis per pipe, which, at 5 shillings per Milrei, is equal to £45 per ton, a sum nearly double the amount of its whole value in London.

The conduct of such Parties necessarily makes us exceedingly cautious in crediting their Affidavits, which are too often totally void of truth, and, indeed, only framed, as in this Case, to mislead the Court.

We have the honour to be, &c.

(Signed)

JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

*P. S.*—Since writing the above Despatch, the "*St. Joao Voador*" has sailed. She left this Harbour on the 27th of February, having cleared out at the Custom-House for Bahia. The "*Vencedora*" remains here, having been sold, and transferred to Mr. Atkins, according to the Agreement deposed to by Messrs. Campbell and Parker.

First Enclosure in No. 43.

*Supplemental Report, containing Final Decree of the Case of the Brazilian Sumacca "St. Joao Voador," Antonio Joze Galvao, Master.*

ON the 5th day of February 1828, the Acting Registrar made his Report on this Case to the Court, as was ordered on the 19th day of January last, in which he gave it as his opinion that the Claimant was entitled to £21. for Costs of Suit, and £27 5s. 5½d. for Special Damages and Expences, making, together, a sum of £48 5s. 5½d.

On the 21st day following, a Court was held to make its Award in this Case, and the Proctors for each Party having offered no objections to the Registrar's Report, the Commissioners confirmed the same, and thereupon did Award and Decree, that William FitzWilliam Owen, Esquire, the Captor in this Case, do pay unto Antonio Joze Galvao, the Claimant, or unto his lawful Attorney or Attornies, for the use of the Owners and Proprietors of the said Sumacca "*St. Joao Voador*," absolutely and unconditionally, the sum of £48 5s. 5½d., being for the Costs of Suit, and such Special Damages and Expences only, as the Acting Registrar had stated the Claimant was entitled to for the detention of his Vessel.

(Signed)

JOSH. REFFELL.  
WM. SMITH.

Second Enclosure (A.) in No. 43.

*Affidavit of the Master of the Brazilian Sumacca "St. Joao Voador."*

APPEARED personally, Antonio Joze Galvao, Master of the said Sumacca, who, being duly sworn, saith that the annexed is a true and faithful Account of damages sustained by reason of the seizure and detention of the said Vessel, and that the same are all and severally charged at a fair and reasonable rate; and this Deponent further saith, that the whole of the provisions and articles of food therein enumerated, were actually consumed by the Officers and Crew of His Majesty's Ship of War "*Eden*," subsequent to the detention of the said Sumacca; and this Deponent further saith, that the amount charged for the same, was actually paid by the Owners and Proprietors of the said Vessel at Bahia; and this Deponent further saith, that the charges for freight are such as are usually paid and received at Bahia in the Brazils; and this Deponent further saith, that the mainsail and foretopsail in the said Account stated, have sustained the said damages at Fernando Po, entirely owing to the negligence of the Captors, in having exposed the said sails to the rain, during the period of 18 days, whilst the said Sumacca was lying at Fernando Po: and this Deponent lastly saith, that all and singular, the damages sustained, and charges contained and enumerated in the annexed Claim, are and is in every respect and particular, just and true, and that the annexed Invoice contains a just and true account of the original cost of the Cargo laden on board the said Vessel at Bahia aforesaid, and that the same is without any fraud or alteration whatsoever.

(Signed)

ANTONIO JOZE GALVAO.

On the 29th day of January 1828, the said Antonio Joze Galvao }  
was duly sworn to the truth of this Affidavit,  
Before me, (Signed) S. M. MAGNUS,  
Acting Registrar. }

## Second Enclosure (B.) in No. 43.

*Account of Damages sustained by the Detention of the Brazilian Sumacca  
" St. João Voador."*

Bahia, 5 de Julho e 1827.

FACTURA dos Generos abaixo mencionados carregados a Bordo da Sumacca " S. Joao Voador,"  
de que sou Cap<sup>m</sup>. pr. minha conta e risco e de quem mais pertencer, a entregar na Costa da  
Mina, e mim auzente a quem meos poderes tiver. a Ser.

Sem Marca	1,046	Rolos de Tabaco .....	4,500	4,707§	000
sGs	30	Pipas de Aguardente .....	60,000	1,800§	000
No. 1. a 2.	2	Caixas com 50Ps. de Damascos de diftes. Cores com 1,250 Covados .....	2,650	3,312§	500
3. 4.	400	Macos de Misanga Lapidaola Azu'l Clara-groca ...	4,800	1,920§	000
5. 6.	2	Caixas com 100 Ps. de Madapulao .....	3,600	360§	000
GASTOS.				12,099§	500
Alvarengas Trap <sup>e</sup> . e Negros .....			30§000	33§	200
Conduçoens e Guind <sup>te</sup> . .....			3§200		
Rs.				12,132§	700

(Signed) ANTONIO JOZE GALVAO.

## Second Enclosure (C.) in No. 43.

*Claim of the Master of the Brazilian Schooner, " San Joao Voador."*

THE Claim of the said Antonio Jose Galvao, on behalf of himself, Joao Jose de Sam Payo, Jose Joao de Cunha, and Antonio Dias, the sole Owners and Proprietors of the said Vessel and Cargo, for Costs, Damages and Expences, in the said Case, pursuant to a Decree of Restitution of the said Vessel, dated 19th January 1828.

<i>For Costs of Articles as hereunder are enumerated, the same being consumed subsequent to Capture, by the Officers and Crew of His Majesty's Ship of War " Eden."</i>		
2 barrels of Port Wine, containing 140 bottles each barrel, say 23½ dozen, at 3,600 Reis per dozen .....	84,000	
2 dozen White Wine, at 7,200 do. do. ....	14,400	
1½ do. Frontignac, at 9,600 do. do. ....	14,400	
3 dozen of Ale, at 2,400 do. do. ....	7,200	
8 jars of Gin .....	3,200	
40 lbs. Coffee, at 4,800 Reis per aroba of 25lbs. ....	7,680	
2 arobas of Sugar, at 4,000 Reis per aroba .....	8,000	
2 lbs. Tea, at 1,600 do. per lb. ....	3,200	
1 hhd. Biscuit .....	5,600	
1 barrel Flour .....	11,200	
1 large bag Rice .....	6,400	
16 lbs. Vermicelli .....	3,200	
2 large Hams .....	12,800	
2 dozen Sausages .....	6,000	
3 arobas of Bacon .....	9,600	
12 cases of Sweetmeats .....	4,800	
4 jars of Sweetmeats .....	6,400	
7 Hogs .....		44,800
3 Goats .....		7,200
5 Sheep .....		12,000
80 Fowls .....		8,000
4 Ducks .....		1,600
1 Turkey .....		1,600
16 lbs. Butter .....	6,400	
Carried forward ..	214,480	

	Brought forward, ..	214,480	
2 Cheeses .....		1,600	
16 lbs. Almonds .....		3,200	
12 lbs. Chocolate .....		9,600	
1 pipe Rum, containing 140 gallons .....			96,000
4 cases Segars .....		6,400	
4 bottles of Liqueur .....		3,200	
400 Yams .....			24,000
1 barrel Palm-oil .....			3,200
20 lbs. Candles, used for making Signals, &c. ....		4,000	
4 barrels of Rum (of which one-fourth is ullage) ..			12,000
1 jar Linseed Oil (broken) .....		4,800	
40 arobas Jerk Beef, at 3,200 Reis per aroba .....		128,000	
Farinha .....		8,000	
		383,280	
50 per Cent. advance .....		191,640	
			574,920

*For Special Damages and Losses sustained subsequent to Capture.*

	£	s.	d.
Main Topmast (lost) .....	2	0	0
Sheets of Main Topgallant Sail (lost) .....	1	6	0
Main Topsail Tye (lost) .....	0	15	0
Slings of Main Topsail Yard (cut) .....	0	10	0
A 4 inches Runner (cut for making swabs) .....	4	0	0
Main Boom Sheets (parted) .....	1	6	0
Main Peake and Throat Halliards (destroyed) .....	6	6	0
Rigging at Mainmast Head (destroyed) .....	2	0	0
Fore Tressel Gaffe (carried away) .....	2	0	0
Fore Braces (rotted) .....	2	10	0
Fore Topsail Tye (rotted) .....	0	15	0
Topsail Sheets (parted and cut) .....	2	2	0
Topsail (in bad condition, required 2 bolts of Canvass) ..	8	0	0
Foresail (in bad condition, required 2 bolts of Canvass) ..	8	0	0
Foresail Sheets and Tucks (cut up for swabs) .....	4	0	0
Fore Topgallant Sail (in bad condition, required half bolt of Canvass) .....	2	0	0
Fore Topmast Stay (entirely rotted from rain) .....	4	0	0
Gib Stay (entirely rotted from rain) .....	3	0	0
Gib Boom (parted) .....	2	10	0
Stay Sail (rotted, required 2 bolts light Canvass) .....	6	0	0
Gib (rotted, required ½ bolt light Canvass) .....	2	0	0
Rope Yarns .....	2	0	0
Raftling Stuff and Sail Twine (consumed) .....	1	0	0
Gib Halliards (rotted) .....	2	10	0
2 Copper Pumps (broken) .....	4	0	0
8 Buckets (broken and thrown overboard) .....	1	0	0
Sundry Blocks (rendered useless) .....	4	0	0
Damage to Cable in having neglected sarving same .....	4	0	0
Damage to Mainsail, rotted from having been exposed to rain, and not loosened to dry, during the period of laying at Fernando Po, for 18 days; required 8 bolts of Canvass .....	32	0	0
Fore Tressel, rotted from having been exposed to rain, and not loosened to dry, during the period of laying at Fernando Po, for 18 days, required 6½ bolts of Canvass ..	25	0	0
Damage to Long Boat used at Fernando Po, discharging articles from Transport, Steam Boat, and Eden, during period of 18 days .....	9	0	0
	£.	149	14 0

*For Freight of Cargo, outwards as follows:—*

1,046 rolls of Tobacco, at 2,000 Reis each .....	2,092,000
30 pipes of Aquadente, at 44,800 do .....	1,344,000
6 cases of Merchandize, at 16,000 do .....	96,000

*For Freight of Cargo, homewards as follows:—*

75 pipes of Palm-oil, containing 5,200 Canadas, at 10 Testoons each .....	5,250,000
60 bales of Country Cloths, containing 120 in each, at 1 Testoon each .....	720,000
100 Teeth, Ivory, weighing 3,210lbs. ....	321,000

For the hire of a Crew to enable the said Sumacca "St. Joao Voador," to sail from the Port of Sierra Leone, 1 Month's Wages for 10 Men, at 20 \$ each .....	160,000
For Special Damage sustained by 18 days' detention of the said Vessel at Fernando Po, subsequent to the Seizure thereof by Captor, at 24,000 Reis per diem .....	432,000
5 per Cent. Allowance on Capital employed in purchase of Cargo, valued as per Invoice annexed .....	656,685
For Costs in making Claim and Suit £21	

(Signed) ANTONIO JOZE GALVAO.

Third Enclosure in No. 43.

*Affidavit of Lieutenant Robinson and James Metcalfe, in the Case of the Brazilian Sumacca, "St. Joao Voador."*

PERSONALLY appeared Charles G. Robinson, Lieutenant of His Majesty's Ship of War "Eden," W. F. W. Owen, Esquire, Commander, and lately Prize Officer, of the said Sumacca, and James Metcalfe, late Mate of the Steam Vessel "African," and a Passenger in the said Sumacca, who, being severally sworn, make oath and say:—that the Articles which are annexed in a List hereunto, (A.) and being part of the Provisions, and Sea Stores, said to have been consumed on board the said Sumacca by the Officers of His said Majesty's Ship, is a true and faithful List of all the articles, and their several proportions which were so used and consumed, to the best of their knowledge and belief, and after the most mature and careful recollection; and that the same was generally made use of and consumed by these Deponents and the Master of the said Sumacca, and who were the only persons that messed at the Cabin Table; and that the several articles under the List (B.) were brought on board the said Sumacca by the Deponent, Charles G. Robinson, for the subsistence of the Prize Crew, including the said Deponent, and also the Deponent James Metcalfe, all of whom were rationed for 42 days; and the passage up was performed within that period. That in addition to the Navy allowance, several other articles were put on board for the use of these Deponents, all of which were used in common at the Cabin Table. That the Prize Crew would not use any of the farinha or jerk beet on board the Vessel, and that the same was also unnecessary, as their own provisions were not consumed. That these Deponents never saw more than one swab in use on board the Vessel, and that none were made on the Passage. That the rattling stuff, said to have been used, could not have been used by the orders of the Deponent, Charles G. Robinson, as this Deponent never was aware that any was in the Vessel; and that any sail-twine consumed was solely to repair the Sails of the Vessel. That the 2 copper pumps, stated to have been broken, these Deponents found broken when they came on board; and that care was taken to repair them occasionally, to make them of general use for the persons on board. That to the best of their respective knowledge and belief, there were not more than 2 buckets in use on deck; and which were left in the Vessel when the Deponent, James Metcalfe, arrived and landed at Sierra Leone. That the Deponent, James Metcalfe, is sure to his own knowledge, that the Long-boat of the said Vessel was only used 4 several days in unloading Stores from the Steamer "African," and some bricks from the Transport; and that any further use made of the said Vessel's Long-boat was to procure water for the use of the said Vessel. That when this Deponent, Charles G. Robinson, took charge of the said Vessel, there was but one pipe of spirits on board, and which was served out to the Crew only of the said Vessel, the Prize Crew refusing to make use thereof. And that when this Deponent, Charles G. Robinson, quitted the said Vessel, he found that the said pipe was only within 10 inches of being full; and further, that the small casks of rum, said to have been used, were not so by any of the Prize Crew, or by any other person, by the orders of the said Deponent, Charles G. Robinson. That 200 fathoms of good rope were brought on board the said Vessel from His Majesty's Ship "Eden," by reason that the said Sumacca was found so badly equipped in that article, part of which still remains on board the said Vessel. That by stress of weather at Sea, the main-topmast of the said Sumacca was carried away, and that nothing but the strops and seizing were cut away to clear the rigging, inasmuch as it could not otherwise be done. And the Deponents further make oath, that no rope, sails, or sail-cloth, other than what was applied to the purpose of mending the sails of the said Vessel, were at any time during their being on board, cut up, destroyed, or made away with. And that the said Master, during the whole time these Deponents were on board, continued to order the Steward of the said Vessel to make such use of the Stores thereof as he thought proper, and was not in any manner interfered with by these Deponents.

(Signed) CHAS. G. ROBINSON,  
JAMES METCALFE.

On the 4th day of February, the above and within-mentioned Deponents were severally sworn to the truth of this Affidavit as far as respectively concerned.

Before me, (Signed) S. M. MAGNUS, Assistant Registrar.

(A) Enumeration of Sundry Articles which were used on board the Sumacca "St. Joao Voador," during her Passage to Sierra Leone, in charge of an Officer and Crew from His Majesty's Ship "Eden," viz.—

About 80 Bottles of Port Wine.	2 Sheep.
1½ Dozen of White Wine.	5 Dozen Fowls.
1 Dozen of Ale.	3 Ducks.
2 Jars of Gin, containing 1 quart each.	1 Turkey (flew overboard.) Error.
20 Pounds of Coffee.	16 Pounds of Butter.
32 Pounds of Sugar.	2 Dutch Cheeses.
2 Pounds of Tea.	8 Pounds of Almonds.
1 Barrel of Biscuit (being an American Flour Barrel)	4 Pounds of Chocolate.
1 Barrel of Flour.	2 Bottles of Liqueur.
1 Bag of Rice.	150 Yams.
2 Pounds of Vermicelli.	8 Gallons of Palm-oil, for the light of the Vessel.
2 Dozen Sausages.	5 Pounds of Candles.
32 Pounds of Corned Beef.	1 Jar of Sweet-oil (used in cooking.)
1 Hog.	

(Signed) CHAS. G. ROBINSON.

(B.) Enumeration of Provisions brought on board the Sumacca "St. Joao Voador," for the subsistence of 1 Officer, 1 Passenger, and a Prize Crew of 4 European and 6 Kroomen, viz.—

1 Cask of Beef, 336lbs.	3 Pounds of Wax Candles.
1 Cask of Pork, 200lbs.	3 Pounds of Butter.
1 Hogshead of Biscuit, 224lbs.	6 Bottles of Gin and Brandy, 1 Bottle Cherry do.
1 Barrel of Flour.	1 Dozen of Port Wine.
9 Gallons of Rum.	1½ Pound of Green Tea.
800 to 1000 Yams of Fernando Po.	3 Dozen of Madeira.
2½ Dozen Fowls.	Cocoa, } Sufficient for Six Weeks, for the whole
1 Sheep.	Sugar, } of the above persons, Navy allow-
4 Pounds of Coffee.	Tea. } ance.

(Signed) CHAS. G. ROBINSON.

#### Fourth Enclosure (A.) in No. 43.

#### *Registrar's Report of Costs, Damages, and Expences, in the Case of the Brazilian Sumacca "St. Joao Voador."*

TO the trusty and well-beloved Joseph Refell, and William Smith, Esquires, His Britannick Majesty's Commissary-Judge, and Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

Whereas by your Decree of the 19th day of January 1828, you pronounced the said Sumacca and Cargo to have belonged as claimed, and Decreed the same to be restored to the Claimant for the use of the Owner and Proprietor thereof, with such Costs of Suit and Special Damages and Expences only, as have been incurred in consequence of the Seizure of the said Sumacca by His Majesty's Ship "Eden," and referred the consideration of such Costs, Damages, and Expences to your Registrar; and that he should report the Amount thereof.

Now I do most respectfully report, that having received an Account of the same, brought in on behalf of the Claimant, on the 29th of January, and having taken the same, together with what was urged by the Agents of the Parties on both sides, into consideration, I am of opinion, that the Claimant is entitled under your said Decree to the several Sums mentioned in the Schedule hereunto annexed.

All of which is humbly submitted by

February 5, 1828.

(Signed) S. M. MAGNUS,  
Acting Registrar.

Fourth Enclosure (B.) in No. 43.

Schedule of Costs, Damages, and Expences, in the Case of the Brazilian Sumacca "St. João Voador."

£	s.	d.		£	a.	£	s.		
21	0	0	<p>Claimed as Costs of Suit.                      Allowed by Agreement between the Parties - - - -</p>	0	0	21	0	0	
			<p><i>Special Damages and Expences occasioned to the Sumacca by detention.</i></p>						
38	14	0	<p>Claimed for sundry Spars and Running Rigging, carried away, parted, lost, destroyed, and cut up.                      As these Items would have been included in Demurrage, had any been decreed; and as the Affidavit of the Prize Officer, Lieutenant Robinson, and James Metcalfe, fully contradicts any wilful destruction of Property, from neglect or otherwise; and further proves that 200 fathoms of Rope was put on board of the Sumacca from His Majesty's Ship "Eden," by reason of the Sumacca being so badly equipped in this article, part of which Rope is now on board.—I therefore do not allow this Charge - -</p>	0	0	0	0	0	
86	0	0	<p>Claimed to replace certain Sails, and for Repairs required to others, rotted from exposure to Rain, &amp;c.                      I do not allow this Charge, as it would be included in Demurrage, had any been decreed - - -</p>	0	0	0	0	0	
3	0	0	<p>Claimed for Rope Yarns, Rattling Stuff, and Sail Twine, consumed.                      I do not allow this Charge, as it is proved by the Affidavit of Lieut. Robinson and James Metcalfe, to have been used only for the Sumacca - -</p>	0	0	0	0	0	
5	0	0	<p>Claimed for Copper Pumps and Buckets broken.                      I do not allow this Charge, the Affidavit of the abovementioned Persons fully contradicting it - - -</p>	0	0	0	0	0	
4	0	0	<p>Claimed for sundry Blocks rendered useless.                      As Demurrage, had any been decreed, would cover this Charge, I therefore do not allow it - - -</p>	0	0	0	0	0	
4	0	0	<p>Claimed for Damage done to Cable, in neglecting sarving same -                      I allow this Item, as it does not appear in Evidence to be contradicted that the Damage was done, nor that it arose from the stated neglect - -</p>	4	0	0	0	0	
9	0	0	<p>Claimed for Damage done to Long Boat used at Fernando Po, discharging articles from Transport, Steam Vessel, and "Eden," during period of 18 Days.                      It being in Evidence, by the Affidavit of Lieut. Robinson and James Metcalfe, that out of the period of 18 Days' use of the Boat, claimed for, it was</p>						
Carried forward. . £.				4	0	0	21	0	0



		£	s.	d.	£	s.	d.
	Brought forward.	4	0	0	21		
	used but 4 Days for any other purpose than for watering, &c. the Sumacca; I allow for its use during these 4 Days -	4	0	0	0	0	0
483\$000	Claimed for sundry Cabin Stores, consumed subsequent to Capture, by the Officers and Crew of His Majesty's Ship "Eden." I allow for the articles acknowledged by Captors in the Affidavit of Lieut. Robinson and James Metcalfe, to have been consumed - £.28 18 2 Less one-third, being the Master's proportion, the Mess consisting of 3 persons, of which he was one 9 12 8½	19	5	5	0	0	0
204\$000	Claimed for Jerk Beef and Farinha consumed. I do not allow this Charge; as the Affidavit of the Prize Officer, as to the quantity of Provisions put on board the Sumacca, for the consumption of the Prize Crew, fully disproves it;—and it also being a well known fact, that British Sailors will not eat this description of provisions - - - - -	0	0	0	0	0	0
108\$000	Claimed for 1 pipe, and part of 4 barrels, of Aquadente, said to have been consumed by Captors. I do not allow this Charge; as the beforementioned Affidavit proves, that the greater part of the contents of 1 pipe was on board at the restoration of the Sumacca, and that the part that is deficient was consumed by the Claimant's own people - - - - -	0	0	0	0	0	0
3,532\$000	Claimed for Freight outwards, as follows:—1,046 rolls of Tobacco, at 2,000 Rs. per roll; 30 pipes Aquadente, at 44,800 Rs. per pipe; 6 cases Merchandize, at 16,000 Rs. per case. The Court not having decreed any Freight to be paid, and the "St. Joao Voador" having landed her outward Cargo some Weeks before detention, I am of opinion the Freight was earned, unless the same was contingent on the return Voyage, and in a given time; and which, by detention, would be lost, but the Master having declared that no Charter Party had been made for the Voyage in which he was taken, and there being no Bills of Lading, or other Documents to throw any light on this subject; I therefore do not allow the Charge - - - - -	0	0	0	0	0	0
6,291\$000	Claimed for Freight homewards, as follows:—75 Pipes of Palm-oil, at 70,000 per pipe; 60 bales Country Cloths, 120 in each, at 12,000 per bale; 100 Teeth of Ivory, weighing 3,210 pounds, at 100 Reis per lb. The Master having declared, in his Examination on the Standing and Special Interrogatories, the uncertainty attending the Trade in which he was engaged, to be such that Vessels are						
	Carried forward. . £.	27	5	5½	21	0	0

		£	s.	d.	£	s.	d.
	Brought forward.	27	5	5½	21	0	0
	sometimes a Year or more on the Coast, in the prosecution of one Voyage, and that no Charter Party had been made for the return of the "St. Joao Voador" in a given time, there could, consequently, be no defined period for her return to Bahia, and she has now the power to earn her homeward Freight, if it really be composed of the articles enumerated in this Schedule, but which, from the absence of any proof that she had those articles collected, and ready for Shipment, I am strongly inclined to disbelieve. I therefore, on due consideration of all these circumstances, do not admit this charge	0	0	0	0	0	0
160\$000	Claimed for the hire of a Crew to enable the Sumacca to leave the Harbour of Sierra Leone, 10 Men's Wages for 1 Month, at 20\$ each. As no charge for Expences which accrue after the passing of the Decree of Restoration by the Court, can possibly be entertained:—I do not allow this Item	0	0	0	0	0	0
432\$000	Claimed for Special Damage sustained by 18 Days' detention of the Sumacca at Fernando Po, subsequent to Capture. As Demurrage, had any been Decreed, would include this Item, I cannot allow the charge	0	0	0	0	0	0
656\$685	Claimed for 5 per Cent. allowance on Capital employed in purchase of Cargo. The whole of the Samacca's Cargo having been landed prior to Capture, and as the 8th Article of the Regulations for the Mixed Commission, annexed to the Additional Convention between His Majesty and His Most Faithful Majesty The King of Portugal, signed at London, 28th of July 1817, only contemplates this charge for the sum employed in the purchase and maintenance of a Cargo of Slaves;—I do not allow the charge	0	0	0	0	0	0
	Amounting to the sum of				27	5	5½
					£	48	5 5½

(Signed) S. M. MAGNUS, Acting Registrar.

February 5, 1828.

## No. 44.

*His Majesty's Commissioners to The Earl of Dudley.—(Received May 9.)*

MY LORD,

Sierra Leone, February 26, 1828.

IN accordance with the intention expressed in our Despatch of the 31st Ult., we have herewith the honour to forward to your Lordship, the Supplementary Report in the Case of the Brazilian Schooner "Vencedora," Joao Maria Evangelista, Master.

In this Case, my Lord, as well as in that of the "St. Joao Voador," the Claimant preferred Charges for Damages he said he had sustained, enormous in their amount, and which he did not support by the least shadow of proof,

For the Costs of Suit, and such Special Damages and Expences, as were proved his Schooner had sustained by her detention, together with freight for 250 rolls of tobacco from hence, we awarded to him, on the 21st Instant, the sum of £287 14s. 6d.

The Acting Registrar's Report contains, fully, his reasons for not allowing certain charges, which the Claimant tenaciously pressed in his Schedule of Costs and Damages, and which reasons appeared to us to be perfectly correct. Copy of his Report, together with Copies of the Surveyors' Report, and the Affidavits of the Parties on both sides, which were brought in to him in support of, and against, the Charges preferred, we beg to enclose herewith, for your Lordship's information.

A Copy of the Registrar's Report has, in this Case, been applied for; but, for the same reasons stated to your Lordship in our Despatch of the 25th Instant, enclosing the Supplementary Report of the "*St. Joao Voador*," we have thought proper to refuse it.

In the hope that our conduct in these Cases may meet your Lordship's approval,

We have the honour to be, &c.

(Signed)

JOSH. REFFELL.

WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
 &c. &c. &c.

First Enclosure in No. 44.

*Supplementary Report, containing Final Decree in the Case of the Brazilian Schooner "Vencedora," Joao Maria Evangelista, Master.*

THIS Day, in pursuance of the directions of the Court, on the 26th of January last, when it was referred to the Registrar to ascertain the amount of the Costs, Damages and Expences, due to the Claimant in this Case, for the detention of his Vessel, the Schedule of Costs, Damages, and Expences, together with the following Papers, were read, viz. :—

(No. 1.)—Report of William Cole, Frederick Jarvis, and James Stewart, Surveyors.

(No. 2.)—Affidavits of John Scheerer, William Corker, James Owen, and Joseph Davis, in contradiction of the Claimant's charges.

(No. 3.)—Affidavit of John Scheerer, as to the delivering up of the "*Vencedora*."

(No. 4.)—Affidavit of Adalie Henriot, as to the sale of the Schooner last Year.

(No. 5.)—Affidavit of William Cole and T. H. Parker, as to the identity of the "*Vencedora*" being the same Vessel sold by them last Year, and called the "*Eclipse*."

(No. 6.)—Affidavit of Frederick Jarvis and William Cole, Surveyors, relative to the state of the "*Vencedora*."

(No. 7.)—Affidavit of T. H. Parker and Benjamin Campbell, relative to the sale of the "*Vencedora*" since restoration.

(No. 8.)—Affidavit of John Scheerer and William Corker, showing the period the "*Vencedora*" was employed by Captain Owen, of His Majesty's Ship "*Eden*."

And the Report of the Registrar being also read, the Proctor for the Captor prayed the Court to disallow the sums of

£10	10	0	For part of a Bass Cable, cut.
14	0	0	For Anchor lost.
35	0	0	For Hemp Cable, totally damaged.
30	0	0	The amount which would be required to put her in the same state as when detained;

inasmuch as that the Claimant, having preferred a charge for a total loss of his Vessel (which charge the Registrar had refused to allow, upon the ground that the Vessel was in existence, and actually lying in the Harbour, in the possession of the Master, who had, on the day the Court restored her, received her from the Captors), and had not claimed for any Special Damage she had sustained, the Registrar ought not to have allowed those several Sums.

This objection the Court overruled, and stated, that although the Claimant had persisted in charging for a total loss, which was plainly evident could not be maintained, yet the Court did not consider that, in strict justice and equity, he was thereby debarred from receiving the amount of the Damage actually done to his Vessel, and the Evidence of the Captors themselves, together with the Report of the Surveyors, proving beyond all doubt, that she had sustained the Damages stated, the Registrar had very properly allowed them.

The Proctor for the Claimant having offered no objection to the Report, the Court confirmed the same, and thereupon did award and decree that William FitzWilliam Owen, Esquire, the Captor in this Case, do pay unto Joao Maria Evangelista, the Claimant, or unto his lawful Attorney or Attornies, for the use of the Owners and Proprietors of the said Schooner "Vencedora," absolutely and unconditionally, the sum of £39 9s. 0d. for Costs of Suit; the sum of £185 15s. 6d. for Special Damages and Expences, and the sum of £62 10s. 0d. for freight of 250 rolls of tobacco from hence; making a total aggregate sum of £287 14s. 6d. which the Registrar in his Report stated his opinion, the Claimant was entitled to.

(Signed) JOSH. REFFELL.  
WM. SMITH.

Sierra Leone, February 21, 1828.

Second Enclosure (A.) in No. 44.

*Registrar's Report of Costs, Damages, and Expences, in the Case of the Brazilian Schooner "Vencedora."*

TO the trusty and well-beloved Joseph Reffell and William Smith, Esquires, His Britannick Majesty's Commissary Judge, and Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

Whereas by your Decree of the 26th of January 1828, you pronounced the said Schooner and Cargo to have belonged as claimed, and Decreed the same to be restored to the Claimant for the use of the Owner and Proprietor thereof, with such Costs of Suit and Special Damages and Expences only, as have been incurred in consequence of the Seizure of the said Schooner by His Majesty's Ship "Eden," and referred the consideration of such Costs, Damages and Expences, to your Registrar, and that he should report the amount thereof.

Now I do most respectfully report, that having received an Account of the same, brought in on behalf of the Claimant, on the 11th of February, and having taken the same, together with what was urged by the Agents of the Parties on both sides, into consideration, I am of opinion, that the Claimant is entitled under your said Decree to the several Sums mentioned in the Schedule hereunto annexed.

All of which is humbly submitted by,

(Signed) S. M. MAGNUS.  
Acting-Registrar.

February 16, 1828.

Second Enclosure (B.) in No. 44.

*Schedule referred to in Registrar's Report, respecting the Cost of the Brazilian Schooner "Vencedora."*

Bahia, 3de Nov. de 1827.

FACTURA feita pr. mim abaixo assignado, de Casco, Fabrica, Cust<sup>o</sup>—e Carga da Escuna "Vencedora," Capt. Joao Maria Evangelista Gonzaga, deste Porto da Bahia, pr. os da Costa da Mina., a licito negocio, pr. minha conta e risco, e de quem mais pertencer, a entregar ao m<sup>uo</sup>. Snr. Capt. auz<sup>e</sup>. aq<sup>m</sup>. Suas vezes fizer. Asr.

Nos.	1 to 16	16	Caixas	1600 Pessas de Cambrainhas . . . . .	3600	5,760§	000
	17 .. 30	14	"	1400 Dittas de Madapollons . . . . .	3900	5,460§	000
	31 .. 40	10	"	900 Dittas de Chitas de ramaje . . . . .	4800	4,320§	000
	41 .. 60	20	"	2000 Dittas de Lenços encarnados . . . . .	2400	4,800§	000
	61 .. 70	10	Barricas	3000 Maços de Micangas sortidas . . . . .	600	1,800§	000
	71 .. 90	20	"	6000 Dittas de Dittas azuis . . . . .	"	3,600§	000
	91 .. 110	20	"	30§ Massos de Avellór . . . . .	100	3,000§	000
	111 .. 120	10	"	1600 Duzzas. de facas cabo-de pero . . . . .	700	1,120§	000
	120 .. 125	5	"	600 Traçados mouriscos . . . . .	600	160§	000
	126 .. 130	5	"	800 Duzzas. de facas cabo live . . . . .	600	480§	000
						30,700§	000
				Casco, Cust <sup>o</sup> e Fabrica . . . . .	"	10,560§	000
				R's . . . . .		41,260§	000

Bahia ut Supra.  
(Signed) ANTO. DE PADUA DA CA. PIMENTAL.

## Second Enclosure (C.) in No. 44.

## Schedule of Costs, Damages, and Expences, in the Case of the Brazilian Schooner "Vencedora."

Reis.		£	s.	d.	£	s.	d.
	Costs of Suit, allowed by Agreement between the Parties - - -	"	"	"	39	9	0
	<i>Special Damages and Expences occasioned to the Schooner by detention.</i>						
319§954	Claimed for Sundry Cabin Stores, consumed subsequent to Capture by the Officers and Crew of His Majesty's Ship "Eden." I allow the whole of the articles said to have been consumed by the Prize Officer and Prize Crew, and I estimate the value by the price of the articles here - - -	42	6	6			
	But the various Affidavits, proving that the Master and Boatswain of the "Vencedora" formed the Mess in conjunction with the Prize Officer, Mr. Scheerer, and that the Master, as well as his own Steward, controlled the supplies daily issued for the Cabin Table, I deduct one third for each of their proportions of what was said to have been consumed, making together two-thirds, or - - -	28	4	4			
576§000	Claimed for 120 arobas of Jerk Beef, totally damaged, at 4 § 800 per aroba. This charge is equal to 9d. per lb. and I consider it to be an exorbitant charge, and shewing the desire of the Claimant to impose upon the understanding of the Court. The Commissioners of Survey and Inspection having reported that the whole of the Jerk Beef was rotten from damage by salt water, and the quantity on board to be about 23 cwt.—I admit that quantity, being equal to 81½ arobas, which can always be procured in the Brazils at 6s. 8d. per aroba, and which sum I allow, making - - -	14	2	2			
		27	3	4			
300§000	Claimed for 200 alquières of Farinha, totally damaged. The Surveyors appointed by the Court having declared about that quantity to be on board, and on being questioned as to the state in which they found it, said, that it was totally damaged by salt water; I therefore admit the Claim for 200 alquières; but as the price, as in the preceding item of the Schedule, is exorbitant, I allow only 2s. 6d. per alquière, a price fully equal to its value -	25	0	0			
1,500§000	Claimed for 250 rolls of Tobacco, totally damaged, at 600 Reis each Roll. The Affidavit of Mr. Scheerer, the Prize-Officer, and also of William Corker, James Owen, and Joseph Davis, part of the Prize Crew, in regard to this item of the Schedule, being in direct contradiction to that of the Master, whose Claim						
	Carried forward. . £.	66	5	6	39	9	0

	£.	s.	d.	£.	s.	d.
	66	5	6	39	9	0
<p>Brought forward, . . .</p> <p>rests upon his unsupported Affidavit; — I required proof that the damage the Tobacco is said to have sustained was actually as asserted, and therefore, on the 13th Instant, requested Messrs. William Cole and Frederick Jarvis, Surveyors, to proceed on board the "Vencedora," to ascertain this fact, and whether the number claimed for was actually on board, with other points for my guidance in estimating the damages sustained.</p> <p>The annexed Affidavit of those Gentlemen, shows that they were obstructed in so doing by a person of the name of Fernandez, who said he was in charge of the Vessel.</p> <p>It might therefore be presumed, that the number was not as stated: and I must conclude that the Master's Affidavit is false, and that Messrs Cole and Jarvis could only have been prevented from viewing the state of the Tobacco, and ascertaining the number of Rolls on board, from fraudulent motives, and in order that the Court should not be acquainted with its actual injury; for I cannot imagine, that, if it were in the state the Master swears it is, he, or any other person on his behalf, would object to its being viewed for my guidance, in estimating the amount of damage it had sustained; and, in the absence of Evidence to disprove Mr. Scheerer's, and the Prize Crew's Depositions, that it is in the same state as when the "Vencedora" was detained, I cannot allow any part of this Charge.</p>						
<p>4,589\$000</p> <p>Claimed for Freight, outwards, on 1,000 rolls of Tobacco, at 2,000 Reis per roll; 27 pipes of Rum, at 44,800 do. per pipe; 60 cases dry Goods, at 16,000 do. per case; 70 casks do. at 6,000 do. per cask.</p> <p>The outward bound Cargo (with the exception of 250 rolls of Tobacco) having been landed, the Freight was earned, unless the same had been made by Charter Party, contingent on the return Voyage, and in a given time; and which, by the detention, would be lost; —but the Master, in his Examination, swears this was not the case, "no Charter Party having been made for the Voyage in which he was taken."—I therefore do not allow the Charge.</p> <p>But through the "Vencedora" having been detained while she was in the act of daily discharging her outward Cargo, she was prevented from delivering the 250 rolls of Tobacco now on board; and, from the Vessel being in an unseaworthy state, she cannot now deliver it.—I therefore allow 5s. per Roll, for Freight, from hence - - -</p>						
	62	10	0			
<p>6,000\$000</p> <p>Claimed for Freight of Cargo homeward, lost by the Capture of the Vessel (calculating the same in proportion to the value of the outward Freight).</p> <p>This is, in my opinion, a most improper method of submitting Claim for</p>						
Carried forward, . . . £.	128	15	6	39	9	0

10,560,000

Brought forward . .  
 the gross amount of Freight homewards, as it is impossible for the Registrar to ascertain its correctness; and, on that principle alone, I do not see how I can entertain such an unsupported Claim for so large a sum for Freight, for a Vessel of only 120 tons burthen, without the specification of the articles, and the rate per ton, she was actually to receive;—and notwithstanding this Schedule of Costs, Damages, &c. was returned to the Claimant's Proctor; for such specification, no particulars or proofs are attempted to be produced.

And the Court having, by its Decree in this Case, in not allowing Demurrage, by reason of the "Vencedora's" Slave-trade outfit, implied its opinion that her ultimate intention was to take from this Coast a Cargo of Slaves; and which opinion is corroborated by the pertinacity with which the Claimant refused to give any particulars, as to the articles of which such Freight would have been composed, or how estimated; together with the absence of any proof that she had, in the prosecution of her trade, purchased any Palm-oil, Ivory, &c., I do not allow the Charge.

Claimed for the prime Cost of Vessel, Tackle, Apparel and Furniture, as per Invoice, the same being rendered unseaworthy, and having sustained damage in consequence of the use and detention thereof, by His Majesty's Ship "Eden," subsequent to Capture. Deduct therefrom the value of the Vessel in her present state, and as she now remains at anchor in the Harbour of Sierra Leone.

The Master having in a former Schedule of his Costs, Damages, and Expenses, claimed for a total loss of his Vessel, which the Court had on the day of adjudication positively refused to entertain, the Vessel then being in existence and lying in the Harbour, ready to be delivered up to the Claimant, which was subsequently carried into effect by the Master's receiving her, I deemed it my duty to return the Schedule for revision, by expunging therefrom the sum of 10,560,000 Reis, therein claimed for a Total Loss. The sum charged is, however, pertinaciously adhered to; the only addition has been, the amount to be deducted for the value of the Vessel here, which is left blank, and I conceive is not the duty of the Registrar to fill in: and which the Claimant could so readily have inserted, had he not, for reasons which may readily be inferred, kept back the information, when it is known to have been proved, by the Affidavits of Messrs. Campbell and Parker, that she is actually under engagement to be sold for a much larger sum than, as appears by the Affidavit of Messrs. Cole and Parker, the Commissioners of Appraisement and Sale, and that of Mrs. Henriot, she was originally sold for here; and the

£.	s.	d.	£.	s.	d.	
128	15	6	39	9	0	
Carried forward . . £.	128	15	6	39	9	0

	£.	s.	d.	£.	s.	d.
Brought forward - -	128	15	6	39	9	0
Surveyors having reported that she appears to be in a very defective state, and must have been so in their opinion for the last 12 Months (which includes more than the length of period when she was sold in this Colony,) and that they do not perceive any material injury she has sustained lately, only from the Rigging not being properly set up; and that her present leaky condition arises from old age, decay and rottenness; which Evidence fully negatives the extravagant demand of the Claimant for her value; it must, therefore, be evident that she never could, since the present Owners took possession of her, have had such repairs, as would amount to the enormous sum charged, (fully equivalent to the purchase of a new Vessel of her class and description,) nor is there the least authority for presuming otherwise; for even the Master, although he swears the charge is true and just, does not produce any corroborative Evidence in support of it; that which he relies on, being a quotation from the Invoice, is any thing but the Invoice Charge for the Schooner, viz. :— Casco Custo, e Fabrico, 10,560,000; and I, therefore, do not allow this Charge. But I allow for such Special Damages as she has actually sustained, and I estimate that damage according to the information I have received from the Surveyors, and from the evidence already before the Court as follows :— A part of a Bass Cable cut - - Anchor lost with same, about 5 cwt. at 4 Guineas per cwt., less one third for use - - - Hemp Cable, half-worn, damaged by laying in salt water in the Hold, as per Affidavit of the Surveyors - - Amount which would be required to put her in the same state as when detained, according to the Surveyors' Affidavit of 13th Instant - - - I allow for the period of 5 days the Schooner has been employed by His Majesty's Ship "Eden," in landing guns, as appears by Affidavits of John Scheerer and William Corker, at £6 per day - - - - - Claimed for 5 per Cent allowance on Capital employed in purchase of Cargo As the 8th Article of the Regulations only contemplates this charge for the sum employed in the purchase and maintenance of a Cargo of Slaves, I do not allow the Charge - - -						
	10	10	0			
	14	0	0			
	35	0	0			
	30	0	0			
	30	0	0			
				248	5	6
Amounting to the sum of - -			£	287	14	6

(Signed)

S. M. MAGNUS, Acting Registrar.



## Third Inclosure (A.) in No. 44.

*Affidavit of the Master of the Brazilian Schooner "Vencedora."*

APPEARED personally, Joao Maria Evangelista, Master of the said Schooner, who, being duly sworn, saith, the annexed is a true and faithful Account of Damages sustained by reason of the Seizure and Detention of the said Vessel, and that the same are all and severally charged at a fair and reasonable rate; and this Deponent further saith, that the whole of the provisions and articles of food therein enumerated, were actually consumed by the Officers and Crew of His Majesty's Ship of War "Eden," and His Majesty's Steam Vessel "African," subsequent to the Detention of the said Schooner; and this Deponent further saith, that the charges for Freight are such as are usually paid and received at Bahia, in the Brazils; and this Deponent further saith, that all and singular the Damages sustained and Charges contained and enumerated in the annexed Claim, are and is, in every respect and particular, just and true; and this Deponent further saith, that the said Vessel was taken, subsequent to Capture, to Fernando Po, where she was detained for 18 days, and was employed by the Captors in landing heavy guns, and in other services; and this Deponent further saith, that on getting the said Schooner under weigh, on her departure from Fernando Po, for this Port of Sierra Leone, the said Vessel was got on a reef of rocks, where she remained a considerable time; and this Deponent saith, that, at the time of the Capture and Detention of the said Schooner, to wit, on the 24th day of October last past, she only made 5 inches of water per hour, and no more; that in consequence of her having been employed at Fernando Po, in landing guns, as aforesaid, the said leak increased considerably; that, subsequent to the Vessel getting off the reef of rocks beforementioned, it was discovered the Schooner made 30 inches of water per hour, and that, during the whole of the Passage to this Port from Fernando Po, the pumps were constantly employed; and this Deponent lastly saith, that, in consequence thereof, the said Vessel hath now become totally unseaworthy, and unserviceable.

(Signed) JOAO MARIA EVANGELISTA.

On the 8th day of February 1828, the said Joao Maria Evangelista was duly sworn to the truth of this Affidavit, before me,  
(Signed) S. M. MAGNUS, Acting Registrar.

## Third Enclosure (B.) in No. 44.

*Claim of the Master of the Brazilian Schooner "Vencedora."*

THE Claim of Joao Maria Evangelista, on behalf of Joao Antonio Monteiro, Antonio de Padua d'Acunha Pimentel, Manoel Antonio d'Acrúz, and Manoel Joaquim Alvez, the sole Owners and Proprietors of the said Vessel and Cargo, for Costs, Damages and Expences in the said Case, pursuant to a Decree of Restitution of the said Vessel, dated the 26th of January 1828.

<i>For Costs of Articles as hereunder are enumerated, the same being consumed, subsequent to Capture, by the Officers and Crew of His Majesty's Ship of War "Eden."</i>			
1 barrel of Port Wine, containing 140 bottles, say 11 dozen and two-thirds	at 3,600 Reis per dozen	- -	42,000
10 lbs. of Chocolate,	at 800 do. per lb.	- - -	8,000
16 lbs of Butter,	at 400 do. do.	- - -	6,400
10 cases of Sweetmeats,	at 400 do. per case	- - -	4,000
64 lbs. of Sugar	at 4,000 do. per aroba of 25lbs.	- - -	10,240
2 casks of Biscuit,	at 5,600 do. each	- - -	11,200
32 lbs of Coffee,	at 4,800 do. per aroba	- - -	6,144
3 lbs of Tea,	at 1,600 do. per lb.	- - -	4,800
24 bottles of Ale,	at 2,400 do. per dozen	- - -	4,800
10 jars of Gin,	at 400 do. each	- - -	4,000
90 Fowls	- - - - -	- - -	7,200
1 Hog	- - - - -	- - -	7,200
3 large bags of Rice	- - - - -	- - -	19,200
6 Goats, at 2,400 Reis, each	- - - - -	- - -	14,400
96 lbs. of Bacon (given to the Kroomen)	- - - - -	- - -	9,600
200 Yams	- - - - -	- - -	12,000
1 barrel of Flour	- - - - -	- - -	11,200
32 lbs. of Sausages	- - - - -	- - -	12,800
1 case of Raisins	- - - - -	- - -	2,400
32 lbs. of Macaroni	- - - - -	- - -	10,120
8 lbs. of Barley	- - - - -	- - -	3,200
6 jars of Lisbon Brandy	- - - - -	- - -	4,800
120 arobas of Jerk Beef, totally damaged, at 3,200 Reis per aroba	- - - - -	- - -	384,000
		Carried forward	558,904
			40,800

Brought forward	- - - - -	558,904	40,800
200 alquieres Farinha, totally damaged, at 1,000 Reis per alquiere	- - - - -	200,000	
8 Canadas Castor Oil, consumed for the Binnacle	- - - - -	12,800	
1 pipe of Rum, consumed by the Crew of His Majesty's Ship "Eden"	- - - - -	96,000	
16 lbs Tallow Candles	- - - - -	3,200	
250 rolls of Tobacco, totally damaged, at 4,000 Reis each	- - - - -	1,000,000	
		<u>1,870,904</u>	
50 per Cent. advance	- - - - -	935,452	
		<u>2,806,356</u>	
<i>For Freight of Cargo Outwards, as follows:—</i>			
1000 rolls of Tobacco at 2,000 Reis each	- - - - -		2,000,000
27 pipes of Rum " 44,800 " " "	- - - - -		1 209,600
60 cases of dry Goods " 16,000 " " "	- - - - -		960,000
70 casks of ditto " 6,000 " " "	- - - - -		420,000
For Freight of Cargo homewards, lost by the Capture of the said Vessel (calculating the same in proportion to the value of the outward freight)	- - - - -		6,000,000
For the prime cost of Vessel, Tackle, Apparel and Furniture, as per Invoice, the same being rendered unseaworthy, and having sustained damage in consequence of the use and detention thereof by His Majesty's Ship "Eden," subsequent to Capture	- - - - -	10,560,000	
Deduct therefrom the value of the said Vessel in her present state, and as she now remains at anchor in this Harbour of Sierra Leone	- - - - -		
5 per Cent. allowance on Capital employed in purchase of Cargo, valued as per Invoice	- - - - -		1,829,500
For Costs in making Claim and Suit	- - - - -		

(Signed) JOAO MARIA EVANGELISTA.

## Third Enclosure (C.) in No. 44.

*Affidavit of Seamen belonging to the Brazilian Schooner "Vencedora."*

PERSONALLY appeared, Manoel Francisco de Silva, Boatswain of the said Schooner "El Vencedora," Joaquim Joze, Steward of the same, and Joze Francisco, a Seaman on board thereof, who, being severally and respectively sworn on the Holy Evangelists of Almighty God, make oath and say as follows,—and first, these Deponents of their own knowledge say, that at the time of the Seizure and Detention of the said Vessel by His Majesty's Steam Vessel "African," to wit, on the 24th day of October last past, the said Schooner "El Vencedora," only made 5 inches of water; and these Deponents further say, that the said Vessel was carried to Fernando Po, where she remained for 18 days; that the said Vessel was then and there employed in landing heavy guns from His Majesty's Ship-of-War "Eden," in the following manner, to wit,—the said Schooner was moored fore and aft, her stern fastened on Shore, and an anchor a-head tight to keep her steady—the guys of the sheers, by which the guns were landed, were made fast on board the said Schooner, which caused a heavy strain on the hull of the Vessel; and these Deponents further say, that at the time the said Schooner was got under weigh, upon taking her departure from Fernando Po to this Port, she was got on a reef of rocks, where she remained nearly half an hour; and these Deponents all say, that on getting off the said reef of rocks, the said Vessel made a considerable quantity of water, which thenceforward daily increased; and these Deponents further say, they verily believe that the said Schooner sustained much damage thereby.—And this Deponent, Joaquim Joze, for himself saith, he was Steward on board the said Vessel, and that at the time of the Capture thereof, the provisions, wines and other Cabin stores, enumerated and described in the Claim made for the said Vessel and Cargo, for Costs, Damages and Expences, which this Deponent, hath seen and heard read, were all actually on board the said Vessel, and that the same were all consumed by the Officers and Crew of His Majesty's Ship-of-War "Eden," and His Majesty's Steam Vessel "African;" and this Deponent further saith, that he was accustomed to serve out the said stores, provisions and wines daily, and that not less than 2 bottles, and frequently more, of the said wine, were delivered out by this Deponent for the use of the persons who messed on board the "El Vencedora;" and this Deponent further saith, that Mr. Scheerer frequently carried away chocolate and sweetmeats to His Majesty's Steam-vessel "African." And the Deponent, Manoel Francisco de Silva, of his own knowledge saith, that 1,000 rolls of tobacco were originally laden on board the said Vessel at Bahia, and that the number on board the same at the time of Capture was upwards of 250.

(Signed) MANOEL FRANCISCO DE SILVA.

His  
JOAQUIM X JOZE.  
Mark.

His  
JOZE X FRANCISCO.  
Mark.

On the 8th day of February 1828, the said Manoel Francisco de Silva, Joaquim Joze, and Joze Francisco, were each and severally duly sworn to the truth of this Affidavit.

Before me, (Signed) S. M. MAGNUS, Actg. Registrar.

## Fourth Enclosure (1.) in No. 44.

*Report of Commissioners of Survey and Inspection, in the Case of the Brazilian Schooner "Vencedora."*

To the Honourable Joseph Reffell, Judge, and William Smith, Esquire, Arbitrator, acting in the absence of the Portuguese Judge and Arbitrator.

IN pursuance of a Commission of Survey directed to us, We, on the 29th of January 1828, proceeded on board the Schooner, called "*Vencedora*," of the burthen of 120 tons, or thereabouts, lying at anchor in the Harbour of Freetown, and do now report as follows:—

That she is an American-built Vessel, and appears to us to be at least 15 Years old; that she has been but slightly fastened, all of which fastenings are iron, and very rusty and decayed.

The outside plank is a mixture of Brazil wood and Cedar, the timbers are all Oak, the ceiling Fir, throughout, wanting planks in several places.

The beams are also of Fir. We discovered a butt started on the starboard side, abaft the fore-channels under the copper, which we consider to be the principal leak, making about 18 inches per hour.

The Bow-frame of the Vessel is started above the upper breast hook, which appears to us to be occasioned from the neglect of the rigging not having been properly set up.

All the recent repairs we can discover are a new rudder, and on the starboard side 14 feet of covering board, 12 stanchions, a rough tree-rail on the larboard side, 5 stanchions, 8 boards in the bulwark, about fifty superficial feet.

That she is coppered, but the same appears very old:—her hull is in a very rotten bad state, and, in our opinion, cannot be sufficiently repaired in this Port to render her seaworthy.

We found about 5 coils of rope, rove as running rigging on the outfit of this Voyage, weighing about 500 cwt., she has 1 new topmast; new sails, viz., 1 mainsail, 1 fore-topsail, 1 jib, 1 fore-topgallant sail, 2 topmast studding sails, 2 awnings.

We found a bower cable, about half worn, in the fore-hold, evidently damaged from the late leakage.

We further report, that the said Vessel appears to us to be in a very defective state, and must, in our opinion, have been so for the last 12 Months past, and we do not perceive any material injury she has sustained lately, only from the rigging not being properly set up.

All of which we are ready to affirm to upon oath, if so required, which is humbly submitted by  
(Signed) WM. COLE, Surveyor to the Courts of Mixed Commission.  
FREDK. JARVIS, Master of the Schooner "*Dianna*."  
JAMES STEWART, Master of the Brig "*Dalmarnock*."

## Fourth Enclosure (2.) in No. 44.

*Affidavits of the Master's Assistant and others, of His Majesty's Ship "Eden," in the Case of the Brazilian Schooner "Vencedora."*

APPEARED personally, John Scheerer, Master's Assistant of His Majesty's Ship of War "*Eden*," W. F. W. Owen, Esquire, Commander, who, being duly sworn, makes oath and says, that on the detention of the said Schooner "*Vencedora*," by Lieutenant Badgley, this Deponent was put on board as Prize Officer of the said Schooner, and continued as such until she arrived at Fernando Po, and also from Fernando Po unto Sierra Leone. That, at the request of the said Master, Joao Maria Evangelista, this Deponent messed with the said Master and the Boatswain, Manoel Francisco de Silva, and did partake in common with them of the provisions and wine brought to the table of the said Master. That, during the Passage to Fernando Po, this Deponent requested of the said Master, that he would allow the Prize Crew, under the command of this Deponent, to receive from his stores a certain quantity of rum; and the said Master did, for the space of 8 days, deliver daily about 1 quart of rum or spirits, for the use of the whole of the said Prize Crew. And that this Deponent never did receive, take, or cause to be taken, any further quantity of rum or spirits than the said 8 quarts, during the whole period he remained in charge of the said Schooner. That, at the time the said Schooner was taken possession of, she was found to make from 10 to 12 inches of water each hour, and continued so to do until arrived at Fernando Po. That while lying there, there was a line passed from a purchase fixed on Shore, for the purpose of steadying the same, but that no weight or strain of any kind, beyond that of raising the sheers, after they had been slackened to admit certain guns being lowered therefrom; and that 3 men were employed so to do. That, in getting under weigh, the said Schooner, at Fernando Po, touched the ground with her fore foot, and remained aground nearly 10 minutes; that there was a perfect calm at the time, and not the least swell of the Sea; and that the moment a line could be brought on board, which was fastened to a tree on the opposite side of the Bay in which the said Schooner then was, she was hauled off without any difficulty; and that this Deponent, on examination, found she did not make any more water than she had done upon her first arrival at Fernando Po. And that from the said Place, until the said Schooner arrived nearly in the Latitude of Sierra Leone, she did not make more water; but that, on arriving off Sierra Leone, the said Schooner experienced severe weather and Harmattan winds, and laboured much in the rolling sea that took place on the Harmattans dying away, and then began to make about 24 inches of water each hour. That Deponent verily believes the said increase of leakage was solely occasioned by the old and rotten state of the Vessel, and the opening of her seams by the

dryness of the said winds, and her labouring as aforesaid. And Deponent further says, that the roll tobacco on board the said Schooner, was, at the time of his leaving the said Vessel, on the promulgation of the Decree of Restoration pronounced by the Court of Mixed Commission in favour of the said Vessel, in the same state and quantity as when the said Vessel was first detained. That the said tobacco was once moved for the purpose of trimming the said Vessel, but again put back to its former place; and was at all times kept from being wet by water, by being placed on the water casks stowed in the said Vessel; that the farinha was also, when Deponent quitted the Vessel as aforesaid, as far as he could perceive, in the same state it had been at time of Seizure, it being placed within a caulked bulk head, and was stirred up and examined by the Commissioners who first surveyed the said Vessel in search of irons, and was then found uninjured; that the jerk beef became damaged by the water getting to it; but, in the opinion of this Deponent, who had various opportunities of examining the same, did not exceed in weight 600 pounds. That there was a cask of port wine, which Deponent believes did not contain 20 gallons, from time to time drawn off and brought for use at the Mess-table of the said Master; that Deponent not liking the said wine, afterwards refrained to use the same, and is sure, during the whole time of his remaining on board, that he never consumed equal to 12 bottles; and that he only drank chocolate about a dozen times, but received a present from the said Master of 4 cakes of chocolate and 2 small boxes of sweetmeats, which Deponent took with him on board the Steamer "African;" that he never had any butter while on board the said Vessel; that he believes, with the 2 cases this Deponent before alluded to, that there were 10 cases of sweetmeats made use of. That Deponent messed on board the said Schooner 80 days, and had sugar to tea and coffee mostly twice each day; and therefore he is sure that he did not consume above 5 pounds of sugar during the whole time he was on board. That there were 2 casks of biscuits consumed, also 3 pounds of tea, and 24 bottles of ale, but only 2 jars of gin were used by this Deponent. That 1 fowl was killed by order of the said Master, for use, before making Fernando Po; and that while at that Place, Deponent saw several fowls purchased by the said Master for a few iron hoops; but that there never were more than 50 fowls on board, during the Passage from Fernando Po to Sierra Leone, some of which fowls were left on board when this Deponent quitted possession of the said Schooner. That Deponent knows that 1 pig, about 1 bag and a half of rice, and 4 goats, were also made use of in common; the said goats having been purchased at Fernando Po, with iron hoop. That Deponent never did order, or is he aware that any pork was issued to any Kroomen on board the said Schooner, under the command of this Deponent. That the whole of the Prize Crew, including Deponent, were rationed at full Navy allowance for 42 days, and had about 1,000 yams on board, for their use; and that, therefore, this Deponent cannot believe, and does not believe, that any yams were used by this Deponent, or his men, belonging to the said Master. That Deponent never had flour for his use, in any way, while on board the said Schooner. That he believes, about 16 pounds of maccaroni, 8 pounds of barley, and 2 jars of brandy, were used in common in the mess. That, for 18 days, while at Fernando Po, this Deponent never messed in the said Vessel, but on board the Steamer "African;" but that during that time the Master continued on board, and messed there. That Deponent believes, about 3 gallons of oil, belonging to the said Schooner, was consumed in her binnacle; oil was also supplied from the "Eden," and some was made by the Prize Crew, on their Passage, from a shark. That no sails, ropes, or rigging, belonging to the said Schooner, were ever cut up, destroyed, or made away with; but that she being found deficient in rope, about 40 fathoms were brought from the "Eden," for the use of the said Schooner. That during the whole time this Deponent was on board, both before arriving at Fernando Po, and after leaving that Place, the Master had always the full and entire controul over the expenditure of the stores and provisions of the said Schooner.

(Signed) JOHN SCHEERER.

On the 11th day of February 1828, the said John Scheerer was duly sworn to the truth of this Affidavit,

Before me, (Signed) S. M. MAGNUS, Acting Registrar.

And the said John Scheerer further makes oath, that Manoel Francisco de Silva, the Boatswain of the said Schooner, on her arrival at Fernando Po, and 2 days after the same, was removed from the said Schooner to His Majesty's Ship "Eden," where he remained, and never came again on board the said Schooner until the day before the said Schooner left the said Island. And that by reason of the said Ship of War "Eden" lying on a different side of the said Island than that on which the said Schooner lay, and about a quarter of a mile distant, nothing which took place on board the Schooner could be seen from the "Eden," as only the masts of that Vessel were in sight from the Schooner.

(Signed) JOHN SCHEERER.

On the 11th day of February 1828, the said John Scheerer was duly sworn to the truth of the above Affidavit,

Before me, (Signed) S. M. MAGNUS, Acting Registrar.

PERSONALLY appeared, William Corker, James Owen, and Joseph Davies, who, being duly sworn, severally maketh oath and say, that Deponents, William Corker, and Joseph Davies, are Seamen, and Deponent, James Owen, a Petty Officer of His Majesty's Ship of War "Eden," and were all employed as part of the Prize Crew put on board the said Schooner under the command of Mr. Scheerer. That the Deponent, William Corker, joined the said Schooner when she was first taken possession of off Whydah; that at the time the said Schooner was so detained, she was found to make nearly 12 inches of water each hour, and continued to do so until her arrival at Fernando Po, and while she lay there. That this Deponent, James Owen, went on board the said Schooner 3 or 4 days previous to her leaving Fernando Po for Sierra Leone: that in getting under weigh from the said Island, the wind died away, and it fell a dead calm, when the said Schooner

drifted and grounded on her fore foot, that she only remained so until a boat went for a line which was fastened to a tree on Shore, when she was immediately and without any difficulty hauled into deep water; that about 10 minutes or a quarter of an hour was the full extent of time the said Schooner was so aground. That on the day after leaving Fernando Po, this Deponent, William Corker, personally sounded the well, and then found that the said Schooner still continued to make about 12 inches each hour, and these Deponents, William Corker and James Owen, severally make oath, that the said Schooner continued to make the same quantity of water until about 14 days before she arrived at Sierra Leone, when she encountered strong Harmattan winds, which on dying away, caused a rolling sea; that they severally believe, that the dryness of the said winds and the labouring of the Vessel occasioned by the swell, caused the said Schooner to increase her leak and she then made nearly 24 inches each hour. And these Deponents do further say, that they have examined the state of the said Vessel, and do believe that she is very old and decayed, and that otherwise the said winds and sea would not have any such effect upon her. And this Deponent, William Corker, further says, that the roll tobacco on board the said Schooner was, on the day that the said Vessel was detained, in the same state to all appearance as it was when the said Vessel was given up; and these Deponents do severally further say, that they could not perceive that the said tobacco was in any manner injured, all of it being perfectly dry and placed out of the reach of the leak on the water-casks; and to the best of their knowledge and belief, not a single roll, or part of a roll, has ever been taken and removed from the said Vessel while any of these Deponents were on board thereof, or that the said Vessel was in charge of the Captors. And that, in like manner, the farinha on board the said Vessel was left in the same state that it was found when they respectively joined the said Vessel; that all the jerk beef in the after run of the said Vessel was damaged by the leaking of the said Vessel, and in the opinion of these Deponents was as much as could be produced from 3 bullocks of ordinary size, but that some jerk beef in the hold was not damaged, and was left on board when Deponents quitted the Vessel, and in their opinions equal to what could be produced from one ordinary sized bullock; and this Deponent, William Corker, was on board the said Schooner while at Fernando Po, when a line was made fast to the said Schooner, which was done for the purpose of keeping in an upright position the sheers which were fixed on Shore, and employed to raise some guns to their proper places, and that no strain or weight of any consequence, so as to affect the state of the said Vessel, could possibly be thereby made on the said Vessel. And the Deponent, Joseph Davis, was present when the said Schooner was delivered up to the Master, and had been on board 11 days previous thereto, and he did not perceive, although he often had occasion to have full opportunity for so doing, and was daily below, any damage that the roll tobacco or farinha had sustained. And these Deponents, William Corker and James Owen, make oath and further say, that they were rationed from His Majesty's Ship "Eden," and did never make use, nor did they receive any part, of the stores or provisions which were fixed on the said Schooner, for their subsistence from Fernando Po to Sierra Leone, nor while lying in the Harbour of Sierra Leone before restoration; and the Deponent, William Corker, further makes oath, that for several days after the Capture of the said Schooner, and until her arrival at Fernando Po, the Master of the said Schooner, at the request of Mr. Scheerer, did issue from the rum belonging to the Vessel, about a quart each day, for the general use of the Prize Crew; and the Deponent, William Corker, further says, that the Boatswain, Manoel Francisco de Silva, was on the second day of the arrival of the said Schooner at Fernando Po, taken therefrom and put on board His Majesty's Ship "Eden," where he remained until the day before the said Schooner left Fernando Po for Sierra Leone; and that no person could see what passed on board the said Schooner from the deck of the "Eden," as only the masts of the "Eden," were visible from the Schooner, the said Ship of War "Eden," being on the other side of the Island of Fernando Po; and this Deponent further says, that no pork was ever given to any Kroomen belonging to the "Eden," for their subsistence, while this Deponent was on board the said Schooner, that is from the time of Capture until she was restored.

(Signed)

His  
WILLIAM X CORKER.  
Mark.

His  
JAMES X OWEN.  
Mark.

His  
JOSEPH X DAVIS.  
Mark.

On the 11th day of February 1828, the said William Corker, James Owen, and Joseph Davis, were severally sworn to the truth of this Affidavit as respectively concerned.

Be ore me,

(Signed)

S. M. MAGNUS, Acting Registrar.

## Fourth Enclosure (3.) in No. 44.

*Affidavit of the Prize Officer of the Brazilian Schooner "Vencedora."*

PERSONALLY appeared, John Scheerer, Master's Assistant of His Majesty's Ship of War "Eden," W. F. W. Owen, Esquire, Commander, who, being duly sworn, makes oath and says, that he was put on board the said Vessel as Prize Officer on behalf of the said Ship of War, and had charge of the said Vessel until the day of her restoration by the Sentence of the Court of Mixed Commission. That on the 26th day of January last, the day of pronouncing the said Sentence, this Deponent having heard the same pronounced, immediately repaired on board the said Vessel, and upon arriving on board, found the Boatswain and Steward of the said Vessel on board, and soon after the Master also came on board, upon which this Deponent informed the said Master, that the "Vencedora" was now belonging to him the Master, and that this Deponent and his men would instantly leave her. That the said Master replied, he would not have the said Vessel, and that he would suffer her to sink. That a little while before this Deponent left the said Vessel with his baggage, the said Master asked this Deponent to leave some of the men under the command of this Deponent on board, to pump the said Vessel, which this Deponent refused to do, as having no further business with the said Vessel, and Deponent quitted the said Vessel, leaving the Master, Boatswain, and Steward, on board. And Deponent further says, that before leaving the said Vessel, he caused her to be pumped out. And Deponent further says, that after he had repaired on board His Majesty's Schooner "Horatio," he noticed that the Boat of the said Schooner was removed to the Brigantine "Voador," and this Deponent could not see any person on board the said Schooner. That on the following morning, Deponent saw a number of men go from the Brigantine with the Boatswain, who on their arrival on board commenced pumping the said Schooner, and Deponent took notice that it took the said men more than 4 hours continual pumping, with both pumps, before they got the said Schooner clear of water. And Deponent is of opinion, that from his leaving the said Schooner on the 26th Instant, and until the following day, at 7 in the Morning, that no one was employed to pump the said Vessel, inasmuch as this Deponent saw, in the Morning aforesaid, that the said Schooner had sunk nearly 1½ foot down in the water, and required such a length of time to clear her of water.

(Signed) JOHN SCHEERER.

On the 12th day of February 1828, the said John Scheerer was

duly sworn to the truth of this Affidavit,

Before me,

(Signed)

S. M. MAGNUS, Acting Registrar.

## Fourth Enclosure (4.) in No. 44.

*Affidavit of Adalie Henriot, Wife of the Captain of the Brazilian Schooner "Vencedora."*

PERSONALLY appeared, Adalie Henriot, who, being duly sworn, makes oath and says, that some time in the Month of March, in the Year 1827, her husband, now absent from this Colony, did purchase at Publick Vendue, the Schooner "Eclipse," and which she is informed, and does believe, is the same Vessel now lying in this Harbour, and called the "Vencedora." That the sum of £95 was paid by her Husband, Nicolas Ambrose Henriot, for the said Vessel, and she was by him delivered over to certain Portuguese Masters and Mates then in this Colony, belonging to sundry Prize Vessels, and they among themselves raised the said amount, and that after purchase by her Husband as aforesaid, the said Portuguese Masters and Mates said that the Vessel was in such a bad condition, and so old, that she was not worth the money which her Husband had bought her at, and although his bidding was at their instance and request, yet when they had seen the said Vessel, they seemed unwilling to receive and pay for the said Vessel, but that afterwards they did so. And this Deponent is sure that no profit was made by the said Nicolas Ambrose Henriot on his said purchase, but that the said Portuguese only paid the amount bid for the said Vessel at Auction.

(Signed) A. HENRIOT.

On the 12th day of February 1828, the said Adalie Henriot was

duly sworn to the truth of this Affidavit,

Before me

(Signed)

S. M. MAGNUS, Acting Registrar.

## Fourth Enclosure (5.) in No. 44.

*Affidavit of the Commissioners of Appraisement and Sale, in the Case of the Brazilian Schooner "Vencedora."*

PERSONALLY appeared, William Cole and Thomas Harrison Parker, who being duly sworn, make oath, and say, that they do firmly believe that the Vessel now in the Harbour,

and called the "*Vencedora*," is the same Vessel which these Deponents, as Commissioners of Sale to the Court of Mixed Commission, sold in the Month of March 1827, to Nicolas Ambrose Henriot, a Resident of this Colony, for the sum of £95.

(Signed) WM. COLE,  
THOS. H. PARKER,

Commissioners of Appraisalment and Sale.

On the 13th day of February 1828, the said Deponents were  
duly sworn to the truth of this Affidavit,

Before me, (Signed) S. M. MAGNUS, Acting Registrar.

Fourth Enclosure (6.) in No. 44.

*Report of Surveyors, respecting the Condition of the Brazilian Schooner  
"Vencedora."*

PERSONALLY appeared, William Cole and Frederick Jarvis, who, being respectively duly sworn, make oath and say, that they had duly examined, as far as in their power, the state of the hull of the said Schooner, on their repairing on board the same, some time back, by direction of the Court; and proceeded this day, at the request of the Registrar, to further examine the said Vessel, and to say, in their opinion, what it would cost to put the said Vessel in the state she was in at the time of Capture; and they do think £30 would be fully adequate thereto, although that, from not being permitted to go on board the said Vessel by the Person in charge thereof, these Deponents found this their opinion solely from their former survey; and this day, viewing the outside of the said Vessel, that these Deponents do consider that the leak abaft the starboard fore-channels was occasioned by the rottenness of the plank, whereby the nails were not able to hold the butt-ends to their proper places; and that they do not consider that the same would have taken place from the grounding of the said Schooner. And Deponents further say, that they found, damaged, in the hold of the said Vessel, a hemp cable, about 90 fathoms in length, by which a loss has arisen to the Owner, in their opinion, of £35., and that the said damage took place, in their opinion, solely by being left in the salt water, which leaked into the Vessel. And Deponents further say and make oath, as their opinion, that the said Vessel is unseaworthy, from her old age, and from not having had, from time to time, such repair, care, and attention, as was requisite.

That these Deponents are unable to say any thing respecting the damages (if any) done to the roll tobacco on board the said Vessel, by reason that they were prevented from proceeding on board this day, by the person in charge or care thereof, Mr. Fernandez.

(Signed) WM. COLE, Surveyor to the Court of Mixed Commission.  
FRED. JARVIS, Master of the Schooner "*Dianna*."

On the 13th day of February 1828, the said William Cole and  
Frederick Jarvis were duly sworn to the truth of this Affidavit,

Before me, (Signed) S. M. MAGNUS, Acting Registrar.

Fourth Enclosure (7.) in No. 44.

*Affidavit of Messrs. Parker and Campbell, in the Case of the Brazilian  
Schooner "Vencedora."*

PERSONALLY appeared, Thomas Harrison Parker and Benjamin Campbell, who, being respectively duly sworn, severally maketh oath and say, that the Deponent, Thomas Harrison Parker, some few days ago, and since the restoration of the said Schooner "*Vencedora*" by the Decree of the Court of Mixed Commission, had a conversation with Walter Atkin, Merchant, of this Colony; and the said Walter Atkin informed this Deponent, that he had sold the Brig of him the said Walter Atkin unto Mr. Fernandez, for the sum of £1100, whereof £900. was to be paid him, the said Walter Atkin, in cash, and that he, the said Walter Atkin, was to receive the said Schooner "*Vencedora*," she being valued at £200, for the remainder. And further, the said Walter Atkin informed this Deponent, that he had again sold the said Schooner "*Vencedora*" unto a Person by the name of Coutes, for the sum she had been valued at to him. And this Deponent afterwards learnt, that the said Coutes was obliged to relinquish his bargain solely on account of not being able to procure Papers. And the Deponent, Benjamin Campbell, makes oath and says, that, since the restoration of the aforesaid Schooner "*Vencedora*," this Deponent saw Walter Atkin at the Office of Kenneth Macaulay, Esquire, when the said Walter Atkin informed this Deponent that he had just sold his Brig to Fernandez for £1100, but that he had agreed to take the Schooner "*Vencedora*" for £200, as part payment; and that a day or two after so meeting with the said Walter Atkin, he, the said Walter Atkin, called upon this Deponent, at the house of Deponent, and asked Deponent to purchase the masts of the Schooner "*Vencedora*," as he, the said Walter Atkin, had been informed the masts of the Tender "*Horatio*" were defective, which offer this Deponent declined.

(Signed) THO. H. PARKER,  
BN. CAMPBELL.

On the 14th day of February 1828, the said Thomas Harrison  
Parker and Benjamin Campbell were severally sworn to the  
truth of this Affidavit, as respectively concerned,

Before me, (Signed) S. M. MAGNUS, Acting Registrar.

## Fourth Enclosure (8.) in No. 44.

*Affidavit of the Master's Assistant, and a Seaman of His Majesty's Ship "Eden," in the Case of the Brazilian Schooner "Vencedora."*

PERSONALLY appeared, John Scheerer, Master's Assistant of His Majesty's Ship of War "Eden," W. F. W. Owen, Esquire, Commander, and William Corker, Seaman, also of the said Ship, who, being severally duly sworn, make oath and say, that they were present on board the said Schooner "Vencedora," the whole of the time, 18 days, the said Schooner lay at anchor at Fernando Po, the Deponent, John Scheerer, being in charge thereof, and these Deponents do severally make oath, that the whole of the period any guns were landing from the "Diadem" Transport, or any other Vessel, was 5 days, and that only 8 guns were landed, and that the work of landing the said guns could only be performed for about 3 or 4 hours each day, inasmuch as the Boat, in which the said guns were embarked, could not, beyond that period each day, approach sufficiently near to the purchase so as to be removed therefrom; that no Person belonging to the said Schooner was called upon to lend any assistance in the said landing; and these Deponents further say, that there was a line made fast from the sheers to the said Vessel, and which line was only made use of 3 or 4 hours, each of the 5 several days the said sheers were employed on Shore, disembarking the said guns; being so made use of to keep the said sheers steady and upright, and to permit the raising of the sheers after they had been lowered about 4 feet, which lowering was to enable the said guns to be put into their proper places; and that 3 men were always sufficient to raise the said sheers.

(Signed)

JOHN SCHEERER.

His  
WILLIAM X CORKER.  
Mark.

On the 15th day of February 1828, the said John Scheerer and William Corker were severally sworn to the truth of this Affidavit, as far as they were respectively concerned,  
Before me, (Signed) S. M. MAGNUS, Acting Registrar.

## No. 45.

*His Majesty's Commissioners to The Earl of Dudley.—(Received July 19.)*

MY LORD,

Sierra Leone, May 27, 1828.

WE have the honour to enclose, for your Lordship's information, the Report of the Case of the *Brazilian* Schooner "Esperanza," Joze da Silva Rios, Master, captured by His Majesty's Ship "Sybille," Commodore Francis Augustus Collier, C. B., off Lagos, situated deep in the Bight of Benin, and so well known as the principal Slave Emporium on the Western Coast of Africa.

The "Esperanza" was furnished with a Royal Passport, No. 6, conformable to the Treaty, dated Bahia, March 28, 1828, authorizing her to proceed to Cabinda, and take on board 422 Slaves, with the usual prohibitory Clause, that she was under an obligation to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire.

The Defence set up in this Case was, that the Vessel had not touched, or anchored, at any Port or Place during the present Voyage, nor had, since her departure from Bahia, seen Land prior to Capture, but that she was pursuing her direct route to Cabinda, and that her course was at all times, when the weather permitted, directed to her destined Port.

The Evidence filed in this Case, being entirely at variance with this Defence, Sentence of Condemnation was passed upon her on the 26th Instant.

We beg your Lordship's reference to the Report, which contains the particulars under which we felt it our duty to condemn her, and have the honour, &c.

(Signed)

D. DENHAM.  
WM. SMITH.

*The Right Hon. The Earl of Dudley*  
&c. &c. &c.



Enclosure in No. 45.

*Report of the Case of the Brazilian Schooner "Esperanza," Joze da Silva Rios, Master.*

ON the 10th day of May, the *Brazilian Schooner "Esperanza,"* whereof Joze da Silva Rios, was Master, and owned by Joze Alves de Cruz Rios, of Bahia, arrived in the Harbour of Sierra Leone, having been detained by His Majesty's Ship "Sybille," Commodore Collier, C. B. Commander, on the 13th day of April last, off Lagos, in the Bight of Benin.

On the 12th day following, the Ship's Papers, and the Declaration of the Captor, were filed in the Cause, duly authenticated by the Affidavit of Mr. Samuel Richardson, Admiralty Mate of His Majesty's said Ship "Sybille."

On the same Day a Monition, citing all Parties interested to appear, was prayed for and granted, which went forth and was returned, certified to have been duly served, on the 19th of the same Month.

Commodore Collier, in his Declaration, states, that "being in Latitude 6. North, and Longitude 3. 35. East, in sight of the Port of Lagos, he detained the "*Esperanza,*" and sent her to Sierra Leone for adjudication, for a manifest breach of the Treaty and Convention between Great Britain and *Portugal,* and of his Passport, No. 6, granted at Bahia, the 28th day of March 1828, authorising her to carry a Cargo of 422 Slaves from Cabinda."

The Passport of the "*Esperanza,*" was granted by Joze Egidio Gordilla de Barbuda, Vice-President of the Province of Bahia, authorizing her to take on board 422 Slaves from Cabinda, with the usual prohibitory Clause, that of being under an obligation to enter solely such Ports on the Coast of Africa where the Slave-trade is still permitted to the Subjects of the Empire of *Brazil.*

The Master, being duly sworn on the 16th, deposed, "that the Owner, Joze Alves da Cruz Rios, appointed him to the command of the Schooner taken, and that he resides at Bahia; that he, the Master, did not know upon what pretence, or for what reason, she was seized; that the present Voyage commenced at Bahia, and was to have ended there; that Bahia was the last clearing Port the "*Esperanza*" sailed from, and that she had not touched or anchored at any Port or Place during the present Voyage, nor had he, since he departed from Bahia, seen Land prior to Capture." He further deposed "that the Capturing Ship was first seen between 5. and 6. North Latitude, on the 36th day of the Voyage, it being on the 13th of April last; the "*Esperanza*" was captured on the same day, about 3 hours after seeing the Capturing Ship; she was pursuing her Voyage to Cabinda, when she was first pursued; that her course was not altered, nor any additional sail made on the appearance of the Capturing Ship, her course having been at all times, when the weather permitted, directed to her destined Port; that the Cargo on board was to have been delivered at Cabinda; and that no Slaves had been taken on board during the present Voyage.

The Mate, Francisco de Souza, deposed to the same points, *verbatim,* with the exception, that although the Vessel's course was directed to her destined Port, when the weather permitted; the prevalent winds would not permit a direct course being made.

On the 17th, a Claim was made for the "*Esperanza*" and Cargo, in the usual form, by Joze da Silva Rios, the Master, on behalf of the Owner, Joze Alvez da Cruz Rios.

The Master, in his Affidavit in support of his Claim, swore, "that she was in the prosecution of her Voyage from Bahia to Cabinda, on the Coast of Africa, but offered no observations therein, as to the cause of her being so far to the Northward of the Line, nor any other points of defence."

On the 22d, an Affidavit of the Master of the "Sybille," with an annexed Extract from the Log of His Majesty's said Ship, was filed, the original Log being produced to the Registrar at the time of his swearing to the Affidavit. This Extract states, "that on Sunday, 13th April 1828, at 9. 50. A.M., saw the Land North by East, and a Ship, 2 Schooners, and a Brig at anchor in Lagos Roads, and a Schooner under weigh; shortened sail, lowered the topsails, wore at 12, Lagos North 20 Miles; at 12. 15. bore up, and made all sail in chase, fired 2 guns, Chase shewed *Brazilian Colours;* 2. 30. shortened sail, hove to, and boarded the *Brazilian Schooner "Esperanza"* from Bahia."

On the 23d, the Proctor for Claimant petitioned the Court to allow Special Interrogatories to be put to Master and Mate, to shew, that the Vessel while engaged in the present Voyage was duly protected by the tenour of the Treaties between Great Britain and *Portugal,* and the *Brazils,* relative to the Slave-trade, which was granted, and on the day following, the 24th, the Master deposed, "that the Schooner was steering S.S.E. when he first saw the Capturing Ship; at the time of the Capture, the cables of the Vessel were in the hold, and the anchors on deck; the cables were stowed away in the hold aft the main mast; he had not made soundings before Capture, nor had he seen Land on the Coast of Africa, at any time during the Voyage in which he was captured. He was not able from the time of leaving Bahia to make a direct course, as he saw a Privateer, which chased him for 3 days, when he got into bad weather, which sent him to the Northward of the Line; he was captured in 5. 33. North Latitude, and Longitude 3. 35. East; he does not know what description of Cargo is necessary to trade for Slaves along the Coast of Africa from 6. North to the Line, as he had only been engaged in Voyages to the Southward. The Cargo he had on board the Vessel was not adapted for the trade of that part of the Coast just alluded to, it was calculated for the trade at Cabinda; that to the Southward of the Line his main-mast was damaged by bad weather, and he intended proceeding to Princes Island to repair the damage of the mast, where he was proceeding when captured; that during the Voyage he was chased by a Buenos Ayres Privateer for 3 days; he did not receive from the Commander of the Capturing Ship any Certificate or Document relative to the Seizure of his Vessel or Papers; and that the Capturing Ship was under *French Colours* when she detained her."

The Mate, in his Deposition, to the same Interrogatories, swore to many points exactly the same as the Master, but he contradicted him in several important ones; for he deposed, "that she was not bound to any other Place than Cabinda; and that when the Vessel was chased to the Southward of the Line by the Buenos Ayres Privateer, the courses steered to avoid her were N.N.E., N.E. by N.  $\frac{1}{2}$  N., N. by E.  $\frac{1}{2}$  E. and N.E., and by N."

This Evidence closed the Case, and on the 26th day of May, the Court met, and after hearing the arguments of the Proctors on both sides, pronounced the following Judgment:—

This is the Case of a *Brazilian* Vessel detained without any Slaves on board, but under precisely similar circumstances to those which were adjudicated in this Court, in the Months of April and May last Year. The principles on which the Court felt it its duty to condemn those Vessels were so fully explained in the Judgments pronounced on each Case, and which principles have been unequivocally approved of by His Majesty's Government, that it will not now occupy the time and attention of the Court in going into those minute details which was last Year felt to be necessary.

The facts of this Case are comprised within a very small compass. Her detention took place to the Northward of the Equator; off that most notorious Slave-mart Lagos; she is fitted up and equipped in every respect for the Slave-trade, and, in furtherance of that object, obtained from the Government of Bahia a Passport, (which she is required by Treaty to take to protect her in that Traffick) to ship Slaves from Cabinda, with the usual prohibitory Clause, "that it was obligatory on her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire of *Brazil*," and those Ports are strictly confined between the 5. 12. and 18. Degrees of Latitude, South of the Equator.

It has been argued, that she had not entered any Port from her leaving Bahia, and was in the prosecution of her Voyage to Cabinda.

The Evidence given by the Mate has been relied on to shew, that this Vessel was compelled to come to the Northward; he swears that he steered for 3 successive days North Easterly, occasionally varying a little, more or less, to escape a Privateer, and it certainly appears, if the Chart is examined, to have been the most favourable course that could be steered, for coming into the usual track of Vessels bound from the Southward to the West Coast of Africa. And here it must be remarked that this Evidence is totally at variance with the Master's, who swears on his first examination to the 9th Interrogatory, that her course was at all times, when the weather permitted, directed to her destined Port, and in his subsequent examination on Special Interrogatories, he swears, he steered, during the time he was chased by a Buenos Ayres Privateer, ~~the~~ Cabinda. Here there is no mention, nor indeed in any part of his first examination, of being forced to the Northward by an Enemy; but even if she had been forced to the Northward and Eastward, when they found themselves no longer pursued, the proper course to have taken, would have been that which led direct to Cabinda. Did she take this course? No! she continued her course to the Northward.

The Evidence of the Master is also at variance with that of the Mate in several other points. The Master swears, that, to the Southward of the Line, his main-mast was damaged by bad weather, and he intended proceeding to Princes Island, to repair the damage of the mast, where she was proceeding when captured. The Mate's answer to the very same question is, that she was not bound to any other Port than Cabinda. In all the Master's depositions he swears he was always steering for Cabinda; he therefore has contradicted himself in the Evidence he has given, and his Mate also contradicts him most positively: how then are these contradictory assertions to be reconciled? do they not clearly shew strong collusion between the Master and the Mate to tell the exact same tale? they have notwithstanding failed in doing so; but if their Evidence was founded on truth, this would not be the Case. Another point shews most clearly the little dependence to be placed on the Master's Evidence. To one of the Special Interrogatories put to him he swears, "that he does not know what description of Cargo is necessary to trade for Slaves along the Coast of Africa, from 6. North to the Line, as he has only been engaged in Voyages to the Southward." The latter part is grossly false, for he was found trading last Year down in the Bight of Benin, to the Northward, in a Vessel called the "*Trajano*," detained and subsequently condemned; but if that were not sufficient to prove his statement false, the very next answer to the special question out of his own mouth condemns him. To that he says, "the Cargo he had on board was not adapted for the trade of that part of the Coast just alluded to (the North,)" it was calculated for the Trade at Cabinda. Now if he did not know the trade to the Northward of the Line, how could he take upon himself to swear that the Cargo of the "*Esperanza*," was not adapted for it? If he knew the Cargo he had on board was not adapted for it, he must consequently know what was, and therefore the whole of his Evidence can be deserving of but little credit, particularly when it is well known to this Court that the Cargo of his Vessel is suited for the trade, and that those engaged in the Slave-trade think false swearing no crime, if, by so doing, they can obtain restoration of their Vessel. The only point on which he has told the truth, is the Latitude and Longitude he was in, on the day he was detained, that was a point he could not avoid, and to the pertinacious swearing of both himself and Mate, "that they had not seen Land during this Voyage," must be opposed the Extract of the Log from His Majesty's Ship "*Sybilie*,"—"she saw 4 Vessels lying in Lagos Roads at anchor, and a Schooner under weigh, which subsequently proved to be the "*Esperanza*," on the Morning of Capture;" if therefore His Majesty's Ship could so clearly distinguish Vessels and their Class lying in the Roadsted, Land must have been clearly seen, and as the Schooner appears to have been inside of the Frigate, it must have been equally clear to those on board of her, and consequently they must have known full well where they were.

On reference to his Log, it will be found, that on the 18th of April, being then in Latitude 4. 7. North, and Longitude 4. 25. W., with the wind at South East, she steered East by North, with the intention, it must be presumed, of making the land. And here it must be remarked that, in that Latitude on the Coast of Africa, a South wind is not known, the Harmattan blows from E. to N.E., and the usual Sea breeze S.W. If she was really going to Cabinda, her course would

have been on the other tack, but instead of doing so, she keeps continually making Northing and Easting, until the day she was taken. If the Longitude was really correct, the Latitude he was for several days in, would place the Vessel on Land; but assuming the Longitude to be incorrect, and that he was not aware of it, he must have been perfectly aware of his Latitude, and that going Northerly was not the route to Cabinda, which lies far to the Southward. If, therefore, Cabinda was really her destination, and she had been forced by adverse winds to the Northward, what ought to have been the proper course? why, most certainly to put her upon the wind, and have gone off the Coast on the starboard tack, and not to have run down deep into the Bight of Benin, where the winds and currents are directly opposed to her getting to the Southward of the Line, and the Port she was bound by Passport to go to. This is a point which can admit of no contradiction, and, therefore, motives, which the Court consider to be any thing but innocent, must have actuated such conduct.

There is not yet one instance on record in the Courts, nor have any of His Majesty's Squadron yet fallen in with a Vessel, *bonâ fide* bound from Brazil direct to Molembo or Cabinda, having been captured to the North of the Equator, nor a single instance of a Vessel, *bonâ fide* bound for Brazil direct from Cabinda, ever having been met with to the North. This, therefore, is a convincing proof, if any were required in addition to what has been stated, that Vessels really bound to Ports South of the Equator, are not under the necessity, in getting there, of coming to the Northward, or, in returning, of placing themselves in the same situation.

The abstract right of *Brazilian* Vessels to come to the Northward of the Equator for innocent purposes has not been questioned. It is quite clear that this Vessel had not an innocent character; if, therefore, the Subjects of *Brazil* enter into a Compact to go to the Southward of the Equator to trade for Slaves, and violate that Compact by coming to the Northward, which is expressly forbidden, they cannot with justice complain if the provisions of the Treaty are put in force against them, for their own culpable and fraudulent acts.

It is not a little remarkable in this Case, that the Master of this Vessel is the same man who was Master of the "*Trajano*," condemned last Year for precisely the same breach of Passport. He, therefore, cannot even have a shadow of excuse for the violation of it on this Voyage; he must have been fully aware of the penal consequences attached to such conduct, and it is therefore to be inferred, that he did so in open defiance; it is, however, yet to be seen, if the measures this Court have considered it their duty to take, in Cases like the present, will not have the effect of checking such glaring abuses, for such abuses will most assuredly be visited with the confiscation of the Vessel and Property. The Court, therefore, condemns the "*Esperanza*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize, laden on board, as lawful Prize unto the Crowns of Great Britain and *Brazil*, taken by His Majesty's Ship "*Sybill*," Commodore Francis Augustus Collier, C. B. Commander:

(Signed) D. DENHAM.  
WM. SMITH.

### No. 46.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, September 22, 1828.*

I HAVE to communicate to you the accompanying Copies of Correspondence, which passed in March and April last, between His Majesty's Secretary of State for Foreign Affairs and the *Brazilian* Envoy at this Court,\* upon the subject of the proposed nomination, by the Viscount D'Itabayana, of an Individual to be Commissary Judge on the part of The Emperor of *Brazil*, in the Mixed British and *Brazilian* Court of Commission at Sierra Leone  
I am, &c.

*His Majesty's Commissioners.*

(Signed) ABERDEEN.

\* See Class B.

### No. 47.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, September 25, 1828.*

I HEREWITH transmit to you the Copy of a Letter, dated the 23d Ult., and of its Enclosures, from the Viscount D'Itabayana, *Brazilian* Minister at this Court,\* containing the Appointment of *Mr. Joseph de Paiva* to be Commissary Judge, on the part of The Emperor of *Brazil*, to the Mixed

\* See Class B.

British and *Brazilian* Commission at Sierra Leone; and I have to acquaint you, that the same having been referred to His Majesty's Advocate General for his opinion, that Officer has reported, that the Appointment of *M. Joseph de Paiva*, to be Commissary Judge of the Mixed British and *Brazilian* Commission at Sierra Leone, under the Convention of the 23d of November 1826, appears to be in due and proper form, so as to entitle *M. de Paiva* to enter upon the execution of the Office to which he is appointed.

I am, &c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

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No. 48.

*His Majesty's Commissioners to John Backhouse, Esq.—*  
(Received November 10.)

SIR,

*Sierra Leone, July 5, 1828.*

IN pursuance of the 75th Clause of the Act, passed in the 5th Year of the reign of His present Majesty, entitled "An Act to Amend and Consolidate the Laws relating to the Abolition of the Slave-trade," we beg to enclose a Return of all the Cases of *Portuguese* and *Brazilian* Vessels adjudicated in the British and *Portuguese* Court of Mixed Commission established here, from the 1st of January 1828, to the 1st of July 1828.

We have the honour to be, &c.

(Signed)

H. LUMLEY.

JOHN WM. BANNISTER.

*John Backhouse, Esq.*  
&c. &c. &c.

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Enclosure in No. 48.

*Return of Portuguese and Brazilian Vessels, adjudicated by the British and Portuguese Court of Mixed Commission established at Sierra Leone, from the 1st day of January 1828 to the 1st day of July 1828.*

Name of Vessels	Date of Seizure.	Property Seized.	SEIZOR.	Date of Sentence.	Decretal part of Sentence, whether Forfeiture or Restitution.	Whether Property condemned has been sold or converted, and whether any part remains unsold, and in whose hands the proceeds remain.
St. Joao Voador . . . . .	Oct. 23, 1827	{ Sumacca and Cargo . . . . . }	{ W. F. W. Owen, } { H. M. S. Eden }	Jan. 19, 1828	Restitution . . . . .	{ Sumacca and Cargo delivered up to the Master. }
El Vencedora	Oct. 24, —	{ Schooner and Cargo . . . . . }	{ W. F. W. Owen, } { H. M. S. Eden }	Jan. 26, —	Restitution . . . . .	{ Schooner and Cargo delivered up to the Master. }
Esperanza . . . . .	April 13 1828	{ Schooner and Cargo . . . . . }	{ F. A. Collier, } { H. M. S. Sybille }	May 26, —	{ Condemned for a breach of her Imperial Passport, marked No. 6, dated Bahia, 1st of March 1828, which obligated her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Brazilian Empire, and against the true intent and meaning of the 1st and 2d Articles of the Additional Convention to the Treaty with Portugal of the 22d of January 1815, signed at London, the 28th of July 1817, as the same are subsequently adopted and renewed by the 2d Article of the Convention between His Majesty and The Emperor of Brazil, dated the 23d of November 1826. . . . . }	{ The Schooner and Cargo sold by public auction, but the Proceeds remain in the hands of the Commissioners of Appraisement and Sale, the Accounts not having yet been returned into the Registry. }
Voadora . . . . .	April 19, —	{ Schooner and 234 Slaves . . . }	{ W. F. W. Owen, } { H. M. S. Eden }	June 16, —	Condemned for illicitly Trading in Slaves . . . . .	{ Both of these Vessels and their Cargoes were sold by public auction, but the Proceeds remain in the hands of the Commissioners of Appraisement and Sale, the Accounts not having yet been returned into the Registry. }
Vingador . . . . .	May 16, —	{ Brig and 645 Slaves . . . . . }	{ F. A. Collier, } { H. M. S. Sybille }	June 16, —	Condemned for illicitly Trading in Slaves . . . . .	{ Both of these Vessels and their Cargoes were sold by public auction, but the Proceeds remain in the hands of the Commissioners of Appraisement and Sale, the Accounts not having yet been returned into the Registry. }

(Continued.)

Enclosure in No. 48, continued.

Name of Vessel.	Date of Seizure.	Property Seized.	SEIZOR.	Date of Sentence.	Decretal part of Sentence, whether Forfeiture or Restitution.	Whether Property condemned has been sold or converted, and whether any part remains unsold, and in whose hands the proceeds remain.
Terceira } Rosalia. }	April 20, 1828.	{ Schooner and } Cargo. }	{ Septimius Arabin, } H. M. S. North } { Star }	June 17, 1828.	[Condemned for a breach of her Imperial Passport, marked No. 1, dated Bahia, 7th of February 1828, which obligated her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Brazilian Empire, and against the true intent and meaning of the 1st and 2d Articles of the Additional Convention to the Treaty with Portugal of the 22d of January 1815, signed at London the 28th of July 1817, as the same are subsequently adopted and renewed by the 2d Article of the Convention between His Majesty and The Emperor of Brazil, dated the 23d of November 1826.....]	[The Schooner and Cargo sold by public auction, but the Proceeds remain in the hands of the Commissioners of Appraisal and Sale, the Accounts not having yet been returned into the Registry.]

Mem.—The Proceeds of the Sale of the Schooner “Dianna,” reported in the last Return, as being in the hands of the Commissioners of Appraisal and Sale, has since been paid into the Military Chest.

(Signed) H. LUMLEY.  
JOHN WM. BANNISTER.

Sierra Leone, July 1st, 1828.

(Signed) JOSH. REFFELL, Registrar.

No. 49.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Nov. 10.)*

MY LORD,

*Sierra Leone, July 7, 1828.*

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 31st of March last, approving of the view taken by His Majesty's Commissioners in the Case of the *Brazilian* Sumacca "*St. Joao Voador*," and of the Decree pronounced thereon, as contradistinguished from those of the *Brazilian* Vessels adjudicated under the same Commission in the Year 1827.

We are happy to have this Communication from your Lordship, as it affords to us a sure guide in any Cases of a similar nature, which may be brought before the Mixed Commissions.

We have the honour to be, &amp;c.

(Signed)

H. LUMLEY.

JOHN WM. BANNISTER.

*The Right Hon. The Earl of Dudley,*  
 &c. &c. &c.

No. 50.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 8, 1828.*

HEREWITH I have the honour to enclose, for your Lordship's information, the Report of the Case of the *Brazilian* Schooner "*Voadora*," condemned on the 16th of June 1828, in the British and *Portuguese* Court of Mixed Commission established here, when the surviving Slaves belonging to her were emancipated.

This Vessel was seized on the 18th of April last, by Lieutenant Badgley, in a Boat belonging to His Majesty's Ship "*Eden*," at the Mouth of the River Cameroons, she having on board at the time, 234 Slaves shipped in that River.

She arrived here for adjudication on the 23d of May 1828, with 45 of the said Slaves, after having been conducted to Fernando Po, where 187 of them were landed in consequence of sickness and the crowded state of the Vessel, having lost 2 on the passage to this Port.

I deem it my duty to draw your Lordship's attention to the circumstance of these Slaves having been landed at Fernando Po, and most respectfully to point out, that, although in this instance, Captain Owen appears to have used great caution, in causing a Board of Survey to assemble in order to Report on the state of the Vessel, and the health of the Slaves, and to have been influenced in landing them, by the opinion of the Medical Officer, still, the disembarkation of Slaves before their arrival at their destination, unless very urgent reasons indeed demanded it, is subject to great objection, and, while it is not contemplated by the Treaties, it is likely to be laid great stress on by the Owners of Slave-vessels; as a proof of this, the Master in this instance has set forth, in the Petition to be allowed to file his Claim, "That the extraordinary proceeding of your Petitioner's Vessel having been deprived by the Captor, while she lay at Fernando Po under his controul, of 186 of the Africans on board thereof, is a proceeding which your Petitioner, on behalf of the Owner of the said Vessel and Cargo of Slaves, is desirous of obtaining the Judgment of your Honourable Court:" 19 of these Slaves, (children) landed at Fernando Po, and disembarked, as it was stated, for medical treatment, were subsequently sent here in another Vessel; 17 of which arrived, and have since been registered, the other 2 having died on the passage up.

I also beg leave to state to your Lordship, that it appears in Evidence, that the medicine chest of this Vessel was taken out of her by Captain Owen,

for the publick service at Fernando Po, as also 30 bags of farinha, and 30 bags of jerked beef, the former being valued by the Medical Officers of that Establishment at £40 sterling, and the latter valued by two persons under the authority of Captain Owen, at £30 1s. 3d. sterling, making together a sum of £70 1s. 3d. sterling, which Captain Owen appears, from his own handwriting, to have received from the Treasury at Clarence Town, Fernando Po, and which, not having been paid into the Registry here, Captain Owen will, therefore, account for to His Majesty's Government.

This Vessel during the present Voyage was boarded twice on the 26th of February last, to the Northward of the Equator, by Ships of the Squadron, as appears by indorsements on her Register, viz. by His Majesty's Ship "North Star," off Cape Lopez, and by His Majesty's Brig "Clinker," off Cape Nazareth.

I have the honour to be, &c.

(Signed) JOHN WM. BANNISTER.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 50.

*Report of the Case of the Brazilian Schooner "Voadora," Antonio Luiz Gonzago, Master.*

THIS Vessel, of the burthen of 119 tons, with a Crew of 20 Men on her Muster roll, and belonging to Antonio Joze Meirelles, of Rio Janeiro, left that Port, as appears by her Clearance, (there being no Log among the Papers,) about the 23d or 24th of December 1827, furnished with an Imperial Passport, numbered 565, and dated the 19th of December 1827, authorizing her to take a Cargo of Slaves from Cabinda and Molemo.

On the 19th of April 1828, being then in or about Latitude 4. 1. North, and Longitude 9. 13. East, she was detained by a Boat from His Majesty's Ship "Eden," having on board at the time 234 Slaves, shipped in the River Cameroons.

On the 22d of May 1828, the Vessel reached this for adjudication, with 45 of the Slaves, 2 having died on the passage up from Fernando Po, to which Island she had previously been conducted, where 187 of her Slaves were landed, in consequence of sickness, and the crowded state of the Vessel.

And on the 23d of May 1828, her Papers were brought into the Registry, and the usual Motion being prayed for, was granted, returnable on the 2d of June, on which date it was returned into Court duly certified.

On the 3d of June 1828, the Master petitioned to be allowed, simply, to file his Claim for the Vessel, and the Slaves, on behalf of the Owner, Antonio Joze Meirelles, of Rio Janeiro, as also the attestation in proof thereof, which was granted.

From the Evidence of the Master, on the Standing Interrogatories, it appeared, that he took the command of this Vessel at Rio Janeiro, in December 1827, at which Place the Voyage began, and was to have ended; and that the Vessel had only anchored and touched, since leaving Rio Janeiro, at the River Cameroons, the wind being contrary for Molemo, when finding he could get Slaves cheap, he purchased those found on board the Vessel by the Capturing Ship's Boat.

This Evidence, so far as proving that the Slaves were shipped in the River Cameroons, was confirmed by one of the Crew, also examined on the Standing Interrogatories.

No Evidence having been filed by the Master in support of his Claim, the Court pronounced Judgment on the 16th of June, in this Case, and declared this Vessel to have violated the Treaty and Convention between Great Britain and Portugal, as the same are adopted and renewed by the 2d Article of the Treaty between Great Britain and Brazil, and to have been, therefore, justly seized and detained. The Court accordingly condemned the "Voadora," her Tackle, Apparel, and Furniture, as good and lawful Prize to the Crowns of Great Britain and Brazil, and decreed the emancipation of the surviving Slaves belonging to her in the Colony, viz. 44 in number, as also the 187 landed at Fernando Po, or the survivors of them; and that there were on board, at the time of Capture, 234 Slaves, of whom 3 had died, before the passing of this Sentence; the said Vessel having been so seized by His Majesty's Ship "Eden," William FitzWilliam Owen, Esquire, Commander.

(Signed) JOHN WM. BANNISTER.

No. 51.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 8, 1828.*

HEREWITH I have the honour to enclose, for your Lordship's information, the Report of the Case of the Brazilian Brig "Vingador," condemned on the 16th of June 1828, in the British and Portuguese Court of Mixed Commission established here, when the surviving Slaves on board of her were emancipated.



This Vessel was seized, on the 16th of May last, in or about Latitude 4. 45. North, Longitude 1. 30. East, by Lieutenant Turner, commanding the Tender of His Majesty's Ship "Sybille," Commodore Collier, C. B., Commander, and having on board at the time 645 Slaves, shipped at Lagos 2 days before the Capture.

She arrived here for adjudication on the 3d of June 1828, in company with the Tender, having lost 21 of the Slaves on the passage up.

I beg to draw your Lordship's attention to the circumstance of this Vessel (formerly called the "*Prince of Guinea*") having been taken once before in August 1826, after considerable resistance, by the Tender of His Majesty's Ship "Maidstone," and sold here by publick auction, under a Decree of the Court, on which occasion she was purchased for Commodore Bullen, who, after having for some time employed her as a Tender, resold her on this Coast to a Foreigner, from whom she appears to have been transferred to her late Owner at Bahia.

I have the honour to be, &c.

(Signed)

JOHN WM. BANNISTER.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 51.

*Report of the Case of the Brazilian Brig "Vingador," Miguel Antonio Netto, Master.*

THIS Vessel, described as of the burthen of 276½ tons, manned with 45 Men, (of whom 14 were entered in the Role d'Equipage as Slaves,) and said to be owned by Joze de Cerqueira Lima, of Bahia, left Rio de Janeiro, on the 4th of April 1828, furnished with the usual Imperial Passport, numbered 590, and dated at the latter Place, the 27th day of March preceding, authorizing her to proceed to the Ports of Cabinda, for any number of Slaves, not exceeding 691, and on the 15th of May 1828, being then in or about Latitude 4. 45. North, and Longitude 1. 10. East, she was detained by Lieutenant Turner, of His Majesty's Ship "Sybille," commanding the Tender of His Majesty's said Ship, and sent here for adjudication, for having on board 645 Slaves, said to have been shipped at Lagos 2 days before Capture.

She arrived here, in company with the Tender, on the 3d of June 1828, and on the following day the Papers of the Vessel were brought into Court, duly authenticated, and the usual Monition went forth, returnable on the 12th, on which date it was returned into Court, certified by the Marshal to have been duly executed.

From the Log of the Vessel, it was evident that the intention of coming to the Northward of the Equator was premeditated, as she steered the usual course of the illicit Traders, which, the Evidence of the Master and the Mate, (the Witnesses examined on behalf of the Captors,) corroborates. From their answers to the Standing Interrogatories, it appeared that the Voyage commenced at Rio de Janeiro, and was to have ended there; that the Vessel anchored and touched, in the course of it, at Lagos, to trade for Slaves, at which Port she took on board 646 Slaves, one of whom died before the Vessel's Capture, and further, that the said Slaves were consigned to one Felipe Ribeiro de Cunha, of Rio de Janeiro, where they were to be delivered for the real account, risk, and benefit, of the Owner of the Vessel, the aforesaid Joze Cerqueira Lima.

No Claim having been made on behalf of the Owner of the Vessel and Slaves, and the Evidence filed, clearly establishing her illicit employment, the Court met on the 16th of June 1828, and on motion of the Captor's Proctor, declared the "*Vingador*" to have been, at the time of her Seizure, illicitly employed in the Slave-trade, and, therefore, justly seized and detained, and the Court accordingly condemned this Vessel, together with the Goods, Wares, and Merchandize laden on board her, as good and lawful Prize to the Crowns of Great Britain and Brazil, and decreed the emancipation of the surviving Slaves, 624 in number, and that it appeared, from the Evidence, that there were on board the said Vessel, when so seized, 645 Slaves, 21 of whom had subsequently died; and further, that the said Vessel had been so seized, and prosecuted, by Francis Augustus Collier, C. B., Captain, and the Officers and Crew of His Majesty's Ship "Sybille,"

(Signed)

JOHN WM. BANNISTER.

No. 52.

*J. W. Bannister, Esq. to The Earl of Dudley. — (Received November 10.)*

MY LORD,

*Sierra Leone, August 8, 1828.*

HEREWITH I have the honour to enclose, for your Lordship's information, the Report of the Case of the *Brazilian Schooner "Terceira Rosalia,"*

condemned on the 17th of June 1828, in the British and Portuguese Court of Mixed Commission established here, for a violation of her Imperial Passport, in being engaged in the Slave-traffic to the Northward of the Equator.

This Vessel, furnished with the usual Passport, to take Slaves from Cabinda, was seized on the 20th of April last, by His Majesty's Ship "North Star," Septimius Arabin, Esquire, Commander, who stated in his Declaration, that he detained her for a breach of the existing Treaties between Great Britain and Brazil, she being at the time at anchor off Popoe, a Port to the Northward of the Equator; and accordingly sent her here for adjudication, where she arrived in the Evening of the 17th of May 1828.

In referring your Lordship to the Report, for the particulars of this Case, I beg to explain, that the cause which led to the delay in bringing the Vessel to adjudication, arose out of the illness and subsequent lamented death of Lieutenant-Governor Denham, then Acting Commissary Judge.

I have the honour to be, &c.

(Signed)

JOHN WILLIAM BANNISTER.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

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Enclosure in No. 52.

*Report of the Case of the Brazilian Schooner "Terceira Rosalia," Manoel Pereira Sarmento, Master.*

THIS Vessel, described in her Papers as of the burthen of 188½ tons, manned with 37 men, and owned by Manoel Francisco Moreira, of Bahia, left that Port on the 8th day of February 1828, furnished with an Imperial Passport, No. 1, authorizing her to go to the Port of Cabinda, and take on board 408 Slaves.

On the 20th of April following, then in or about Latitude 6. 17. North, Longitude 1. 46. East, she was seized, and sent for adjudication, by His Majesty's Ship "North Star," Septimius Arabin, Esquire, Commander, who declared in his Declaration, that he detained her for a breach of the existing Treaties between Great Britain and Brazil, she being at the time at anchor off Popoe, under Brazilian Colours.

The Vessel arrived in this Harbour on the 17th of May 1828, under the command of an Admiralty Mate of His Majesty's said Ship; and on the 19th of the same Month, her Papers were brought into Court, duly authenticated, when, on Petition of the Captor's Proctor, the usual Monition, citing all parties to appear, was issued, returnable on the 27th, on which date it was certified by the Marshal to have been duly executed.

On the 22d of May 1828, the Master put in a Claim for the Vessel and Cargo, on behalf of the aforesaid Owner, and his Proctor prayed to be allowed to proceed in defence of the Vessel. This was granted, but no Evidence was brought forward to support the Claim; while the Affidavit of the Master, to the truth of it, did not even offer a single exculpatory reason for the alleged violation of the Treaty and Convention.

The only material Evidence is referred to in the following Statement and Opinion of the Case:—

This is another instance of a Brazilian Vessel, furnished with an Imperial Passport to take Slaves from Cabinda, having been found at a Port to the Northward of the Equator, in direct violation of the provisions of that Passport, which strictly confined her "to enter solely such Ports on the Coast of Africa where the Slave-trade is permitted to the Subjects of the Empire of Brazil."

The Master and Claimant of this Vessel, although bound, from the circumstances under which she was seized, to furnish proof of the legality of the Voyage, has not attempted to account for this evident breach of the Treaty and Convention between Great Britain and Portugal, the provisions of which are rendered alike binding upon the Subjects of Brazil. The object of a Vessel, however, so circumstanced, in thus coming to the Northward of the Equator, could only be for the illicit traffick in Slaves; for, in this Case, there is such clear proof of the guilt of the parties concerned, that it is impossible to entertain a doubt thereon.

From the Log of the Vessel it appears, that, on the 5th day of the Voyage, then being in Latitude 19. South, her course was invariably to the Northward, until the 20th day, when, being in Latitude 4. 32. North, some deviation was made to the Southward, to enable her, as it would appear, and as is the custom with these illicit Traders, to clear Cape Palmas. This being effected, she again stands to the Northward, and then runs parallel with the Land, until the 42d day of the Voyage (the 24th of March 1828), when she anchors off Badagry, where there was then lying a Brig called the "Victoria." At this period of the Voyage the Log ends; and here it is necessary to remark, that the Master, in answering the 8th Standing Interrogatory, acknowledges that he did so anchor for the purpose of speaking to the Captain of the "Victoria," with whom the Witness was acquainted. Thus it is satisfactorily proved, that this Vessel, on the 24th of March, was at anchor off one of the most noted Slave-haunts on the Windward Coast, although she was not captured until the 20th of April following. There is nothing whatever in the course of the Evidence, to shew in what manner the Vessel was employed during the interval. The Master and

the other Witness (the Second Mate) both swear to the Vessel having been captured off Little Popoe on the 20th of April, while, at the same time, they contradict one another materially in other parts of their Evidence; for instance, the Master says, that the only Port the Vessel had anchored at on the Coast was Badagry, while the Second Mate, in answer to the same Interrogatory, says, that she only anchored at Little Popoe during the Voyage, at which Place she was seized about a quarter of an hour afterwards, by the Capturing Ship, and before any communication had taken place with the Shore; the Master, on the contrary, averring, that at the time of Capture, the Vessel was beating up for Little Popoe. They, however, both agree that the object for going there was to purchase provisions, and also that the Vessel had not broke bulk since leaving Bahia.

This discrepancy in the Evidence, therefore, renders it necessary to hesitate in believing either of these persons, who have so grossly perjured themselves in the latter part of their joint testimony relative to the Cargo, as to render it impossible to consider as truth any thing stated by them, having a tendency to mark the legal employment of the "*Terceira Rosalia*." They both positively swear, in answer to the 14th Standing Interrogatory, that the Cargo laden on board the Vessel this Voyage was only 60 rolls of tobacco, and 3 small casks of aquadente. On reference to the Vessel's Clearance, which is among the Papers brought in and filed, it appears, that, on the 7th of February 1828, she cleared from the Custom-House at Bahia for a Slave-trading Voyage to Cabinda, having on board 20 pipes of aquadente, 700 rolls of tobacco, and 32 cases of merchandize, as per Invoice then produced. This Document affords ample proof that the employment of this Vessel at Lagos, between the 24th of March and the 20th of April, was, landing the said Cargo, and that for a return one of Slaves. This being the opinion of the Court, which met for adjudication of this Case on the 17th of June 1828, the Vessel was accordingly declared to have violated the Passport, and to have been, at the time of her Seizure, illicitly employed in the Slave-trade to the Northward of the Equator, in violation of the Treaty and Convention between Great Britain and Portugal, as the same are adopted and renewed by the 2d Article of the Convention between Great Britain and Brazil; and that she was, therefore, justly seized and detained; and the Court accordingly condemned the "*Terceira Rosalia*," together with her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden on board her, as good and lawful Prize to the Crowns of Great Britain and Brazil, and as seized and prosecuted by Septimius Arabin, Esquire, Commander, and the Officers and Crew of His Majesty's Ship "North Star."

(Signed) JOHN WM. BANNISTER.

### No. 53.

*His Majesty's Commissioners to The Earl of Dudley,—(Received Nov. 10.)*

MY LORD,

*Sierra Leone, August 9, 1828.*

HEREWITH we have the honour to enclose the Report of the Case of the *Brazilian* Schooner "*Josephina*," captured by His Majesty's Ship "*Sybill*," Commodore Collier, C. B. Commander, on the 4th of July last, in or about Latitude 3. 34. North, Longitude 3. 50. East, with 79 Slaves on board.

She arrived here for adjudication on the 16th of July, and on her Papers being brought into Court, it appeared, from an indorsement on her Passport, that she had been boarded on the 24th of May, by Lieutenant Badgley, R.N., in a Boat of His Majesty's Ship "*Eden*," at anchor inside Bimbia Island, to the Northward of the Equator. We deem it proper to make known, also, to your Lordship, that two Logs were found on board, one the *bond fide* Log-book, commencing from the 23d of June, the day she took her Slaves on board, in the Cameroons. There was no outward bound Log. The other was the Log-book of another Vessel, called the Schooner "*Voador*," Vicento Ferrara Ravallo, Master, commencing at Rio de Janeiro, on the 27th of April 1828.

The Master, Joaquim Ferreira, declared the Slaves to have been shipped at Cabinda, which was refuted by the Vessel's Log-book, and the Evidence of the Slaves, both clearly establishing the fact of their having been taken on board in the River Cameroons. The Court, therefore, at its meeting on the 8th of August, looking at the case of illegal traffick, as fully proved, and there being no Claim put in, unhesitatingly condemned the "*Josephina*" as lawful Prize, and emancipated the surviving Slaves, being 77 in number.

We beg to acquaint your Lordship, that the cause of the delay in the adjudication of this Vessel, was the illness and subsequent death of the late Lieutenant-Governor, His Majesty's Commissary Judge, *ad interim*.

We have the honour to be, &c.

(Signed)

S. SMART.

JOHN WM. BANNISTER.

*The Right Hon. The Earl of Dudley,*  
 &c. &c. &c.

## Enclosure in No. 53.

*Report of the Case of the Brazilian Schooner "Josephina," Joaquim Ferreira, Master.*

THIS Vessel, owned by Geraldo Joze de Cunha, of Rio de Janeiro, and stated in her Papers to be of the burthen of  $63\frac{26}{100}$  tons, was navigated by 16 men, beside the Master, and armed with 3 guns. She cleared from Rio de Janeiro on the 16th of February 1828, furnished with an Imperial Passport, numbered 572, and dated the preceding day, shewing her to be bound for the Port of Cabinda, and authorising her to carry 158 Slaves.

On the 4th of July 1828, she being then in Latitude 3. 34. North, Longitude 3. 50. East, she was detained by His Majesty's Ship "Sybille," Commodore Collier, C.B. commander, with a Cargo of 79 Slaves, said to have been taken on board at Cabinda, on the 24th of June 1828, and arrived here for adjudication, in charge of an Admiralty Mate of His Majesty's said Ship, on the 16th of the same Month, having lost but 2 of the Slaves on the passage up.

On the 17th of July, the Papers of the Vessel were brought into the Registry, with the usual Affidavit, and a Monition prayed for and granted, returnable on the 24th of that Month, on which day it was certified by the Marshal to have been duly promulgated.

Owing to the illness and subsequent death of the Commissary Judge, the Adjudication of this Vessel did not come on until the 8th of August, when the Judgment of the Court, which embraced the whole of the Evidence material in the Case, was as follows:—

This is an instance of a Vessel seized to the Northward of the Equator, with a Cargo of Slaves on board, said to have been shipped at Cabinda, and therefore one in which the Master is bound, by the 5th Article of the Instructions to the British and Portuguese Ships of War, employed to prevent the illicit Traffick in Slaves, to furnish the proof of the legality of the Voyage; in the absence, however, of any attempt of this kind, or of any Claim on behalf of the Owners for the Vessel and Cargo, the Court is left to deal with the Case from the Evidence filed by the Captors.

From the Master's answers to the Standing Interrogatories, we learn that the Vessel sailed from Rio de Janeiro, about 5 Months ago, (which agrees with the date of her Clearance) for Cabinda, which was her last clearing Port before Capture, and at which Place he positively swears she took on board her Slaves. That during the Voyage, however, and before making Cabinda, she touched and anchored at an Island called Bimbia, for the purpose, it is stated, of endeavouring to purchase ivory, with some damaged goods of the Cargo, but did not succeed; and here it is necessary to observe, that it appears from an indorsement on her Passport, that while lying at anchor inside of that Island, on the 24th of May 1828, she was boarded by Lieutenant Badgley, R. N. in the Boat "Onyx," of His Majesty's Ship "Eden."

The Evidence of the Master, as to the taking on board the Slaves at Cabinda, is corroborated by the other Witness, (a Mariner on board the Vessel,) examined on the Standing Interrogatories.

In contradiction to the Testimony of these 2 Persons, we have that of 2 of the Slaves, both intelligent Natives, and one of them sufficiently acquainted with the English language to make himself understood in it. They swear, in answer to the Special Interrogatories, put to them by permission of the Court, that they were sold to the Master of this Vessel, and shipped, together with the other Slaves on board her, in the River Cameroons, one of them at a Town called Apollo, or King Bell's Place, and the other at a Town lower down, called Yengee, or King Bimbee's Place. The one who speaks English also swears, that he knew the Officer who brought the Vessel here, having seen him about 3 Years ago at King Bell's Place; and this latter circumstance is corroborated by Admiralty Mate Pettet, (the Officer alluded to) in an Affidavit, in which he swears, that some time ago, he was at the Town of King Bell, in the River Cameroons, on this Coast, and that he verily believes that this Witness, the Slave, was one of the people whom he, Mr. Pettet, saw there.

The suspicion therefore which must attach to a Vessel so navigated as this has been, having violated her Passport, by purposely coming to the Northward of the Equator, combined with the clear Testimony of the Slaves examined, would have left the Court in little doubt as to where these unfortunate people were taken on board; satisfactorily, however, for the more clearly exposing the unblushing perjury of such parties as these, engaged in the illicit Slave-traffick, the Court has before it the Log of the Vessel, which commences on the 23d of June, on which date an entry is made, that, at 4 P.M. they took on board 76 Slaves, and sailed at 5 the same Afternoon; and on the following day, at 2 P.M. another entry is made, of their cutting their anchors, the Vessel being then in sight of Land. Now, although it does not state where this point of departure is, still there can be no doubt of its being the River Cameroons, for, on the following day, the 25th, at 2 P.M. another entry is made, that the Southern point of the Cameroons is in sight, distance 12 miles; and on the 27th, the entries of the Latitude and Longitude being torn out of the Log for the 2 preceding days, we find the Vessel in Latitude 3. 18. North, she having been from the 24th pursuing a course South East, and South by East; and on the day before Capture, she is shown to be in 3. 8. North, and 5. 13. East, when her course was altered, as sworn to by the Master, in answer to the 9th Standing Interrogatory, to avoid the Capturing Ship. The Court is therefore of opinion, that no doubt can exist of this Vessel having shipped her Slaves in the River Cameroons, and it therefore pronounced her to have been justly seized and detained; and the Court accordingly condemned the said Vessel, "Josephina," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize, laden on board, as good and lawful Prize to the Crowns of Great Britain and Brazil, and further decreed the emancipation of the surviving Slaves, 77 in number, and that there were on board, at the time of Capture, 79 Slaves; and also that this Vessel was seized and prosecuted by Commodore Collier, and the Officers and Crew of His Majesty's Ship "Sybille."

(Signed) S. SMART.

JOHN WM. BANNISTER,

No. 54.

*His Majesty's Commissioners to The Earl of Aberdeen.—(Received Nov. 18.)*

MY LORD,

*Sierra Leone, August 26, 1828.*

WE have the honour to acknowledge the receipt of the Earl of Dudley's Despatch of the 27th of February 1828, transmitting to us, for our information and guidance, 6 Copies of the Convention, which was concluded at Rio de Janeiro on the 23d of November 1826, between His Majesty and The Emperor of *Brazil*, for the regulation and final abolition of the African Slave-trade; with 6 Copies of the Act, passed in the 8th Year of the Reign of His present Majesty, for carrying the said Convention into effect; and also 6 Copies of the Act of the 58th Year of His late Majesty's Reign, having the like reference to a Convention between His Majesty and The King of *Portugal*.

We have the honour to be, &amp;c.

(Signed) S. SMART.

JOHN WM. BANNISTER.

*The Right Hon. The Earl of Aberdeen,*  
 &c. &c. &c.

No. 55.

*George Jackson, Esq. to The Earl of Aberdeen.—(Received Nov. 18.)*

(Extract.)

*Sierra Leone, September 19, 1828.*

ON my arrival here I found 1 *Brazilian* Vessel, the "*Nova Virgem*," in course of adjudication in the *Portuguese* Court, but as no considerable progress had been made in the Case, I deemed it advisable to cause such Papers as had been filed in it to be withdrawn, and the proceedings to be begun afresh in the *Brazilian* Court, which the receipt of the new Commission under the Convention with that Empire, of which I was the Bearer, enabled me to open.

This was accordingly done, and I have now the honour to enclose to your Lordship, the Report of her Condemnation, together with that of a *Brazilian* Brig, the "*Clementina*," which was brought in here since my arrival.

Both these are Cases of the most notorious and palpable violation of the Convention, but I am not aware that they possess any feature to which it is requisite for me to draw your Lordship's more particular attention, except it be in the one Case (that of the "*Nova Virgem*,") to the continued practice of including in the Imperial Passport, permission to touch at Points prohibited by the spirit of the Engagements existing between Great Britain, *Portugal*, and the *Brazils*; and in the other, (that of the "*Clementina*,") to the very great mortality, which, to the number even of 107, occurred on board that Vessel, on her passage to this Place. For the one, it is to be hoped that the pending Negotiations between His Majesty's Government and those of *Portugal* and *Brazil*, will afford an adequate remedy, and that it will shortly no longer be possible for them to avail themselves of the miserable subterfuge, by which the practice alluded to is attempted to be justified; namely, that the 2 Islands of Princes and St. Thomas, the 1 distant 90 Miles from the main Land, the other upwards of 120, cannot be said to be on the "Coast of Africa."

With regard to the loss of life which has occurred on board the "*Clementina*," I ought not to omit to state to your Lordship, that there exists among the Papers on file in this Case a very strong Affidavit, on the part of the Prize Master, to the effect "that every means in the power of himself and Crew were afforded to the Slaves," and that the deaths which occurred did not ensue through his neglect.

(Signed)

GEORGE JACKSON.

*The Right Hon. The Earl of Aberdeen,*  
 &c. &c. &c.

## First Enclosure in No. 55.

*Case of the Brazilian Schooner "Nova Virgem."*

THIS is the Case of the *Brazilian Schooner "Nova Virgem,"* captured by His Majesty's Ship "Primrose," Thomas Saville Griffinhoofe, Esquire, Commander, for a breach of the Treaty, concluded on the 23d day of November 1826, between His Majesty and The Emperor of *Brazil,* for the regulation and final abolition of the African Slave-trade.

The Capture was made on the 28th day of July last, in about Latitude 5. 50. North, Longitude 4. 5. East, with 354 Slaves on board.

The Master, Cosmé Jozé Rodriguez swears, as does the Cook on board his Vessel, Antonio Jozé Gonsalvez, "that these Slaves were embarked at Molembo;" but in this he is contradicted by the Evidence of the Slaves "Ojoe" and "Laroquey," who swear, "that they were embarked only 3 days previous to their being captured by the "Primrose." The embarkation cannot possibly, therefore, have taken place at Molembo, and must have been effected in a Latitude prohibited by the Treaty; a fact, which is strongly corroborated by that sworn to by Antonio Jozé Gonsalvez, "that no Slave had died on board previous to Capture," as well as by the circumstance deposed to by the Captor, "of there being only 3 empty water casks found on board at the time of Capture," the 3 largest of which, as appears by a survey, which has been directed by the Court, are capable of containing only 494 gallons, a reasonable supply for 3 days (the number on board, including the Crew, being altogether 377); but quite inadequate for a Voyage of 12, even supposing the 3 casks, spoken of by the Captor, to have been of the largest dimensions, instead of being, as was most probably the case, of the smallest.

No Claimant appears in this Case, nor is any attempt made to account for the "*Nova Virgem*" being found with Slaves on board to the North of the Line; and the Evidence of the Master, and of the Cook, is, in some instances, so improbable, and in others, so positively contradicted by other testimony, as to make it impossible to place any reliance on it. Of the first description is their swearing, that between the 16th day of June and the 28th day of July, they had made the Voyage from Bahia to Molembo; had there broken bulk, and, having taken in this Cargo of Slaves, reached the Latitude where they were found on the last-mentioned day by the "Primrose." Of the latter description, is their statement that, at the time of their first seeing the Capturing Ship, no additional sail was made; whereas the Captor swears, that "they made all sail away," in which he is corroborated by the boy Jozé. The fact sworn to by all three (Master, Cook, and Boy), that they were plundered by a Piratical Vessel, 2 days after the Slaves were shipped, partakes of both characters: it is improbable, because these very Slaves would have constituted the best Prize the Pirate could have made: it is contradicted by the testimony of the 2 Slaves above referred to.

There is also much conflicting Evidence, with regard to the Log-book, which is not forthcoming (a circumstance, of itself, of the greatest suspicion); the Cook swearing, he *knows* it was in the writing-desk, said to have been plundered by the Piratical Vessel; the Master swearing, that "he left it in his Vessel when he went on board the Capturing Ship." So, also, with regard to the Passengers, who, the Master and Cook, swear, were sent on board the "*Nova Virgem*" by the Pirate, but of whom no mention whatever is made in the Declaration of the Captor. The Boy swears, "they came on board where the Slaves were shipped." The 2 Slaves, "Ojoe" and "Laroquey," swear, that the "*Nova Virgem*" did not fall in with, nor was she spoken by, any Vessel, from the time they were embarked to the period of her Capture.

Putting all these circumstances together, the Court can have no hesitation in pronouncing the said Vessel "*Nova Virgem*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize, laden therein, to have been at the time of the Capture and Seizure thereof, engaged in the illicit Traffick in Slaves, and, as such, subject and liable to confiscation; and condemn the said Vessel, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize, laden therein, as taken in such illicit traffick by His Majesty's Ship of War "Primrose," Thomas Saville Griffinhoofe, Esquire, Commander; and, moreover, pronounce the said Slaves, Natives of Africa, to be emancipated from slavery, and to be employed as servants or free labourers; and also, that it has been proved, that, at the time of passing the said Sentence, 149 Men, 75 Women, and 96 Children, compose the whole of the Slaves so decreed to be emancipated, 34 having died since Capture.

But the Court cannot finally dispose of this Case, more especially as it is the first which has been brought before the joint British and *Brazilian* Commission, established by the before-mentioned Convention, without adverting, in the most pointed manner, to the lamentable facilities afforded to this abominable traffick by the practice of the *Brazilian* Government, of inserting in the Passports granted to Vessels legally engaged therein, a further license to touch at the Islands of St. Thomas and Princes (in this instance the permission extends even to Elmina); a practice so avowedly in violation of the spirit which dictated the Engagements between the two Crowns, that it is to be hoped that it will, at once, be discontinued; and which, as has already been the case, can hardly fail to cause the condemnation of any Vessel, on board of which such a Passport may be found, independently, even, of any other consideration.

(Signed)

GEO. JACKSON,  
S. SMART.

Second Enclosure in No. 55.

*Case of the Brazilian Brig, "Clementina."*

THIS is the Case of the Brazilian Brig, "*Clementina*," which was furnished with an Imperial Passport, authorizing her to take Slaves from Cabinda and Molembó, and captured on the 5th of August last, in the River Cameroons, with 271 Slaves on board, by His Majesty's Brig of War, "*Clinker*," George William Matson, Esquire, Commander.

The Master, Antonio da Silva Guimarães, and Manoel Joze, a Seaman on board, the only 2 Witnesses in this Case, admit, on their examination on the Standing Interrogatories, that the Slaves were taken on board, from the Shore, in the Cameroon River, and do not attempt to account for her breach of Passport.

The case of illicit traffick being thus clearly established, and no Claimant appearing, the Court pronounce the said Brig "*Clementina*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein; to have been, at the time of the Capture and Seizure thereof, engaged in the illicit Traffick in Slaves, and, as such, subject and liable to confiscation; and condemn the said Vessel, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, as taken in such illicit traffick, by His Majesty's Brig of War "*Clinker*," George William Matson, Esquire, Commander; and moreover pronounce the said Slaves, Natives of Africa, to be emancipated from slavery, and to be employed as servants or free labourers, and also; that it has been proved, that at the time of passing the said Sentence, 44 Men, 44 Women, and 68 Children, compose the whole of the Slaves so decreed to be emancipated; 115 having died since Capture.

(Signed) GEO. JACKSON.  
S. SMART.

No. 56.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, December 11, 1828.*

I HEREWITH transmit to you, for your information and guidance, the Copies of a Correspondence which has passed between the Vicomte d'Itabayana and myself, and likewise the Copy of a Despatch, which I addressed, on the 6th Instant, to His Majesty's Envoy at Rio de Janeiro,\* upon the subject of propositions brought forward by the Brazilian Government, to postpone the period at present fixed for the abolition of *Brazilian Slave-trade*; and to revise Sentences passed by the Court of Mixed Commission at Sierra Leone.

I send, at the same time, Copies of the Correspondence on the particular Cases of the "*Activo*," "*Perpetuo Defensor*," and "*Heroína*."\*

*His Majesty's Commissioners.*

I am, &amp;c.

(Signed) ABERDEEN.

\* See Class B.

No. 57.

*George Jackson, Esq. to The Earl of Aberdeen.—(Received Dec. 12.)*

(Extract.)

*Sierra Leone, October 4, 1828.*

IN forwarding to your Lordship the Report of the *Brazilian Schooner "Sociedade,"* I have again to notice the permission given in her Passport to touch at the Islands of Princes and St. Thomas; she was captured on the 8th of August last, by His Majesty's Ship "*North Star*," in about Latitude 2. 50. North, Longitude 5. 48. East. She had no Slaves on board, but all her Cargo, which her Papers proved to have been very considerable on leaving Bahia, (from whence she sailed direct to this Coast without breaking bulk) had been landed.

On both these grounds she was condemned on the 3d Instant, by Mr. Smart, and myself.

(Signed) GEORGE JACKSON.  
*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

## Enclosure in No. 57.

*Case of the Brazilian Schooner "Sociedade."*

THE Schooner "*Sociedade*," sailing under *Brazilian* Colours, and furnished with an Imperial Passport, authorizing her to take Slaves from Molemo, and irregularly allowing her to touch at the Islands of St. Thomas and Princes, was captured by His Majesty's Ship "*North Star*," Septimius Arabin, Esq. Commander, on the 8th of August 1828, being in or about Latitude 2.50. North, Longitude 5. 48. East, not having any Slaves on board, but all her Cargo landed.

Jozé Martinez, First Pilot on board the Vessel, in answer to the Standing Interrogatories, deposes "that the Vessel only anchored and touched at Accra during the present Voyage, that she did so with the intention of repairing the fore-mast, but did not find Carpenters to do it, and to obtain provisions and water, for which purpose 100 rolls of tobacco, and 2 pipes of aquadente were landed; that the Vessel remained there more than 20 days, having lost her Boat and broken 3 cables; and that the Master was left there sick.

Anastacio Ribeiro, a Boy on board the Vessel, on being examined on the same Interrogatories, corroborates the Evidence of the Pilot, and adds further, that the Capture took place 2 days after leaving Accra

Special Interrogatories being put to the First Pilot, on behalf of the Captors, he swears, in answer thereto, "that the first Land made on this Coast was a Place, called, in the Portuguese Charts, Ubapo, about 31 leagues N. N. W. of Cape Palmas, and near Settra Kroo;" and, "that no mention is made in the Log-book, either of the breaking of the fore-mast-head, which happened on the 38th day of the Voyage, in about 5. North Latitude, and 8. West Longitude, or of the landing of the tobacco and aquadente, at Accra."

On reference to the Chart, the spot he specifies as that where he broke his fore-mast, will be found to coincide pretty nearly with the Latitude and Longitude of Ubapo, so that, according to his own shewing, and reckoning from the date of his Passport, he was on the Coast about the latter end of June; and it is not to be supposed that he would remain upwards of 40 days there, for no other reason than that which he assigns in his answer to the Standing Interrogatories, viz. on account of the loss of his Boat and 3 Cables, and for the purpose of procuring water and provisions; nor is the supposition less incredible, that he landed and bartered 100 rolls of tobacco and 2 pipes of aquadente, for such provisions and water only as was requisite for the Crew of so small a Vessel as the "*Sociedade*;" the former article, it is well known, yielding of itself between 3 and 4 pounds per roll on the Leeward Coast

Had the Case rested here, little doubt would have remained on the mind of the Court as to the Judgment to be pronounced respecting it, but the gross deception attempted to be practised in this instance is still further manifest by a specification, which is found among this Ship's Papers, by which it appears, that so far from the 100 rolls of tobacco and 2 pipes of aquadente being the whole of the Cargo, as sworn to by the Pilot, no less than 1,200 rolls of tobacco, 1,500 pounds weight of gunpowder, 8 cases of muskets, and various other merchandize, were shipped on-board the "*Sociedade*," at Bahia, previous to her sailing from that Port.

The intention, if not the completion, therefore, of illicit traffick, appears thus to be clearly established, and no Claimant appearing, the Court pronounce the said Schooner "*Sociedade*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, to have been, at the time of the Capture and seizure thereof, engaged in the illicit traffick in Slaves, and, as such, subject and liable to confiscation; and condemn the said Schooner, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, as taken in such illicit traffick, by His Majesty's Ship "*North Star*," Septimius Arabin, Esq. Commander.

(Signed) GEORGE JACKSON.  
S. SMART.

## No. 58.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, December 31, 1828.

WITH reference to the Despatch of His Majesty's Commissioner of the 8th of August 1828, transmitting the Case of the *Brazilian* Schooner, the "*Terceira Rosalia*," I have to observe to you, that as, upon the facts which appeared before you in Evidence in this Case, it was to be presumed that this Vessel had been bartering her outward Cargo for Slaves, the admitted object of her Voyage, in Ports to the Northward of the Line, in violation of the Treaty between this Country and *Brazil*, and in contravention of the terms of her Passport; and as no credible Evidence was produced to repel this presumption, the Sentence which His Majesty's Commissioners pronounced in this Case, condemning the Ship and Cargo, although she had not any Slaves actually on board, is in conformity with the principle acted upon in the Case of the "*Heroína*," and approved of in that Case by His Majesty's Government.

I am, &amp;c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*



## SIERRA LEONE. (Netherlands.)

No. 59.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, June 17, 1828.*

I HAVE to acquaint you, that a Communication has been received at this Office from the Admiralty, under date of the 19th of May, stating that the Instructions referred to in the Treaty between Great Britain and the *Netherlands*, for the suppression of illegal Slave-trade, have been issued to the following Ships and Vessels of His Majesty's Navy:—

Guns.	Ships.	Commanders.
48 .....	<i>Sybille</i> .....	F. A. Collier.
46 .....	<i>Aurora</i> .....	C. J. Austen.
" .....	<i>Briton</i> .....	Hon W. Gordon.
26 .....	<i>Eden</i> .....	W. F. W. Owen.
18 .....	<i>Espiegle</i> .....	W. Sandom.
10 .....	<i>Bustard</i> .....	G. S. Smith.
12 .....	<i>Clinker, G. B.,</i> .....	Lt. W. G. W. Matson.
" .....	<i>Fairy</i> .....	J. O'Brien.
" .....	<i>Plumper</i> .....	E. Medley.
3 .....	<i>BlackJoke, Tender,</i>	H. Downes.

and that the Instructions which had been issued to His Majesty's Ships "Druid," "Maidstone," "Atholl," "Brazen," "Esk," "Pylades," "Redwing," "Scylla," and "Conflict," have been recalled and cancelled.

I have accordingly to desire, that you will communicate this information to the Court of Mixed Commission of which you are Members.

I am, &c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

No. 60.

*His Majesty's Commissioners to The Earl of Dudley.—(Received June 29.)*

(Extract.)

*Sierra Leone, April 25, 1828.*

HIS Netherland Majesty having been pleased to permit M. *Bonnawrié*, His Judge in the British and *Netherland* Mixed Court of Justice in this Colony, to return to Europe for the benefit of his health, that Gentleman has communicated the same, officially, to us, with his intention to depart from this on the 26th Instant, by a Vessel now lying in the Harbour bound for England.

(Signed)

H. LUMLEY.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
    &c.           &c.           &c.

## No. 61.

*His Majesty's Commissioners to The Earl of Dudley.—(Received July 19.)*

MY LORD,

*Sierra Leone, May 24, 1828.*

WITH reference to our Despatch of the 7th Instant,\* communicating to your Lordship the arrival here of a Vessel named "*La Fanny*," under *French* Colours, detained by His Majesty's Ship "*Sybille*," Commodore Collier, upon suspicion of having both *Dutch* and *French* characters, and other particulars concerning her; we have now the honour to inform your Lordship, that on the Evening of the previous day (9th Instant), on which she was to have been sent to Senegal, Mr. Macaulay (the Agent of Commodore Collier), received a message from some of the parties on board of her, requesting to see him, as they had something particular to communicate personally to him, relative to her, but which they would not communicate in a message; Mr. Macaulay accordingly proceeded on board, when he was informed by a person of the name of Achille le Deuc (late the Master of a *French* Brig, captured in the Bonny by a *French* Vessel of War for trading in Slaves), and several others, that they never had entertained the slightest idea that they would actually be sent to Senegal, but as the preparations of provisioning and watering "*La Fanny*" for sea, had convinced them such was the determination, they had better acknowledge the truth;—that she had been furnished with *Dutch* Papers, which were destroyed during the chase of the Schooner by the "*Sybille*."

Achille le Deuc further said, that 56 of the Slaves on board were his own property, which he had shipped on freight after the Capture of his own Vessel; and that he had rather lose those Slaves here than be sent to Senegal, as he feared in that case, beside the confiscation of his property, he would be subject to imprisonment.

The same parties who gave Mr. Macaulay this information volunteered to give Evidence before the Court.

She was therefore proceeded against in the British and *Netherland* Mixed Court of Justice, and, after a strict investigation, Sentence of Condemnation was passed upon her on the 22d Instant, and the surviving Slaves, to the number of 252, were emancipated, 28 having died subsequent to Capture.

From the facts disclosed in this Case, it appears that Vessels are yet furnished with *Netherland* Papers from the Authorities of that Power in the West Indies, although we trust, from the limited number of Vessels captured under that Flag, engaged in the illicit Traffick in Slaves, within the last 18 Months, that the facility of obtaining them is greatly diminished.

We cannot help remarking to your Lordship how easy it is for the Vessels engaged in the Slave-trade to avoid detection, while they continue to assume *Dutch* and *French* characters, which renders the duty of His Majesty's Naval Officers particularly embarrassing, on meeting with suspicious Vessels, apparently sailing under the White Flag.

The fraudulent character of "*La Fanny*" would probably never have been elicited, but for the determination of the Captors to deliver her up to the *French* Government, which forced the Parties to confess the truth.

There is a fact connected with this Vessel, which, differing from the testimony of all the other Witnesses, appears most suspicious. Eugene Honora, a boy belonging to "*La Fanny*" swore, "that a Mr. Wright appointed the Master to the command of "*La Fanny*" at St. Jago de Cuba; that he is the Owner of that Vessel; knows him to be the Owner because he put the Captain on board, and furnished the Crew with provisions and money; that Mr. Wright was either an Englishman or an American, and resides opposite the Wharf at St. Jago de Cuba; that he is the Owner and Consignee of the Slaves on board, who were to be delivered on the Coast of Cuba, for his real account, risk, and benefit; his ground for this belief is, that the Vessel and outward bound Cargo belonged to him, the latter having been put on board from his Stores."

\* See No. 10.

We have been informed that the names of the Firm of Joli and Company, who appear as the Agents of Messrs Bonnaffe and Lariviere of Guadaloupe, are Joli and Wright.

It is probable from this circumstance, that, as Joli and Company shipped the Cargo, as is fully shewn they did in the *French Papers*, that the Witness may have thus supposed Mr. Wright was the real Owner; if otherwise, it must shew the gross subterfuges of the Parties concerned in these nefarious transactions.

Begging your Lordship's reference to the Report which we enclose,

We have the honour to be, &c.

(Signed)

D. DENHAM.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 61.

*Report of the Case of the Netherland Schooner "La Fanny," Jean Constantin, Master.*

ON the 12th day of April "*La Fanny*," arrived in the Harbour of Sierra Leone with 266 Slaves on board.

Owing to the difficulty experienced by the Captors in determining her real character, she remained without being brought into Court until the 10th day of May, when having elicited sufficient information from her Crew to affix a *Netherland* character upon her, the Ship's Papers, found on board of her, and the Captor's Declaration, were duly filed, duly authenticated by the Affidavit of Mr. John Pettet, Admiralty Mate of His Majesty's Ship "Sybille."

A Motion, citing all Parties interested before the Court, was prayed for and granted on the same day, which went forth and was returned, certified to have been duly served, on the 19th of May following.

The Ship's Papers of "*La Fanny*" were all *French*, and dated at Pointe-à-Pitre, Guadaloupe, in March 1827.

Commodore Collier's Declaration sets forth, that "on the 19th day of March 1828, being in Latitude 2. 58. North, Longitude 5. 57. East, he detained the Schooner, named "*La Fanny*," sailing under *French* Colours, but supposed to be a *Netherland* Vessel, having on board 282 Slaves. He further declared, that he sent her to Sierra Leone for adjudication, from the following suspicious circumstances;—1st, her not having hoisted any Colours until the Boats of the "*Sybille*" were nearly alongside, and that their Nation could be clearly distinguished, and after a chase of 6 hours. 2dly, a *Dutch* Pendant and Ensign were concealed in the Master's Cabin. 3dly, very few of her Crew are *French*, and her real Master and Mate are *Danes*; 4thly, her escaping in safety while lying in the Calabar, although a *French* Brig-of-War visited that River, and captured a Slave-brig of that Nation, within a short distance of where this Vessel lay at anchor; lastly, she cleared out from a *Spanish* Port, St. Jago de Cuba."

The Master under the *French* Papers, Jean Constantin, deposed on the Standing Interrogatories, "that he took possession of the Vessel at Cuba in October last; one Joli appointed him to the command, and gave him possession of her; he first knew her at Guadaloupe in March 1827; that she was seized for having Slaves on board; she sailed under the *French* Flag, but had a *Dutch* Flag on board for a Signal Colour; that there were 7 Passengers on board, being the Master and part of the Crew of a *French* Brig, which had been captured for trading in Slaves by a *French* Brig-of-War. That Achille le Deuc, a Passenger, (the aforesaid Master) was the Owner and Lader of 56 of the Slaves on board; the Lader of the remaining number was Hingelberg, the Supercargo of the Schooner; the Owners and Consignees were Messrs. Bonnaffe and Lariviere, of Guadaloupe, the Owners of the Schooner; and the Slaves were to have been delivered at Guadaloupe, or any other Place where they got a chance. That the Slaves were shipped in the River Calabar, 283 in number, 4 of whom died previous to Capture; that the Papers, which were found on board the Schooner, were entirely true and fair, none false or colourable. And that to his knowledge no Papers or Writings of any kind were either torn, burnt, thrown overboard or destroyed."

Hans Peter Hingelberg, the Mate and Supercargo, corroborated the Master's Evidence, on oath, in every particular.

Achille le Deuc, a Passenger, shipped in the River Calabar, and Owner of 56 Slaves on board, on his examination swore most positively, "that the *Dutch* Papers belonging to the Schooner were thrown overboard, as soon as they knew the Boats of the Capturing Ships, then about to board the Schooner, were English."

In confirmation of his Evidence, Pierre Guillardon, also a Passenger, swore "that he himself had instructions from the Master, Constantin, if it was a *French* Man-of-War they then saw, he, the Witness, was to hide the *French* Papers, which the Captain then gave him to hold in his hands." And he further swore, "that he heard the Sailors of the Schooner, after her Capture, and when they were on board the "*Plumper*," Gun-Brig, talk amongst themselves, that *Dutch* Papers had been thrown overboard from the Schooner."

Rodolph Estrades, although he did not, of his own knowledge, know that any Papers were thrown overboard or destroyed, yet, he was told such was the case: "and he further swore, "that although she sailed under the *French* Flag, she had a *Dutch* Flag also on board, the latter of which would have been hoisted, had the English Frigate and Brig proved to be *French*."

The Evidence of Achille le Deuc, as a Passenger, was less subject to doubt and suspicion than any other person on board, in every point of view,—and if taken as being much interested in the Cargo of the Vessel, which he swears he was, it is to be presumed he would not have sworn to what puts his property in the utmost danger of confiscation, if it had not been true; and both Pierre Gouillardon and Rudolph Estrades' Evidence is strongly illustrative of the fraudulent character of this Vessel; for if the *French Papers* were to be concealed, the presumption follows, that she had other Papers on board to produce to the chasing Ships, had they actually proved *French*; and the circumstance of a *Dutch Flag* being also ordered to be hoisted, confirms the presumption. If, therefore, fraud was not contemplated, and evasion not to be practised, such manœuvring could not be accounted for; these 3 Witnesses knew nothing of the proceedings previous to their shipping on board "*La Fanny*" in the River Calabar, and their Evidence alone was sufficient to excite the strongest suspicion of the illegal and fraudulent conduct of the Parties concerned in this Vessel, after they had left that River; but had the Court been in doubt upon the character of "*La Fanny*," the Evidence of Knud Wilhelm Harderup put it beyond all doubt.

He swore "that the Vessel was cleared out by himself (who was the *Dutch Master*) as a *Dutch Vessel*, and that she left Cuba under *Dutch Colours*. On her arrival at Calabar she hoisted *French Colours*; *French* and *Dutch* were the only Colours on board; that the *French* name of the Vessel taken is "*La Fanny*;" she has been called so since leaving Guadaloupe in March 1827; her *Dutch* name is the "*Zeebloem*;" he knows of no other names by which she has been called; that he was the Second Mate under the *French Colours*, but, under the *Dutch*, the Master; that the *Dutch Papers* that were on board, were all true and fair, but he knows nothing relative to the *French papers*." Although this Witness could not depose to what became of the *Dutch Papers*, his Evidence is sufficiently conclusive that they were on board; they are not produced, and therefore the assumption can only be that they were thrown overboard, as the preceding Witnesses have sworn to.

This man's Evidence of the Vessel having left Cuba under *Dutch Colours*, was confirmed by a Boy named Eugene Honora, who also swore that "*La Fanny* left Cuba under *Dutch Colours*, and when they arrived at Calabar they hoisted *French*;" he further swore to Papers having been thrown overboard by Constantin after Capture, and while on the way up here; and this was the only part that did not corroborate the other Witnesses as to the time it took place; but placing aside the discrepancy on this exact point, the Master's remark to him, when the *Dutch Colours* were hoisted, "that the *Dutch Papers* would not be found, as they were hove overboard long ago;" together with her leaving Cuba under the *Dutch Flag*, corroborative of the *Dutch Master's* testimony, is, all viewed together, so strong, as not to admit of the slightest doubt, that she had two characters,—*Dutch* and *French*; in either of which, if captured by the English or *French*, she must abide the penalties denounced by the Treaty between Great Britain and the *Netherlands* on the one hand, and the *French Laws* on the other.

After the foregoing Evidence had been taken, the Captors petitioned the Court to allow Special Interrogatories to be put to Jean Constantin, which was granted. At that examination his conscience appears to have dictated him to swear the truth, seeing, probably, that he could not impugn the testimony of the Witnesses. He accordingly swore "that there were *Dutch Papers* on board; that "the *Dutch Master's* name was William Harderup; that she was called the "*Fanny*," and the "*Zeebloem*;" but that he did not know what became of the *Dutch Papers*; he heard the Sailors say they were thrown overboard."

The examination of the last Witness closed the Case. No Claim was preferred to the Court on behalf of any Party interested in the "*Fanny*,"

The mass of Evidence presented to the Court was strongly conclusive of the fraudulent character of this Vessel, and at a Sitting of the British and Netherland Mixed Court of Justice, held on the 22d Instant, Sentence of Condemnation was pronounced upon "*La Fanny*," and the surviving Slaves, to the number of 252, were emancipated, 28 having died subsequent to Capture, (27 on board, as appeared by the Affidavit of the 2 Officers in charge of her, and 1 on Shore, previous to adjudication,) and declared 280 to have been on board at the period of her detention. The discrepancy in the number of Slaves in several places in this Report, having arisen from the almost impossibility of counting them correctly, when crowded together in so small a Vessel.

(Signed) D. DENHAM.  
WM. SMITH.

## No. 62.

His Majesty's Commissioners to John Backhouse, Esq.—(Received Nov. 10.)

SIR,

Sierra Leone, July 5, 1828.

IN pursuance of the 75th Clause of the Act, passed in the 5th Year of the Reign of His present Majesty, entitled, "An Act to amend and consolidate the Laws relating to the Abolition of the Slave-trade," we beg to enclose a Return of all the Cases of *Netherland Vessels* adjudicated in the British and *Netherland Mixed Court of Justice* established here, from the 1st of January 1828, to the 1st of July 1828.

We have the honour to be, &c.

John Backhouse, Esq.

(Signed)

H. LUMLEY.

&amp;c. &amp;c. &amp;c.

JOHN WM. BANNISTER.

Enclosure in No. 62.

*Return of Netherland Vessels adjudicated by the British and Netherland Mixed Court of Justice established at Sierra Leone, from the 1st day of January 1828 to the 1st day of July 1828.*

Name of Vessels.	Date of Seizure.	Property Seized.	SEIZOR.	Date of Sentence.	Decretal part of Sentence, whether Forfeiture or Restitution.	Whether Property condemned has been sold or converted, and whether any part remains unsold, and in whose hands the Proceeds remain.
La Fanny...	Mar. 19, 1828.	{ Schooner and 280 Slaves }	{ F. A. Collier, H.M.S. Sybille. }	May 22, 1828.	{ Condemned for illicitly trading in Slaves }	{ The Schooner sold by publick auction, but the Proceeds remain in the hands of the Commissioners of Appraisal and Sale, — the Accounts not having yet been returned into the Registry. }

(Signed)

H. LUMLEY.  
JOHN WM. BANNISTER.

Sierra Leone, July 1st, 1828.

JOSEPH REFFELL, Registrar.

## No. 63.

*His Majesty's Commissioners to The Earl of Aberdeen.—(Received Nov. 18.)*

MY LORD,

Sierra Leone, August 26, 1828.

WE have the honour to acknowledge the receipt of your Lordships's Despatch of the 17th of June 1828, communicating to us the names of several Ships and Vessels of His Majesty's Navy, to which the Instructions referred to in the Treaty between Great Britain and the *Netherlands* for the suppression of illegal Slave-trade, have been issued, and the names of others of His Majesty's Ships which have been recalled, and their Instructions, under the same Treaty, cancelled.

We have the honour to be, &amp;c.

(Signed)

S. SMART.

JOHN WM. BANNISTER.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

## No. 64.

*George Jackson, Esq. to The Earl of Aberdeen.—(Received Dec. 12.)*

MY LORD,

Sierra Leone, October 4, 1828.

I HAVE the honour to transmit in this Despatch the Report of the *Netherland* Brig "*Henriette*," alias "*Confiance*" condemned on the 3d Instant by Mr. Smart and myself. She was captured on the 11th of August last, by His Majesty's Ship "*Eden*," in or about Latitude 3. 50. North, Longitude 9. 5. East; with a Cargo of 426 Slaves, which had been embarked the day before in the Calabar River. When captured she was sailing under *French* Colours, but

the Master's Evidence, corroborated by that of one of his Crew, proved that these were fictitious, that her real Papers were *Dutch*, and that they were thrown overboard by his own orders, on the approach of the Boat of the Capturing Vessel.

Of the 426 Negroes found on board at the time of Capture, 60 died on their passage to this Port, and 15 between the period of the arrival of the Vessel and its adjudication; the remaining 350, including 59 landed at Fernando Po, by order of Captain Owen, were emancipated by the Decree of the Court.

I have, &c.

(Signed)

GEORGE JACKSON.

*The Right Hon. The Earl of Aberdeen,*  
 &c.                    &c.                    &c.

Enclosure in No. 64.

*Case of the Netherland Brig "Henriette," alias "Confiance."*

THIS is the Case of the *Netherland Brig "Henriette,"* alias "*Confiance*," captured on the 11th of August 1828, under *French Colours*, by His Majesty's Ship "*Eden*," W. F. W. Owen, Esq., Commander, being in or about Latitude 3. 50. North, Longitude 9. 5. East, and having on board a Cargo of 426 Slaves, said to have been embarked the day previous to Capture in the Calabar River.

The Master, L'Espoire Raoulant, on his Examination on the Standing Interrogatories, swears "that he himself is the Owner of the Vessel taken, and of the Slaves found on board her, which were embarked in the Old Calabar; that the Papers found on board the Vessel, (*French and Spanish*) are false and colourable, and were merely on board to be made use of, if circumstances required it; the *Dutch*, the detained Vessel's real Papers, having been secretly thrown overboard, by his own orders, a short time before the Boat of the Capturing Ship boarded."

John Muller, a Seaman on board the Vessel, on his Examination on the same Interrogatories, corroborates the foregoing Evidence; and although a discrepancy exists between the Master and himself respecting the Ownership, yet their statements, as to the place of embarkation of the Slaves, and as to the fact of certain Papers having been thrown overboard, on the approach of the Boat of the Capturing Ship, fully coincide.

The illicit traffick being thus clearly proved, and no Claimant appearing, the Court pronounce the said Brig, "*Henriette*," alias "*Confiance*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, to have been, at the time of the Capture and Seizure thereof, engaged in the illicit traffick in Slaves, and as such subject and liable to confiscation; and condemn the said Vessel, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, as taken in such illicit Traffick by His Majesty's Ship "*Eden*," W. F. W. Owen, Esq., Commander; and moreover pronounce the said Slaves, Natives of Africa, brought to Sierra Leone, to be emancipated from slavery, and to be employed as servants or free labourers; and also that it has been proved, that, at the time of passing the said Sentence, 128 Men, 87 Women, and 75 Children, composed the whole of the Slaves so decreed to be emancipated; and the Court further decree, that the 59 landed at Fernando Po, or the survivors of them, be likewise emancipated.

(Signed) GEO. JACKSON.  
 S. SMART.

## HAVANA.

No. 65.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 1, 1828.)*

MY LORD,

Havana, December 4, 1827.

SINCE the date of our Despatch of the 2d Ult., the *Spanish* Schooner, "*Maria*," Don Salvador Pozo, Master, has sailed for St. Thomas, on the Coast of Africa.

We have heard a report that a *Spanish* Vessel has lately landed a large Cargo of Slaves a little to the Westward of Matanzas; but she has not yet entered this Port.

We have the honour to be, &amp;c.

(Signed) HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

No. 66.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 1, 1828.)*

MY LORD,

Havana, December 12, 1827.

WE have the honour to report to your Lordship the arrival at this Port from the Coast of Africa, of the *Spanish* Schooner "*Indagadora*," which was fitted out here, and sailed for that Coast, in the Month of July last. It is as notorious as in all similar Cases, that this Vessel had, previous to her entering this Port, landed a Cargo of Slaves upon the Coast of this Island.

We have the honour to enclose a Copy of the Note which we addressed to the Captain General upon this occasion, together with a Translation of His Excellency's Reply, informing us that he had made a Communication upon the subject to the Naval Department, in order that the necessary investigation might be instituted, of the result of which we should be duly informed.

We have the honour to be, &amp;c.

(Signed) HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

First Enclosure in No. 66.

(Translation.)

*The British Commissioners to The Captain General.*

SIR,

Havana, December 10, 1827.

IN conformity with our usual practice, we have the honour to apprise your Excellency, that it will be our duty to report to His Majesty's Government, the arrival here of another *Spanish* Vessel, the Schooner "*Indagadora*," from the Coast of Africa. She was fitted out at this Port, and sailed for that Coast, in the Month of July last; and it is as notorious as in all similar Cases, that, previous to her arrival here, she had landed a Cargo of Slaves on the Coast of this Island.

We avail ourselves of this occasion, &amp;c.

(Signed) H. T. KILBEE.  
W. S. MACLEAY.*His Excellency The Captain General.*

Second Enclosure in No. 66. (Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

Havana, December 11, 1827.

I HAVE received your Note, dated Yesterday, in which you apprise me, that it will be your duty to report to your Government, the arrival at this Port, from the Coast of Africa, of the Spanish Schooner "*Indagadora*," which you state to me was fitted out here, and sailed for that Coast, in the Month of July last; having, previous to her arrival at this said Port, landed on the Coast of this Island a Cargo of Slaves.

Being duly apprised of all this, I state to you, in reply, that, in obedience to the Order of the King, my august Sovereign, of the 2d January 1826, I have made, under this day's date, the necessary communication upon the subject to the Second in Command of the Naval Forces on this station, in order that he may institute the proper investigation, of the result of which you shall be duly informed.

God preserve you many Years.

(Signed) FRANCISCO DIONISIO VIVES.

*His Britannick Majesty's Commissioners.*

No. 67.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 1, 1828.)*

MY LORD,

Havana, December 19, 1827.

SINCE closing our Despatch of the 12th Instant, we have received a Note, of which a Translation is enclosed, from the Captain General, upon the subject of the Spanish Schooner "*Indagadora*," the arrival of which at this Port was reported to your Lordship in that Despatch.

In this Note His Excellency has communicated the result of the investigation undertaken by the Naval Department, respecting that Vessel, which is precisely the same as those in other previous Cases, namely, that the examination of the Log-book did not afford any ground for supposing that she had been engaged in the Slave-trade.

We have the honour to be, &c.

(Signed) HENRY T. KILBEE.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

W. S. MACLEAY.

Enclosure in No. 67. (Translation.)

*The Captain General to The British Commissioners.*

GENTLEMEN,

Havana, December 18, 1827.

THE Second in Command of the Naval Forces on this Station writes to me, under date of Yesterday, as follows:—

"Most Excellent Sir,—Under date the 11th Instant, the Commandant of Matriculas of this Island has written to me as follows:—'The Log-books presented by the Second Mate of the Spanish Schooner "*Indagadora*" (the Captain of that Vessel, Don Santiago Manzana, being ill) having been examined by the Adjutant of this Department, Lieutenant Don Bartolomi Masquez Pacheco, no charge whatever is found therein to make against her during the Voyage to and from St. Thomas, for which Island she sailed from this Port.' And I transmit this Communication to Your Excellency, in answer to your Letter of the same date, in which you enclose the Translation of that addressed to you on the 10th Instant, by His Britannick Majesty's Commissioners, relative to the same Vessel."

I communicate this to you, in continuation of what I stated to you on the 11th Instant.

God preserve you many Years.

(Signed) FRANCISCO DIONISIO VIVES.

*The British Commissioners.*



No. 68.

*His Majesty's Commissioners to The Earl of Dudley.*—(Received Feb. 13, 1828.)

MY LORD,

Havana, December 31, 1827.

DURING the present Month, 5 Spanish Vessels, the names of which are contained in the enclosed List, have sailed from this Port for the Coast of Africa.

Others are, we understand, fitting out for the same destination.

The Brig "*Guerrero*," which sailed for that Coast in July last, was, on her return some days ago, chased by His Majesty's Schooner "*Nimble*," and run ashore on the Florida Reef. The Negroes, after the Brig had been taken possession of by the "*Nimble*," were transferred to some American Wreckers; 2 of which during the night cut their cables and escaped; the Spaniards belonging to the "*Guerrero*," having by promises or force obtained the command of them. The Schooners subsequently landed the Negroes, to the number of about 400, on the Coast of this Island.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 68.

*List of Spanish Vessels that have sailed from the Port of Havana for the Coast of Africa, during the Month of December 1827.*

December 21.	Brig Almarante,	- - -	Domingo Antonio de Castro,	- - -	Master.
" 21.	Schooner Maria,	- - -	Francisco Romero,	- - -	Do.
" 22.	Brig Ricardo,	- - -	Bartolomé Aizpurua,	- - -	Do.
" 25.	Schooner Esperanza,	- - -	Eustaquio Perez de Noriega,	- - -	Do.
" 31.	Brigantine Intrepido,	- - -	Jozé de Puiz y Miro,	- - -	Do.

No. 69.

*His Majesty's Commissioners to The Earl of Dudley.*—(Received Feb. 13.)

MY LORD,

Havana, January 1, 1828.

IN reference to the Instructions, directing us to transmit Half-Yearly Returns of the Cases adjudicated in the Court of Mixed Commission established here, we have the honour to inform your Lordship that no Vessel has, within the last 6 Months, been brought in here for adjudication.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

No. 70.

*His Majesty's Commissioners to The Earl of Dudley.*—(Received Feb. 13.)

(Extract.)

Havana, January 1, 1828.

YOUR Lordship will perceive by the enclosed List, that of the 15 Vessels which sailed from this Port for the Coast of Africa during the Year 1826, only 9 have succeeded in landing their Cargoes of Negroes, and 2 of those 9 were subsequently captured on their passage round to this Port,—1 by the Mexicans, and the other by the Colombians; 7 arrived here in safety; the remaining 6 have probably been either captured or lost on the Coast of Africa.

We have also the honour to enclose Lists of the Departures and Arrivals of Slave-vessels during the Year 1827.

The number of the former was 27, of which 4 have already returned in safety, and 1, the "*Guerrero*," has been lost on the Florida Reef, after

Capture by a British Cruizer; the greater part of her Cargo, however, was unfortunately landed clandestinely on this Island by some American Wreckers.

The number of Arrivals has been 10, or rather that of the Vessels which have succeeded in landing their Negroes, for in that number are included the 2 Captures before mentioned, made by the Mexicans and Colombians, and the "Guerrero;" the Negroes imported by those Vessels amounted, as nearly as we have been enabled to ascertain, to about 3,500.

The number of Arrivals in 1827, differs little from that in 1826; but the number of Departures has considerably encreased, (from 15 to 27,) and as the greater part have sailed within the last 4 Months, and several are still fitting out, there is every appearance of the traffick again becoming as brisk and extensive as during the Years 1824 and 1825.

The mode of carrying it on is precisely the same as has been stated in former General Reports; and no effect whatever has been produced here, either by the Royal Order of His Catholick Majesty, issued in January 1826, or the repeated remonstrances of His Majesty's Government. That Royal Order has never to our knowledge been acted upon by the Authorities here, of their own accord, but only at our instigation, and then in a manner precluding the hope of any successful result. When we address a Representation to the Captain-General, if it be a Case coming under his immediate controul, instead of making use of the information we transmit, and employing the ample executive means in his power to investigate the Case, he submit it to his Legal Assessors. If it be a Case belonging to the jurisdiction of the Naval Department, he transmits the Representation to it, but without pointing out the necessity of commencing the investigation, immediately after the arrival of the suspicious Vessel, and the expediency of not confining it, as appears now to be the case, to the mere examination of the Log-book; thereby obeying the strict letter, but by no means the true spirit, of the Royal Order of January 1826. It is well worthy of observation, that, in the proceedings, whether under the Captain General or the Naval Department, special care is taken to set forth, in the most ostensible manner, that they are undertaken in consequence of the denunciation of the British Commissioners.

These observations, as far as they regard the Naval Department, are fully justified by the numerous Reports which we have made to His Majesty's Government, of Vessels arriving from the Coast of Africa; and, as far as regards the Captain-General, by the Reports, respecting one of the most scandalous Cases that has yet occurred, which were made in the course of last Year.

We allude to the Case of the "*Tres Manuelas*," which Vessel brought from the Coast of Africa with her Cargo of Slaves, 7 Sailors belonging to a British Vessel, which had been wrecked there; 4 of these Sailors deposed upon oath to the facts, of the Vessel having brought a Cargo of Slaves, and having landed them at the Port of Vanes, a few leagues to the Westward of Havana. A Statement of the Case, accompanied by the Depositions of the Sailors, was without loss of time transmitted to the Captain-General; and he was apprised where the latter might be found, should it be judged necessary that they should undergo a personal examination before a Spanish Tribunal. No attention was paid to the Depositions; no such examination took place.—the Parties concerned in the transaction remained unmolested: the Vessel itself was allowed to sail again for the same Coast, doubtless to engage again in the same traffick; and no Reply; but the mere acknowledgment of its receipt, was given to our Representation.

The notoriety with which the traffick is carried on, is, if possible, greater than ever; no concealment whatever is found necessary, and the publick Brokers are as openly employed in obtaining Purchasers for newly imported Negroes, and Persons to take shares in Slave-trade Adventures, as in any other business whatever.

This notoriety is such as, we may safely venture to affirm, utterly precludes the possibility, either of the Authorities of the Island being ignorant of the Cases of illicit Slave-trade that occur, or of our being mistaken in our Reports respecting them; but, even did it not exist, the most incredulous must be convinced of the great extent of that traffick, by the fact that, within

the last 6 Years, no less than 138 Vessels have sailed publickly from this Port alone, for the Coast of Africa; every one of which, that has been met by a British Cruizer on her return, having been found with a Cargo of Negroes; and not a solitary instance having yet occurred of one of them coming back with a lawful Cargo of Merchandize. Even the dissimulation formerly practised, with respect to the Place of Departure, is now no longer thought necessary,—all these Vessels entering avowedly from the Coast of Africa.

We have never attempted to conceal, but, on the contrary, have frequently pointed out, the difficulties which oppose the effectual suppression of illicit Slave-trade in this Island, even were this Government really inclined to attempt to carry it into effect; but what we complain of is, the decided reluctance manifested by the Authorities, effectually to interfere in transactions connected with that traffick; and, if compelled to interfere, their obviously anxious desire to shew the publick that they do so, not of their own accord.

A necessary consequence of this systematick conduct, continued for so long a period, on the part of the Authorities, is, that it is the universal and firm conviction of the People of this Island, that their proceedings are approved by the Government of His Catholick Majesty.

We do not consider ourselves to be warranted in reporting to your Lordship the rumours that reach us, respecting the publick and scandalous manner in which the Slave-trade is carried on in the other Ports of this Island; but what we witness in this City, the residence of the Chief Governor, to whom every Case is represented, and who is aware that it will moreover be reported to His Majesty's Government, affords strong inducement to believe, that all those rumours, with respect to the publicity of the traffick, in Places where there is no controul whatever, have their foundation in truth.

To conclude, we can only repeat here, what has been stated to His Majesty's Government, and to the Captain-General, upwards of 2 Years ago, that the Slave-trade with this Island is fully as extensive, and is carried on in all its branches with very nearly as much publicity, as if our Treaty were not in existence.

*The Right Hon. The Earl of Dudley,*  
*&c. &c. &c.*

(Signed) HENRY T. KILBEE.  
 W. S. MACLEAY.

First Enclosure in No. 70.

*List of Vessels which sailed for the Coast of Africa, from the Port of Havana, during the Year 1826, with the result of their respective Voyages, as far as can be ascertained.*

Nation.	Class.	Name.	Result of Voyages.
Portuguese	Brig	Aurora de Cabo - -	Unknown.
Spanish	Brigantine	Xerxes - - - - -	{ Landed Cargo of Negroes on the South side of the Island, and subsequently captured by Colombians.
Ditto	Schooner	Hortensia - - - - -	
Ditto	Ditto	Paulita - - - - -	Unknown.
Ditto	Ditto	Escudera - - - - -	Unknown.
Ditto	Brig	Currutaco - - - - -	{ Returned Oct. 3, 1826, after landing a Cargo of Slaves.
Ditto	Schooner	Minerva - - - - -	Returned Aug. 16, — ditto ditto.
Ditto	Ditto	Dolorita - - - - -	Returned Nov. 26, — ditto ditto.
Ditto	Ditto	Jacinta - - - - -	Returned Nov. 16, — ditto ditto.
Ditto	Brig	Breves (Conquistador)	Returned Feb 21, 1827, ditto ditto.
Ditto	Ditto	Pepe - - - - -	Returned Nov. 16, 1826, ditto ditto.
Ditto	Schooner	Montañaiza - - - - -	{ Landed Cargo of Slaves at Bahia Honda, and subsequently captured by Mexicans.
Ditto	Ditto	Amelia - - - - -	Unknown.
Ditto	Ditto	Femeridad - - - - -	Captured, and carried to Sierra Leone.
Ditto	Ditto	Hermosa Dolorita - -	{ Returned July 10, 1827, after landing a Cargo of Slaves.

## Second Enclosure in No. 70.

*List of Vessels which have sailed from Havana for the Coast of Africa, during the Year 1827.*

Date of Departure.	Nation.	Class.	Name.	Master.	Observations.
1827.					
Jan. 3,	Spanish	Schooner	Vigilancia Habanera	D. A. de Castro - -	Returned June 23.
" 10,	French	Brig	Paul - - - - -	F. G. Forcain.	
" 31,	Spanish	Schooner	Monica - - - - -	J. B. Sustacha.	
March 1,	Ditto	Brigantine	Nuevo Orestes - -	S. Manzana - - - -	Returned June 19.
" 22,	Ditto	Schooner	Tres Manuelas - -	J. Gardullo - - - -	Ditto Aug. 1.
July 12,	Ditto	Ditto	Lambery - - - - -	Ped. Ant. Saldyendo.	
" 14,	Ditto	Brig	Guerrero - - - - -	Jozé Gomez - - - -	{ Captured, but afterwards lost on the Florida Reef.
" 20,	Ditto	Schooner	Indagadora - - - -	S. Manzana - - - -	{ Returned Dec. 6, 1827.
" 26,	Ditto	Brig	Gallo - - - - -	Ramon Gonzalez -	Ditto, Jan. 5, 1828.
Aug. 9,	Ditto	Schooner	Gertrudis - - - - -	Jozé Pruna,	
" 11,	Ditto	Brigantine	Emprendedor - - -	Martin Vilar.	
" 15,	Ditto	Brig	Volador - - - - -	Francisco Amigo.	
Sept. 9,	Ditto	Schooner	Tres Manuelas - -	Jozé Gardullo.	
" 9,	Ditto	Ditto	Hermosa Dolorita -	Pedro Blanco.	
" 9,	Ditto	Ditto	{ Vigilancia Haba. } { (a) Jacinta }	Franco. Cerro.	
" 12,	Ditto	Ditto	Primera - - - - -	Anto. Negrete.	
" 19,	Ditto	Ditto	Araucana - - - - -	Claudio Pitaluga.	
" 23,	Ditto	Ditto	Medea - - - - -	Joaquin Blanco.	
" 23,	Ditto	Ditto	Segunda Teresa - -	Mariano Carbó.	
Oct. 8,	Ditto	Ditto	Feliz Victoria - - -	Jozé Roquez.	
Nov. 1,	Ditto	Ditto	Manuelita - - - - -	Jozé Bosch.	
" 20,	Ditto	Ditto	Maria - - - - -	Salvador Pozo.	
Dec. 21,	Ditto	Brig	Almirante - - - - -	{ Domingo Anto. de Castro.	
" 21,	Ditto	Schooner	Maria - - - - -	Franco. Romero.	
" 22,	Ditto	Brig	Ricardo - - - - -	Bartolomé Aizpurua	
" 25,	Ditto	Schooner	Esperanza - - - - -	{ Eustaquio Perez de Noriega.	
" 31,	Ditto	Brigantine	Intrepido - - - - -	Jozé de Puig y Mir.	

## Third Enclosure in No. 70.

*List of Vessels which have returned from the Coast of Africa, and have succeeded in landing Cargoes of Slaves in the Neighbourhood of Havana, during the Year 1827.*

Date of Arrival.	Nation.	Class.	Name.	Master.	Observations.
1827.					
Jan.	Spanish	Schooner	Montañesa - - - -	- - - - -	{ Captured by Mexicans after landing Negroes
Feb. 21	Ditto	Brig	Breves - - - - -	A Capera.	
"	Ditto	Ditto	Xerxes - - - - -	- - - - -	{ Captured by Colombians after landing Negroes
April 5	Ditto	Schooner	Micaela - - - - -	Juan Dolerga.	
June 19	Ditto	Brigantine	Nuevo Orestes - -	S. Manzana.	
" 23	Ditto	Schooner	{ Vigilancia Haba. (a) Jacinta - }	D. A. de Castro.	
July 10	Ditto	Ditto	Dolorita - - - - -	Pedro Blanco.	
Aug. 1	Ditto	Ditto	Tres Manuelas - -	J. Gardullo.	
Dec. 6	Ditto	Ditto	Indagadora - - - -	S. Manzana.	
"	Ditto	Brig	Guerrero - - - - -	- - - - -	{ Captured by H. M. Schooner Nimble, but subsequently run ashore on the Florida Reef: 400 of the Negroes landed on the Island by 2 Wreckers

## No. 71.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb 13.)*

MY LORD,

Havana, January 3, 1828.

LIEUTENANT HOLLAND, Commander of His Majesty's Schooner, "Nimble," has informed us that, on the 19th Ultimo, he fell in with and chased the Spanish Brig "Guerrero," and having come up with her, an action took place after night fall, which ceased in consequence of the Spaniard having made the usual night signal of surrender, that is, ceasing to fire and shewing a light. Shortly after both Vessels ran ashore on the Florida Reef. On the Morning of the 20th, some American Wreckers came to their assistance, and the "Nimble," was got off. The "Guerrero," however, which was found to have a Cargo of between 500 and 600 Negroes on board, was so much damaged that it was judged necessary to abandon her; and Lieutenant Holland engaged some of the Wreckers to take on board the Cargo of Negroes, and part of the Spanish Crew, for the purpose of conveying them to Key West. The whole of the Negroes, and a considerable part of the Crew, were accordingly transferred from the "Guerrero" to 3 Wreckers, in the course of the 20th, but in the early part of the same Night two of the latter, of which the Spaniards by force

or promises had succeeded in getting the command, cut their cables and put to Sea. The "Nimble" fired upon them with musquetry, but was unable to pursue them, having lost her rudder. The 2 Wreckers succeeded in reaching the Port of Santa Cruz, between the Havana and Matanzas, on the following day; and immediately landed the Negroes, to the number of about 400. The 3d Wrecker proceeded with the "Nimble" to Key West, where she landed about 120 Negroes. Of these the *American* Authorities subsequently took possession, which act gave rise to a Correspondence between them and Lieutenant Holland, that will probably reach His Majesty's Government through another channel.

Lieutenant Holland also informed us, that 4 men belonging to one of the Wreckers that had landed the Negroes at Santa Cruz, were at the Havana, and that 1 of them was a British Subject, and then actually on board his Schooner.

Being in hopes of obtaining direct evidence of the disembarkation of Negroes in this Island, we suggested to Lieutenant Holland the expediency of his addressing a Letter to us, apprising us of this last mentioned circumstance. We subsequently succeeded in obtaining the attendance of William Wright, the British Subject, whose Deposition upon oath was taken by His Majesty's Commissary Judge; and by it the fact of the landing of the Slaves, as before related, was fully established. Copies of Lieutenant Holland's Letter, and of Wright's Deposition, are enclosed.

Being in possession of such unquestionable evidence to the fact of the clandestine disembarkation of Negroes on this Island, we judged it to be our duty to address a Representation to the Captain-General, apprising him of all the circumstances of the case, and enclosing him a Copy of Wright's Deposition; and we informed him at the same time where the latter and the 3 *American* Sailors, who had come with him, were to be found. We concluded by expressing our confident hope, that the information which we had given His Excellency would enable him to trace out the Negroes, in order that the benefit of emancipation, to which they had an undoubted right, might be conferred upon them.

We have the honour to enclose a Copy of our Note to the Captain-General, together with a Translation of his Reply. In the latter, your Lordship will find fully exemplified what we have elsewhere stated respecting the conduct of His Excellency in similar cases. Instead, as might naturally be expected, of his availing himself of the information which we transmitted, for the purpose of discovering, by enquiries from the Authorities and others upon the Spot, whether such disembarkation had taken place, and if so, of ascertaining where the Negroes had been removed; he informs us, that he has sent our Note, together with a Letter which he had himself received from Lieutenant Holland, to one of his Legal Assessors for his opinion thereupon.

Wright, in his Deposition, states, that he and the 3 *American* Sailors quitted the Wrecker at Santa Cruz, where the Negroes had been landed, being apprehensive that their lives were in danger from the *Spaniards*; and that they came round to this Port in an open Boat, and immediately presented themselves to the Spanish Authorities (one of whom he firmly believes, though he did not venture to swear, was the Governor), to whom they reported all the circumstances attending the escape of the Wreckers and the landing of the Negroes. The same Authorities subsequently ordered them to go out of the Harbour in the same small Boat in which they came, and remain within gunshot of the Morro. It is difficult to put any charitable construction upon such an extraordinary order; but though we have slightly alluded to the circumstances under which those Sailors arrived here, we did not think it within our province to tax the Authorities here with such a manifest breach of the laws of humanity.

The departure of the "*Guerrero*" was reported in our Despatch of the 31st of July 1827, and it is there stated that she was well armed, and had a Crew of 90 men; and that her probable intention was to plunder of their Cargoes of Slaves, any weaker Vessels that she might fall in with on the Coast of Africa. We understand that she carried her intention fully into effect, and that she

not only plundered Slave-vessels, but some other Merchant-ships; and accordingly at the time of her capture and loss she had a valuable Cargo of European merchandize on board.

The "*Guerrero*" or "*San Jose*" was by far the largest and finest Vessel, and considered to be the best sailer, employed in the Slave-trade from this Port. We believe she carried 14 or 16 guns. Her Capture, therefore, by a Vessel of such inferior force as the "*Nimble*," while highly creditable to the latter, affords another convincing proof to those concerned in illicit Slave-trade, how little any effectual resistance can be expected from their Sailors, whatever advantages they may possess, when opposed to His Majesty's Navy. A few more hours of day-light would, there can be no doubt, have enabled Lieutenant Holland to have saved his Prize, and the presence of both Vessels together in this Port would, we are confident, have had a most salutary effect upon those inclined to embark in the traffick.

We have the honour to be, &c.

(Signed) HENRY T. KILBEE,  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

First Enclosure in No. 71.

*Lieutenant Holland to the British Commissioners.*

GENTLEMEN,

*His Majesty's Schooner "Nimble," Havant, December 31, 1827.*

HAVING, on the Night of the 19th of December, captured the Spanish Brig "*Guerrero*," with a Cargo of Negroes from the Coast of Africa, and a considerable part of the same, about 400 having escaped, after being placed on board 2 American Wrecking Vessels, I think proper to apprise you of the circumstance, and at the same time to inform you, that I have ascertained they were landed at Santa Cruz, on this Island, and that 4 men, part of the Crew of one of the Wreckers, are now at this Place, who are Witnesses to the fact. The names of these Individuals are subjoined; the first of whom is an *Englishman*, and is at present on board my Vessel; the other 3 are *Americans*, and I believe may be heard of on board the *American Sloop of War* now in this Port.

I remain, &c.

(Signed) EDWARD HOLLAND,  
Lieut. and Commander.

*His Majesty's Commissioners,*

William Wright, - English.  
Thomas Smith, - American.  
Acey Kingsbury, - Do.  
John Gorman, - Do.

Second Enclosure in No. 71.

*Deposition of William Wright, in the Case of the "Guerrero."*

APPEARED personally, before me, Henry T. Kilbee, His Majesty's Commissary Judge of the Mixed Commission established at Havannah, under the Treaty between His Majesty and The King of Spain, for the prevention of the illicit Traffick in Slaves; William Wright, a Native of Londonderry, in Ireland, who, being duly sworn, maketh oath and saith, that he was lately a Sailor on board the *American Schooner "Thorn,"* of Key West, Charles Grover, Master; and that on the Morning of the 20th day of the present Month of December, 2 Vessels were seen on Shore on the Florida Reef, which, when the said Schooner came up to them, proved to be the *British Schooner of War "Nimble,"* and her Prize, a *Spanish Brig,* with a Cargo of Negroes on board, which Brig, this Deponent heard, was called the "*Guerrero*;" that the Master of the said *American Schooner* having communicated with the Commander of the aforesaid *British Schooner of War,* proceeded to take on board his Vessel as many Negroes as he could from the *Spanish Brig,* and, in the course of the same day, received on board about 300, for the purpose, as this Deponent understands, of conveying them to Key West, these Negroes being accompanied by 52 Spaniards, part of the Crew of the Brig "*Guerrero*;" that, about half-past 8 at Night, the cable was cut, as this Deponent verily believes, by those Spaniards, and the Schooner put to Sea, although fired upon by the aforesaid *British Schooner*; that she was navigated by the Spaniards, and arrived on the following day at a Port in the Island of Cuba, between the Havana and Matanzas, called Santa Cruz, where the Negroes were immediately landed; that this Deponent likewise saw an *American Smack,* which had also received a considerable number of Negroes from the Brig "*Guerrero*," land them at the same Port of Santa Cruz, about the

same time as the Schooner to which he belonged. This Deponent declareth that he does not know whether the Master of the *American* Schooner was induced to take the step of quitting the *British* Schooner of War, by the promises or the threats of the Spaniards; but he conceives that resistance would have been of little avail, as the latter amounted to 52, while the *American* Crew consisted, at that time, only of 8. This Deponent further declares, that the Master of his Schooner went ashore with the *Spaniards*, and that, during his absence, reports reached the Vessel, that it was the intention of the said *Spaniards* to murder the Crew during the Night; being alarmed at which, this Deponent, with 3 *American* Sailors, named Thomas Smith, Acey Kingsbury, and John Gorman, abandoned the Schooner, and, in the open Boat, sailed for this Port of Havana, where they arrived on the following day, and immediately reported all the circumstances of the Case to the Captain of the Port, and subsequently to other *Spanish* Authorities, by whom they were ordered to go out of the Harbour in the same small Boat in which they came, and remain within gun-shot of the Morro; that they accordingly proceeded out of the Harbour, but, finding the Sea very rough, they landed a little to the Westward, and, leaving their Boat in a small Cove, again came to the City of Havana, where this Deponent has since remained.

(Signed) WILLIAM <sup>His</sup> × WRIGHT.  
Mark.

In the City of Havana, on the 31st day of December 1827,  
the said William Wright was duly sworn to the truth of  
this Affidavit, Before me, (Signed) HENRY T. KILBEE.

### Third Enclosure in No. 71.

#### *The British Commissioners to The Captain-General.*

SIR,

Havana, December 31, 1827.

WE have the honour to transmit to your Excellency a Copy of a Letter, which we have received from the Commander of the *British* Schooner of War "Nimble," reporting to us the disembarkation of about 400 Negroes at the Port of Santa Cruz, in this Island, some leagues to the Westward of Havana.

Those Negroes formed part of the Cargo of the *Spanish* Brig "Guerrero," which sailed from this Port for the Coast of Africa on the 14th of July last, and, upon her return, was chased by the "Nimble," and, after surrendering, ran ashore on the Florida Reef, on the Night of the 19th Instant.

The "Nimble" also ran aground; but, on the Morning of the 20th, some *American* Wreckers having come to her assistance, she was got off. The "Guerrero," however, was so much damaged that it was found necessary to abandon her; and Lieutenant Holland, the Commander of the "Nimble," engaged some of those Wreckers to take on board part of the Crew (20 of which he received on board his own Vessel), and the whole Cargo of Negroes, amounting to about 500, for the purpose of conveying them to Cayo Hueso, where he hoped to be able to repair the injury which his own Vessel had sustained, and to obtain water, and whatever else he might require, for the purpose of conveying the Negroes and Crew of the "Guerrero" to the Havana.

The whole of the *Spanish* Crew, with the exception of the 20 who were taken on board the "Nimble," and the Negroes, were accordingly transferred to 3 *American* Wreckers in the course of the 20th Instant, but in the early part of the Night, 2 of the latter, of which the Spaniards, by force or promises, had succeeded in getting the command, cut their cables and put to Sea. The "Nimble" fired upon them with musquetry, but was unable to pursue them, having lost her rudder. The 2 Wreckers succeeded in reaching the Port of Santa Cruz on the following day, and immediately landed the Negroes, to the number of about 400, viz. 300 from one of the Wreckers, and, it is supposed, about 100 from the other.

There are now here 4 Sailors belonging to the Wrecker, which had on board 300 Negroes, who were Witnesses to the whole transaction; 3 of them, named Thomas Smith, Acey Kingsbury, and John Gorman, are *Americans*, and, we understand, may be heard of on board the *American* Corvette "Natches," now in the Harbour; the 4th, William Wright, is a *British* Subject, and at present serving in His Britannick Majesty's Schooner "Nimble," which is also in this Harbour.

As soon as we had learned that a *British* Subject had been concerned in this transaction, having served as a Sailor in a Vessel which had clandestinely landed Negroes on the Coast of this Island, thereby violating the Laws of his Country; in obedience to our Instructions, we adopted all the means in our power to investigate the matter, and, having obtained the attendance of that Individual, His Majesty's Commissary Judge, in his capacity as a *British* Agent, took his Deposition upon oath.

This Deposition fully confirms the facts above related, and moreover shews in what manner the Deponent and the other 3 Sailors of the *American* Wrecker arrived at this Port, when they immediately reported to the Authorities of His Catholick Majesty all the circumstances of the Case.

This clearly proved fact, of the disembarkation of Negroes upon the Coast of this Island; it is our duty to report to our Government, and consequently to apprise your Excellency thereof; and, in order to facilitate, as far as lies in our power, the enquiry respecting the Case, and to afford your Excellency the most correct information which we possess on the subject, we have the honour to enclose a Copy of the abovementioned Deposition, which we confidently hope will enable your Excellency to trace out those unfortunate Negroes, in order that the benefit of emancipation may be conferred upon them: to which they are undoubtedly entitled, whether it be by Decree of the Mixed Commission, under the Treaty between Great Britain and Spain, or by one from your Excellency, in virtue of the Royal Order of January 1826.

We avail ourselves, &c.  
(Signed) HENRY T. KILBEE.  
W. S. MACLEAY.

*His Excellency the Captain-General.*



Fourth Enclosure in No. 71.

(Translation.)

*The Captain-General to the British Commissioners.*

GENTLEMEN,

Havana, January 2, 1828.

WITH your Note of the 31st Ult., which did not reach my hands till Yesterday at Noon, I have received the 2 Copies enclosed therein, the one, of the Letter addressed to you by the Commandant of His Britannick Majesty's Schooner "Nimble," reporting to you his having captured the Spanish Brig "Guerrero," with a Cargo of Negroes from the Coast of Africa, which he transhipped on board of some American Wreckers, but that the latter had escaped and landed the Negroes at Santa Cruz, in this Island, as the said Commandant avers; and the other, of the Deposition of an English Sailor, who was on board 1 of the American Wreckers, relating to the same subject: and being duly apprized of what you have stated upon this occasion, I inform you in reply, that, under this day's date, recommending all possible despatch, I have transmitted for the opinion of the Second Assessor-General of this Government, not only those Documents, but the Letter which the abovementioned Commandant of His Britannick Majesty's Schooner "Nimble," addressed direct to me, apprizing me of the same occurrence, and that he had brought on board his Vessel the remainder of the Crew of the captured Brig, in number 18, together with 1 of the Mates, and the Boatswain, which Individuals I caused instantly to be placed in prison, where they are in perfect security to await the result of the proceedings.

God preserve you many Years.

(Signed) FRANCO. DIONISIO VIVES.

His Britannick Majesty's Commissioners.

No. 72.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 13.)*

(Extract.)

Havana, January 3, 1828.

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 28th of September 1827, enclosing, for any observation that we may have to make thereupon, a Communication from His Catholick Majesty's Envoy in London, upon the subject of the Spanish Vessels "Dichosa" and "Maria Isabel," reported by us as having been engaged in illicit Slave-trade.

The Documents transmitted by the Spanish Envoy, are Copies of the legal Proceedings under the Marine Department at Havana, which were instituted in consequence of a Representation made by us to the Captain-General, for the purpose of ascertaining whether the abovementioned Spanish Vessels, viz., the Brig "Maria Isabel," and the Schooner "Sto. Cristo de la Salud," alias, "La Dichosa," had landed Cargoes of Negroes on the Coast of this Island; which we asserted was notorious. The Proceedings in the 2 Cases were perfectly similar, and the same Officer was appointed to investigate both, and to examine the Witnesses. The latter consisting of the Captain of 1 of the Vessels, and several Individuals belonging to the Crews of both, appear to have been asked but few questions; and they uniformly deposed that their respective Vessels had sailed from Cadiz, the "Maria Isabel," with a Cargo, and the "Dichosa" in ballast, for the Danish Island of St. Thomas, where they remained, the first about 2 Months, and the other about 4, and then sailed for Havana in ballast, at which Place they arrived; the "Dichosa" having previously put into Bahia Honda, in consequence of the illness of the Captain, and of a suspicious sail being in sight; and all the Witnesses conclude by declaring that they knew nothing about any disembarkation of African Negroes, and that they had none such on board their respective Vessels.

It is very remarkable that no dates whatever were required from the Witnesses, and neither the time when the Vessels sailed from Cadiz, nor that when they arrived at St. Thomas, is mentioned.

The Captain's Journal in neither Case was produced, one asserting that he had mislaid his, and the other Captain having left the Havana prior to the commencement of the investigation.

Upon this Evidence it was decided, that there was no reason whatever for believing that the Vessels in question had landed Negroes on the Coast of this Island.

It is most obvious throughout the whole of these proceedings, that the real object in view was not to investigate the truth, but to procure a proof in legal form by which our denunciation might appear unfounded.

When the "*Maria Isabel*" arrived, as she was not one of those Vessels that had been fitted out publicly at this Port for the African Trade, respecting the criminality of which no doubt can be seriously entertained, we delayed mentioning the Case to the Captain-General, until the fact of her having landed a Cargo of Negroes on this Island was a matter of such complete notoriety here, as almost to preclude the very possibility of doubt, being well aware of the arms we should put into the hands of the Protectors of the traffick, and of the discredit which they would undoubtedly take the opportunity of throwing upon our Reports, were a single instance to occur in which it could be fairly proved that we had been mistaken.

In the other Case, that of the "*Dichosa*," besides the same notoriety, we were in possession of positive testimony. On the Morning of the very day she arrived, the late Lieutenant Smith, of His Majesty's Schooner "*Magpie*," came into Port, and immediately stated to us, that he had been informed by more than one person on the Coast, (and that without any mystery whatever) when and where she had landed her Cargo of Slaves;—that he had subsequently visited her, notwithstanding the opposition made by the *Spanish* Vessels of War, under whose Convoy she then was, and had found all the usual appearances of her having recently had Slaves on board. Under these circumstances he requested our opinion, whether the Mixed Commission would condemn her, were he to take and bring her in here. We replied to Lieutenant Smith, that the capturing her while under the Convoy of a *Spanish* Vessel of War was a point upon which we could not venture to give an opinion; but that if the Vessel were fairly captured and brought in here, there could be no doubt that she would be liable to condemnation under the Additional Articles to the Treaty, provided Witnesses could be brought forward to prove the disembarkation of the Negroes. Lieutenant Smith, conceiving that this would be most difficult, if not impossible, gave up the idea of detaining the "*Dichosa*." His testimony, however, were we even to allow that it does not amount to complete legal proof, was certainly sufficient to remove all doubt of the fact.

It is positively declared by the *Spanish* Witnesses, that they entered on board the "*Maria Isabel*," and the "*Dichosa*," at Cadiz, where the former shipped a Cargo of *Peninsular* produce, the latter being in ballast; and that they both sailed from that Port, and proceeded to St. Thomas, without touching at any other. Now, in the Papers presented to Parliament last Year, Class B., Spain, No. 11, it will be seen that those two Vessels had excited the suspicions of His Majesty's Consul at Cadiz; and that both, or at least one of them, the "*Maria Isabel*," had proceeded from that Port to Gibraltar in the Month of January 1826, and that she there took on board a Cargo, which we may safely assume, was not *Peninsular* produce. Here then we have the testimony of at least some of the Witnesses contradicted in a most material point, unless indeed the "*Maria Isabel*" returned from Gibraltar to Cadiz, which would naturally have been reported by Mr. Brackenbury, and is by no means probable; and even in that case there is a contradiction with respect to the nature of the Cargo.

We have thus, we think, shewn, that the Cases upon which the *Spanish* Government have thought proper to rest the justification of the conduct of the Authorities here, and their insinuations of the little credit that ought to be given to the Reports of His Majesty's Commissioners, are, as far as notoriety goes, Cases of as publick illicit Slave-trade as any others that occur:—that there is, moreover, direct and unquestionable, if not legal, testimony to the fact of one of the Vessels having landed a Cargo of Slaves;—the Depositions of their Witnesses are vague and defective;—and their Evidence is contradicted in a most material point, by facts.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

No. 73.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 18.)*

MY LORD,

*Havana, January 12, 1828.*

ON the 3d Instant, the *Spanish Schooner "Indagadora,"* Manuel Fernandez, Master, sailed for the Coast of Africa. The arrival of this Vessel from that Coast was reported to your Lordship in our Despatch of the 12th of December, of last Year.

On the 4th Instant, the *Spanish Brig "Gallo,"* which sailed for the Coast of Africa on the 26th of July 1827, returned to this Port in ballast: according to common report she landed between 300 and 400 Negroes on the South side of this Island.

We have the honour to enclose a Copy of the Note which we addressed to the Captain General respecting this Case, together with a Translation of His Excellency's Reply. They are both precisely to the same effect as those which we have so frequently had the honour to transmit to your Lordship on similar occasions.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

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First Enclosure No. 73.

*The British Commissioners to the Captain General.**Havana, January 7, 1828.*

THE Undersigned, His Britannick Majesty's Commissioners, have the honour, in conformity with their usual practice, to apprise His Excellency the Captain General, that they will have to report to His Majesty's Government, the return, as announced in the Diario of Yesterday, of another of the *Spanish Vessels* which sailed for the Coast of Africa last Year, viz: the Brig "*Gallo.*" As usual in such Cases she entered this Port in ballast, but it is perfectly notorious that, previously, she had landed a Cargo of between 300 and 400 Slaves on the Coast of this Island.

The Undersigned avail themselves, &c.

*His Excellency the Captain General.*

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

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Second Enclosure in No. 73.

(Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

*Havana, January 8, 1828.*

I HAVE just received your Note, dated Yesterday, in which you inform me, that it will be your duty to report to your Government the arrival at this Port of the *Spanish Brig "Gallo,"* from the Coast of Africa, which you state was fitted out at this Port, and sailed for that Coast last Year, having, previous to her arrival here, landed on the Coast of this Island a Cargo of from 300 to 400 Slaves.

I am duly apprised of all this, and in reply I inform you, that in obedience to the Order of the King, my august Sovereign, of the 2d of January 1826, I have made, under this day's date, the necessary Communication to the Second in Command of the Naval Forces on this Station, in order that he may institute the proper investigation, of the result of which you shall be duly informed.

God preserve you many Years.

*His Britannick Majesty's Commissioners.*

(Signed)

FRANCO. DIONO. VIVES.

## No. 74.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 18.)*

(Extract.)

*Havana, January 15, 1828.*

WE have the honour to enclose the Translation of a Note which we have received from the Captain General, informing us of the result of the investigation in the Case of the Brig "*Gallo*," the arrival of which at this Port was reported to your Lordship in our last Despatch.

This result is the same as that in all similar Cases, namely, that the examination of the Log-book afforded no ground whatever for supposing that the Vessel had been engaged in the Slave-trade.

The Captain of the Brig "*Gallo*," when he produced his Log-books, presented also a Certificate, which he had received from Captain Arabin, of His Majesty's Ship "*North Star*," on the Coast of Africa, stating that that Brig was not guilty of an act of Piracy, on suspicion of having committed which she had been detained by the "*North Star*."

This Document was forwarded to us in the Governor's Note. It proves clearly that the "*Gallo*," which had cleared out from hence for Princes Island, had been actually on the Coast of Africa; and it is obviously the merest trifling with His Majesty's Government, if the Authorities here profess to be satisfied, by the examination of the Log-book alone, that this Vessel, well armed, and with a Crew of 49 Men, was there for the purposes of lawful commerce.

(Signed) HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
    *&c.                   &c.                   &c.*

Enclosure in No. 74.

(Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

*Havana January 14, 1828.*

UNDER date the 12th Instant, the Second in Command of the Naval Forces on this Station writes to me as follows:—

"Most Excellent Sir,—Having required a Report from the Commandant of "*Matriculas*" respecting the Spanish Brig "*Gallo*," in conformity with your Excellency's Official Letter of the 8th Instant, and the Translation enclosed in it of that of the British Commissioners, dated the preceding day; he has made it in the following terms:—

"Having examined the Log-books of the Spanish Merchant Brig "*Gallo*," concerning which these proceedings have been formed, it does not appear from them that there is any reason whatever for supposing that the commercial adventure of that Vessel has had any connexion with the prohibited Slave-trade. I must add, as it may be of some importance, that the Captain of the said Brig "*Gallo*," has presented to me a Certificate, which was given to him by the Commandant of the British Frigate "*North Star*," translated into our language, the tenour of which is that of the enclosed Copy, which I also forward to you, in order that you may make whatever use of it you think proper. And this is all I have to report in consequence of your preceding Decree.

'*Habana, 12th January 1828.*'

(Signed) 'JOSE ALCALA.'

"And I transmit the above to your Excellency in reply, and for whatever purpose you may judge necessary, enclosing also a Copy of the Document there alluded to, in case it may be of any service."

All which I communicate to you, forwarding also a Copy of the Document before referred to, in continuation of my reply upon the subject, of the 8th Instant.

God preserve you many Years.

*His Britannick Majesty's Commissioners.*

(Signed)

FRANCO. DIONO. VIVES.

Sub-Enclosure in No. 74.

(Translation.)

*Certificate given by Captain Arabin to the Captain of the "Gallo."*

I CERTIFY to all whom it may concern, that, having been informed that an armed Brig which had been in the Roadsted of Mesurado, where she had plundered, some Months ago, 2 American

Vessels, was at present cruizing upon these Coasts, I proceeded instantly in pursuit of the said Pirate; on the 1st of November I fell in with, and detained, the Spanish Brig "Gallo," after having chased her a long time in my Boats, during a calm. The said Brig is commanded by Don Ramon Gonzalez, is of 191 tons burthen, with ports for 16 guns, of which she has only 8 mounted; she is provided with musquetry and small arms, and has a Crew of 49 Men, including the Officers. I then proceeded with the said Brig to Cape Mesurado, to ascertain whether that Vessel, or any of the Crew, could be proved to have had any participation in the aforesaid act of Piracy; and the Agent of the United States, who was there, having been satisfied, as well as myself, that the Brig "Gallo" was not the Vessel that committed the Piracy in question, neither was any one of the Crew discovered to have been accessory to it; under this date I have again given the said Vessel in charge to her lawful Owner, in order that he may continue his intended Voyage.—Given on board of His Britannick Majesty's Ship "North Star," in the Roadsted of Mesurado, on the 16th of November 1827.

(Signed)

SEPTIMIUS ARABIN, Commander.

## No. 75.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 26.)*

(Extract.)

*Havana, January 20, 1828.*

IN reference to the Despatch of the late Mr. Secretary Canning, of the 26th February 1827, containing Instructions on the question of the alleged necessity that the Commander of a Capturing Vessel should be present, at the adjudication of each Vessel which he may have detained for illegal Slave-trade; We beg to state to your Lordship that, when that Despatch was received, it appeared to us that it would be the better way to wait till a case should occur for carrying practically into effect those Instructions, and that there would then be less likelihood of a diversity of opinion among the Members of the Court, than in a previous discussion upon the theoretical question.

There is another point of considerable importance connected with this question, which it is most expedient should be discussed, and finally arranged before a Case for its application shall actually occur. It regards the manner in which the Court, in the event of a detained Vessel being sent here in charge of one of the Officers of the Capturing Vessel, without being accompanied by the Commander, is to be satisfied that the latter is duly provided with the Instructions, authorizing him to detain Vessels of either Nation engaged in the Slave trade. It has hitherto been the practice to present those Instructions, when required, to the Court, with the Ship's Papers and other necessary Documents. Should this practice be continued, in cases where the Commander was not on the spot, it would of course be requisite to entrust those Instructions to the Officer placed in charge of the Prize; but there appears to be another unobjectionable mode of satisfying the Court on this point, namely, by an Official Communication to the latter of the names of all the Vessels, so authorized, which are cruizing in these Seas.

When Vice-Admiral Fleeming was at this Port, in the Month of May 1827, at which time we were not yet in possession of Mr. Secretary Canning's Despatch before referred to, some private conversation passed between him and His Majesty's Commissary Judge upon this subject; in consequence of which, some time after his arrival at Jamaica, when apprized that we had received Instructions similar to those which had been transmitted to him from the Admiralty, he addressed an Official Letter to us, a Copy of which is enclosed; in which, in order to obviate the inconvenience attending the removal from His Majesty's Vessels of the Instructions, authorising them to detain Slave-vessels under the Spanish Flag, he transmitted a List of the Vessels under his command, which are provided with those Instructions, and expressed a hope that that Document would be deemed sufficient.

As this communication was made expressly for the information of the Mixed Commission, it did not appear to us proper to withhold it from our Spanish Colleagues, until a Case should occur when it would be actually

required. We therefore addressed to them a Note, transmitting the List sent by the Admiral, together with a Copy of his Letter; and, after pointing out the probability of Cases occurring, of Prizes being sent in here by the Commander of the Capturing Vessel, in charge of one of his Officers, we suggested to them that, in such Cases, the Admiral's List should be considered as sufficient Evidence that any Vessel named in it was duly provided with the necessary Instructions.

The *Spanish* Commissioners, in reply, without touching upon the subject of the Instructions, express their regret that they cannot consent to admit the principle, that detained Vessels may be sent in here for adjudication, without being accompanied by the Commander of the Capturing Ship; and they refer to the different Articles upon which they found their objection.

In our Answer, we have merely expressed our determination to submit the subject for the consideration of His Majesty's Government, in order that, by entering into some Arrangement with that of His Catholick Majesty, the inconveniences may be prevented, which would necessarily arise from a difference of opinion, upon so important a point, among the Members of this Mixed Commission.

This Correspondence is enclosed, together with a Copy of the Letter which we have addressed to Vice-Admiral Fleeming, in reply to his upon the present subject.

To entering into discussion with our *Spanish* Colleagues, upon the question of the necessity of the presence of the Commander of the Capturing Vessel with his Prize, there unfortunately occurs the insurmountable objection, that we are not ourselves agreed upon it; and as our opinions are essentially different, not only with respect to the construction of the Treaty, so far as regards the present Question, but also to that of the Instructions relating to the same, it is obvious that it would not only be unproductive of any advantage, but would be improper, that either of us should put forward his own opinion until its correctness be ascertained by a reference to His Majesty's Government.

The opinion of His Majesty's Commissary Judge is, that the Instructions contained in Mr. Secretary Canning's Despatch, before referred to, very clearly and explicitly, authorize the Mixed Commission to proceed to the adjudication of detained Vessels, sent in here in charge of one of the Officers of the Capturing Ship, and unaccompanied by the Commander, unless the Declaration on oath of the latter should, in the particular Case, be specially required; and that, independently of those Instructions, the Court would be fully warranted, by the fair construction of the Treaty, and other circumstances, to proceed to the adjudication in such Cases.

The opinion of His Majesty's Commissioner of Arbitration is, that the Treaty, repeatedly, and in the most express terms, enjoins the presence of the Commander of the Capturing Ship, and that Mr. Secretary Canning's Instructions by no means imply that his presence is not necessary; for that the only discretion left with the Court by them, or by the Article of the Regulations for the Mixed Commission, upon which those Instructions are founded, regards the necessity of the Commander making a Declaration on oath before the Court, but by no means that of his presence in this Port with his Prize.

We have the honour to enclose Statements of the grounds on which our respective opinions rest, in conformity to which Statements, until we shall receive further Instructions from your Lordship, we shall consider it to be our duty to act, in the performance of the duties respectively assigned to us by the Treaty, in the event of the occurrence of a practical Case involving the Question under discussion.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

## First Enclosure (A.) in No. 75.

*Vice Admiral Fleeming to the British Commissioners.*

GENTLEMEN,

"Magnificent," Port Royal, Jamaica, October 26, 1827.

WITH a view to obviate the inconvenience attending the removal from His Majesty's Ships and Vessels under my orders, of the Instructions by which they are authorised to detain Vessels under the Spanish Flag, suspected of trafficking in Slaves, for the purpose of being produced on the occasion of a Capture being made; I do myself the honour to enclose, for the information of the Commission, a List of the Vessels on this Station that are provided with the Instructions alluded to, with the names of their Commanders; which I hope will be deemed a sufficient Document.

I have, &amp;c.

*His Majesty's Commissioners.*(Signed) C. E. FLEEMING, Vice-Admiral  
and Commander-in-Chief.

## First Enclosure (B.) in No. 75.

*List of Vessels employed in the West Indies, under the Command of Vice Admiral the Honourable Charles Fleeming, that are furnished with Instructions authorising the search and detention of Vessels under the Spanish Flag, suspected of trafficking in Slaves.*

"Magnificent," Port Royal, Jamaica, October 26, 1827.

Vessels' Names.	Commanders.	Guns.	Men.
Barham . . . . .	Sir John Louis, Bart. . . . .	50	500
Aurora . . . . .	Charles John Ansten, Esq. . . . .	46	280
Druid . . . . .	Samuel Chambers, Esq. . . . .	46	280
Valorous . . . . .	The Right Hon. the Earl of Huntingdon . . . . .	26	140
Slaney . . . . .	James Campbell, Esq. . . . .	20	120
Arachne . . . . .	W. R. A. Pettman, Esq. . . . .	18	120
Espiegle . . . . .	William Sandom, Esq. . . . .	18	120
Fairy . . . . .	G. W. C. Courtenay, Esq. . . . .	10	90
Harlequin . . . . .	Charles Elliott, Esq. . . . .	18	120
Scylla . . . . .	William Hobson, Esq. . . . .	18	120
Pylades . . . . .	George Vernon Jackson, Esq. . . . .	18	120
Beaver . . . . .	Joseph O'Brien, Esq. . . . .	10	90
Ferret . . . . .	Henry Gosset, Esq. . . . .	10	90
Bustard . . . . .	George Sidney Smyth, Esq. . . . .	10	90
Pincher . . . . .	Lieutenant Richard Fegan . . . . .	5	40
Skipjack . . . . .	Lieutenant James Pulling . . . . .	"	"
Union . . . . .	Lieutenant Charles C. Dart . . . . .	"	35
Speedwell . . . . .	Lieutenant Justus Oxenham . . . . .	"	35
Nimble . . . . .	Lieutenant Edward Holland . . . . .	"	45
Pickle . . . . .	Lieutenant John Walker . . . . .	"	40
Monkey . . . . .	Lieutenant J. B. L. Hay . . . . .	"	35

(Signed)

C. E. FLEEMING, Vice Admiral.

Second Enclosure in No. 75. (Translation.)

*The British Commissioners to the Spanish Commissioners.*

GENTLEMEN,

Havana, December 21, 1827.

IT may, in many cases of detention of Slave-vessels by British Cruizers, prove injurious to His Majesty's Service, for the latter to leave the particular Station upon which they are ordered to cruize, by accompanying their Prize to this Port, for adjudication. The Commanders of those Vessels have accordingly been directed, in such cases, to send in the Prize under the charge of one of their Officers, unless when circumstances shall appear to render their own presence absolutely necessary to the condemnation.

In the consideration of this subject, a question has arisen, as to the most expedient manner of satisfying the Court of Mixed Commission that the Captor is duly provided with the Instructions pointed out by Treaty, which authorize him to detain Vessels under the *Spanish Flag* suspected of trafficking in Slaves.

It has hitherto been the practice for the Commanding Officer to present those Instructions to the Court, if required, at the time of making his Affidavit. But as, in the Case here referred to, he would not himself be present, it would be necessary, in order to their being presented to the Court, that they should be intrusted to the Officer placed in charge of the Prize, and thus be removed from the Vessel to which they belong.

It is the opinion of the Commander-in-Chief of His Britannick Majesty's Naval Forces on the Jamaica Station, that considerable inconvenience might arise from this arrangement; to obviate which, he has communicated to us, for the information of the Mixed Commission, a List of the Vessels under his orders, which are provided with the Instructions; and he trusts that this Document will be considered by the Court to be sufficient Evidence to that fact.

We have the honour to enclose a Translation of the Official Letter which Admiral Fleeming has addressed to us upon this subject, together with the original List, signed by him, of the Names of the Vessels under his command, which, he certifies, are duly provided with the Instructions authorizing them to detain Slave-vessels under the *Spanish Flag*.

We confidently trust that you will agree with us, that this Communication, with the accompanying List, will be sufficient Evidence, that the Vessels therein mentioned are duly provided with the Instructions, in the case before referred to, namely, that of the Capture by any of them of a *Spanish Slave-vessel*, and of the arrival here of the Prize, in charge of one of the Officers of the Cruizer: it being well understood that the Commanding Officer is, at the same time, to forward the written Declaration, and to perform all the other formalities required by Treaty.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Spanish Commissioners.*

Third Enclosure in No. 75. (Translation.)

*The Spanish Commissioners to the British Commissioners.*

GENTLEMEN,

Havana, January 10, 1828.

WE have maturely considered your Letter of the 21st Ultimo, referring to one from the Commander-in-Chief of His Britannick Majesty's Naval Forces on the Jamaica Station, of which you enclose a Copy, together with a List of the Vessels which are under his orders, and which are provided with the necessary Instructions for detaining Slave-vessels; the object being, that these Vessels may not have to leave their Cruizing Stations, to the prejudice of His Britannick Majesty's Service, and that they may be enabled to send their Prizes in charge of one of the Officers. We have likewise examined, with due attention, the 5th and 11th Articles of the Treaty for preventing the illicit traffick in Slaves, concluded between Their Catholick and Britannick Majesties, at Madrid, on the 23d September 1817; also the 1st and 6th Articles of the Instructions for Spanish and English Vessels of War employed for this purpose; and the 1st, 2d, 3d, 5th, 6th, and 8th Articles of the Regulations for the Mixed Commissions; and we have met with difficulties which prevent us from acceding to the proposed measure; looking as we do to the peculiar Cases in which may be involved personal acts to be performed by the Captor before the Commission, so that we may be able to adjudge and give sentence without injustice; the more particularly in Cases like those that admit of no appeal; and considering also where it is said, in Article 11 of the Treaty, "The Two High Contracting Parties reserve the faculty of altering the said Instructions, in whole or in part, according to circumstances; it being, however, well understood that the said alterations cannot take place but by common agreement, and by the consent of the Two High Contracting Parties." So that neither is it matter for our cognizance and decision, nor is it within our powers, as marked out by the preceding Regulations, to remedy the abovementioned evils; of this we think you will be persuaded, as well as of our sincere regret at not being able to give a reply more in accordance with your request, and we hope that no alteration will be made in the order and practice that have hitherto been constantly observed.

God preserve you many Years.

(Signed)

CLAUDIO MARTINEZ DE PINILLOS.  
RAFAEL QUESADA.

*The Commissioners of His Britannick Majesty.*



Fourth Enclosure in No 75.

(Translation.)

*The British Commissioners to the Spanish Commissioners.*

GENTLEMEN,

Havana, January 14, 1828.

WE have the honour to acknowledge the receipt of your Letter of the 10th Instant, in answer to that which we addressed to you on the 21st Ultimo, in which you state your opinion, that, in the event of the detention of a Slave-vessel, it is absolutely necessary that the Commanding Officer of the Capturing Vessel should accompany the Prize to this Port, for adjudication, and not send her in charge of one of his Officers.

The separation of the Instructions from the Vessel to which they belong, would, of course, not be requisite, were she to accompany her Prize; and it is therefore unnecessary for the present to discuss the principal point to which our abovementioned Letter was directed, namely, to ascertain whether you would consider the Communication and List forwarded to us by Vice-Admiral Fleeming, sufficient Evidence that the Vessels named in the latter were provided with the proper Instructions, authorising them to detain Slave-vessels, in Cases in which those Instructions could not be presented to the Court.

We purpose to take an early opportunity of drawing the attention of His Majesty's Government to this subject, in order that, by entering into some Arrangement with the Government of His Catholick Majesty, the inconveniences may be prevented which would necessarily arise from a difference of opinion, upon so important a point, among the Members of this Mixed Commission.

We have, &amp;c.

*The Spanish Commissioners.*

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

Fifth Enclosure in No. 75.

*The British Commissioners to Vice Admiral Fleeming.*

SIR,

Havana, January 16, 1828.

IN reply to your Letter of the 26th of October 1827, in which you transmitted to us, for the information of the Mixed Commission, a List of His Majesty's Vessels under your command, which are authorized to detain Vessels under the Spanish Flag, suspected of trafficking in Slaves; we have the honour to inform you, that we communicated that List to His Catholick Majesty's Commissioners, and explained to them for what purpose it was intended, expressing at the same time a hope that they would consider it as sufficient Evidence that any Vessel named in it was duly provided with those Instructions, in the event of her Commander sending in here a detained Vessel for adjudication, in charge of one of his Officers, without accompanying her himself, and consequently without the Instructions being presented to the Court, as has hitherto been generally the practice.

The Spanish Commissioners in reply have stated, that they have not the power to consent to the establishment of the principle, that a detained Vessel may be sent in here for adjudication in charge of one of the Officers of the Capturing Vessel, without being accompanied by the Commander, and they express a hope that the practice which has been hitherto followed, may not be departed from.

We shall take the earliest opportunity of submitting the whole question for the consideration of His Majesty's Government, in order that, by entering into some Arrangement with that of His Catholick Majesty, the inconveniences may be prevented which must necessarily arise from a difference of opinion, upon so important a question, among the Members of this Mixed Commission.

We have the honour to be, &amp;c.

*Vice Admiral The Hon. C. E. Fleeming.*

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

Sixth Enclosure in No. 75.

*Opinion of the British Commissary Judge, on the Question of the alleged necessity of the presence of the Commanding Officer of the Capturing Vessel, at the adjudication of his Prize.*

THE circumstances which gave rise to the discussion upon this question are the following: Captain Austen, of His Majesty's Ship "Aurora," having reported to Vice Admiral Sir Lawrence Halsted an opinion which he stated that he had received from Mr. Macleay, then sole British Commissioner here, to the effect that, "unless a Slave-vessel was accompanied to the Havana by the Man-of-War who captured her, it would be impossible for him (Mr Macleay) to proceed to her condemnation," the Vice Admiral referred the subject to the Lords of the Admiralty, in a Letter to their Secretary, in which he pointed out the evil consequences that would arise, from the adoption of the interpretation of the Article (the 3d of the Regulations for the Mixed Commissions) upon which Mr. Macleay was said to have founded his opinion, and requested that steps might be taken "for securing a just reading of that Article;" adding his opinion that the Prize might be proceeded against before the Mixed Commission Court, upon the Evidence of the Officer and others sent in charge of her. The question was referred by the Lords of the Admiralty for the opinion

of The King's and Admiralty's Advocates ; and, when that was received, all the Documents were submitted for the consideration of the late Mr. Secretary Canning.

With these before him, Mr. Canning instructed His Majesty's Commissioners in the following terms :—

“ It appears that the Opinion given by Mr. Macleay upon this subject, was in principle correct. I think it right, at the same time, to point out to you, for your guidance, the last paragraph in the Opinion given upon this subject by His Majesty's Advocate-General and by the Advocate to the Admiralty.

“ You will there perceive, that the Declaration on oath of the Captain of the Capturing Vessel is not made necessary, in all Cases, to the adjudication of Vessels captured under the Treaties on Slave-trade, and that the want of that Declaration, therefore, will not invalidate the Capture, nor obstruct the Proceedings, unless the Declaration should, in the particular Case, be specially required.”

In the opinion of His Majesty's Law Officers, they refer to the Articles which appear to imply the presence of the Commander of the Capturing Vessel with his Prize, and affirm that the word “ Captor” appears to mean exclusively the Commander, wherever it occurs throughout the Treaty, and, consequently, in the 3d Article of the Regulations for the Mixed Commissions before mentioned, in which the Judges are desired to take Depositions of persons on board the detained Vessel, as well as the Declaration on oath of the *Captor*, should it appear necessary : they then proceed to the following paragraph, which is expressly referred to by Mr. Canning :

“ We observe, however, that this Declaration on oath, is not made necessary, in all Cases, to the adjudication, but the Commissioners may proceed without it. The want of this Declaration therefore will not invalidate the Capture, neither will it obstruct the Proceedings, unless it should be specially required.”

It appears to me, that both the Instructions and the Opinion, very clearly and explicitly authorise the Mixed Commission to proceed to the adjudication of detained Vessels, sent in here in charge of one of the Officers of the Capturing Vessel, and unaccompanied by the Commander, unless the Declaration on oath of the latter shall, in the particular Case, be specially required : and, consequently, that they cannot be considered as confirming the necessity of the presence of the Commander, in all Cases, and as leaving no other discretion with the Court, but that of calling upon him or not, (when present) for his Declaration on oath.

I conceive that the words, used both in the Instructions and the Opinion, “ want of that Declaration,” necessarily imply the absence of the Commander, who is to make it ; for otherwise how can it be said to be wanting ? If he be present I cannot see what possible objection he can have to make it, or what benefit would arise from the Court declining to receive it. Indeed I do not perceive, in the Treaty or the Instruments annexed to it, any end whatever, either expressed or implied, for requiring the presence of the Commander, but to make the Declaration in question.

As the Declaration, which is made at the time of presenting the Papers of the Prize, and the other proper Documents, to the Court, is in fact the foundation of all the Proceedings, it would appear that it should be made on oath, and accordingly so it is stated in our Form of Proceeding. But whether it be made by the Commander, or that he should have the power (being himself on the spot) to depute one of his Officers to make it for him, seems to me too unimportant a matter to require serious discussion ; and therefore I cannot imagine that Mr. Canning, or the Law Officers of the Crown, should have thought it necessary to give an unsolicited opinion upon it.

Again, the expression “ nor will it, (the want of the Declaration) obstruct the proceedings,” clearly indicates the absence of the Commander. For even supposing that, he being present, any question could seriously be raised, as to the expediency of his making the Declaration or not, a very few minutes would obviously be sufficient for the deliberation, and such a delay could never have been in contemplation, when the expression, “ obstruct the Proceedings” was used. In fact nothing could obstruct them, thus at their very commencement, but the absence of the Commander, and the Court holding it necessary to wait till he should come, before entering into the merits of the Case, or even examining the Papers.

A specifick question was submitted for consideration, with a specifick object in view ; and I conceive that it is with reference to that question and object, that the Instructions and the Opinion ought naturally to be understood throughout. So it is according to my interpretation. They confirm in the first instance the correctness, *in principle*, of the position originally laid down upon the subject by Mr. Macleay, and then proceed to point out where, *in practice*, it may be modified. Thus they are clear and connected ; they bear throughout directly upon the question under discussion, and ultimately shew in what Cases the object in view may be attained. Whereas, according to the other interpretation, after confirming the reading of the Treaty that was objected to, they turn aside to treat of another point, unimportant in itself, which was not submitted for consideration, and is quite irrelevant to the subject.

Upon the whole, a most attentive consideration of the Instructions and Opinion has only served to confirm me in the adoption of what appeared to me their plain and obvious meaning, when I first perused them ; and I have the satisfaction of knowing that similar Instructions, received by the Commander in Chief of His Majesty's Naval Forces on the Jamaica Station, have been interpreted by him in the same manner.

But, independently of these Instructions of the Secretary of State, I am of opinion that the Courts of Mixed Commission would be warranted, by the fair and general construction of the Treaty, as it ought to be, and has actually been acted upon, to proceed to the adjudication of a Vessel sent in by the Commander of the Capturing Ship in charge of one of his Officers.

The great and declared object of the Treaty is to prevent the Subjects of the Two High Contracting Parties from engaging in illicit Slave-trade, [Article 5.] and for this purpose the unusual and important concession of the right of search in time of Peace was made, to be exercised only by Ships-of-War of either Nation, provided with certain Instructions [Article 9] ; having which, they are authorised to detain *British* or *Spanish* Vessels actually engaged in that traffick [Article 10] ; and Mixed Commissions were instituted for the adjudication of such Vessels. [Article 12.]

These are the great and essential Stipulations, and they are all referred to in the body of the Treaty itself.

There are besides several points, manifestly of less importance, which are treated of in the Instruments annexed to the Treaty. They principally relate to certain rules and formalities to be observed by *Spanish Merchant Vessels* engaged in the Slave-trade, (while that was lawful) and in the conveyance of Slaves, and by the *Ships-of-War* of both Nations, authorised to detain Slave-vessels. I am of opinion that the non-observance of those rules and formalities does not necessarily, on the one hand, warrant the condemnation of the Vessel, and on the other, invalidate the Capture, but that the Courts of Mixed Commission have a discretionary power with regard to them.

I think that the Courts have this power, because, from the nature of those rules and formalities, some of them being of very little importance, it would be almost absurd to suppose that they have it not: because the Court established here has actually exercised it in several Cases; in none of which has the decision been called in question by either Government, and in one it has been expressly sanctioned by that of His Majesty; and lastly, because the consequence of their not having that power would be, that it would lead to Decisions directly contrary to the object, and at variance with the spirit, of the Treaty.

It is expressly stipulated, that so long as the traffick was lawful for them, every *Spanish Slave-vessel* should be commanded by a Native *Spaniard*, and that *two-thirds at least* of the Crew should be *Spaniards*. [Article 4 of Instructions for Ships-of-War.] If, during that period, a detention had been made, on the ground that 1 *Spaniard* was wanting to make up the two-thirds of the Crew, ought the Vessel to have been condemned? The Case cannot now occur, but I am strongly inclined to think that she ought not. It is directed, positively, that no conveyance of Slaves from one Port in the *Spanish Dominions* to another shall take place, except in Vessels *provided with Passports* from the Government on the spot, *ad hoc* [Article 7 of Instructions], and, if they be not so provided, is that a sufficient ground for condemnation? It has been decided that it is not. It is stipulated that, in case of search, it shall be done in the *most mild* manner; and that in no case shall it be made by *an Officer inferior to a certain rank* [Article 5 of Instructions]. I ask, if it be not done in a mild manner, or if the Officer be of inferior rank to that specified, is the Capture thereby invalidated? I think, certainly not; and so in like manner I should decide were there to be a failure on the part of the Captor in complying with the various minute details contained in other Articles. [Article 6 of Instructions, and Article 5 of Regulations, for the Mixed Commissions.]

It may be said that some of those rules and formalities are so evidently not of essential importance, that they do not deserve serious consideration. That will be sufficient for me. I only want to establish that there are Stipulations contained in the Instruments annexed to the Treaty, respecting which the Courts must have a discretionary power, and are not absolutely bound to inflict upon those who neglect to observe them, the same penalties as for a non-compliance with the most essential provisions of the Treaty.

The Mixed Commission established here has actually exercised this discretionary power in several Cases. In that of the "*Relampago*,"\* the Capturing Vessel (the Schooner "*Lion*") was not provided with the Instructions required by Treaty, which alone could authorise a *British Vessel-of-War* to visit and detain a *Spanish Merchant Vessel*; the Commander, however, declared that his Schooner was acting as Tender to a Sloop-of-War, which was duly provided with those Instructions; and the Court made no objection to consider the Tender as the Sloop herself, notwithstanding the precise words of the Treaty upon this most important point, by which *those only* of the Vessels-of-War, which are provided with the Special Instructions, are authorized to visit and detain Merchant-vessels, [Article 9 of Treaty;] indeed, if this Case be strictly considered, it may fairly be said to be completely in point in the present discussion; the real Captor being the Commander of the Sloop-of-War, and the Lieutenant commanding the Schooner being in fact merely the Officer in charge of the Prize; yet did it never for a moment occur to the Court to require the presence of the former. In the Cases of the "*Isabel* †," and "*Nuevo Campeador* ‡" the *Spanish Captain* escaped from the Captors, and in that of the "*Magico* §," not only the Captain but the whole of the Crew. It is expressly stipulated that the Judges shall receive the Depositions on oath of the *Captain* and of 2 or 3 at least of the principal Individuals of the detained Vessel. [Article 3 of Regulations.] Here then, if the strict letter were to be our only guide, was a sufficient motive, certainly, for delay, particularly in the Case of the "*Magico*." It was known that the Captains were actually in the Island,—they might be supposed, in theory at least, to have something to allege in their defence; and for escaping from the Cruizers they had the common pretext, that they took them for Independent Privateers, who are constantly in the habit of using the *British Flag*. The Court, however, proceeding according to their practice, as is stated in one of the Sentences ||, briefly and summarily, *verdad sabida y buena fé guardada*, (this being the *Spanish* legal phrase, signifying that a Cause should be decided according to its true merits, without attending to mere technical formalities,) and having ascertained that the Vessels were *Spanish*, the Captains of which would consequently never venture publicly to present themselves here, being liable to severe punishment by their own Laws, did not delay one hour, on account of the formality prescribed not having been complied with; but, attentive to the spirit of the Treaty alone, immediately proceeded to the adjudication. In the Case of the "*Mexicano* ¶," which was detained for conveying Slaves from one Port in the *Spanish Possessions* to another, without a *Passport*, *ad hoc*, the Court again assumed the discretionary power of deciding, that the non performance of that Stipulation should not be followed by condemnation; and this Decision was subsequently sanctioned by His Majesty's Government.

Let us now see what would be the consequence, if the Courts of Mixed Commission did not possess this discretionary power; here it may be said, that, in the event of any of those formalities being neglected, no evil effects, at least in theory, would follow, as, if the Vessel were *Spanish*, she

\* See Class A. 1824-25, No. 94.—† See Class A. 1825-26, No. 62.—‡ See Class A. 1826-27, No. 90.—§ See Class A. 1826-27, No. 63.—|| See Class A. 1826-27, No. 63, Incl. 3.—¶ See Class A. 1826-27, No. 89.

might be delivered up to the Authorities of the Country, who, we are bound to suppose, would put into execution the existing Laws against her, and there is no probability whatever of a *British* Slave-vessel being captured; but at Sierra Leone, and we cannot suppose a different interpretation of the Treaty at the different Settlements, if a *Spanish* Slave-vessel should appear to have been searched in too rough a manner,—if the Officer who searched her should be a Midshipman instead of a Lieutenant,—if the Commander of the Capturing Vessel should omit in his Declaration to specify exactly what is required of him,—should not give the Master of the Slave-ship a Certificate of the Papers seized on board,—should not mention in it the exact number of Slaves found on board,—or in short, should neglect any one, the most trifling, of the formalities pointed out for his observance,—the Mixed Commission would, if they did not exercise this discretionary power, be bound to give up the Vessel to the *Spanish* Captain, although aware that the latter would instantly proceed to a Place where he could dispose of his Cargo. Thus the great and acknowledged Delinquent, who has not a word to say in his defence, would be the only gainer, and the unhappy Negroes would be condemned to certain slavery, in consequence of an informality, if not unimportant, at least of no essential importance.

I cannot believe that to be the spirit of the Treaty, [Article 1 of Regulations] and being bound to judge according to its letter and spirit, when I find them at variance, I shall ever decide for the spirit.

It may be objected that these Rules and Formalities are then utterly useless, as they may be neglected with impunity; to this I reply that there are Stipulations which appear perfectly to apply to this difficulty, and that if it be a *Spanish* Merchant Vessel which fails to perform them, she may be denounced in the *Spanish* Tribunals, [Article 3 of Regulations.] and if it be a Cruizer, the conduct of the Commander may be made the subject of complaint to his Government, who are bound to inflict on him, if he shall have deserved it, a punishment proportioned to the transgression [Article 12 of Regulations.]

It may be also objected, that discretionary powers are ever dangerous, and that, if once tolerated, it is not easy to draw the line, and ascertain what is essential and what not. To this I answer, that the consequences that may arise from the non-existence of the discretionary power, with regard to our Treaty, are beyond all comparison, more injurious than those that can arise from its existence; and that, if pressed to draw a line, I should frankly say, that, provided the essential conditions laid down in the body of the Treaty be complied with, that is, if the Vessel shall be *fairly captured* by a Cruizer *duly authorized*, and shall be proved to belong to *one or other Nation*, and to have been *actually engaged* in the Slave-trade, I think she must be condemned, and the Slaves on board, if any, emancipated.

Applying the question under discussion to the principle which I have attempted to establish, I am of opinion that the Mixed Commissions have a discretionary power, to require, or not, the presence of the Commander of the Capturing Vessel at the adjudication of his Prize. In point of fact, there is not one of the formalities to which I have before alluded, the performance of which is of less essential importance than this Declaration on oath, for which alone his presence can be wanted. It is merely a formal presentation to the Court of the Papers of the Vessel, and the other Documents required, and, but in one Case, of those decided by this Mixed Commission, viz., that of the "*Magico*," the Master and the whole of the Crew of which had escaped, has it been thought necessary to require the Commander to appear for any other purpose. I can see no possible objection to those Papers and Documents being presented by one of his Officers; and it is obvious that much expence and inconvenience must be occasioned, should he not accompany his Prize, by waiting for him to perform that mere formality in person, without the possibility of an advantage thereby arising to any party whatever.

But, granting that I have failed in establishing that the Mixed Commissions have this general discretionary power, I conceive that, so far as regards the present question, it is specially conceded. It is true, that, in more places than one, in the Instruments annexed to the Treaty, the presence of the Captor with his Prize appears to be implied, but no where is there specified any other purpose for requiring his presence, but that of making his Declaration on oath before the Court, and upon that point a discretionary power is expressly granted by the 3d Article of the Regulations for the Mixed Commissions.

This is a very material Article, being that which points out the form of process for the Mixed Commissions; it directs as follows:—"The Commissary Judges of the two Nations shall, in the first place, proceed to the examination of the Papers of the Vessel, and to receive the Depositions upon oath of the Captain, and of 2 or 3 at least of the principal Individuals on board of the detained Vessel, as well as the Declaration on oath of the Captor, should it appear necessary."

I have already stated, that, throughout the whole Treaty and Instruments annexed to it, I can perceive no other object, either expressed or implied, for requiring the presence of the Captor with his Prize, but to make his Declaration on oath before the Court. But the expression used in the above Article "should it (the Declaration) appear necessary," evidently implies that it may not be so in some Cases; consequently in such Cases his presence is not necessary, and the Court may proceed to adjudication without it.

This conclusion appears to me to be undeniable, but perhaps it may be made more evident by an example of what would be the consequence if it be not admitted.

Suppose a *Spanish* Vessel with a Cargo of Slaves, sent in here for adjudication, in charge of one of the Officers of the Capturing Vessel. The latter presents himself to the Mixed Commission with the Papers. The Court calls for the Commanding Officer. It is alleged, that, upon examining the Papers of the detained Vessel, and the other Documents in the possession of the Prize Officer, and upon receiving his Declaration upon oath, it will be found that the Declaration upon oath of the Commander, and consequently his presence, is not necessary. The Court insists, and, after great delay, expence, and inconvenience, the Commander at length arrives, and may then be told that his Declaration on oath may be dispensed with, and consequently that his presence is not required!

It is objected that, according to my reading, the Captor must be himself the judge of the necessity of his accompanying his Prize. I confess I see no objection to that. He is himself the

only party that can suffer by his absence. He is in possession of the Treaty, which is a very simple Document and easily understood; and the knowledge that either his Government or himself, will naturally be made responsible for the expences occasioned by the delay, should his presence be ultimately required, will be a sufficient check against his using this discretionary power in doubtful Cases. Besides, if he is not to judge of the necessity, the consequence will be, that he must come, in order to ascertain whether his presence is required! If that be the true reading, it is obvious that the words "should it appear necessary" had much better have been omitted altogether; for they are not merely useless, their only effect can be to mislead.

But this is not the first occasion on which the present question has been treated of. The case appears to have been contemplated and provided for, from the first establishment of the Mixed Commissions. In the Form of Proceeding drawn up for their use, it is expressly stated, after the insertion of a Form of Affidavit, to be made by the Captor at the time of presenting the Ship's Papers, which has been adopted here, and is in fact the Declaration on oath of which we have been treating, that "it is not absolutely necessary that the Affidavit should be made by the Commander of the Capturing Ship, the Officer in charge of the Ship captured is equally competent thereto." \* Here then the question appears to be decided, so far at least as this Document goes; and it cannot, I think, be denied that it is entitled to great weight, when it is recollected that it was drawn up under the superintendence of Sir William Scott, (now Lord Stowell) and recommended by His Majesty's Government to that of Spain; that it was approved in the most marked terms by the latter, and directed to be adopted here; † and that it was consequently translated by a Legal Interpreter, and has for years served as the basis for the Form of Proceeding of this Mixed Commission, without any objection having ever been started to any part of it.

It is true, that, in the paragraph which I have quoted, the words *in the absence of the Captor* are not inserted, but I conceive them to be as clearly understood as if they were. If the Commander accompany his Prize, it can scarcely be said that another is *in charge of her*. Again, supposing the absence of the Commander, the paragraph is most important and productive of many practical advantages; while, if he be supposed present, it seems to me to be altogether useless, and had much better have been omitted, as it may well mislead. I cannot agree that the object was to provide for the case of the Commander being unable to present himself to the Court, from illness, for then, as in the case of his death, his proper substitute would undoubtedly be the Officer next in command.

In all probability, it was in consequence of this paragraph in the Form of Proceeding, that the Mixed Commission Court at Sierra Leone has been in the constant habit, almost ever since its establishment, of proceeding, without difficulty or hesitation, to the adjudication of Vessels, sent in by the Commanders of Capturing Ships, in charge of one of their Officers. I do not mean to assert that the decisions of one Mixed Commission Court are, necessarily, to bind the others; but I think that, in doubtful Cases, they ought to have considerable weight; particularly those of the Court at Sierra Leone, which has been the most efficient of all, and the proceedings of which have always been closely observed by His Majesty's Government.

I have thus endeavoured to shew, that the opinion which I have given, namely, that the Mixed Commission Courts may proceed to the adjudication of a detained Vessel, without the presence of the Commander of the Capturing Ship, unless his Declaration on oath be specially required, is clearly authorised by the Instructions of the Secretary of State; that it is borne out by the general and practical construction of the Treaty; and expressly by one particular Stipulation; that it is warranted by a Clause in our Form of Proceeding, directly applicable to the question; and finally, that it is conformable to the constant practice of the most efficient of the Mixed Commission Courts.

I readily admit, that, in the consideration of the present question, I have ever felt an anxious desire to be enabled, conscientiously, to come to the decision which I have taken, because the great ends of the Treaty are thereby promoted, without the slightest injury being occasioned to any party whatever; while the only effect of the contrary decision must be, to produce unnecessary delay, expence, and inconvenience, which can be productive of advantage to none. But I confidently trust, that it will be seen that I have not allowed my judgment to be unduly biassed by that desire, and that the decision which I have taken rests upon sufficient grounds.

According to that decision I shall consider it my duty to act, and to set forth those grounds, should any Case, involving the present question, be brought before me in my judicial capacity, before I receive further Instructions from His Majesty's Government upon the subject.

Havana, January 29, 1828

(Signed) HENRY T. KILBEE.

\* See Class A. 1821, Incl. in No. 7.—† See Class B. 1821, Nos. 46, 145.

### Seventh Enclosure in No. 75.

#### *Opinion of the British Commissioner of Arbitration, on the Question of the alleged necessity of the presence of the Commanding Officer of the Capturing Vessel, at the adjudication of his Prize.*

AN Application having been made, on the part of Admiral Fleeming, to the Mixed Commission, requesting that certain Vessels, enumerated by him in a List, might be considered as legally provided with the necessary Instructions for capturing Slave-vessels, without any farther necessity of producing the said Instructions before the Court, the Commissioners of His Catholic Majesty, in answer to this Application, have, in their Letter of the 10th Instant, stated, that according to the whole tenour of the Treaty, and its Appendages, it appears to them to be expressly enjoined, that the Commander of the Capturing Vessel shall, himself, bring his Prize before the Court. On this last head, I feel myself bound to coincide in opinion with the Spanish Commissioners, and to declare that, both the spirit and the letter of the Treaty, as well as the Instructions which, on this

subject, His Majesty's Commissioners have had the honour of receiving from the late Mr. Secretary Canning, seem to me all to concur towards the same end.

Indeed I have long since taken this view of the question, and, as far as lay within my province, have endeavoured to promulgate it among the Officers of His Majesty's Navy, in order to prevent the inconveniences likely to result from their giving a different interpretation to the Instructions.

When Captain Austen, of His Majesty's Ship "Aurora," was at Havana, in October 1826, in the course of private conversation, he asked me, (at that time the sole British Commissioner on the spot,) my opinion on this particular subject; and I then stated to him, not only that the Treaty stipulated for the presence of the Commander of the Capturing Vessel, but that, moreover, very great inconvenience and disadvantage must arise from this Stipulation not being strictly attended to.

My opinion, as I then pointed out to him, was grounded on the following words of the Treaty and its Appendages. [Treaty, Article IX.] "The Two High Contracting Parties mutually consent that the Ships of War of their Royal Navies, which shall be provided with Special Instructions for this purpose, may visit such Merchant Vessels of the two Nations as may be suspected, and in the event of their finding Slaves on board, may detain and *bring away*, such Vessels, in order that they may be brought to trial," &c. [Instructions, Article I.] "In these Cases, alone, the Commander of the Ship of War, may detain them, (*i. e.* Slave-vessels,) and having detained, *he is to bring them*, as soon as possible, for judgment, before that of the two Commissions, which shall be the nearest, or which the *Commander of the Capturing Ship* shall, upon his own responsibility, think *he can soonest reach*," [Regulations, Article III.] "The Commissary Judges of the two Nations shall, in the first place, proceed to the examination of the Papers of the Vessel, and to receive the *Declaration on oath of the Captor*, should it appear necessary." [Id. Article V.] "In the authenticated Declaration which the *Captor shall make before the Commission*, the above-mentioned Captor shall be bound to declare his name," &c. &c.

Such are the very explicit Articles by which, as I informed Captain Austen, I thought the presence of the Commanding Officer was enjoined, and I farther stated to him, that, throughout the whole of the Treaty, with its annexed Instructions and Regulations, I could find no one paragraph, or even expression, that in any way tended to support a contrary opinion. Accordingly, on his return to Jamaica, Captain Austen, as it has since appeared, explained my view of the subject to Vice-Admiral Sir Lawrence Halsted, then Commander-in-Chief on the Jamaica Station. The Admiral, conceiving that such an opinion might be inconvenient to His Majesty's Naval Service, lost no time in laying it before the Lords Commissioners of the Admiralty, by which means it soon came under the cognizance of the Law Officers of the Crown. His Majesty's Principal Secretary of State for Foreign Affairs has subsequently transmitted to the Havana, for the information and guidance of His Majesty's Commissioners, the sentiments entertained on this question by the above distinguished persons, and thus the correctness of the view I had taken of the Treaty has been fully confirmed.

His Majesty's Law Officers, after recapitulating the Articles upon which my opinion was originally founded, define the expression "Captor," as used in the Treaty, to signify the Captain, or Commanding Officer of the Capturing Ship. They also call particular attention to the 3d Article of the Regulations, which says, "The Commissary Judges of the two Nations shall receive the Declaration on oath of the Captor, should it appear necessary;" and, on this head, they observe, that the want of the Declaration on oath will not necessarily invalidate the Capture, neither will it obstruct the Proceedings, unless it should be specially required. This remark, indeed, bears directly on the question under discussion, and were every other argument wanting, will, of itself, sufficiently prove the presence of the Captain, with his Prize, to be absolutely necessary; for, if it could for a moment be supposed, that, in contradiction to the 1st Article of the Instructions, it remains entirely at the option of the Captor, either to bring in his Prize before the Court, or to send an inferior Officer in with her, the gross inconsistency immediately arises, that he, the Captor, a party interested in the Cause, and not the Mixed Commission, becomes the judge, as to whether an Affidavit is to be required of him or not. This Declaration upon oath of the Captor has, in all the Cases hitherto brought before the Commission, been uniformly taken. It is a presentation to the Court of the Papers of the Prize; and an attestation that they have undergone no alteration, while in his possession. It is true, indeed, that this Declaration upon oath is not necessary, unless specially required, but this provision of the Treaty cannot, by any construction, mean that the Captor may absent himself at will, but only that the Commissioners may, or may not, require his oath, as from the peculiar circumstances of the case they shall think fit.

In the Form of Proceedings drawn up for these various Commissions by His Majesty's Government, and subsequently approved of by that of His Catholic Majesty, there is a paragraph that has been conceived to have a different import, although it was scarcely, perhaps, to have been imagined that this Form could be at direct variance with the Treaty. The Passage is as follows:—"It is not absolutely necessary that the Affidavit should be made by the Commander of the Capturing Ship, the Officer in charge of the Ship captured being equally competent thereto." But this short paragraph is, as might have been expected, perfectly consonant with the letter and spirit of the Treaty, nor does it, in the least, conflict with those Articles that expressly enjoin the Captor himself to bring in his Prize, and to make a Declaration to the Court. It merely states, that his Declaration *upon oath* is not necessary in all Cases, provided its place be supplied by the Affidavit of the Officer in charge of the captured Ship. The words are, apparently, intended to meet the possible case, of the Commander being unable from sickness to attend the Court; and this effect they answer completely.

Undoubtedly if, while this question remains *coram judice*, a Slave-vessel should happen to arrive here, without being accompanied by the Captor, my opinion would be, that there had been on his part an infraction of the Treaty; but if, from the nature of the particular Case, it should appear that the presence of the Captor was not specially required, it would be too much to say that I would not feel it my duty to make this the ground of argument with the *Spanish Commis-*

sioners, and, so far as I am individually concerned, to proceed forthwith to the adjudication. But I shall now for a moment suppose, that it is ultimately ruled by His Majesty's Government, that the Captor has the discretionary power of absenting himself; and that, owing to the absence of 1 of the *British* Commissioners, the Court consists, as has often already happened, of 1 *British* and 2 *Spanish* Commissioners. I shall suppose, moreover, that the 2 latter, agreeably to the terms of their Letter just received, shall, in some Case of a Prize arriving without being accompanied by the Capturing Vessel, decide that the Declaration upon oath of the Captain is necessary; it is most obvious that the rule entirely depends upon their will, and that, either for want of evidence, specially required by the majority of the Court, the guilty Vessel must be liberated, or that she must be detained until the Captor can be fetched, from perhaps the farthest limits of his Station; thus entailing great inconvenience on both Claimants and Captors, delay of emancipation on the poor Negroes, and incalculable expence on both Governments. I may here observe, that it appears to me according to the Treaty, that the authenticated Declaration of the Captor is always necessary, and that it remains with the Mixed Commission alone to decide whether it be requisite, according to the particular circumstances of the Case, to receive this Declaration upon oath, or whether it be sufficient to take only the oath of the Officer who may be in immediate charge of the Prize.

On the ground of humanity, indeed, which is the very spirit of this Treaty, there is another absolute necessity for those words of the 1st Article of the Instructions, which require "that the Commander of the Capturing Vessel shall bring in his Prize before that one of the Mixed Commissions, which he shall, upon his own responsibility, think he can soonest reach," being strictly complied with; for the 6th Article of the Instructions says, "If however, urgent motives, deduced from the length of the Voyage, the health of the Negroes, &c. require that they shall be disembarked entirely, or in part, before the Vessel can arrive at the Place of Residence of one of the said Commissions, the Commander of the Capturing Ship may take upon himself the responsibility of such disembarkation," &c. It appears therefore, that if, as in the Case of the "*Nuevo Campeador*" there should, from the wretched state of their health on the Voyage round to the Havana, occur a necessity for the disembarkation of the Negroes, any inferior Officer that might be in charge of the Prize would have no authority for such disembarkation, however urgently it might be required in order to save their lives.

It has been objected that Officers in command of His Majesty's Ships may be put to inconvenience, by being obliged to come to the Havana with their Prizes; but, however I must regret the existence of such a possibility, the strict observance of the Treaty ought, as I conceive, ever to be the paramount consideration with a *British* Commissioner. By Article XI. of Treaty, "no alteration can take place in it but by the consent of the High Contracting Parties;" and by Article XII. "the Commissioners are bound to judge according to the Regulations and Instructions annexed to the Treaty." The Mixed Commission established at the Havana has hitherto, in my opinion, made this XIIth Article the rule of their conduct; and, at all events, I have never, as a *British* Commissioner, been authorised to remedy inconveniences, at the expence of a Stipulation so explicit. The importance of good faith being apparent in all our endeavours to carry this Treaty into effect, is too obvious to need illustration, and Mr. Secretary Canning has, accordingly, more than once urged the danger of any *British* Commissioners assuming a discretionary power, in the interpretation of its Articles. In his Despatch to the Commissioners at Sierra Leone, dated 25th September 1822, relating to a Case where those Gentlemen endeavoured to obviate some similar inconveniences, he has given the following Instructions, viz. :—"It was your particular duty, and I feel confident you will never again lose sight of it, to decide conscientiously according to the Treaty, and to rely on the wisdom of the Legislature to provide a remedy for the inconveniences that might result therefrom."

On the whole then, proceeding strictly according to the Instructions of His Majesty's Principal Secretary of State for Foreign Affairs, and of the Law Officers of the Crown, and in conformity with the letter and spirit of the Treaty; moreover bound as I am, by oath, to judge fairly and faithfully, to have no preference for either Claimants or Captors, and to act in all my decisions pursuant to the stipulations of the Treaty, I have no hesitation whatever in declaring, that I coincide with the *Spanish* Commissioners, in thinking, that the presence of the Commander of the Capturing Vessel with his Prize is absolutely enjoined, although his Affidavit need not be taken by the Mixed Commission unless specially required.

Havana, 20th January 1828.

(Signed) W. S. MACLEAY.

## No. 76.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 26.)*

MY LORD,

Havana, February 1, 1828.

SINCE the date of our Despatch of the 12th Ultimo, 2 *Spanish* Vessels have sailed for the Coast of Africa, viz. : the Schooner "*Transito*," Jozé Rodriguez, Master, and the Brig "*Vengador*," Jozé Garay, Master.

On the 18th Ultimo, the *Spanish* Brigantine "*Emprendedor*," arrived here on her return from that Coast, having previously landed a Cargo of Slaves in one of the Out-ports. We have the honour to enclose the Cor-

respondence which has passed between us and the Captain General respecting this Case. It is precisely to the same effect as that which we have so frequently had to submit to His Majesty's Government in similar Cases.

We have the honour to be, &c.

(Signed) HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

First Enclosure in No. 76.

*The British Commissioners to the Captain General.*

Havana, January 19, 1828.

THE Undersigned, His Britannick Majesty's Commissioners, in obedience to their Instructions, have the honour to inform His Excellency the Captain General, that they will have to report to His Majesty's Government, the arrival here Yesterday, as announced in the Diario of to day, of another of the Vessels which sailed last Year from this Port for the Coast of Africa, viz. the Brigantine "Emprendedor."

She entered this Port, as is usual in similar Cases, in ballast, but, as is matter of notoriety, had previously landed a Cargo of Slaves a little to the Westward of Havana.

The Undersigned avail themselves, &c.

(Signed) HENRY T. KILBEE.  
W. S. MACLEAY.

*His Excellency the Captain General.*

Second Enclosure in No. 76. (Translation.)

*The Captain General to The British Commissioners.*

GENTLEMEN,

Havana, January 22, 1828.

I HAVE received your Note of the 19th Instant, in which you inform me, that it will be your duty to report to your Government, the arrival at this Port of the Spanish Brig "Emprendedor," from the Coast of Africa; which you state was fitted out here, and sailed for that Coast last Year, and that previously to her arrival she had landed on the Coast of this Island a Cargo of Slaves.

Being duly apprised of all this, I inform you in reply that, in obedience to the Decree of the King, my August Sovereign, of the 2d January 1826, I have made the necessary Communication, under this day's date, to the Second in Command of the Naval Forces on this Station, in order that he may proceed to the proper investigation; of the result of which you shall be duly informed.

God preserve you many Years.

(Signed) FRANCISCO D. VIVES.

*His Britannick Majesty's Commissioners.*

Third Enclosure in No. 76. (Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

Havana, January 24, 1828.

UNDER date of Yesterday, the Second in Command of the Naval Forces on this Station writes to me as follows:—

"Most Excellent Sir,—Under date the 18th Instant, the Commandant of "Matriculas" has written to me as follows:—'Having examined the Log-books of the Spanish Brig "Emprendedor," which anchored in this Port Yesterday, having come from the Island of St. Thomas, it does not appear from them that this Mercantile expedition has been engaged in the prohibited traffick in Slaves, which I communicate to you in consequence of superior orders.' And I transmit the same to your Excellency, in reply to your Letter, dated Yesterday, upon this subject."

All this I communicate to you for your information, and in continuation of my reply, relating to this matter, of the 22d Instant.

God preserve you many Years.

(Signed) FRANCISCO DIONISIO VIVES.

*His Britannick Majesty's Commissioners.*



No. 77.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 26.)*

MY LORD,

*Havana, February 11, 1828.*

SINCE the date of our Despatch of the 1st Instant, 5 *Spanish Vessels*, the names of which are contained in the enclosed List, have sailed from this Port for the Coast of Africa.

We have the honour to be, &amp;c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
    &c.                    &c.                    &c.

Enclosure in No. 77.

*List of Spanish Vessels that have sailed from the Port of Havana for the Coast of Africa.*

February 6.	Schooner Primera Gallega,	- - -	Francisco Suarez,	- - -	Master.
" 10.	Brig - Firme de Cadiz,	- - -	Juan Sandrino,	- - -	"
" 10.	Brig - Gallo,	- - -	Ramon Gonzalez,	- - -	"
" 10.	Schooner Dorotea,	- - -	Manuel Santiago Echavarria,	- - -	"
" 10.	Schooner Xerxes,	- - -	Felipe Rebel,	- - -	"

No. 78.

*His Majesty's Commissioners to The Earl of Dudley.—(Received May 26.)*

MY LORD,

*Havana, March 1, 1828.*

SINCE the date of our Despatch of the 11th Ultimo, 1 *Spanish Vessel*, the Schooner "*Josefa*," Juan Casal, Master, has sailed for the Coast of Africa.

On the 15th Ultimo, the *Spanish Schooner* "*Primera*," which had sailed for that Coast on the 12th of September 1827, returned here in ballast, after landing a Cargo of Slaves in some of the Out-ports. The usual Correspondence passed respecting this Case, with the usual result. We have the honour to enclose a Copy of our Note to the Captain General, and Translations of His Excellency's Replies.

About a fortnight ago, the *Spanish Brigantine* "*Palmyra*," bound from Matanzas to Barcelona, was captured, shortly after sailing from the former Port, by a *Mexican Vessel of War*. The "*Palmyra*," we have learned, was fitted out at Gibraltar, for the Coast of Africa; and having obtained a Cargo of Slaves, succeeded in landing them, about 2 Months ago, at one of the small Ports to the westward; but, instead of entering this Port afterwards, as is the common practice of Slave-vessels, she proceeded to Matanzas. We have learned these facts since her Capture; but for which circumstance, and the publick conversation to which it gave rise, we should probably have remained in ignorance of this Case of illicit Slave-trade. It has, however, reached our knowledge too late for us to make a Representation upon the subject to the Captain General.

This Case clearly shews, as we have stated on other occasions, that, if the illicit Slave-traders were willing to make the trifling sacrifice of disposing of their Vessels, after landing their Cargoes of Slaves at any of the other Ports of this Island, or at any Foreign Port, they might effectually conceal their proceedings from His Majesty's Commissioners.

We have heard lately that a Revenue Officer, stationed at one of the Suburbs of this City, some time ago detained about 30 Negroes, who were coming in from the Country, and were asserted by their Conductor to belong

to a Plantation, but which he suspected, and upon examination found, to be of recent importation. The Officer reported the Case to his Department, that of the Intendant, but was referred to the Captain General, and again by the latter to the Consulado. The result, however, was, that the Negroes were returned to their Owners; and we have heard that the Officer met with such a reception from all the Authorities to whom he applied, as will effectually deter him from interfering in such transactions for the future.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
    &c.            &c.            &c.

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First Enclosure in No. 78.

*The British Commissioners to the Captain General.*

Havana, February 16, 1828.

THE Undersigned, His Britannick Majesty's Commissioners, have the honour, in conformity to their usual practice, to apprise His Excellency the Captain General, that it will be their duty to report to His Majesty's Government the return to this Port, as announced in the Diario of to-day, of the Schooner "*Primera*," (one of the *Spanish* Vessels which sailed for the Coast of Africa last Year) under precisely the same circumstances as the other numerous Vessels to which, in obedience to their Instructions, the Undersigned have been under the necessity of calling His Excellency's attention.

The Undersigned avail themselves, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*His Excellency the Captain General,*

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Second Enclosure in No. 78.

(Translation.)

*The Captain General to the British Commissioners.*

Havana February 18, 1828.

GENTLEMEN,

I HAVE received your Note of the 16th Instant, in which you are pleased to apprise me, that it will be your duty to report to your Government, the arrival at this Port of the Schooner "*Primera*," from the Coast of Africa, and you state that she was fitted out here, and sailed for that Coast, last Year, under precisely the same circumstances as the other numerous Vessels.

Being duly apprized of all, I state to you in reply that, in obedience to the Royal Order of the King, my august Sovereign, of the 2d January 1826, I have written, under date to-day, what is necessary to the Second in Command of the Naval Forces on this Station, in order that he may proceed to the proper investigation, of the result of which you shall be duly informed.

God preserve you many Years.

(Signed)

FRANCO. DIONO. VIVES.

*The British Commissioners,*

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Third Enclosure in No. 78.

(Translation.)

*The Captain General to the British Commissioners.*

Havana, February 22, 1828.

GENTLEMEN,

UNDER date of Yesterday, the Second in Command of the Naval Forces on this Station, writes to me as follows:—

"Most Excellent Sir,—Under this day's date, the Commandant of "*Matriculas*" says to me as follows:—'From the examination of the Log-book which was kept on board the Schooner "*Primera*," D. Antonio Negrete, Captain, in her Voyage to St. Thomas, it does not appear that any event worthy of observation occurred in her Voyage, or that she committed any act in which she failed in what was directed by her Royal Patent, and the other Documents which were granted to her at her departure from this Port; it being marked down in the said Log-book that the above-mentioned Captain had died, and that the command had devolved on the Mate of the Vessel, D. Domingo Baltiel.'—I forward this to your Excellency in reply to your Letter of the 18th Instant, upon the subject."

I transmit this to you for your information, and in continuation of my reply upon the subject, of the 18th Instant.

God preserve you many Years,

(Signed)

FRANCO. DIONO. VIVES.

*The British Commissioners,*

*His Majesty's Commissioners to The Earl of Dudley.—(Received May 26.)*

MY LORD,

*Havana, April 1, 1828.*

SINCE the date of our Despatch of the 1st Ult., 4 *Spanish* Vessels have sailed for the Coast of Africa, viz: the Brig "*Cristina*," and the Schooners "*Herculina*," "*Emprendedor*," and "*Missolongi*," of which the respective Masters, were, Francisco de los Reyes, Andres Cortina, Ramon Clavel, and Juan Larrazabal.

On the 19th of March, the Schooner "*Tres Manueles*" returned from the Voyage to that Coast which she commenced on the 9th September 1827. She entered this Port in ballast, but had previously, as is notorious, landed her Cargo of Slaves at some of the Out-ports, we believe to the Westward. We have the honour to enclose a Copy of the Note which we addressed to the Captain General respecting this Case, together with Translations of His Excellency's Replies. The latter are, with the exception of the name of the Vessel, almost literal Copies of those which he is in the habit of sending us on similar occasions.

The "*Tres Manueles*," is the Vessel to which we ventured to draw the attention of His Majesty's Government, in a particular manner, in our Despatches of the 6th and 13th of August, and 30th of September, of last Year, wherein it is stated, that on a former Voyage from the Coast of Africa, she had brought several Sailors belonging to a British Vessel that had been wrecked, which Sailors deposed on oath to the fact, that the Vessel had conveyed a Cargo of Negroes from that Coast, and had landed them at the Port of Vanes, a few leagues to the Westward of Havana. We did not fail to remind the Captain General of this circumstance, upon the present occasion; but His Excellency has not thought proper to take any notice of it in his Replies.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

First Enclosure in No. 79.

*The British Commissioners to the Captain General.*

*Havana, March 21, 1828.*

THE Undersigned, His Britannick Majesty's Commissioners, have the honour, in conformity to their usual practice, to apprise His Excellency the Captain General, that it will be their duty to report to their Government the return to this Port on the 19th Instant, of the *Spanish* Schooner "*Tres Manueles*," which sailed for the Coast of Africa on the 9th of September last, and which, previous to entering this Port, it is well known had landed her Cargo of Slaves on the Coast of this Island.

The "*Tres Manueles*" is the Vessel to which the Undersigned had the honour to call the attention of His Excellency the Captain General, in their Notes of the 3d and 9th of August last, in the last of which His Excellency the Captain General was apprized of her having conveyed from the Coast of Africa several British Sailors, who were on board her when she received a Cargo of Slaves at Gallinas, on that Coast, and when the same were landed at the Port of Vanes, to the Westward of Havana, to which facts they deposed upon oath.

The Undersigned avail themselves, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*His Excellency the Captain General.*

Second Enclosure in No. 79.

(Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

*Havana, March 26, 1828.*

I HAVE received your Note of the 21st Instant, in which you are pleased to apprise me, that will be your duty to report to your Government the arrival at this Port, from the Coast of Africa

of the *Spanish Schooner* "Tres Manueles," which you state was fitted out here and sailed for the said Coast on the 9th of last September, having, previously to her arrival at this Port, landed on the Coast of this Island a Cargo of Slaves.

Being duly informed of all this, I state to you in reply, that, in obedience to the Decree of The King, my august Sovereign, of the 2d January 1826, I have made, under this day's date, the necessary Communication to the Second in Command of the Naval Forces on this Station, in order that he may proceed to the proper investigation, of the result of which you shall be duly informed.

God preserve you many Years.

The British Commissioners.

(Signed) FRANC<sup>o</sup>. D. VIVES

Third Enclosure in No. 79. (Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

Havana, March 29, 1828.

UNDER date the 27th Instant, the Second in Command of the Naval Forces on this Station, writes to me as follows:—

"Most Excellent Sir,—The Principal Commandant of Matriculas of this Province, has written to me, under date the 24th Instant, as follows:—'Having examined the Log-books of the *Spanish Schooner* named "Las Tres Manueles," which arrived at this Port on the 18th Instant, from the Island of San Tomé, it does not appear by them that this Mercantile Expedition has been engaged in the prohibited traffick of Bozal Negroes, of which I apprise you for the proper purposes, in consequence of the Superior Orders upon this subject.' And I transmit the same to your Excellency, in reply to your Official Letter of Yesterday, relating to the subject."

All which I communicate to you for your information, and in consequence of your Note relating to this Case.

God preserve you many Years.

The British Commissioners.

(Signed) FRANC<sup>o</sup>. D. VIVES.

No. 80.

*His Majesty's Commissioners to The Earl of Dudley.—(Received June 6.)*

MY LORD,

Havana, April 10, 182

SINCE the date of our Despatch of the 1st Instant, 2 *Spanish Vessels*, viz. the Schooners "Nueva Eloisa" and "Primera," Narciso Esteves and Domingo Bardiel, Masters, have sailed for the Coast of Africa.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

The Right Hon. The Earl of Dudley,  
&c. &c. &c.

No. 81.

*His Majesty's Commissioners to The Earl of Dudley.—(Received June 22.)*

MY LORD,

Havana, April 23, 1828.

THE *Spanish Schooner* "Gallito," D. Guillermo Ferrer, Master, sailed from this Port on the 14th Instant, for the Coast of Africa, and Yesterday the Brig "Recurso" D. Juan Jozé Dominguez, Master, sailed for the Isla de Principe.

The *Spanish Schooner* "Manuelita," D. Jozé Bosch, Master, arrived here on the 17th Instant, after having landed a Cargo of Slaves on the Coast. We immediately addressed a Note on the subject to the Captain General, and we now have the honour to enclose a Copy of that Note, with a Translation of His Excellency's Answer.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

The Right Hon. The Earl of Dudley,  
&c. &c. &c.

First Enclosure in No. 81.

*The British Commissioners to the Captain General.*

Havana, April 18, 1828.

THE Undersigned, His Britannick Majesty's Commissioners, have the honour to apprise His Excellency the Captain General, that it will be their duty to report to His Majesty's Government another of the Cases of illicit Slave-trading, which they have so frequently to submit to His Excellency's attention, namely, that of the *Spanish Schooner "Manuelita,"* which sailed from this Port, for the Coast of Africa, in November last, and returned on the 17th Instant, in ballast, having previously, as is matter of perfect notoriety, landed her Cargo of Slaves on the Coast of this Island.

The Undersigned avail themselves, &amp;c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.*His Excellency the Captain General.*

Second Enclosure in No. 81.

(Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

Havana, April 21, 1828.

I HAVE received your Note of the 18th Instant, in which you inform me, that it will be your duty to make your Government acquainted with the arrival in this Port, from the Coast of Africa, of the *Spanish Schooner "Manuelita,"* which Vessel you point out as having been fitted out here, and as having sailed for the said Coast, in November last, and finally, as having, before her arrival in the Havana, disembarked a Cargo of Slaves on the Coasts of this Island.

I now have to inform you, in answer, that in obedience to the Resolution of The King, my august Sovereign, dated 2d January 1826, I have to-day transmitted the necessary directions to the Naval Office, Second in Command on this Station, to proceed forthwith to the investigation, with the result of which I shall in due time acquaint you.

God preserve you many Years,

(Signed)

FRANC. DION. VIVES.

*His Britannick Majesty's Commissioners.*

No. 82.

*His Majesty's Commissioners to The Earl of Dudley.—(Received June 22.)*

MY LORD,

Havana, April 27, 1828.

IN reference to our last Despatch, we have the honour to enclose the Translation of another Note, which we have received from the Captain General, upon the subject of the *Spanish Schooner "Manuelita."* This Note is exactly to the same effect as those we are in the habit of receiving from His Excellency in similar Cases; namely, that the examination of the Log-book has afforded no ground for supposing that the Vessel had been engaged in the Slave-trade.

On the 24th Instant, the Brig "*Nueva Empresa,*" Jozé San Juan, Master, sailed for the Coast of Africa.

We have the honour to be, &amp;c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 82.

(Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

Havana, April 23, 1828.

THE Officer Second in Command over the Naval Forces on this Station, has addressed the following Letter to me, dated Yesterday, which I beg to transmit for your information :—

"Most Excellent Sir,—I have received a Letter, dated the 13th Instant, from the Commandant of Enrolments, stating that the Assistant in his Office had examined the Log-book presented by the Captain of the Schooner "*Manuelita*," D. Jozé Bosch, and had found in it nothing whatever to criminate the said person in his Voyage round St. Thomas, to which Place it appeared he had sailed from this Port; and I transcribe this Letter for your Excellency, in reply to that in which you were pleased to transmit me a Copy of the Answer you addressed on this subject to the Commissioners of His Britannick Majesty."

May God preserve you many Years.

(Signed) FRANC<sup>o</sup>. DION<sup>o</sup>. VIVES.

*The Commissioners of His Britannick Majesty.*

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## No. 83.

*H. T. Kilbee, Esq. to John Backhouse, Esq.—(Received June 22.)*

SIR,

*Havana, April 28, 1828.*

BEING desirous of availing myself of the leave of absence formerly granted by the late Mr. Canning, which the Earl of Dudley has been pleased to confirm. I have the honour to inform you, that it is my intention to leave this Port to-day, for the purpose of proceeding to England, by way of The United States of America.

I have, &c.

*John Backhouse, Esq.*  
 &c. &c. &c.

(Signed) HENRY T. KILBEE.

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## No. 84.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received June 22.)*

MY LORD,

*Havana, May 5, 1828.*

ON the 1st of May the *Spanish* Brigantine "*Aerostutico*," D. Francisco Garcia, Master, sailed for the Coast of Africa, and Yesterday the *Spanish* Schooner "*Viscayna*," D. Antonio de Zaldesondo, took her departure for the same destination.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
 &c. &c. &c.

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## No. 85.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received July 19.)*

MY LORD,

*Havana, May 16, 1828.*

I AM sorry to inform your Lordship that no less than 5 Vessels sailed from this Port Yesterday for the Coast of Africa; namely, the Schooner "*Tres Manueles*," D. Juan Batalla, Master; the Schooner "*Juanito*," D. Manuel Alcantara, Master; the Schooner "*Graciosa*," D. Juan Casas, Master; the Schooner "*Clio*," D. Francisco Matamala, Master; and the Schooner "*Coqueta*," D. Jozé Garcia, Master.

The "*Tres Manueles*" is indeed a very glaring Case, as this Vessel has thus for the second time been permitted to sail for the Coast of Africa, after His Majesty's Commissioners had, in the most particular manner, called the attention of the Captain General to her, as being proved, on the Affidavits of several British Sailors, to have landed Negroes at the neighbouring Port of Vanes. His Excellency has thought proper to pay no attention to these Affidavits, but even without them the guilt of the "*Tres Manueles*" ought

now to be sufficiently manifest, as it is impossible to understand that a Vessel should make so many excursions to the Coast of Africa, and return into this Port so regularly in ballast, did she not render her Voyages profitable by landing Negroes on the Coast.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

No. 86.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received July 19.)*

MY LORD,

*Havana, May 19, 1828.*

THE Spanish Brig "*Almirante*," D. Domingo Castro, arrived here in ballast from the Coast of Africa, on the 15th Instant. She landed Negroes it is said, to the amount of 650, at or near the Port of Vanes, in this Island. The "*Almirante*" is a large Vessel, armed, and mounting no less than 20 guns.

I lost no time in letting the Captain General know that it would be my duty to inform your Lordship of her arrival, and I now enclose a Copy of my Note, and a Translation of His Excellency's Answer.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

First Enclosure in No. 86.

*The British Commissioner of Arbitration to the Captain General.*

*Havana, May 15, 1828.*

THE Undersigned, Commissioner of His Britannick Majesty, has the honour to acquaint His Excellency the Captain-General, that he will be under the painful necessity of informing His Majesty's Government of the arrival in this Port, from the Coast of Africa, of another Spanish Vessel, namely, the Brig "*Almirante*," D. Domingo Castro, Master, after having landed on the Coast a very large Cargo of Negroes.

The Undersigned avails himself, &c.

*His Excellency the Captain-General.*

(Signed) W. S. MACLEAY.

Second Enclosure in No. 86.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

*Havana, May 17, 1828.*

IN consequence of the information given me in your Letter of the 15th Instant, I have addressed a Letter to the Commander-in-Chief of the Naval Forces on this Station, directing him forthwith to enter upon such investigation as may be necessary to ascertain whether or not the Brig "*Almirante*," just arrived in the Harbour, has conveyed and landed a Cargo of Negroes.

God preserve you many Years.

(Signed) FRANCISCO DIONO VIVES.

*The Commissioner of His Britannick Majesty.*

No. 87.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received July 19.)*

MY LORD,

*Havana, June 3, 1828.*

I HAVE now the honour to enclose the Translation of a Note from the Captain General, transmitting the result of the investigation made in the

Case of the Brig "*Almirante*." Because the nefarious traffick of this notorious Vessel is not alluded to in her Log-book, it appears that she is, according to the rule they have adopted, accounted innocent by the Spanish Authorities.

On the 1st Instant, the *Spanish Schooner* "*Potosi*," D. Andres Larrazabal, Master, sailed from this Port for the Isla de Principe.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 87.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, May 21, 1828.

I NOW send you the following Letter, dated Yesterday, which the Officer, Second in Command of the Naval Forces on this Station, has addressed to me :

"Most Excellent Sir,—The Principal Commandant of the Registers of this Island, has written me, under the date of the 17th Instant, to the following effect, viz.—‘The Journals of the Brig "*Almirante*," which, coming from the Island of St. Thomas, anchored in this Port on the 14th Instant, being laid before me, I can find no proof therein that this mercantile expedition has been employed in the prohibited Traffick of Negroes, and in order that you make the proper use of this circumstance, I now make it known to you, in consequence of the instructions you have received on this subject from the Captain General."

I transcribe this Communication for your Excellency, in answer to your Letter of the 15th, enclosing a Copy of a Letter from the Commissioner of His Britannick Majesty, on the subject of the "*Almirante's*" arrival.

May God preserve you many Years,

(Signed)

FRANCO. DIONO. VIVES.

*The Commissioner of His Britannick Majesty.*

No. 88.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received August 18.)*

MY LORD,

Havana, June 19, 1828.

FOUR Vessels sailed Yesterday from this Port for the Coast of Africa, viz. the Schooner "*Manuelita*," D. Jozé Bosch, Master; the Brig "*Juan*," D. Ramon Nozedal, Master; the Brig "*Almirante*," D. Andres Inzua, Master; and the Schooner "*Nueva Campeadora*," D. Gaspar Pratt, Master. Of these, the "*Manuelita*," and "*Almirante*," are the Vessels, the arrival of which, with Slaves from the Coast of Africa, His Majesty's Commissioners have very lately reported to your Lordship.

I have the honour to be, &c.

(Signed)

W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

No. 89.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received August 18.)*

MY LORD,

Havana, June 23, 1828.

ON the 9th Instant, the *Spanish Schooner* "*Indagadora*," D. Manuel Hernandez, Master, and on the 10th Instant, the Brig "*Segunda Teresa*," D. Mariano Carbo, Master, both arrived in this Port, after having landed their Slaves on the Coast. On the 15th, the Schooner "*Dorotea*," D. Manuel Santiago Echevarria, also arrived, after having landed a Cargo of



Slaves. I have the honour to enclose Copies of the Correspondence which passed between the Captain General and myself, with respect to these various Slave-vessels, and I am sorry that it should be so much according to the usual form. With respect, indeed, to the "Indagadora," and "Segunda Teresa," I have not yet had the final answer, but when it arrives, I have little doubt but that it will prove of the usual tenour; namely, that nothing is to be found in the Log-books of these Vessels, sufficient to convict them of illicit Slave-trading.

It is very generally said in the Havana, that the Negroes of the "Segunda Teresa," which were landed at a short distance from the Port, were arrested by a *Capitan de Partido*, and only liberated after the payment of 17 Dollars per head.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

First Enclosure in No. 89.

*The British Commissioner of Arbitration to the Captain General.*

Havana, June 10, 1828.

THE Undersigned has the honour to state to your Excellency, that it will be his duty to state to His Majesty's Government, that another Slave-vessel has arrived in this Port from Africa, namely, the Spanish Schooner "Indagadora," D. Manuel Hernandez, Master, after having landed her Slaves on the Coast, near the Havana.

The Undersigned avails himself, &c.

His Excellency the Captain General.

(Signed)

W. S. MACLEAY,

Second Enclosure in No. 89.

*The British Commissioner of Arbitration to the Captain General.*

Havana, June 12, 1828.

THE Undersigned regrets to have to call your Excellency's attention to another Case of Slave-trade, which he will be under the necessity of laying before His Majesty's Government, namely, the Spanish Brig "Segunda Teresa," D. Mariano Carbo, Master, which has just arrived, after having landed her Slaves.

The Undersigned avails himself, &c.

His Excellency the Captain General.

(Signed)

W. S. MACLEAY.

Third Enclosure in No. 89.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, June 14, 1828.

I HAVE received your Notes of the 10th and 12th Instant, in which you inform me, that it will be your duty to communicate to your Government the arrival in this Port of the Spanish Schooner "Indagadora" and Brig "Segunda Teresa," coming from the Coast of Africa, which Vessels, as you inform me, have disembarked on the Coast of this Island their Cargoes of Slaves.

I now have to inform you, in answer, that, in obedience to the Resolution of The King, my august Sovereign, dated the 2d of January 1826, I transmit this day your Notes to the Officer, Second in Command of the Naval Forces on this Station, in order that he may proceed to make the necessary enquiries, of the result of which I shall inform you without delay.

God preserve you many Years,

The Commissioner of His Britannick Majesty.

(Signed)

F. D. VIVES.

Fourth Enclosure in No. 89.

*The British Commissioner of Arbitration to the Captain General.*

Havana, June 17, 1828.

THE Undersigned, Commissioner of His Britannick Majesty, has the honour to inform your Excellency, that another Slave-vessel, the "Dorothea," D. Manuel Santiago Echevarria, having just arrived in this Port, after landing Negroes, it will be his duty to state the circumstance to His Majesty's Government.

The Undersigned avails himself, &c.

His Excellency the Captain General.

(Signed)

W. S. MACLEAY.

Fifth Enclosure in No. 89. (Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, June 19, 1828.

I HAVE received your Note of the 17th Instant, in which you inform me, that it will be your duty to communicate to your Government the arrival in this Port of a Slave-vessel, called the "*Dorotea*," after she had landed her Negroes on the Coast.

I have now to inform you, in answer, that in obedience to the Royal Order of The King, my august Sovereign, dated 2d January 1826, I have to-day transmitted the necessary orders to the Officer, Second in Command of the Naval Forces on this Station, directing him to proceed to an investigation of the result, of which you shall be duly apprized.

God preserve you many Years.

The Commissioner of His Britannick Majesty.

(Signed) F. D. VIVES.

Sixth Enclosure in No. 89. (Translation.)

*The Captain General to The British Commissioner of Arbitration.*

SIR,

Havana, June 23, 1828.

I HAVE to transmit to you the following Letter of the 21st Instant, addressed to me by the Naval Officer, Second in Command of the Forces on this Station.

"Most Excellent Sir,—The Commandant of Registers informs me to-day, that he has examined the Log-books of the Spanish Merchant Schooner named the "*Dorotea*," alias "*El Pollo*," and that she does not appear to be concerned in the illicit traffick of Negroes, which circumstance I beg leave to acquaint your Excellency with, in answer to your Letter, dated the 19th, transmitting one from the British Commissioner respecting this Vessel."

God preserve you many Years.

The Commissioner of His Britannick Majesty.

(Signed) F. D. VIVES.

No. 90.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received August 18.)*

(Extract.)

Havana, June 27, 1828.

THE Captain-General having, as it has since appeared through mistake, addressed to the Mixed Commission the Note, of which I have now the honour to enclose to your Lordship a Translation, it was laid before the Spanish Commissioners and myself, by our Secretary, on the 23d Instant. The sole purport of this Note is to know the actual state of the Spanish Moiety of the proceeds arising from the sale of Vessels condemned under the Mixed Commission. I therefore immediately declared, that the object of the enquiry fell in no way under my cognizance as a British Commissioner, and declined to answer a Note which I thought must have been intended solely for the Commissioners of His Catholick Majesty, who have ever had the entire management of that portion of the Funds which accrues to the Spanish Government. My Colleagues perfectly coincided with me in opinion, and agreed that the Note should be answered, not by the Mixed Commission, but by themselves alone, in their capacity of Spanish Commissioners.

The grounds, however, upon which this enquiry was made, into the state of the Spanish Moiety of the proceeds from the sale of condemned Vessels, appeared to me to involve too great an alteration of the system hitherto pursued, with respect to emancipated Negroes, to justify my taking no further notice whatever of His Excellency's Note.

The 7th Article of the Regulations annexed to the Treaty, did not indeed seem very completely to oppose the proposition of the *Spanish* Minister, as expressed in his Letter to the Captain General, for the words of that Article are;—the Emancipated Slaves, “shall be delivered over to the Government on whose Territory the Commission which shall have so judged them shall be established, to be employed as servants or free labourers.” It appeared therefore difficult for me to deny the right of the *Spanish* Government to transport the emancipated Slaves to Europe, although it is clear that, under such a pretext, without a sufficient watch being kept on the persons employed to carry the measure into effect, a Cargo of ignorant Africans might be conveyed to Puerto Rico, or even to other Ports of this Island, and there consigned to hopeless slavery. Nevertheless, if due care were taken to prevent fraud in their removal to Europe, the measure proposed cannot fail to be highly advantageous, not merely to the peace of this Island, but to the Negroes themselves, who will no doubt in Europe experience better treatment, and, moreover, have their liberty more secure, than it can ever be expected to be in a place where slavery prevails, and where there are too many facilities for defrauding an ignorant Bozal Negro of his rights.

Guided therefore by these various considerations, but, above all, by the probability there is, from the tenour of the latter part of the *Spanish* Minister's Despatch, that the measure in question has already been the subject of Negotiation between the two Governments, I thought it best not to enter into any Correspondence upon the subject, but merely to announce verbally to the Captain-General, my intention to protest against any removal of Negroes, emancipated by the Mixed Commission, taking place, without the general consent of His Majesty's Government being previously given to such proceedings. I accordingly called on His Excellency, who, in the first place, informed me, that my suspicions were right, as to his Note not having been intended to come before the Mixed Commission, and further stated, that his Secretary had committed a still greater mistake in detailing the grounds upon which the enquiry had been made into the amount of the *Spanish* portion of the abovementioned Funds. Since, however, the measure proposed by his Government had thus been mentioned, His Excellency said he would take that opportunity to assure me, that, notwithstanding the terms of the *Spanish* Minister's Letter, the plan must necessarily be entirely prospective. It will not, according to him, in any way affect the Negroes already emancipated, who, having by marriage, apprenticeship, or other ties, become connected with the Island, cannot now conveniently be removed.

I contented myself with observing, that His Excellency must be aware that I could never consent, without particular Instructions on the subject from home, to any alteration of the present system being made, even with regard to future condemnations; and I added, that I was bound to be the more particular on this head, from the circumstance, that a door might clearly be opened to a complete evasion of the Treaty, if the removal of the Negroes did not take place under some special Arrangement between the two Governments.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley.*  
 &c. &c. &c.

Enclosure in No. 90.

(Translation.)

*The Captain General to the Mixed Commission.*

GENTLEMEN,

Havana, June 19, 1828.

HIS Excellency the Secretary of State has written me a Despatch, dated the 15th Ultimo, of which the following is an Extract:—

“Most Excellent Sir,—As soon as I received your Despatch, dated 1st December 1826, and the Representation, which it enclosed and supported, of the Municipality of the Havana, I communicated its contents to The King, our Sovereign; and, penetrated with the solid reasons therein set forth, and convinced of the immense evils that may result from the

permanence and increase, in Cuba, of the Negroes, who obtain freedom, in virtue of the Treaty for abolishing the Slave-trade; His Majesty took the whole affair into his most grave consideration, and gave orders that, first, his Council of Ministers, and secondly, the Council of State, should propose the means of avoiding the dreadful consequences of the presence of so great a number of free blacks in that precious part of his Dominions. These proceedings being at length terminated, and the opinions, moreover, of several persons, distinguished for their judgment and knowledge having been heard, His Majesty, in conformity with the sentiments of a part of his Council of State, has resolved—First, that all the Negroes actually emancipated, in virtue of the provisions on this head, set forth in Article VII. of the Regulations, which form an integral part of the Treaty concluded in 1817, with England, for the abolition of the Slave-trade, shall be withdrawn from the Island of Cuba, and transported to some of the Possessions or Dominions of His Majesty in Europe, even though it should be to *Spain* itself; care being taken, wherever they are carried, to give them the same destination they would have had in the said Island, according to the stipulations of the abovementioned Article. Secondly, that the expences of transporting these Negroes to His Majesty's European Dominions, shall be defrayed out of that part of the proceeds from capture of Slave-vessels which may belong to The King our Lord; and if this shall not be found sufficient for the purpose, that there be made, in order to realize a proper sum, a prudent reparation (*un reparto prudencial*) among all the inhabitants of the Island; whilst, in the mean time, His Majesty deems it expedient to enter upon such Negotiations with England as may appear convenient, with respect to modifications of Article VII. of the abovementioned Regulations."

And I now, Gentlemen, transmit this to you, in order that you may inform me of the actual state of the Funds which belong to His Majesty, as arising from the proceeds of sale of condemned Vessels.

God preserve you many Years.

(Signed) F. D. VIVES.

*His Excellency the Intendant, and the other  
Members of the Mixed Commission.*

No. 91.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received August 18.)*

MY LORD,

*Havana, July 1, 1828.*

I HAVE the honour to inform your Lordship, with reference to the Instructions, directing His Majesty's Commissioners to transmit Half-Yearly Returns of the Cases adjudicated by the Mixed Commission established here, that no Vessel has within the last 6 Months been brought to the Havana for adjudication.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,  
&c. &c. &c.*

No. 92.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received August 18.)*

MY LORD,

*Havana, July 2, 1828.*

FOUR Vessels, regularly fitted out for the Slave-trade, took their departure Yesterday from this Port, 3 of them direct for the Coast of Africa, viz. the Brig "*Coradino*," D. Francisco de la Casa, Master; the Schooner "*Pantica*," D. Miguel Romero Vega, Master; and the Schooner "*Indagadora*," D. Manuel Dias de Medina, Master. The 4th Vessel, the Brig "*Tres Hermanos*," D. Juan José Felipe Remedios, Master, is of the same Class with the preceding, but took her departure for the Canary Islands.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,  
&c. &c. &c.*

## No. 93.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received August 18.)*

(Extract.)

*Havana, July 11, 1828.*

HIS Majesty's Ship "Grasshopper," Abraham Crawford, Esq. Commander, having been sent by Admiral Fleeming to examine the line of Coral Reefs, called *Los Colorados*, and which are said at this time to be the haunt of Pirates, fell in with the "*Xerxes*," Spanish Schooner, and after 26 hours' chase succeeded in capturing her, with 408 Slaves on board, as declared by the Master of the "*Xerxes*," but who now prove to have been no more than 406, of whom 1 is claimed by the Master as his servant.

The "Grasshopper" arrived here in the Evening of the 5th Instant. On Monday the 7th, the Mixed Commission met, and have ever since been employed in the investigation of the circumstances attending this Detention. The full particulars of the Case, as well as the various Evidence brought forward, I shall have the honour to transmit to your Lordship as soon as I get the Papers from the Secretary of the Mixed Commission.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
                   &c.                   &c.                   &c.

## No. 94.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, September 18, 1828.*

YOUR Despatch of the 20th of January, of this Series of the Slave-trade, having been submitted to His Majesty's Advocate General, that Officer has reported it to be his opinion, that the presence of the Commander of the Capturing Ship is, under the Treaty with *Spain* for the Abolition of the Slave-trade, not essentially necessary to the due adjudication of the Prize.

The King's Advocate does indeed admit, in giving this opinion, that some of the Regulations and Instructions seem to have been framed under the presumption, that the Prize would be accompanied into Port by the Capturing Ship; and that such may have been, in fact, the intention of the Parties to the Treaty; but he further states, that there are no words which make it imperative upon the Captors so to do, or which, in his opinion, would justify the Commissioners in refusing to proceed to adjudication, merely on the ground of the absence of the Captor.

If, indeed, in the course of the proceedings, circumstances should arise, which, in the judgment of the Commissioners, might require the examination of the Commander of the Capturing Ship; they, or either of them, have, in the opinion of The King's Advocate, a right to demand it; and, in that case, the final Sentence must be postponed till the attendance of the Commander of the Capturing Ship can be procured; but The King's Advocate is decidedly of opinion, that if, upon the examination of the Papers, and of the Master and Crew of the detained Ship, sufficient Evidence should be obtained, to justify a Decree of Restitution, or a Sentence of Condemnation, the Sentence, in either case, would be valid.

The King's Advocate adds, that, although inconvenience might occur when, in the course of these Trials, it should be deemed necessary to demand and wait for the presence of the Commander of the Capturing Vessel, still, on the other hand, a requisition that, upon every Capture, the Cruizer should quit his Station and attend the Prize to adjudication, would endanger the very object which the Treaty had in view.

You will take the opinions above stated as the rule of your conduct, on the points to which they apply.

I am, &c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

No. 95.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received September 27.)*

MY LORD,

*Havana, July 24, 1828.*

I HAVE the honour to enclose the Translations of 2 Notes that I have received from the Captain General, containing the result of the Investigations in the Cases of the "*Indagadora*" and "*Segunda Teresa*."

On the 14th Instant, the Schooner "*Transito*," D. Antonio Perez, Master, arrived in ballast, after having landed her Cargo of Slaves on the Coasts of this Island. I enclose Copies of the Correspondence which passed between the Captain General and myself on this occasion.

I have only to remark on these various Letters, that it is quite absurd to found the innocence of such Vessels on the silence of their Log-books, with respect to their guilty traffick, for in the Case of the "*Xerxes*," just condemned by the Mixed Commission, I examined her Journals and Log-books with great care, and found not a word respecting the particular nature of her Cargo or Traffick.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon The Earl of Dudley,*  
 &c.                    &c.                    &c.

First Enclosure in No. 95.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

*Havana, July 7, 1828.*

IN his Letter to me of the 5th Instant, the Officer Second in Command over the Naval Forces, on this Station, writes as follows:—

"Most Excellent Sir,—The Commandant of Registers has addressed to me a Letter, dated the 12th Instant, to the following purport, viz.—'That the Log-books of the Spanish Schooner "*Indagadora*," lately arrived in this Port, D. Manuel Fernandez, Master, having been examined; there appears no proof whatever that this Mercantile Expedition has had any concern with the illicit Traffick of Negroes; and with respect to the Schooner "*Segunda Teresa*," there has been as yet no examination of her Journals and Log-books, on account of her Captain having been put in arrest on board the Flag-ship as soon as he arrived, for having been insolent to the Inspecting Officer, and having allowed his Crew to escape; but I have now taken the proper measures for the production of these Books, and as soon as I have examined them I shall communicate to you the result. The delay that has occurred in thus answering your enquiries, has proceeded from your

Letter of the 14th June, relating to both Vessels ; and this statement I trust will be considered a sufficient reply to the Letter dated Yesterday.' "

I have only to add, that when I receive the final answer respecting the "Segunda Teresa," I shall make you acquainted with it.

God preserve you many Years.

*The Commissioner of His Britannick Majesty.*

(Signed) F. D. VIVES

Second Enclosure in No. 95.

*The British Commissioner of Arbitration to the Captain General.*

Havana, July 16, 1828.

THE Undersigned has the honour to call the attention of His Excellency the Captain General, to another arrival from the Coast of Africa, namely, the Schooner "Transito," D. Antonio Perez, Master. It will be the painful duty of the Undersigned to report her as having landed Slaves on the Coast of this Island, previously to entering this Port in ballast.

The Undersigned avails himself, &c.

*His Excellency the Captain General.*

(Signed) W. S. MACLEAY.

Third Enclosure in No. 95.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, July 18, 1828.

I HAVE received your Note of the 16th Instant, in which you inform me, that it will be your duty to inform your Government of the arrival in this Port, in ballast, of the Spanish Schooner "Transito," after having landed a Cargo of Slaves on the Coasts of this Island.

In obedience to the determination of my august Sovereign, dated January 2, 1826, I have this day issued the necessary orders to the Officer Second in Command over the Naval Forces on this Station, directing him to proceed to the proper investigation, and you shall be duly informed of the result.

God preserve you many Years.

*The Commissioner of His Britannick Majesty.*

(Signed) F. D. VIVES.

Fourth Enclosure in No. 95.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, July 21, 1828.

IN his Letter of the 19th Instant, the Officer Second in Command over the Naval Forces on this Station, writes to me as follows:—

"Most Excellent Sir,—The Principal Commandant of the Register Office informs me, that he has examined the Log-books of the Spanish Schooner "Transito," which lately anchored in this Port, after a Voyage from the Island of St. Thomas, and that there is no proof that this Mercantile enterprize has had any concern with the prohibited Traffick in Bozal Negroes."

I transcribe this part of his Letter for your Excellency, in answer to the Note respecting this affair, in which you enclose to me a Copy of the Letter of His Britannick Majesty's Commissioner."

The above Letter I now transmit for your information, and may God preserve you many Years.

*The Commissioner of His Britannick Majesty.*

(Signed) F. D. VIVES.

Fifth Enclosure in No. 95.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, July 23, 1828.

IN his Letter of Yesterday, the Officer Second in Command over the Naval Forces in this Island, writes me as follows:—

"Most Excellent Sir,—The Principal Commandant of Registers writes me to day, that the Log-books of the Schooner "Segunda Teresa" have now been delivered up to him, and

were not delivered before in consequence of the correctional arrest under which I had thought proper to place D. Mariano Carbo, the Master of the said Vessel, for want of attention to certain Regulations of the Marine. He adds, that having examined the said Documents, there is nothing to prove that this Mercantile Expedition has had any concern with the illicit Traffick in Slaves. This I write for your Excellency's information, and in answer to the 2 Letters of the 14th of June last, and the 4th Instant."

I now transcribe this Letter for your information, and may God preserve you many Years.

The Commissioner of His Britannick Majesty.

(Signed)

F. D. VIVES.

No. 96.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received September 27.)*

MY LORD,

Havana, July 26, 1828.

HIS Majesty's Commissioners have made it a rule to adhere closely to the Instructions of the late Mr. Secretary Canning, as conveyed to Mr. Kilbec by Mr. Planta, in his Letter dated 4th June 1825, and to represent every arrival of a Slave-vessel, that comes within their knowledge, to the Captain General, previously to submitting the particular circumstances of the Case to His Majesty's Government. Of late indeed I have too often had to express to your Lordship my regret, that this practice should have dwindled into a mere form, without producing any visible good effect; but I nevertheless felt it still my duty to continue these Representations, hoping that His Excellency might in time feel the indecorum of eluding them, by so fallacious a proceeding as that which has been used to nullify the Royal Order of 2d January 1826.

On the 9th Instant, the *Spanish Schooner* "*Esperanza*," D. Eustaquio Perez Noriega, Master, a Vessel which was announced to your Lordship by His Majesty's Commissioners, in their Despatch of the 31st December last, as having sailed on the 25th of that Month for the Coast of Africa, returned into Port in ballast, after having, as was confidently said in the Havana, landed about 270 Slaves on the Coasts of this Island. I immediately addressed a Note, of the usual form, a Copy of which is enclosed, to the Captain General, apprizing him that it would be my duty to report her to your Lordship. I must confess that I little expected to have any other than the usual answer, stating that her Log-book had been examined, and nothing therein found to prove her guilt. However, to my great surprize, I heard the other day of her having been seized by the Court of Admiralty, and that the Crew had been put under arrest. Soon after I received a Letter, of which a Translation is enclosed, from the Captain General, transmitting a Representation of the Fiscal of the Court of Admiralty, and a consequent Sentence of that Tribunal, decreeing that the "*Esperanza*" and her Crew should be detained, to abide the result of an investigation into the facts that had given rise to my Letter to the Captain General, and requesting me to continue to give Evidence to the Court against the Vessel. It is difficult to comprehend the cause of this extraordinary proceeding, for it so happens that the arrival of the "*Transito*," has been announced by me to the Captain General since that of the "*Esperanza*," and, nevertheless, almost immediately after, I received the usual answer, stating that her Log-books had been examined, in pursuance of the terms of the Royal Order, and that the Vessel was thus found innocent. I am inclined to believe, therefore, that for the sake of decency, and because so many Vessels have lately arrived, it was determined to select one example, which proves to be the "*Esperanza*;" but that, at the same time, it was resolved to make use of this trial to ascertain the full extent of my information, and shifting the odium from the Local Authorities, to throw the whole responsibility of the prosecution on me. The proper line of conduct to pursue in this affair appeared to me sufficiently obvious, as I not merely had neither instructions nor authority, to take upon myself the part of publick Accuser in the *Spanish* Tribunals, but because I was convinced your Lordship would feel that such an ungracious office in one Court would be quite incompatible with the duties and dignity of a Judge, taking cognizance of the same species of offence in another Court. There could be no doubt,



moreover, that should I appear before a *Spanish* Tribunal as Accuser, without Papers or strictly legal Evidence (as from my peculiar situation, must necessarily be the case, if I interfered at all,) any character I might have obtained for impartiality would soon be destroyed, in the eyes of the Spaniards. I therefore answered the Captain General, that I must respectfully decline the office of publick Accuser in the *Spanish* Court of Admiralty, because I had no authority for the purpose; and that I thought His Excellency must feel that a *British* Commissioner was not the proper Individual to prosecute Spaniards in a *Spanish* Court, for offences against *Spanish* Laws. At the same time, as a matter of mere information, I laid before His Excellency the various grounds upon which I had resolved to report the "Esperanza" to your Lordship, in order that it might not be thought that I had formed my opinion precipitately. I have the honour to enclose a Copy of my Note. Your Lordship will there perceive, that the only peculiar circumstance attending the arrival of the "Esperanza" is, that she was chased, and nearly captured, by His Majesty's Sloop "Grasshopper," and was afterwards seen by her to enter the Port in ballast. Of this circumstance I was not aware when I announced her arrival to His Excellency, and afterwards, partly from being at the time much engaged in the Mixed Commission with the "Xerxes," and still more from being unwilling, uselessly, to expose a *British* Officer to such supercilious treatment as Lieutenant Nott experienced in this very Court of Admiralty in 1826, on the more glaring event of the arrival of the "Minerva," I refrained from offering Lieutenant Warren's Evidence to the Captain General, until I found that it was seriously intended to investigate this Case of illicit Slave-trade.

I took the opportunity also to state to the Captain General, that the Vessels which clear out from this Port for St. Thomas, on the Coast of Africa, or the "Isla de Principe," can only go there for illicit purposes; for it is evident (even were it not so proved by the Custom-House Report for last Year,) that a place like the Havana can have in its present state no legal Commerce with the Coast of Africa. Slave-traders, indeed, like the Crew of the "Xerxes," may swear that they go there for ivory and palm-oil, but the peculiar construction of their Vessels, and the well known fact that not one of them ever returns with a legal Cargo, go all to prove that these wretched beings only perjure themselves.

Whatever may be the result in the Case of the "Esperanza," it cannot be otherwise than unfavourable to the Slave-trade, as even if she should escape, it will not be without having incurred enormous expence.

Your Lordship will perceive the very peculiar and difficult situation in which His Majesty's Commissioners are here placed, with respect to the Local Authorities, so long as these shall be inclined to protect the Slave-trade. It is most obvious, for instance, that they know, not only every thing that I could have learned with respect to the "Esperanza," but doubtless, from having possession of the Vessel and Papers, much more; and yet they call on me, of all persons in the Island the most unlikely, from my situation, to procure Evidence, to prosecute her. As in the Cases of the "Dichosa," and "Isabel," the Court of Admiralty may declare the innocence of the "Esperanza," and, transmitting the Proceedings to their Government, may thus be the means of bringing my conduct, in denouncing her, more particularly under your Lordship's notice; but I venture to trust it will be believed, that, although it is often out of the power of His Majesty's Commissioners to procure legal Evidence against a Vessel, they have never yet reported one as concerned in illicit Slave-trade, without the most absolute moral conviction of her guilt.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

The Right Hon. The Earl of Dudley,  
&c. &c. &c.

## First Enclosure in No. 96.

*The British Commissioner of Arbitration to the Captain General.*

Havana, July 11, 1828.

THE Undersigned, Commissioner of His Britannick Majesty, has the honour to apprise His Excellency the Captain General, that it will be his duty to report to His Majesty's Government, the arrival in this Port, from the Coast of Africa, on the 9th Instant, of another Slave-vessel, the Schooner "*Esperanza*," D. Eustaquio Perez Noriega, Master, having previously to her arrival landed her Cargo of Slaves on the Coast of this Island.

The Undersigned avails himself, &amp;c.

(Signed)

W. S. MACLEAY.

*His Excellency the Captain General.*

## Second Enclosure in No. 96.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, July 14, 1828.

I HAVE received your Note of the 11th Instant, in which you inform me, that it will be your duty to acquaint your Government with the arrival in this Port of a Negro-vessel, called the "*Esperanza*," after she had landed on the Coast of this Island her Cargo of Bozal Negroes; and in answer, I have to inform you, that, in obedience to the Resolution of The King, my august Sovereign, dated 2d of January 1826, I transmit to-day the necessary directions to the Officer Second in Command over the Naval Forces on this Station, that he may proceed to make the requisite investigation, of the result of which you shall be duly informed.

God preserve you many Years.

(Signed)

F. D. VIVES.

*The Commissioner of His Britannick Majesty.*

## Third Enclosure (A.) in No. 96.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, July 22, 1828.

IN his Letter of Yesterday, the Officer Second in Command over the Naval Forces of this Island, writes to me as follows:—

"Most Excellent Sir,—I enclose to your Excellency a Copy of the Representation made to me by the Honorary Auditor and Fiscal of the Court of Admiralty on this Station, and of the provisions I have made, with the advice of the Auditor, in consequence of the Letter which your Excellency was pleased to address to me, on the 14th Instant, relative to the entry in this Port of the *Spanish* Schooner, named "*La Esperanza*," which, according to the Note of the Commissioner of His Britannick Majesty, landed a Cargo of Slaves on the Coasts of this Island; I adopt this measure in order that, on the view of the whole Proceedings, your Excellency may be pleased to accede to the proposition of the said Fiscal."

I now, Sir, transmit you a Copy of these Papers, in order that you may take cognizance of them.

God preserve you many Years.

(Signed)

FRANCISCO DIONISIO VIVES.

*The Commissioner of His Britannick Majesty.*

## Third Enclosure (B.) in No. 96.

(Translation.)

*Representation made by the Fiscal of the Court of Admiralty, in the Case of the Spanish Schooner "Esperanza."*

Eight o'Clock, A. M. Havana, 19th July 1828.

THE Fiscal says, that Yesterday, at Noon, the proper Papers were transmitted by the Commandant-General of Registers, and, as there appears a particular urgency that no time should be lost in adopting the measures necessary to satisfy publick justice, and the upright zeal of the Commissioner of His Britannick Majesty, the Undersigned is of opinion that the Schooner "*Esperanza*" be immediately seized, and delivered over into the charge of a person who may merit the confidence of this Tribunal; that the Officers of the said Schooner, with all her Crew that can be found, be conducted, separately, as detained persons to such Prisons of the Admiralty as offer every security; and that all kind of communication between them being there prevented, the Auditor of the Admiralty Court may then proceed to verify the facts which have given rise to the Note of the British Commissioner; and since there is no less zeal existing on the part of that *Spanish* Tribunal which takes cognizance of the due execution of the Treaties, relative to the Commerce of the Coast of Africa, the Fiscal proposes that the Commissioner of His

Britannick Majesty be informed, through the medium of His Excellency the Governor and Captain General, of the deliberations of this Court, and be furnished with a Copy of this Representation; requesting him, in consideration of the distinguished confidence which he has merited from his Sovereign, to continue to send us all the information that may serve as a guide or path to the complete proof of the crime. You, Sir, however, will, as usual, take such measures on this head, as may be deemed proper.

(Signed) COIMBRA.

*The Officer Second in Command of the Naval Forces.*

Third Enclosure (C.) in No. 96. (Translation.)

*Decree of the Court of Admiralty, in the Case of the "Esperanza."*

Havana, July 20, 1828.

IN conformity with the proposition of the Fiscal, made in his Representation to the Officer Second in Command over the Naval Forces on this Station,—Let the Spanish Schooner, called "Esperanza," be placed, without loss of time, in charge of the "Alcalde de Mar," D. Juan Perez, and a formal Inventory be taken by one of the Assistants of the *Mayoria* of the Marine, aided in the process by the Captain and Owner of the said Schooner; and if these Individuals be not found, when duly and promptly cited, let the above proceeding take place in presence of three Witnesses. Further, let the proper orders be issued by the Mayor General of the Marine to his Department to conduct forthwith, as detained persons, the Captain of the said Schooner "Esperanza," the Officers, and all her Crew, on board of those Ships of War that may be most convenient for their security, and to keep them there, separated from each other; the Auditor of the Court then proceeding to take the necessary Depositions, for the purpose of verifying the facts, which have given rise to the Note which the Commissioner of His Britannick Majesty addressed to His Excellency the Captain General, and giving corresponding orders to the Alguazils of this Tribunal, and all the Chiefs of the Office of Registers. Further, let the Communication proposed by the Fiscal, be made to the Captain General, in the terms, and for the object, the said Officer has indicated; and, without any anticipation of our ultimate Decision, let the Commandant of the Register Office produce a certified Copy of the Register with which the said Schooner "Esperanza" sailed from this Port, the Court reserving to itself the right to take such ulterior measures as may be proper, as soon as the provisions mentioned above shall have been fulfilled.

(Signed) TOPETE.  
PONCE DE LEON.  
JOZE MIGUEL IZQUIERDO.

Copy, in conformity with the Original, deposited in the Secretariat of the Admiralty; and in virtue of superior orders, I certify the same.

Havana, July 21, 1828.

A true Copy. (Signed) ANTONIO M. DE LA TORRE Y CARDENAS.

(Signed) PLACIDO BORRERO.

Fourth Enclosure in No. 96.

*The British Commissioner of Arbitration to the Captain General.*

Havana, July 23, 1828.

THE Undersigned, Commissioner of His Britannick Majesty, begs to acknowledge the receipt of the Note of His Excellency the Captain-General, dated Yesterday, and of its Enclosures, which detail the proceedings that have been adopted in the Case of the Schooner "Esperanza." The request there made by the Fiscal of the Court of Admiralty, and which is expressed in such polite terms, seems to be tantamount to a proposition that the Undersigned should become the Prosecutor of the "Esperanza," in the Spanish Tribunals: but the Fiscal seems not to be aware that such an office is peculiarly foreign to the publick situation of the Undersigned, who has no access whatever to the Vessel, or her Papers; and that, besides, it does not in any way fall within the range of the Instructions which have been given by their Government to His Majesty's Commissioners. His Excellency the Captain-General, however, need not be informed, that the duties of the Undersigned are confined to the exercise, under oath, of strict justice and impartiality in the execution of the Treaty for the abolition of the Slave-trade; to giving the British Government notice of every publick event that appears to be an infraction of this solemn Compact; and to making His Excellency the Captain General previously acquainted with every such apparent infraction, and with the intention of the Undersigned to give such notice to his Government. Perhaps, therefore, His Excellency will have the goodness to state to the Officer Second in Command over the Naval Forces on this Station, that the publick functions of His Britannick Majesty's Commissioner in this City are those of a Member of the Mixed Commission, and consequently entirely judicial, except with respect to the aforesaid Communications, which he is instructed to make to His Excellency the Captain General, as the immediate Representative here of His Catholic Majesty. The Undersigned, in his separate capacity, is furnished with no authority whatever to communicate officially with any other of the Local Authorities; he need scarcely say, that it has ever been his most anxious wish to abstain from any interference in the internal Regulations of the Island, with which of course he has not the least concern, but were he even otherwise in-

clined, it would be impossible for him, without exceeding the bounds of his Commission, to become a Prosecutor in the *Spanish* Courts for an offence against the Royal Orders of His Catholic Majesty. In the Tribunal before which the "Esperanza" is now arraigned for an infraction of the *Spanish* Laws, His Excellency the Captain General will feel, that a *British* Commissioner and Judge, is, of all others, at once the least likely person to be able to produce Evidence, and the most improper Individual to become a publick Prosecutor.

In this *Sanish* Case it would appear, that the Note which the Undersigned had the honour to address to His Excellency on the 11th Instant, and which merely announces his intention to report the arrival of the "Esperanza" to his Government, has finally led to her Seizure, and to the arrest of the Crew. If such a proceeding, with respect to this particular Vessel, has been grounded on any peculiarly flagrant facts having already appeared against her in the proper Court, and distinguished her Case from that of other Vessels arriving under similar circumstances, the Undersigned will feel obliged by their being made known to him, with the result of the whole affair. But the Undersigned, for the reasons abovementioned, must be allowed to decline all direct interference with the Court of Admiralty, while at the same time he is happy to have thus an opportunity of professing every possible respect for that high Tribunal, and for the character of the Members who compose it.

In order, however, that His Excellency the Captain General may not for a moment imagine that, in thus refusing, because in fact it is beyond the limits of his duty, to become a Prosecutor in the Court of Admiralty, the Undersigned has, on slight grounds, determined to report the arrival of the "Esperanza" to His Majesty's Government, he begs leave to detail for His Excellency's information the various circumstances that have served to occasion in his mind a perfect conviction of her guilt.

In the first place, this Vessel was fitted out publickly in the Port of the Havana as a Slave-trader, and was pointed out to the Undersigned in the Harbour as intended for that destination some time previously to her sailing; indeed, the Undersigned may observe, that the construction and fitting up of Slave-vessels are so peculiar, and so ill adapted for any legal traffick, that it is impossible for any person, in the habit of viewing shipping, to entertain the least doubt as to the guilty object of the Vessels, even were any secret made in the Port of their destination, which the Undersigned must say is never the case. This Schooner, so fitted up for the reception of Slaves, sailed on the 25th December last, (as was publickly notified at the time), for the Coast of Africa; and specially for a Place on that Coast, to which it would argue the greatest ignorance of geography, and of the actual state of general Commerce, to suppose that any Havana Vessel can ever proceed, unless in order to procure Slaves. She is then absent about 6 Months, and, returning into the Havana on the 9th Instant, is publickly notified to be from St. Thomas in 60 days in ballast, consigned to the Captain. Immediately, moreover, it is stated in the Havana, without any attempt at secrecy, that she has succeeded in landing about 270 Slaves. Indeed it well deserves remark, that were not Slave-vessels peculiarly constructed, and notoriously destined for this illicit traffick in the eyes of every person who visits the Port, it would still be impossible to understand how so many Vessels can almost every day sail for the Coast of Africa, and so regularly return into Port in ballast, did they not previously land Slaves on the Coasts of this Island; 1 or 2 Vessels might perhaps be conceived to make an unsuccessful Voyage to Africa, although it is difficult to divine what they could have intended to bring from thence to a Place like the Havana, except Slaves; but that so considerable a portion of the *Spanish* Vessels sailing from this Port, should prefer following this unlucky example to all others, and should obstinately thus prosecute a losing trade, by sailing constantly from Africa in ballast, is beyond the utmost reach of credibility.

With respect indeed to the "Esperanza," there is another strong fact, of a more peculiar nature. She came into Port at a moment that His Britannick Majesty's Ship "Grasshopper" was already there anchored, and was immediately recognized by her as a Slave-vessel that had a few days previously escaped detention by the merest accident; so near had the "Grasshopper" gained upon her after a chase, that the Boats were even twice out in order to take possession of her, and her Master and Crew best know by how slight a chance she was not brought before the Mixed Commission: The Undersigned was informed by Lieutenant Warren, who had the Command of the Boats, that he, as well as the Officers and men under his command, immediately recognized her when she entered the Harbour, and were ready to identify her.

Such were the various grounds on which the Undersigned resolved to report the arrival of the "Esperanza" to His Majesty's Government, and accordingly, in pursuance of his Instructions, he had the honour to acquaint His Excellency the Captain General with his intention, in order that any circumstances which, after the proper investigation, happen to be known in favour of this Vessel, might be forwarded to England, together with the charge against her: as she is now amenable solely to the insulted Laws of her Country, here the duty of the Undersigned necessarily ceases, except so far as His Excellency may favour him with any further information, as to the ultimate decision of the Court of Admiralty, for the purpose of being transmitted to the British Government.

The Undersigned may, however, take this opportunity of remarking, that should His Excellency the Captain General deem it necessary to have the Affidavit of any of the Officers or men of the "Grasshopper," he will take the earliest opportunity of procuring a detail of those facts respecting the "Esperanza," which have been, without doubt, already submitted by Captain Crawford, for the information of His Royal Highness the Lord High Admiral.

The Undersigned avails himself, &c,

His Excellency the Captain General,

(Signed)

W. S. MACLEAY.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received September 27.)*

MY LORD,

*Havana, July 30, 1828.*

IN my Despatch of the 11th Instant, I had the honour to give a brief account of the Capture, by His Majesty's Sloop "Grasshopper," of the "Xerxes," Slave-vessel, of 138 tons, and having on board 405 Bozal Negroes. I now proceed to lay before your Lordship the various Papers connected with the condemnation of this Vessel by the Mixed Commission.

The Master of the "Xerxes" when taken, having declared to the Captors, that at that moment he had 408 Slaves on board, 21 having died since he left the Coast of Africa, Captain Crawford on his arrival in Port addressed Letters, founded on this Statement of the Master, to the Mixed Commission, and to me, announcing that he had 408 Negroes on board the detained Vessel. On my requesting, however, that, in compliance with the usual custom, the number of each sex should be distinguished, and those sick particularly separated from the healthy, it was found that only 406 Negroes could have been on board at the period of Capture, of whom 1 was claimed by the Master of the "Xerxes" as his servant.

The 2 *Spanish* Commissioners sat with me in Court daily from the 7th to the 12th Instant, inclusive, on which last day the Sentence of Condemnation was pronounced.

The "Xerxes" sailed from this Port on the 10th of February last, for the Coast of Africa, and having taken on board her Cargo of Slaves in the River Bonny, left it on the 4th of May last. On the 26th of June she was first descried by the "Grasshopper," nearing the Coast of this Island, and after an arduous chase was taken possession of, nearly in the middle of the Gulf of Mexico.

The only difficulty that presented itself in the course of these proceedings was, with respect to a Negro boy, about 12 or 14 years old, who was comprised among the 401 Negroes reckoned by the Captor to be on board at the time they were classed, according to my request, which 401, together with 5 dead in the interval between the detention and their arrival in Port, made the whole number captured to be 406, as above-mentioned.

Every *Spanish* Vessel previously to leaving the Harbour, is supplied *gratis* by the *Comandancia de Matriculas*, with a Paper called the *Rol del Equipage*, or Register of the Crew. In this Paper licence is given for every particular Voyage to the Vessel therein named, the tonnage and armed force of which are specially described. The Officers and Crew are also divided into classes according to the nomenclature used in the *Spanish* Sea service, and their names and birth-places set forth at full length. At the end of the List are inserted some "Regulations for the guidance of the Captains and Officers of *Spanish* Merchant Ships belonging to the Island of Cuba," among which we find the following, viz. :—"The Captain shall also take no person into his Ship without having his name entered on the Register, even although such Passengers may be furnished with Passports from Governors or other competent Authorities." Now the name of the boy, Manuel Perez, not being in this Register, Captain Crawford, in his Letter to the Mixed Commission, and also in his Declaration, Copies of which are herewith enclosed, included him among the other Slaves found on board. Immediately on receiving Captain Crawford's Report, on the Night of the 5th, I had, in the usual manner, placed the Crew of the "Xerxes" at the disposal of the Captain General. I have the honour to enclose a Translation of His Excellency's Letter, announcing that he would not only take charge of the Crew, but also of the Negroes, in pursuance of which I furnished the persons therein named, with the necessary authority to Captain Crawford, for delivering them up. During the sitting of the Court on the 8th Instant, and while the Master, D. Felipe Rebel, was under examination, a Certificate, signed by Lieutenant Smith, and Mr. White, Midshipman, the 2 Officers who had charge of the Slave-vessel, was handed to me, and announced the clandestine escape of the Negro-boy, Manuel Perez,

at the time of removing the Crew. Of course I seized the opportunity of making enquiries of the Master of the "Xerxes" respecting him. This man readily confessed that he had given the boy in charge to a Don Francisco Claro, but persisted in saying that he had taken him from the "Xerxes" publicly, and moreover with the permission of the Prize-Master, Lieutenant Smith. The Court immediately then issued a Decree, ordering D. Francisco Claro to hold the boy at their disposal. These circumstances originating, to say the least, in great neglect on the part of the English Sentinels, gave rise to a very long investigation, in which not only the Mate and Surgeon of the Slave-vessel, with Lieutenant Smith and Mr. White, were examined, but the boy himself, as well as D. Francisco Claro, who had charge of him, and D. Jozé Gomez, who swore that he had sold him to the Master previous to this Voyage of the "Xerxes." The result was, that, with the other Members of the Court, I became convinced that the boy could not have been brought from Africa this Voyage, for the first time, and that in fact, he was the Master's servant, taken out with him from the Havana. This opinion was less grounded on the Evidence of the Master, Mate and Surgeon of the Slave-vessel, or even on that of D. Francisco Claro, or D. Jozé Gomez, than on the intelligence and manner of the boy himself, who readily answered, in *Spanish*, all the questions put to him, and besides had none of the awkwardness of a Negro arrived for the first time from the Coast of Africa.

The question for the Court, therefore, to consider was, whether the circumstance of this boy's name not being inserted in the *Rol* was sufficient to entitle him to emancipation. Now it was manifest, that, although this omission was a contravention of the *Spanish* Laws, it was no infraction of the Treaty, which no where alludes to the *Rol del Equipage*. Considered, moreover, as a servant taken out from the Havana, as this Negro undoubtedly was, he could not be said to be on board as an object of commerce, and therefore could not fall within the provisions of the 7th Article of the Regulations, which emancipates only "the Slaves who may be on board as objects of commerce." The clearest mode of viewing this question seemed to me to result, from throwing aside the consideration of the boy being found on board a Vessel justly detained, and from then enquiring whether Slaves of this kind being discovered on board any other *Spanish* Vessel, would of themselves subject her to condemnation. The answer, founded on the 1st Article of the Instructions, manifestly is, that they would not, and therefore the taking this Slave to Sea, although on an illegal Voyage, was not in itself illegal according to the Treaty.

Captain Crawford very properly included him in the number of Negroes forming the Cargo of the "Xerxes," not merely on account of his name not being found in the *Rol*, but because an English Sailor, employed to examine the boy in *Spanish*, had reported him as ignorant of that language. But of this latter circumstance the Court itself, to which the decision of the question properly belonged, had best the means of judging, and they came to a very different conclusion.

In judging it thus to be my duty to restore the boy to his Master, I insisted, however, that the latter should be punished for a breach of Marine Law that might lead to frauds the most injurious to the object of the Treaty; and I thought it right to point out to my Colleagues the consequences that might arise from the *Spanish* Regulations, with respect to the *Rol del Equipage*, not being strictly attended to, as this Document, although not expressly required by the Treaty, had hitherto been considered by British Officers to offer the most accurate and legal method of distinguishing in a Slave-vessel, where Negro Sailors are often employed, the Crew from the Cargo. I urged that it was in a particular manner essential to the interests of legal *Spanish* commerce, that the *Rol* should not lose this important character in the eyes of our Cruizers, and, by being tacitly declared null and of no value by the Mixed Commission, be the means, perhaps, of bringing Vessels before the Court, that would only be suspicious from having Negro Sailors on board. The *Spanish* Commissioners agreed with me, and the Court determined not only to allude to the circumstance in the Sentence, but to transmit a Copy of it to the Officer who has the direction of the particular Department of the Marine, under which the

Register Office is comprised. This Officer, in his answer to the Court, would make it appear, that he has misunderstood their intention, and imagined that their object was to reflect on his own conduct in allowing Felipe Rebel to sail with an individual not named in the Register. Copies of this Correspondence are enclosed, as well as of a Letter which the *Spanish* Commissioners, in their separate capacity, wrote to him afterwards. I did not think it proper to join in this last Letter, because it conveys what might have appeared from me to be a menace, and because the Mixed Commission, in their Letter to Admiral Gaston, dated 23d June 1824, have declared that they ought not to hold direct communication with any other than the Chief Authority of the Island.

I am sure I need not call your Lordship's attention to the conduct of my Colleagues on this occasion; it is, as usual, demonstrative of the utmost good faith, as well as of their desire to carry into execution the stipulations of the Treaty in the most friendly manner. This is the first Case, also, of adjudication in which our new Secretary, D. Juan Francisco Cascales, has been engaged, and I cannot refrain from expressing here my high sense of his industry, impartiality, and legal knowledge.

I have the honour to enclose an Abstract of the Evidence given in Court, and Copies of our Correspondence with the Captain General, and of the Sentence.

These Negroes have arrived in a very unhealthy state, and, notwithstanding the Captain General has directed great medical attention to be shewn to them, their number has been reduced by death to 385. I enclose Copies of Certificates of the deaths that took place while they were in the charge of Captain Crawford.

I have heard that the Ayuntamiento, in their alarm at so many Negroes being emancipated at once, petitioned the Governor to allow the proposition of the *Spanish* Government to be carried forthwith into effect, with respect to their removal to Europe, and to defray the expence proposed to the Intendant General by an additional duty on goods imported. The latter, however, refused his consent, at present, to any new shackles on the Commerce of Cuba, and the Captain General informed me, the other day, that he is apprenticing out the Negroes as usual.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
 &c. &c. &c.

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First Enclosure in No. 97.

*Captain Crawford to the Mixed Commission.*

HON. GENTLEMEN,

*His Britannick Majesty's Sloop "Grasshopper,"*  
 Havana, July 5, 1828.

I BEG leave to inform you, that I have arrived in this Port, in His Majesty's Sloop "Grasshopper" under my command, with the "Xerxes," *Spanish* Schooner, detained in the Gulf of Mexico, after a chase of about 26 hours, from off the Colorados, and having on board at the time 408 Slaves, from the Coast of Africa.

For all further information with respect to this detention, I have to refer you to the Documents delivered by me to the British Commissioner, and which consist of my Affidavits and the Papers of the Slave-vessel, all duly endorsed by me.

I have the honour to be, &c.

(Signed) A. CRAWFORD,  
 Commander.

*His Excellency the Intendant, and the other*  
*Hon. Members of the Mixed Commission.*

## Second Enclosure in No. 97.

*Declaration of the Captor of the Spanish Schooner "Xerxes."*

I, ABRAHAM CRAWFORD, Esq., Commander of His Britannick Majesty's Ship the "Grasshopper," hereby declare, that, on the 27th day of June last, being in or about Latitude 23. 22. N, and Longitude 87. 21 W., I detained the Schooner named the "Xerxes," sailing under Spanish Colours, armed with 5 guns 18-pounders, commanded by Don Felipe Rebel, who declared her to be bound from the River Bonny, on the Coast of Africa, to the Island of Cuba, with a Crew consisting of 44 men, and 2 Passengers, whose names, as declared by them respectively, are inserted in a List, to be found among the Papers of the Vessel, and having on board 408 Slaves, according to the Statement of the Captain and Officers of the "Xerxes," but which are found to be 406 upon being carefully counted, said to have been taken on board in the River Bonny on the 4th day of May 1828, and are enumerated as follows, viz.

	Healthy.	Sickly.
Men - - - -	217	13
Women - - -	37	13
Boys - - - -	45	12
Girls - - - -	41	23

I do further declare, that the said Schooner appeared to be seaworthy, and was supplied with a sufficient stock of water and provisions, for the support of the said Negroes and Crew, on their destined Voyage to Cuba.

I do further declare, that 5 of the said Negroes have died since the period of the said Vessel's detention.

And I further declare, that the following Papers of the "Xerxes" were given up to me by the Master, Don Felipe Rebel, viz. :-

- 1 Rol del Equipage.
  - 2 Real Pasaporte.
  - 3 Una Contraseña.
  - 4 Log-book.
  - 5 Book of Nautical Calculations.
- In all, 5 Papers.

(Signed) A CRAWFORD, Commander.

Witnessed. (Signed) WM. WARREN, Lieutenant.  
PATK. MAGOVERN, Surgeon.

*Additional Certificate.*

I HEREBY certify, that this 7th day of July 1828, while clearing a little the "Xerxes," in consequence of delivering up the Crew to the Captain General, 3 Documents, viz. 1st, a Log-book; 2d, a Diario de Bitacora; and, 3d, a Paper of Nautical Calculations; were found concealed on board.

(Signed) A. CRAWFORD, Commander.

Havana.

## Third Enclosure in No. 97.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, July 7, 1828.

WITH your Letter of the 5th Instant, I received the Letter, of the same date, addressed to you by Captain Crawford, of His Britannick Majesty's Ship "Grasshopper," announcing the Capture of the Spanish Schooner "Xerxes," with 408 Negroes on board, and, in compliance with your request, I have to inform you, that I have issued the necessary orders, directing D. Francisco Seydel, Adjutant Major of the City, to go on board the Schooner, with one of the companies of reserve, and to take charge of her Crew, and then conduct them to the publick Prison, where they may remain at the disposal of the Mixed Commission during the ensuing proceedings; and, that due effect may be given to these measures, I hope you will give the necessary orders for their being delivered up to him.

I take, also, this opportunity to inform you, that I have named D. Felipe Rodriguez for the charge of conducting to his barracon, and keeping there in deposit, all the captured Negroes, and that, in consequence I have directed him to-day forthwith to present himself to you, and



arrange about their disembarkation, and then to keep them at the disposal of the Mixed Commission, until the Definitive Sentence shall be issued, in order that, if they should be declared free, the distribution of them may take place, according to the established Regulations.

May God preserve you many Years.

*The Commissioner of His Britannick Majesty.*

(Signed)

F. D. VIVES.

Fourth Enclosure in No. 97.

*Declaration of Lieutenant W. S. Smith, and Mr. G. W. White.*

WE, William Sydney Smith, Lieutenant of His Majesty's Sloop "Grasshopper," and George William White, Mate of the same, hereby certify, that a Slave lad has escaped from the Schooner "Xerxes." He was seen Yesterday Morning at 9 o'Clock by us, and escaped from the Vessel half an hour after 12. We also declare, that in the short interval between the above specified hours, namely, 3 hours and a half, the only method by which he could have escaped must have been that of entering the Launch that came alongside to receive the custody of the Spanish Crew of the "Xerxes;" and he must have done this, notwithstanding our attendance and the vigilance of the English Sentries, planted along the Vessel's gangway. The lad was in attendance as servant of D. Felipe Rebel on board, and had been claimed by him as his property—a claim not allowed, as his name did not appear on the Rol del Equipage.

Given under our hands, on board the Schooner "Xerxes," in Havana Harbour, this 8th day of July 1828.

(Signed)

WILLIAM SYDNEY SMITH, Lieut. of H. M. S. "Grasshopper."  
G. W. WHITE, Mate of H. M. S. "Grasshopper."

Fifth Enclosure in No. 97.

*Abstract of the Evidence in the Case of the Spanish Schooner "Xerxes,"*

CAPTAIN ABRAHAM CRAWFORD produced his Instructions, and identified the Papers of the "Xerxes," as well those delivered to him by the Master of the "Xerxes," as those afterwards found concealed on board.

In addition to the Evidence of Captain Crawford, as set forth in his Declaration and Certificate, Don Felipe Rebel deposed, that he is a Native of Vigo, unmarried, aged 28, and a Catholick; that he is Master of the Spanish Schooner "Xerxes," which has been brought into this Port by the Captain of His Britannick Majesty's Corvette "Grasshopper," on account of having Bozal Negroes on board; that he sailed from this Port of Havana in the Month of February last, bound to the Isla de Principe, with a Cargo of Merchandize and Silver, for the purpose of trading in ivory and palm-oil; that not finding these articles at Principe, he continued his Voyage to the Coast of Africa and the Country bordering on the River Bonny, where he took in his Cargo of Bozal Negroes, by reason of having been deceived by the King of that Country, who would not provide him with the ivory and palm-oil, according to agreement, obliging him to take the aforesaid Negroes instead; that he took on board 429 Negroes; that on his return he touched at no Place, but made for this Island, without having any particular part of the Coast in view; that at the time of detention he might have had more than 408 Negroes on board, and that afterwards some died. That Yesterday, between 10 and 12 o'Clock, A. M., when the Safety-boat of the City arrived at the Schooner, in order to take the Officers and Crew on Shore, and to the House of the Commandant-General of the Marine, this Deponent claimed a Negro-boy, his Slave, named Manuel Perez, as not being of the number of those embarked at the River Bonny, but as a Slave who had been taken by the Deponent from this Port with him in the capacity of Servant, without observing that he had omitted to place his name on the Rol del Equipage; that the Officer in command of the Prize, certain of the truth of this story, by the questions he then made, consented to deliver him up, and thus the said Servant-boy is actually now in the Village of Casa Blanca, and in the Dwelling-house of Don Francisco Claro; that the Deponent is the Master, Owner, and Fitter-out of the said Schooner; that the Schooner was armed with an 18-pounder, 4 other guns, 66 fire-arms, of various classes, 60 swords, and corresponding ammunition; that all the Cargo remaining at the time of detention consisted of 170 or 200 common coloured handkerchiefs, which remained in the Cabin of the Schooner, when the Deponent left her; that of the Papers produced to him, he recognizes the following, viz. :—1, Rol; 2, Royal Passport; and 3, Contrasena; as belonging to him as Master of the Schooner; that the Papers numbered 4 to 8 belong to the Mate D. José Mauri.

D. José Mauri deposed, that he is a Native of Palamos, in Catalonia, unmarried, aged 41, and a Catholick; that he was Mate of the "Xerxes" at the time of her detention by the Commander of His Britannick Majesty's Ship "Grasshopper; that the "Xerxes" was detained in the Gulf of Campeachy after a chase of 26 hours, and was immediately conducted to this Port on account of having on board a Cargo of Bozal Negroes; that the Deponent engaged in February last as First Mate, with no other person than D. Felipe Rebel, Master and Owner of the "Xerxes;" that he sailed from the Havana for the Isla de Principe; and that having been

unable to find a Cargo there, they proceeded to the Coast of Africa, and anchored in the River Bonny, and the King of the neighbouring Territory, not possessing any ivory or palm-oil in exchange for the Merchandize on board the "Xerxes," gave them Negroes, which they took on board, in order to return as quickly as possible, and not to expose themselves to the fevers so prevalent on that Coast; that the Cargo taken from the Havana consisted of common handkerchiefs of various colours, and muslins; and that the Deponent knows not whether there is any part of the Cargo remaining; that the "Xerxes" took on board 429 Negroes; that they touched at no Place on their return; that at the time of detention there might be, in the opinion of the Deponent, 408 Negroes on board, and that he can give no account of what passed on board the "Xerxes" after her detention, because he was immediately removed on board the "Grasshopper;" that the Safety-boat came to take on Shore, first, those of the Crew of the "Xerxes" who were on board the Ship of War; and that when it came the second time, the Deponent was occupied in collecting a few effects, and on this account, as well as the quantity of people in the Boat, he did not remark any Negro in it: that this Deponent knows, that, on leaving the Havana in February last, the "Xerxes" had 3 Negroes on board, 2 entered on the "Rol del Equipage," and 1 as Servant to the Captain, named Manuel Perez, who was a Slave to the said Captain, but whom the Deponent never knew before he embarked in the "Xerxes; that the 3 Papers, which are the Rol, Passport, and Contraseña, are the same with which D. Felipe Rebel sailed, and the 5 others, the Log-books, Journal and Observations that the Deponent took charge of as First Mate.

D. Joaquin Martel deposed, that he is a Native of the Havana, unmarried, aged 24, a Catholic, and by profession a Surgeon, licensed by the Royal Protomedicato of this City; that he sailed in the said capacity from the Havana to the Isla de Principe, in the "Xerxes;" that for want of finding a proper Cargo, D. Felipe Rebel continued his Voyage to the Coast of Africa, and to the District bordering on the River Bonny, where he delivered to the King of the Country all the merchandize he had brought from the Havana; that there not being in that Place ivory or palm-oil, he was under the necessity of taking Bozal Negroes on board, to the number of 429; that the "Xerxes" sailed from the River Bonny on the 4th May last, and touched at no Place on her Voyage home; that on the 27th June, being near *Los Colorados*, they were discovered by His Britannick Majesty's Ship "Grasshopper;" that at the time of detention, which took place on the 28th June, there were in existence, on board the "Xerxes" 408 Negroes; that the Cargo the "Xerxes" took from this Port consisted of handkerchiefs and muslins, and that a very small part of the Cargo remained at the time of detention; that he acknowledged the Certificate, dated Havana, 7th June, and given in by Captain Crawford to the Court to be his, and begs to observe, that on the Voyage from the Coast of Africa to the *Colorados*, where they were detained, only 21 Negroes died, but as on the day of the Capture, five more Negroes died, this Deponent included them in his Certificate at the instance of the English Captain, and thus made up the total number of 26 Negroes dead, while the Deponent had charge of the health of the "Xerxes;" that on the day the Safety-boat came for the Crew, the Deponent went into her with a Negro, named Manuel Perez, a Slave of D. Felipe Rebel, who sailed from the Havana with him as servant, and who, consequently, is not of the number of those Slaves embarked by the "Xerxes" on the Coast of Africa; that the Deponent is ignorant now where this Slave is; that the said Negro-boy went into the Safety-boat publickly, without any disguise, and without being challenged by the English Sentinel that was there, having in his hand a bundle of linen belonging to his Master, D. Felipe Rebel; that this Deponent does not know whether or not the Prize Master gave permission to the said Negro-boy to get into the Safety-boat; that the Second Mate now cited to give his evidence in Court, has been suddenly taken ill, to this Deponent's knowledge, with an infectious fever, under which he now labours in the publick Prison.

Lieutenant William Sydney Smith deposed, that he is First Lieutenant of the "Grasshopper," that he signed the Certificate now produced, and which was presented Yesterday in Court, with reference to a Negro-boy escaped from the "Xerxes;" that certainly the Captain, Rebel, at 8 o'Clock Yesterday Morning, spoke to the Deponent to be allowed to take with him his Servant, Manuel Perez, as being his own Slave; that having consulted Captain Crawford on the subject, the latter told him to examine whether the Boy was able to speak *Spanish*, that, in consequence, through the medium of an English Sailor of the "Grasshopper," who can make himself understood in *Spanish*, this Deponent made the experiment, but this Sailor not finding the Boy capable of answering his questions, communicated the same to Captain Crawford, when this Deponent received the order not to let the Boy leave the Ship; that the Government Launch arriving afterwards for the Officers and Crew of the "Xerxes," this Deponent observed, after her departure, that the said Negro was missing, and presumed that he was with the Captain, who, notwithstanding the precautions taken, had succeeded in hiding him in the midst of the confusion of embarking the Crew.

George William White deposed, that he is Midshipman of His Britannick Majesty's Ship "Grasshopper," that he recognizes the Signature at the foot of the Certificate now produced to be his, and swears to the truth of the contents of the same; that the Master of the "Xerxes" never spoke to him on the subject of Manuel Perez, nor does he know that he spoke with any one, and that, therefore, this Deponent cannot possibly have either consented or refused to allow him to take this Boy on Shore with him.

Lieutenant William Sydney Smith again sworn; deposed to the truth of his former Evidence, and that Manuel Perez went on Shore without the knowledge or permission of the Deponent.

Don Felipe Rebel again sworn; deposed to the truth of his former Evidence, and that the Deponent, in consequence of several conversations with Lieutenant Smith, certainly understood that the latter had agreed to his taking his Slave with him, as a proof of which, the Negro was embarked publicly; without being challenged or impeded, and that if the Negro had not been of the Deponent's private property, and sold to him in the Havana, by D. Joze Gomez, a Resident in Casa Blanca, this Deponent would not have dared to claim him.

(Rebel was here confronted with Lieutenant Smith, the Prize Master of the "Xerxes," who, on hearing Rebel's Evidence read over to him, denied that the Negro could have been embarked in the Boat with publicity, as Rebel said, for the Sentinels had particular orders to stop him, and repeated that the success of the attempt must have been entirely owing to the confusion on board, at the moment of putting the Crew of the "Xerxes" into the Launch.)

Don Francisco Claro deposed, that he is a Native of *Portugal*, residing at Casa Blanca, married, aged 30, a Catholic, and by profession a Merchant; that he knows the Boy, Manuel Perez, for, having been on the Wharf of the Machine, to see the Master of the "Xerxes" disembark, the said Master requested of him to take charge in deposit of the Boy, that this Deponent took him with him to his House, and now has brought him with him into Court, in pursuance of the orders of His Excellency and the other Members of the Mixed Commission, as communicated to him by their Secretary, that, on the Morning of Rebel's departure from the Havana, this Deponent was on board the Schooner "Xerxes," breakfasting with him, and remarked that a Boy served at table, of the same size and appearance as Manuel Perez, but that this Deponent will not swear to his being the same; that Manuel Perez has served in the Deponent's House, and does what he is bid to do; that he speaks *Spanish*, but of course understands the language better than he can explain himself in it; that this Deponent has no interest himself in the Slave, but never considered that the Law could be applied to his emancipation.

(Here the Boy, Manuel Perez, apparently about 12 or 14 Years of Age, was introduced into Court, and a variety of different Questions asked in *Spanish* by the different Members, to which the Boy replied promptly, and sufficiently clear to make the Court come to the following determination:—

"That it appears in the judgment of His Excellency, and the other Members of this Court, that the Negro, Manuel Perez, having answered to the various questions put to him sufficiently clearly and distinctly, is not of the number of Bozal Negroes embarked last May by the "Xerxes" on the Coast of Africa, but that they do not consider him sufficiently aware of the nature of an oath to be able to give legal Evidence.")

Lieutenant William Sydney Smith, a third time sworn; deposed, that the Negro-boy now in Court was, to the best of his belief, Manuel Perez, who escaped from the "Xerxes" in the Boat that took away the Crew, but that the Deponent will not positively swear to him, on account of the faces of Negroes generally being, in his opinion, all so much alike.

George William White, Midshipman, a third time sworn; deposed, that the Negro-boy now in Court was Manuel Perez, the same who had escaped, and then positively identified him.

D. Joze Gomez deposed, that he is a Native of the Isla de Leon, resident in Casa Blanca, married, aged 35, a Catholic, and by profession a Merchant; that he sold to Felipe Rebel, a Negro-boy, named Manuel, some Weeks before the "Xerxes" sailed from the Coast of Africa; that this Deponent has not since seen the Boy; (here the Boy was produced,) that the Boy, now in Court, is the said Manuel.

(The Boy recognized in Court D. Joze Gomez as his former Master, and called him by his name, and knew his place of residence.)

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### Sixth Enclosure in No. 97.

(Translation.)

#### *The Captain General to the Mixed Commission.*

MOST EXCELLENT SIR, AND GENTLEMEN,

Havana, July 8, 1828.

THE Members of the Court of Health of this City write to me, under date of the 6th Instant, as follows:—

"Most Excellent Sir,—In compliance with our duty, we have been on board the *Spanish* Schooner "Xerxes," D. Felipe Rebel, Master, in order to examine the Crew and Negroes on board; and having, with the usual precautions, made the necessary investigation, we found that 2 of the Crew were grievously sick with a putrid fever, and in the last stage of life; that 12 Negroes were in the same state, in consequence of chronic dysentery; and that, in the multitude, many were observed with ophthalmia, or a venereal inflammation of the eyes; and that some were in a state of general debility, the remainder appearing sound in health and appearance. We were likewise informed, that 22 such Negroes had died; and 2, this very Morning, of a putrid dysentery; and that those who appeared so debilitated, were suffering under this malady. Taking all this into consideration, and making a difference between those diseases naturally contagious, we are of opinion, that these Negroes ought to remain all apart out of the City, the sound being separated from the sick; your Excellency placing the latter where they may receive the succour demanded by humanity, and the former where they may be safe from the influence of contagion. By such measures, the propagation of these maladies throughout the whole population will be prevented; for if, unfortunately, they were to spread, the consequences would be pernicious at the present moment, when almost the whole of this populous City have been weakened by the

epidemic fever, which has reigned for several Months, and are suffering also under other diseases now prevalent."

I transcribe the above Letter for the information of your Excellency, and the other Members of the Mixed Commission, because this day I have issued the necessary Orders for the said Negroes being conveyed to the Tile Manufactory of the late D Antonio Frias, which is situated on the skirts of the Castle of Chorrera, and directed that they there remain in charge and under the care of D. Felipe Rodriguez; so that, in this way, the pestilence may be removed from the City; for which purpose I have also directed that the Negroes be removed in Boats, by Sea, to the Mouth of the Chorrera, under the guard of one of the Companies of Reserve, to remain in the aforesaid place to abide the decision of the Mixed Commission.

God preserve you many Years.

(Signed) F. D. VIVES.

*His Excellency the Intendant,  
and the other Members of the Mixed Commission.*

Seventh Enclosure (A.) in No. 97. (Translation.)

*The Mixed Commission to the Captain General.*

MOST EXCELLENT SIR,

Havana, July 14, 1828.

BY the annexed certified Copy of the Definitive Sentence of this Mixed Commission, issued in virtue of the proceedings consequent upon the Capture of the *Spanish Schooner "Xerxes,"* with a Cargo of Bozal Negroes, by the English Sloop of War "Grasshopper," your Excellency will perceive the detention of this Vessel is declared good and legal, and that the said Negroes are free from all slavery and captivity. In completion of its duty, the Court now proceeds to sign the various Certificates of Emancipation, in order to place them at the disposal of your Excellency, in the usual form.

God preserve your Excellency many Years.

(Signed)

CLAUDIO MARTINEZ DE PINILLOS.  
RAFAEL DE QUESADA.  
W. S. MACLEAY.

*His Excellency the Captain General.*

Seventh Enclosure (B.) in No. 97. (Translation.)

*Sentence of the Mixed Commission, in the Case of the Spanish Schooner  
"Xerxes."*

IN the ever most faithful City of the Havana, on the 12th of June 1828, His Excellency Don Claudio Martinez de Pinillos, Honorary Counsellor of State, Intendant General of Cuba, Sub-delegate Superintendent General of the Royal Revenues, and Commissary Judge of the Mixed Commission, and the Commissioners of Arbitration, Colonel Rafael de Quesada, and William Sharp Macleay, assembled together, by reason of the absence, with permission of his Government, of the British Commissary Judge; having taken into consideration the judicial proceedings consequent upon the Capture made by the English Corvette "Grasshopper," Captain Abraham Crawford, in the Gulf of Mexico, of the *Spanish Merchant Schooner "Xerxes,"* Don Felipe Rebel, Captain, Master and Owner, with a Cargo of 406 Negroes on board at the time of detention; which Negroes, with the exception of 10, deceased previously to the 9th of this Month, have been all delivered up to the *Spanish Authorities*, with a Negro, named Manuel Perez, included by the English Captain in the said number of 406, on account of his name not being found in the Register of the Crew, but who is claimed by the Master of the "Xerxes" as his property. And it being fully proved by the declaration of the said Master, by the testimony of the several Witnesses examined, and by the Documents found by the Captor on board the Schooner, that she sailed from this Port the 10th of last February, with Papers and a Cargo for the *Isla de Principe*, and proceeded to the River Bonny, on the Coast of Africa, where she took on board 429 Slaves, who were reduced, by death during the passage, to the number of 405. And it being further proved that the said Negro, Manuel, was embarked by the Master of the Schooner before the departure of the "Xerxes" from this Port, and therefore is not of the number of those bought on the Coast of Africa, the said Commissioners, with due regard to the merits of the Cause, and according to the usual brief and summary mode of proceeding, adopted by the Mixed Commission in all such Cases, when the truth has been made manifest, do hereby declare that the Capture of the said Schooner "Xerxes," and of the 406 Negroes found on board (excepting only from this number the abovementioned Manuel, as the property of D Felipe Rebel, to whom he shall be returned by D. Francisco Claro, at present having him in deposit), is good and legal; and that the said Schooner, her Tackle and Apparel, and whatever else she may contain, as mentioned in the Inventory, are subject to confiscation, with the exception of the 395 Negroes remaining alive, who are declared to be free from all slavery and captivity. The said Commissioners accordingly direct, that the condemned Vessel, and all that belongs to her, be valued, under oath, by the principal Masters of the Royal Arsenal, who shall give a proper voucher to this effect; and that she shall be exposed to public auction, in the presence of the Auxiliary Notary of the *Real Hacienda*, D. Francisco José de Correr, in order that, being disposed of to the highest bidder, in the Auction Room of D. Bartholomew Barredo, the Proceeds may be applied to the benefit of the two Governments; the said Vessel being for the present placed in deposit with Don Jayme Andreu, who shall likewise swear faithfully to perform his duty, and shall receive her from the Captor

according to formal Inventory: proceeding, moreover, without loss of time, to deliver, as is customary, to such of the aforesaid Negroes as may be living, their Certificates of Emancipation, by means of the Secretary, D. Juan Francisco Cascales; and addressing an official Letter, with a certified Copy of the Sentence, to His Excellency the Captain General, in order that he may take the proper measures for that purpose.

The said Commissioners, in order to prevent for the future, as much as possible, the delays and difficulties which they have experienced in the Case of the Negro Manuel, in consequence of his not having been comprised in the Register of the aforesaid Schooner "Xerxes;" and moreover, in order to obviate any means that might thus be taken to evade the prohibition of the Slave-trade from the Coast of Africa, shall address a Letter, with a certified Copy of this Sentence, and of the whole Declaration of D. Felipe Rebel, to the Officer Second in Command over the Naval Forces on this Station, in order that, in the use of his peculiar powers, he may take such measures as he may judge conducive to the said object. And by this their Decree, the Commissioners, definitively deciding, have thus provided, ordered, and signed, in the presence of their Secretary, who certifies.

(Signed) CLAUDIO MARTINEZ DE PINILLOS.  
W. S. MACLEAY.  
RAFAEL DE QUESADA.

(Signed) JUAN FRANCISCO CASCALES, Secretary.

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Eighth Enclosure in No. 97.

*Certificates of the Deaths of Negroes on board the Spanish Schooner "Xerxes."*

I HEREBY certify that 3 Negro-men, composing part of the Cargo of the Spanish Schooner "Xerxes," died during the interval between the 27th June 1828, when she was placed under my charge, to the date hereof.

Given under my hand, on board the Schooner "Xerxes, at Sea, this 1st July 1828.

(Signed) WM. WARREN,  
Lieutenant of His Majesty's Sloop the "Grasshopper."

I hereby certify that 7 Negroes, namely, 6 Men and 1 Boy, composing part of the Cargo of the Spanish Schooner "Xerxes," died during the interval between the 1st July 1828, when she was placed under my charge, to the date hereof, when the remainder of the Negroes were delivered to the Spanish Authorities.

Given under my hand, on board the Schooner "Xerxes, in Havana Harbour, this 9th day of July 1828.

(Signed) WM. SYDNEY SMITH,  
Lieutenant of His Majesty's Ship "Grasshopper."

There was an additional Certificate to the same effect presented by D. Joaquim Martel, Surgeon of the "Xerxes," which is alluded to by him in his Evidence.

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Ninth Enclosure in No. 97.

(Translation.)

*The Mixed Commission to the Officer Second in Command over the Naval Forces of Cuba.*

SIR,

Havana, July 14, 1828.

WE enclose a certified Copy of the Definitive Sentence issued by this Mixed Commission, with respect to the Capture of the Spanish Schooner "Xerxes," with a Cargo of Bozal Negroes on board, and of the Evidence given in the course of the said Trial by the late Master of the Vessel, D. Felipe Rebel, wherein he confesses to have carried with him from this Port a Negro-slave, Manuel Perez, in quality of Servant, without his name being included in the Rol del Equipage, and we request that you will make use of your peculiar powers as far as possible, to take the necessary measures to prevent occurrences of a similar nature in future—occurrences that may be injurious to the exact execution of the Treaty between Their Catholick and Britannick Majesties, which prohibits the Traffick in Slaves from the Coast of Africa.

God preserve you many Years.

(Signed) CLAUDIO MARTINEZ DE PINILLOS.  
W. S. MACLEAY.  
RAFAEL DE QUESADA.

H. E. Don J. B. Topeta.

## Tenth Enclosure in No. 97. (Translation.)

*The Officer Second in Command over the Naval Forces of Cuba, to the Mixed Commission.*

MOST EXCELLENT SIR, AND GENTLEMEN,

Havana, July 16, 1828.

I HAVE received the certified Copy which you have been pleased to transmit to me, of the Definitive Sentence issued by the Mixed Commission, with respect to the Capture of the Spanish Schooner "Xerxes," with a Cargo of Bozal Negroes on board, and also of the Declaration given by D. Felipe Rebel, wherein he confesses to have carried from this Port the Negro Manuel, his Slave, in capacity of Servant, without his name being included in the Registers; and, with reference to your request, that I should, in the use of my peculiar powers, take the necessary means for preventing similar offences in future, offences that might prove injurious to the exact fulfilment of the Treaty between Their Catholick and Britannick Majesties, prohibiting the Traffick in Slaves from the Coast of Africa, I ought to declare to you, that no foresight on my part could have prevented this occurrence, since the business of the Subordinate Department in such Cases, being confined to the taking descriptions and names of those Individuals whom the Masters may present, if these latter clandestinely embark or conceal any Individual not comprized in the Register, the responsibility of the offence falls on them alone.

This is all I can say on the subject, in answer to your Letter.

God preserve you many Years.

His Excellency the Intendant,  
and the other Members of the Mixed Commission.

(Signed) JUAN. BAP. TOPETE.

Eleventh Enclosure in No. 97. (Translation.)

*The Spanish Commissioners to the Officer Second in Command over the Naval Forces of Cuba.*

SIR,

Havana, July 29, 1828.

WE have taken into consideration the Letter which you addressed to the Mixed Commission on the 16th Instant, in consequence of having received from it a certified Copy of the Sentence pronounced by it against the Spanish Merchant Schooner "Xerxes," Captain Felipe Rebel. This Communication was made to you, not only because it was proved that the said Felipe Rebel had violated the Treaty for the abolition of the Slave-trade, by coming from Africa with a Cargo of Bozal Negroes, but because he had clandestinely carried his Slave out with him, without entering his name on the Rol, which circumstance alone might have been sufficient to have compromised him with the English Cruizers employed to repress this illicit traffick on the Coast of Africa, even although Rebel had not been employed in it, and had only made a legal Voyage to the Isla de Principe, for which Place he cleared out.

We well know that as the Comandancia de Matriculas (or Register Office) does no more, as you say, than enter on the Rol the Sailors that their Captains present as forming their Crews, it must be very difficult to prevent them from afterwards taking others clandestinely on board, but our anxiety and desires on this subject are limited to increase your caution, in order that this abuse may be as far as possible prevented, and this even for the interest of our own commerce, since if it be not considered of the utmost importance to enter on the Register the Negro Slaves who go to Sea as servants, some Vessels may be detained, and grievously prejudiced, in their Voyages, although no ways concerned in the prohibited traffick.

We hope, therefore, that your mature consideration of the circumstance that has chiefly guided us in this affair, namely, the desire to ward off evil from our Merchant Navy, will be sufficient of itself to make you understand the danger to which it is exposed, and that you will renew the orders of vigilance on this head, and that you will render effective the responsibility of every Captain who infringes them, since no one can pretend to be ignorant of Regulations which are even inserted in the Rol.

God preserve you many Years.

(Signed) CLAUDIO MARTINEZ DE PINILLOS.  
RAFAEL DE QUESADA.

His Excellency Don J. B. Topete.

No. 98.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received September 27.)*

MY LORD,

Havana, August 4, 1828.

ON the 15th Ultimo, the Schooner "Georgiana," D. Domingo Borell, Master, sailed for the Coast of Africa.

On the 28th Ultimo, the Schooner "Favorite," D. Antonio Belancourt,

Master, cleared out for the Island of St. Thomas, on the African Coast; and the Schooner "*Segun el Tiempo*," D. Joze Escardo, Master, for the Isla de Principe."

On the 1st Instant, the Ship "*Amistad*," D. Manuel Buenamerte Gonzalez, Master; the Brig "*Triton*," D. Antonio Jorge Gonzalez; the Schooner "*Golondrina*," D. Antonio Carabajal; the Schooner "*Balzain*," D. Roque Quintana; the Schooner "*Triple Union*," D. Santiago Macsana; all sailed for the Coast of Africa.

I have the honour to be, &c.

(Signed)

W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

No. 99.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received September 27.)*

MY LORD,

*Havana, August 12, 1828.*

DON RAFAEL GONZALEZ Y BARRANCO, whose Appointment as Deputy Secretary of the Mixed Commission, was approved of by the late Mr. Secretary Canning, having thought proper to resign his Situation on the 7th Ultimo, the Mixed Commission transmitted his Resignation to the Captain General, requesting His Excellency, at the same time, to appoint D. Andres Cascales, the Son of our Secretary, to fill up the vacant Office; as, independently of the aid this Gentlemen has been to the Commission in the late Affair of the "*Xerxes*," the circumstance of his being always at the side of his Father, makes his Appointment as Successor to D. Rafael Gonzalez y Barranco particularly desirable.

The Captain General, in his Answer, has acceded to the request of the Mixed Commission, and named D. Andres Cascales to the vacant Office, until the pleasure of His Catholick Majesty shall be known on the subject.

I enclose a Copy of His Excellency's Answer.

I have the honour to be, &c.

(Signed)

W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 99.

(Translation.)

*The Captain General to the Mixed Commission.*

MOST EXCELLENT SIR, AND GENTLEMEN,

*Havana, August 4, 1828.*

IN reference to your Letter of the 29th Ultimo, in which you have been pleased to enclose me the request of D. Rafael Gonzalez y Barranco, that his resignation of the Office of Assistant Secretary of the Mixed Commission should be admitted, for the reasons set forth in his Letter, I now inform you, that I hereby permit him to resign, and I name for the execution of his Office, until the pleasure of His Majesty, to whom I submit the affair, be known, D. Andres Cascales, Bachelor of Law, and thus, as far as lies in my power, comply with your request.

God preserve you many Years.

*His Excellency the Intendant,*

*and the other Members of the Mixed Commission.*

(Signed)

F. D. VIVES.

No. 100.

*The Earl of Aberdeen to W. S. Macleay, Esq.*

SIR,

*Foreign Office, October 22, 1828.*

YOUR Despatches to the 12th of August, inclusive, have been duly received.

I have great satisfaction in expressing to you, my approbation of your pro-

ceedings in the Case of the "*Xerxes*," condemned by the Mixed Commission at the Havana, as related in your Despatch of the 30th of July; and of the judicious course which you adopted in the Case of the "*Esperanza*," seized by the Court of Admiralty in Cuba, as described in your Despatch of the 26th of July last, in which Case you were desired by the *Spanish* Authorities, to undertake an Office, foreign to your character, as His Majesty's Commissioner in the Island of Cuba.

In respect, however, to the detail of the facts which you offered to procure from Captain Crawford, it would perhaps have been more conformable to the general rule, which you properly prescribed to yourself in this Case, if you had waited until the Captain General had applied to you for that Evidence, and had then limited your intervention to the submitting of the application of the Captain General to the Commanders of His Majesty's Ships.

I am, &c.

*W. S. Macleay, Esq.*

(Signed) ABERDEEN.

No. 101.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received October 28.)*

MY LORD,

*Havana, August 18, 1828.*

I HAVE been honoured by the receipt of your Lordship's Circular Despatch, addressed to His Majesty's Commissioners at the Havana, and dated 30th May last,\* by which I learn that The King has been pleased to accept of the Earl of Dudley's resignation of the Office of His Majesty's Principal Secretary of State for Foreign Affairs, and to confide to your Lordship the Seals of that Department.

I shall therefore in future have the honour to address my publick Despatches and Letters to your Lordship.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
*&c. &c. &c.*

\* See No. 8.

No. 102.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received October 28.)*

(Extract.)

*Havana, August 19, 1828.*

IN my Despatch to the Earl of Dudley, dated the 26th Ultimo, I laid before His Majesty's Government the circumstances attending the Seizure of the Slave-vessel "*Esperanza*," by the *Spanish* Court of Admiralty, established in this City. I now have the honour to transmit to your Lordship, a Translation of a Letter I have received from the Captain-General, enclosing the Final Decision of the Court, founded on a Representation of the Fiscal, of which also a Translation is herewith enclosed.

The Decision of the Court has been, as I anticipated, a complete acquittal of the "*Esperanza*," but the particular Document connected with this Case, to which I would venture to solicit your Lordship's special attention, is the Representation of the Fiscal, on which this acquittal has been grounded. This Document is of the utmost importance, as it not only shews the complete nullity of the *Spanish* Laws, with respect to the Slave-trade, but that there are no hopes whatever of any restraint being placed on this traffick, except through the medium of the Mixed Commission.

In December 1817, His Catholick Majesty issued a Royal Cedula for the abolition of the Trade in Slaves by Subjects of *Spain*, and by the 1st Article of this Cedula, it is decreed that "the Ship in which Negroes are trans-



ported, together with the remainder of its Cargo, shall be confiscated to the Royal Treasury, and the Captain, Master, and Pilot, shall be irrevocably condemned to 10 Years' transportation to the Philippines."

In the Royal Order, dated Madrid, 2d January 1826, addressed to the Captain-General of Cuba, it is expressly said "our Lord The King has accordingly resolved, that every Vessel proceeding from the Coast of Africa, shall immediately upon her arrival at the Ports of the Island of Cuba, deliver up her Log-book to the Naval Commandant, in order that he may examine it, and should there be any reason to suspect the Vessel has brought and clandestinely landed Negroes, that he may instantly report the same to your Excellency, to the end that you may proceed to the proper investigation and punishment, in conformity to the Laws in force relating to the subject; it being well understood that to your Excellency *alone, with the advice of your Assessor*, belongs the cognizance of such Cases."

Under these *Spanish* Laws I denounced the Vessel to the Captain-General; and His Excellency, as he expressly says in his Note to me of the 14th Ultimo, referred the matter, in consequence of this last Royal Order, to the Court of Admiralty; the Fiscal, however, takes not the slightest notice of these *Spanish* Laws, by which she could not have failed to be condemned, and he tries her by the Treaty, which of course has no reference to *Spanish* Courts, and is only a Law for the guidance of the Mixed Commission, but even trying the Vessel, as the Fiscal does, by the Treaty, the whole of his Decision is such a perversion of reasoning, and withal so absurd, that I scarcely know how seriously to enter into a refutation of it. The general purport of the whole Document, however, seems to be, that as the Treaty stipulates, that no Vessel can be detained by a Cruizer, without Slaves being actually found on board, and as no Slaves were found on board when the "Esperanza" was seized in Harbour, therefore the *corpus delicti* being wanting, this Vessel must be acquitted. It is really impossible to imagine that the Fiscal should not perceive, that if a Cruizer had found Slaves on board the Vessel, she would have been brought before the Mixed Commission, and that the Court of Admiralty would have then had no concern with her; but indeed he says, that, in the present Case of Seizure, if the Court of Admiralty had found the Slaves on board, he would have himself handed her over to the Mixed Commission; so that, in his opinion, the only cognizance that the Court of Admiralty can take of Cases of Slave-trading, is to ascertain whether the *corpus delicti* exists, or, in other words, whether there be Slaves on board, that she may in that case be handed over to the Mixed Commission. This Decision is the more absurd, when it is considered that, in 1826, the Captain-General complained of my interfering in an affair where a British Cruizer chased a Slave-vessel into the Havana, having her Slaves on board, and when it may be doubted whether the Mixed Commission can by Treaty take cognizance of any Case of a Slave-vessel that has not been captured by a Cruizer. By this Sentence all the *Spanish* Laws on the subject of the Slave-trade, are virtually declared to be of no value whatever, and it is said that no proceedings or investigations ought to take place, nor any punishment to be inflicted, without a Decision of the Mixed Commission. It follows of course, that the Representations which His Majesty's Commissioners have been in the habit of making to the Captain-General on the arrival of Slave-vessels from Africa are perfectly useless.

As the Vessel has been acquitted, and the Sentence issued, it was of no use for me to attack its validity; and indeed I conceived myself in no way authorized to revise the Decision of a *Spanish* Court, relating to the conduct of *Spanish* Subjects. I therefore, in my answer to the Captain-General, contented myself with begging him to assure the Fiscal, that he was mistaken in supposing me to have been personally offended by his first Representation. I enclose a Copy of my Note.

*The Right Hon. The Earl of Aberdeen,*  
 &c.                      &c.                      &c.

(Signed)

W. S. MACLEAY.

First Enclosure (A.) in No. 102. (Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, August 12, 1828.

IN his Letter, dated the 7th Instant, the Officer Second in Command over the Naval Forces on this Station, writes to me as follows :—

“Most Excellent Sir,—The Document which accompanies this Letter, will serve to answer the last Note of the Commissioner of His Britannick Majesty, of which your Excellency was pleased to transmit me a Copy in your Despatch, dated 28th July last.”

I now, Sir, transcribe this Letter for your information, and enclose a Copy of the Document alluded to.

God preserve you many Years.

*The Commissioner of His Britannick Majesty.*

(Signed)

F. D. VIVES.

First Enclosure (B.) in No. 102. (Translation.)

*Report of the Fiscal of the Court of Admiralty at The Havana, to the Officer Second in Command of the Naval Forces, respecting the “Esperanza.”*

SIR,

Havana, August 6, 1828.

THE Fiscal says, that, in your Letter of the 1st Instant, you were pleased to make him acquainted with the Despatch, dated the 28th Ultimo, of His Excellency the Governor and Captain-General, also with its enclosed Note of the same date, which the Commissioner of His Britannick Majesty had addressed to His Excellency, on the subject and matters that have given rise to the present Proceedings; and also with the Petition of the Merchant, D. Pedro Martinez, on the subject of his entering into the necessary bond for the value of the Schooner “*Esperanza*,” which it appears that he had, previously to these Proceedings having been adopted, sold by publick auction.

The innocence of the Undersigned, and the decided concurrency of his views with those of the Agents of His Britannick Majesty, and above all, the regards which are due to the civil and political virtues of the British Commissioner, have given him much surprize to see that this Gentleman has considered as offensive to his character, dignity, and office, the Undersigned's Representation of the 19th July, and that he should have conceived that the intention of that Document was to assign him the office of Prosecutor in the Spanish Tribunals, without regard to the nature of his Instructions, or to the circumstance that he has no access whatever either to the Vessel or her Papers, and moreover when it is well known that he is not authorized to hold Official Communications with any other Local Authority than the Captain General, and also that he, being a British Commissioner and Judge, must be, of all persons, at once the Individual least able to give Evidence, and the most improper to assume the office of publick Prosecutor.

The Undersigned must here beg to be permitted, before he enters into the essential part of the question, to call the discreet judgment of the Honourable Commissioner anew, to the subject of the Representation which has given rise to these complaints, and if the first view (*corteza*) of his words of the Undersigned shall not be found sufficient, he hopes, at least, that the rectitude of the intention with which they were written, and the nobleness of the Commissioner's sentiments, will suffice to exculpate the bad stile with which they were expressed, it being a rooted principle of the Undersigned to pay every respect to such Gentlemen as possess those eminent virtues, which the British Commissioner has displayed in every Country where he has been known.

The Undersigned must also call the attention of his Britannick Majesty's Commissioner to that part of his Representation where, paying all due praise to the upright zeal of the honourable Gentleman in the execution of his Office, he proceeded by it, supported by the invitation of His Excellency the Captain General, without other proof or evidence, to give effect to the strong provisional judgment of the Commissioner, and also to those proceedings which will be found expressed more at length in the Depositions, which will hereafter be transmitted to him, as an incontestible proof of what was deemed due to publick justice, and to his accusation; and in which proceedings the Undersigned begged him, in consideration of the distinguished confidence that he had merited from his Sovereign, to continue to afford the Court all the information which might serve to open a path to the complete proof of the crime; and as these Communications from Minister to Minister, are advantageous and necessary in all questions appertaining to the Law of Nations, and moreover very conformable to the use and custom of our Spanish Tribunals, the Undersigned did not imagine that, by his request, he could possibly give offence to the Commissioner of His Britannick Majesty, or assign to him the office of Prosecutor, or oblige him, or indeed call upon him, in any way, to address himself directly to this Court, when the very fact of transmitting its deliberations to him through the medium of the Captain General, was a positive proof that the exclusive mode of communicating with him, was, in our opinion, by means of the First Chief of the Island.

This being well understood, we may now proceed to the other subjects comprized in the very handsome (*decorosa*) Note of the British Commissioner. This Gentleman then, in order to prove the rectitude (otherwise well-known) of his mode of proceeding, and of his motives, proceeds to state, that the “*Esperanza*” sailed from this Port as a Slave-vessel; that she was pointed out to him as destined for this traffick previously to her sailing; that her construction and fitting up served to confirm this opinion; that she sailed for the Coast of Africa on the 25th of last December, and was absent about 6 Months; that she returned on the 9th of July, representing herself as coming from St. Thomas, after 70 days passage, in ballast, and consigned to the Captain; that it was notorious in the Havana that she had landed on the Coast 270 Negroes, more or less; that she

entered the Port at a moment when His Britannick Majesty's corvette "Grasshopper" was there at anchor, and was instantly recognized as the same Slave-vessel that had escaped from the chase of that Ship a few days before; that the Boats of the "Grasshopper" had been twice lowered to take possession of her; that consequently she had by mere chance not been brought before the Mixed Commission; that Lieutenant Warren, who commanded the Boats, said, that he, as well as the people under his orders, all recognized her as soon as she entered, and were ready to identify her; that such were the different grounds which had determined the honourable Commissioner to report to His Britannick Majesty the arrival of the "Esperanza;" and, finally, that if His Excellency the Captain General should deem the Declaration of the Officers or Sailors of the "Grasshopper" necessary, he would undertake to provide an authenticated detail of the facts as soon as possible.

Now, it being necessary, in support of the Fiscal's Decision, to refer to the Treaty for the prohibition of the Slave-trade, the Undersigned perceives by Article IX, it is stipulated, that in order to visit such Merchant Vessels of the two Nations as may be suspected, on reasonable grounds, of having Slaves on board, acquired by an illicit traffick, and in order to detain them and subject them to the Tribunals established to take cognizance of them, it is absolutely necessary that the said Negroes should be found on board; that Article X. confirms the preceding, and decidedly prohibits the detention of Vessels not having the Negroes actually on board at the moment of Capture; that by the 1st Article of the Instructions, the above-mentioned Articles are again confirmed, and with the greatest strictness, as may be deduced from the following words:—"Ships on board of which no Slaves shall be found intended for purposes of traffick, shall not be detained on any account or pretence whatever;" and that, grounded on the above Articles, the 6th Article of the Instructions directs, that the Capturing Ship shall leave the Negroes on board the Prize; that the Captain shall make an authentick Declaration, in writing, of the state in which he may find the detained Vessel, giving to the Master of the Slave-vessel, a signed Certificate of the Papers seized, as also of the number of Slaves found on board; that by the 3d Article of the Regulations, which gives the Form of these Proceedings; it is stipulated, that, in the event of its being considered necessary, the Declaration of the Captor must be produced, in order that the Court may be able to judge and to pronounce if the Vessel has been justly detained or not, and that, by the 5th Article of the Regulations, the said Captor is obliged to give his name, that of his Ship, the Latitude and Longitude of the Place where the detention shall have taken place, and the number of Slaves found living, on board of the Slave-ship, at the time of the detention.

Now, from such express and decisive stipulations, the Fiscal must imagine that the will of the august Sovereigns who sanctioned the Treaty, was, that in the event of a real and effective Capture, and in that event only, there should be proceedings adopted against Slave-vessels, (se formase proceso) and in order that there might be no doubt on this subject, it is said in the 1st Article already cited of the Instructions, that under no pretext or motive whatsoever shall those Vessels be detained which have no Negroes on board: stipulations that, in the opinion of the Undersigned, exclude the consideration of every kind of extrinsic proof or reference in the Case of the "Esperanza," and this not only by means of the preceding provisions, but also by the fact that, according to our Laws, where there is no *corpus delicti*, there ought to be no criminal sought for, and since there is no object or matter to call into exercise the special authority of the Mixed Commission, in which peculiarly resides the right of determining the Vessels that have infringed or not the Treaty, and without whose decision, there ought to ensue no other proceedings or investigations, nor be imposed any punishments. The Fiscal, moreover, believes that the illustrious Agents of His Britannick Majesty took the same view of the subject, when they have supposed no Case (so far at least as the Undersigned is aware) in which Sentence is to be pronounced except when the Africans shall have been found on board, and moreover the Captor being in duty bound to give a note of the number of the Negroes so seized, it appears, as well from this fact, as from what has been already said, that the Evidence of the Officers, which is offered by the British Commissioner, is now unnecessary, on account of its being impossible to verify it, so far as to connect it with those particulars, pointed out in the above-mentioned 6th Article of the Instructions, and still more clearly stated in a Report, wherein this Court of Admiralty has proceeded to do all that was possible to imitate the zeal of the British Commissioner. It has at length resulted, from the only mode of trial that the circumstances have permitted to be adopted, and has been, to a certain decree, ascertained, that the expedition of the "Esperanza," was not criminal; but even although all the motives set forth at length by the Commissioner, should concur against her, there can be no room for other proceedings, while the *corpus delicti* does not exist (mientras no existiese el cuerpo del delito.)

Such, moreover, was the information to which the Fiscal referred in his former Representation, he having been always in the intention of handing over the cognizance of the Case to the Mixed Commission, if he had been able to find the *corpus delicti*, since to that Commission exclusively belongs the cognizance of whatever relates to the exact execution of the Treaty.

With this answer, if you should deem it well founded, you, Sir, will be able to ratify the legality of the Act, dated the 28th Ult., transmitting it with a Minute of the Proceedings of this Court to the Commissioner of His Britannick Majesty, through the medium of His Excellency, informing the Commissioner at the same time, that this Tribunal considers, with respect to the observations which his approved zeal has dictated, relative to the prohibited commerce, that there is no remedy whatever within its power.

With respect to the Petition of D Pedro Martinez, the Fiscal is of opinion, that an end ought to be put to these proceedings; that the Commandant General of Registers ought to be directed to cancel the Bond of the Schooner "Esperanza," which was given into his charge; and that the Owner of the Vessel should be ready to declare his assent to the proper written Instrument, which shall not be issued without this previous step being taken. The Tribunal, nevertheless, will take such measures on this subject as shall be deemed most proper.

The Officer Second in Command of the Naval Forces.

(Signed) COIMBRA.

Seen, and decreed as appears proper to the Fiscal, in his preceding Representation.

(Signed) TOPETE.  
PONCE DE LEON.  
JOZE MIGUEL IZQUIERDO.

Copy, conformable to the Original in the Minutes of this Proceeding, and in virtue of superior orders, I certify the same.

(Signed) PLACEDO BORREGO.

Havana, August 7, 1828.

A Copy. (Signed) ANTONIO MARIA DE LA TORRE Y CARDENAS.

### Second Enclosure in No. 102.

#### *The British Commissioner of Arbitration to the Captain General.*

Havana, August 14, 1828.

THE Undersigned, Commissioner of His Britannick Majesty, has the honour to acknowledge the receipt of the Letter of His Excellency the Captain General, dated the 12th Instant, enclosing Copies of the Decision of the Fiscal of the Court of Admiralty, in the affair of the Schooner "Esperanza," and of the subsequent approval of his opinion by that honourable Court.

On these Documents it remains for the Undersigned only to make one remark, namely, that he is extremely sorry that the Fiscal should have conceived His Majesty's Commissioner to have been personally offended by the Representation of the 19th Ult., when the Undersigned has particularly expressed himself as truly sensible of his politeness.

From the whole tenour of the Fiscal's Representation, and particularly from the wish expressed that His Majesty's Commissioner should "continue to give the Court of Admiralty all the information that might serve to afford proof of the crime," the Undersigned certainly imagined, that the purport of the Communication was to request the Undersigned to become the Prosecutor of the "Esperanza" in the Spanish Tribunals. The Undersigned is now, however, happy to learn, that he has not exactly understood the object of the Fiscal, and he begs that His Excellency the Captain General will have the goodness to communicate the same to that Gentleman, for whose very flattering opinion the Undersigned repeats that he feels truly grateful.

The Undersigned is happy to avail himself, &c.

(Signed) W. S. MACLEAY.

*His Excellency the Captain General.*

### No. 103.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received Oct. 28.)*

MY LORD,

Havana, August 20, 1828.

HIS Majesty's Commissioners have, for the last few Months, observed that the Traffick in Slaves from this Port has been assuming more and more of a piratical character. Armed Vessels fit out publicly for the Coast of Africa. At first it was the practice for such Vessels to take Cargoes out with them, and on meeting with a Slave-vessel at Sea, to exchange such Cargoes by force for the Slaves, and thus throw all the danger and difficulty of procuring, anew, Slaves in Africa, on the weaker Vessel. Of late, however, they have thought it best to save themselves the expence of taking Cargoes out with them from the Havana, and have resolved to procure Negroes by plundering all Slave-Vessels that they may fall in with on the African Coast. The practice has been, to clear out from this Port as if with a Cargo for the Coast of Africa, and then clandestinely to land it before sailing; so that the Vessel might proceed free to the African Coast, and there commit her piracies, the nominal Owner of the Vessel being one of the Sailors, and of course an irresponsible person.

I understand the Portuguese Slave-traders have been the principal sufferers. However this may be, I have now to report to your Lordship an event which I hope will, in some degree, check the odious conduct of these Pirates, who unfortunately do not always confine their attacks to Negro-vessels.

On the 1st Instant, an armed Vessel, the "Masulipatan," cleared out for the Coast of Africa as with a Cargo, but, on the Night previous to her intended sailing, she contrived clandestinely to land her Cargo, although not without the fact coming to the knowledge of the Custom-House. Upon enquiry, it was found that none of the proper duties and charges, consequent upon clearing out, had been paid. The whole of this conduct being a direct infraction of the Regulations of the Intendant and of the Revenue Laws, His Excellency gave immediate orders for the confiscation of the Vessel, and the arrest of the Owner, who proved, however, upon enquiry, to be nominally the Captain, by whom the real Owner was thus covered. His Excellency in consequence published in the Newspapers the Decree, of which I have the honour to enclose a Translation, and which, although it be specially intended to protect the Revenue of the Custom-House, cannot fail to check Piracy, and perhaps, in some degree, the Slave-trade. It is indeed scarcely to be imagined that Men of property, however devoid of principle they may be, will, by clearing out in their own names, thus render themselves subject to the stigma and consequences of being the declared Owners of piratical Slave-vessels.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
 &c. &c. &c.

Enclosure in No. 103.

(Translation)

*Decree of the Intendant, respecting the granting of Clearances for Vessels sailing from the Havana.*

HAVING, by experience, ascertained the prejudicial consequences which have resulted, and may hereafter result, to the Royal Revenue and to the Publick, from the habit practiced of late, and which allows unknown persons to clear out, without subjecting them at the same time to any responsibility, His Excellency the Counsellor of State, Intendant of the Army, Subdelegate, Superintendent General of the Royal Revenues, by his Decree of the 9th Instant, has been pleased to direct, that in future it should not be permitted to clear out for any Port, except to Individuals who possess all the necessary qualifications to ensure payment of the proper duties to the General Administration of the Royal Revenues, or who present a Bond in writing of some known House or creditable Merchant.

And by His Excellency's Order this is now announced to the Publick, in order that they may take cognizance of it.

Havana, August 13, 1828.

(Signed) AYALA.

No. 104.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received October 28.)*

MY LORD,

Havana, August 26, 1828.

ON the 13th Instant, the Spanish Schooner "Repetidora," D. Felipe Dominguez, Master, cleared out from this Port for the Island of St. Thomas, on the Coast of Africa.

On the 15th Instant, the Spanish Brig "Ricardo," D. Augustin de Mata, Master, arrived in Port, after having landed her Slaves on the Coast of this Island. I immediately announced her arrival in the usual way to the Captain General, who referred her, in pursuance to the Royal Order of 2d January 1826, to the Court of Admiralty. Since then I have had the ordinary form of Letter, stating, that after the proper examination of her Journals nothing has been found to prove that the "Ricardo" had any concern with the illicit Traffick in Slaves.

It is currently reported in the Havana, that there was a dreadful insurrection of the Negroes belonging to the "Ricardo" while she was in the act

of landing them on the Coast, and that it was not until after nearly 100 of these poor creatures had been shot, that the tumult could be quelled.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
 &c.                    &c.                    &c.

No. 105.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received October 28.)*

(Extract.)

*Havana, August 28, 1828.*

HIS Majesty's Schooner "Skipjack," Lieutenant James Pulling, Commander, arrived in this Port on the 14th Instant, bringing with her the Spanish Brigantine Schooner "Intrepido," of 151 tons, and armed with 7 guns, D. Jozé Puig y Miro, Master, which she had detained on the 2d Instant off Cape Tiburon, St. Domingo, with 153 Slaves on board.

The Sentence of the Mixed Commission, condemning the Vessel, and emancipating the Slaves, was issued on the 20th Instant. I have the honour to enclose Copies of the Captor's Declarations and Certificates, and also an Abstract of the Evidence, and a Translation of the Sentence.

The Master of the "Intrepido" is an old offender against the Treaty, for, by the Papers laid before Parliament, relative to the Slave-trade, I find that he had a Vessel, called the "Ninfa Habanera," condemned on the 3d January 1826, by the Mixed Commission at Sierra Leone. He sailed on his present Voyage from this Port, in the "Intrepido," on the 31st December last, with a Crew of 42 men and a boy, and left the Coast of Africa, on his return home, in June last, with 343 Negroes on board. The mortality on the Voyage home appears to have been dreadful, for, when detained, only 153 Negroes were found alive in her, and of the Crew only 27. A certain portion of this mortality must no doubt be attributed to two insurrections of the Negroes on board, but in general it must be considered as owing to the horrible confinement of so great a number on board so small a Vessel. The Crew was diminished in some degree by desertion, but principally by death, and those who have returned are in as sickly a state as the Negroes; indeed, the Master and one of the men examined by the Court, seemed to be in the last stage of fever, so as really to render their examination a most distressing office.

It appeared, however, from the Evidence, that, on the 2d Instant, the "Skipjack" was seen by the Slaver, and, according to the oaths of the Crew, was taken by them for a Colombian, so that instead of hauling down their Colours, on being fired at by the "Skipjack," they returned the fire, and were captured after a running action, in which, happily, no damage was done on either side. Since the Capture 18 Negroes have died, thereby reducing the number delivered up by Lieutenant Pulling to the Captain General, to 135, who have all been emancipated.

This Case offered no difficulty of any kind. I would, however, beg to call your Lordship's attention to the circumstance, that, if bloodshed should at any time ensue from the resistance of the Slave-traders, those wretches will, in all probability, manage to escape punishment, by swearing that they mistook His Majesty's Cruizers for Colombian or Mexican Privateers, which, as they say, often use the British Colours to entrap Spanish Vessels.

Among the Papers of the "Intrepido," delivered into Court, was a legal Document in the Spanish Language, purporting to be the Act of Sale, by which, for the consideration of 9000 dollars, D. Juan Antonio Ysaguirre, of this City, as the duly authorized Agent of Moses de Castro Matos, a Subject of His Britannick Majesty, and a resident Merchant in Jamaica, transferred this Vessel, formerly called the "Isabella," and English built, to D. Jozé Fonst, a resident in the Havana. It appeared, however, on examin-

ing the List of the Crew, that the purchaser, D. Jozé Fonst, was the Second Mate of the "Intrepido" on this illegal expedition; and although he, the Master and Crew, all deposed on oath to the truth of his being the Owner, the mean rank, and wretched appearance of the man, make me almost certain that the above Act of Sale is a fictitious one; and that either the Jamaica Jew above-mentioned, is, contrary to Law, employing his capital in this nefarious traffick, or, what I confess is still more likely, that the real Owner of the Vessel is a Resident of the Havana, and has covered himself by purchasing the Vessel in the name of the Sailor, Fonst.

I have thought it my duty to transmit an exact Copy of the above Act of Sale to His Excellency the Lieutenant Governor of Jamaica, in order that his attention might be drawn to the conduct of this Moses de Castro Matos, who, or, at all events, his Agent, must have been aware that he was selling his Vessel to Slave-traders.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
 &c. &c. &c.

First Enclosure in No. 105.

*Declaration of Lieutenant Pulling, in the Case of the "Intrepido."*

I, JAMES PULLING, commanding His Britannick Majesty's Schooner the "Skipjack," hereby declare, that, on this 2d day of August 1828, being in or about the Latitude of 18.14. North, and Longitude 74. 25. West, of the Meridian of Greenwich, I detained the Ship or Vessel named the "Intrepido," of 151½ tons, sailing under Spanish Colours, armed with 1 long 12-pounder gun, and 4 6-pounder carronades, (or gunnades,) commanded by D. Jozé Puig y Miro, who declared her to be bound from the River Bonny, on the Coast of Africa, to Havana, in the Island of Cuba, with a Crew consisting of 27 persons, namely, 26 Men, and 1 Boy, whose names, as declared by them respectively, are inserted in a List at the foot hereof; and having on board 153 Slaves, said to have been taken on board the 7th day of June 1828, and are enumerated as follows, viz. :—

	Healthy.	Sickly.	Died since Capture.
Men - - -	27	17	3
Women - -	26	12	5
Boys - - -	22	5	1
Girls - - -	37	7	6
	—	—	—
Total	112	41	15

And I do further declare, that, the said Ship or Vessel appeared to be seaworthy, and was supplied with a sufficient stock of water and salt provisions for the Crew and aforesaid Slaves, but was short of flour, pease, or other vegetable food as sustenance for the sick, and which I supplied them from His Majesty's Schooner under my command.

I do further declare that at about 6. A. M. of the day above stated, the said Brigantine "Intrepido," was seen in the E. S. E., standing to the W. N. W., to which I immediately gave chase; at 8. 30. hoisted the British Ensign and Pendant, and at 10 o'Clock fired two shots at the "Intrepido," who hoisted the Spanish Royal Colours, (as a cloak for the prohibited traffick, in which she proved to be engaged,) and returned our fire with 2 shots; and at 10. 24. repeated our fire, which she also returned; the firing was then occasionally kept up on both sides, but on our grape shot reaching her, about 2 P. M. she shortened sail, and hauled down her Colours.

I here beg to observe, that on boarding the "Intrepido," I found her to be in a filthy state; with 6 of the Crew sick, and several of the Slaves appearing in an emaciated state, and others afflicted with ophthalmia and diarrhoea, which I attribute to their close confinement, length of voyage, and improper food.

*List of the Crew.*

Names.	Quality.	Names.	Quality.
Jozé Puig - - - - -	Master	Ilario Otera - - - - -	Seamen
Jozé Fonst - - - - -	2d Do.	Nicolas Guire - - - - -	"
Domingo Alvarez - - -		Bartolome Lopez - - -	"
Feliz Dias - - - - -		Jozé Bousa - - - - -	"
Amedea Eugene Branville		Francisco Rodriguez - -	"
Pedro-Reiz - - - - -	Seamen	Francisco Prus - - - - -	"
Mateo Ibaro - - - - -	"	Ramon Marques - - - - -	"
Jozé Montero - - - - -	"	Juan Batista Savillion - -	"
Ramon Gonzalez - - -	"	Vincente Romano - - -	"
Mateo Durante - - - - -	"	Francisco Bentancour - -	"
Manuel Rodriguez - - -	"	Juan Antonio Vidal - - -	"
Manuel Martinez - - -	"	Pedro Lorente - - - - -	"
Ramon Sandurde - - -	"	Domingo Herrera - - - - -	"
Miguel de la Puente.			

Dated on board the said Schooner "Skipjack," at Sea, off Cape Tiburon, August 2, 1828.

(Signed) J. PULLING, Lieutenant and Commander of His Britannick Majesty's Schooner "Skipjack."

Witnesses. (Signed) R. T. REID, Mate.  
FRED. CRELLIN, Assistant Surgeon.

*Additional Declaration.*

I, JAMES PULLING, commanding His Britannick Majesty's Schooner "Skipjack," hereby declare, that the Master of the Spanish Brigantine "Intrepido," did, on the day of her Capture, deliver up to me the following Papers, viz. :—

- (No. 1.)—Ship's Articles, containing the Names and Classes of the Crew.
- (No. 2.)—The Royal Passport, or Mercantile Navigation.
- (No. 3.)—A Certificate, shewing that she was formerly the "Isabella" Schooner of Jamaica.
- (No. 4.)—Marked (200). A Parchment Pass to leave Havana (of the Moro.)

And that I did pursuant to the Treaty give him a Receipt for the same.

I do further declare, that since the day of Capture, the said Master delivered to the Prize Master 2 other Papers, viz. :—

- (No. 5.)—The Log-book. And
- (No. 6.)—A written Paper, dated 28th January 1828.

All which Papers, so numbered, I do now deliver up to the Mixed Commission.

Given under my hand, on board His Britannick Majesty's Schooner "Skipjack," in the Harbour of Havana, the 15th day of August 1828. (Signed) J. PULLING, Lieutenant and Commander.

Witnesses. (Signed) R. T. REID, Mate,  
FRED. CRELLIN, Assistant Surgeon.



## Second Enclosure (A.) in No. 105.

*Certificate of the Deaths of Negroes on board the Brigantine "Intrepido."*

Date of Deaths.	Men.	Women.	Boys.	Girls.
1828, August 3, -	1	"	"	"
" 4, -	1	1	"	1
" 5, -	"	1	1	1
" 7, -	1	"	"	"
" 8, -	"	2	"	1
" 9, -	"	1	"	1
" 11, -	"	"	"	1
" 12, -	"	"	"	1
" 15, -	"	1	"	"
" 16, -	1	"	"	"
" 17, -	"	"	"	1
Total -	4	6	1	7

WE, the Undersigned, do hereby certify that the above is a correct List of the Deaths which have occurred among the Negroes on board the Brigantine "Intrepido," since her Capture.

August 18, 1828.

(Signed)

R. T. REID, Mate.

FRED. CRELLIN, Assist. Surgeon.

(Signed) J. PULLING, Lieut. and Commr. of His Majesty's Schooner "Skipjack."

## Second Enclosure (B.) in No. 105.

*Certificate in favour of José Fonst, Mate of the "Intrepido."*

WE, the Undersigned, do hereby certify, that José Fonst, Mate of the Spanish Brigantine "Intrepido," has, since the Capture of the said Vessel, rendered himself very useful in every possible way, and that, on two several occasions, his vigilance prevented the Negroes rising upon us; and that, on examination, after his information, several were found already released from their irons, and prepared to take the first opportunity of revolting; and we have every reason to believe that his good conduct has prevented considerable bloodshed.

Signed this 15th day of August 1828, on board the "Intrepido."

(Signed)

R. T. REID, Mate.

FREDK. CRELLIN, Assist. Surgeon.

## Third Enclosure in No. 105.

*Abstract of the Evidence in the Case of the "Intrepido."*

IN addition to the Evidence of Lieutenant Pulling, as set forth at length in his Affidavit; D. Joze Puig deposed, that he is a Native of the Isle of Leon, an Inhabitant of this City of Havana, a Catholic, married, and by profession a Seaman, having lately been Captain and Master of the Brigantine Schooner "Intrepido;" that he was appointed Captain by D. Joze Fonst, who is the Owner of the Vessel, and, at the same time, Second Mate; that the Depo-

ment took the command of the Vessel in the Month of December last; that he arrived here in Port 4 or 5 days ago, being brought in by the English Schooner of War, on account of Negroes from the Coast of Africa having been found on board; that he sailed from the Havana with a Cargo of linen and spirits, for the Isla de Principe; and that, as the Vessel had the misfortune to break her rudder on the 24th day of the Voyage, they put into Martinique to refit, from which Island they continued their Voyage, and, by reason of bad weather, entered into the River Bonny, on the Coast of Africa, where the King of the Country obliged them to deliver up their Cargo, and to take Negroes on board, to the number of 343. That this was done without any force being employed on the part of the Deponent, and only with the view to repay himself for his Cargo; that, on his return, he touched nowhere, and was detained, after some guns being fired on both sides, 10 or 12 miles from Cape Tiburon, St. Domingo, having, at that moment, on board 154 or 155 Slaves, the rest having died; that the Papers now produced are those of the Vessel, and have undergone no alteration since they were delivered up to the Commander of the Schooner; that the armed strength of the Vessel is set forth in the Rol; that the Deponent left the Havana with a Crew of 42 men and 1 boy; that 3 deserted before sailing from this Port, 3 also at Matanzas, other 3 at Martinique, and that 11 died on the Voyage, so that only 22 men remained, who, with 4 men taken on board either at Martinique or Africa, with the boy, who acted as servant, made up the Crew of 27 persons, found on board at the moment of detention; that the Deponent is 41 years of age.

Don Jozé Fonst deposed, that he is a Catholick, aged 39, a Native of Canet, in Catalonia, Inhabitant of the Havana, married, and, by profession, Mate of the Brigantine Schooner "Intrepido;" that the Captain, Master, and Supercargo of the Vessel, is D. Jozé Puig, but that the Vessel is the sole property of this Deponent; that he came into this Port 4 days ago, having been detained by the English Schooner of War, on account of having Bozal Negroes on board; that he sailed from this Port for the Isla de Principe on the 1st of January this Year, or the last of December 1827, with a Cargo of linen and spirits; that they arrived at Bonny, on the said Coast of Africa, in order to trade in palm-oil, or other produce of the Country; that the King of the Country made himself Master of the Cargo by a contract passed between him and the Captain, wherein the latter engaged to take 343 Negroes in payment for his goods; that they sailed with these Negroes, touched nowhere on their return, and were detained near Cape Tiburon by the said English Schooner of War; that, at the moment of Capture, there were about 150 Negroes on board; that the Papers now produced are those of the Vessel; that the Act of Sale establishes the property of the Vessel to be in the Deponent, and that the Log-book produced belongs to D. Francisco Sarria, First Mate, now deceased; that the English Schooner fired on the Brigantine, as soon as she hoisted her English Flag; that the "Intrepido" continued her course, hoisting her Spanish Colours, and, observing that the English Schooner did not cease firing, they took her for a Colombian Privateer, and answered with 4 or 5 shots, until they were convinced that she was of the English Royal Navy, when they immediately ceased firing, but continued their flight until they were overtaken.

Miguel de la Puente deposed, that he is a Catholick, aged 22, a Native of Cadiz, resident in the Havana, in the Barrio of *Jesus Maria Estramuros*, unmarried, and, by profession, Steward of the Brigantine Schooner "Intrepido;" that, about 7 Months ago, he engaged himself in the above capacity, and sailed from this Harbour for the Isla de Principe, but that the Vessel arrived in the River Bonny, on the African Coast, where the Officers disembarked the Cargo, consisting of linen and spirits, which the Prince or King of the Country immediately took, paying them with 343 Negroes, whom they took on board, and sailed with on their return home, without stopping at any Place; that, about the Island of St. Domingo, the English Schooner of War began to give them chase, firing upon them without interruption; that the Brigantine hoisted the Spanish Colours, and also fired a gun, when, seeing that the Schooner did not cease her fire, they immediately took her for a Colombian Privateer, that had hoisted the English Flag to deceive them; that, under this belief, they answered with 5 or 7 shot, fired at intervals, until they at length became convinced that the Schooner was of the Royal English Navy, when they ceased firing, and continued their flight until they were overtaken, when more than 100 Slaves were found on board by the Captors; that the Captain, Master, and Supercargo of the "Intrepido," is, D. Jozé Puig y Miro, with whom this Deponent engaged; and that he is ignorant who is the Owner.

Fourth Enclosure in No. 105; (Translation.)

*Sentence of the Mixed Commission, in the Case of the "Intrepido."*

IN the always faithful City of the Havana, on the 20th of August 1828, the most Excellent Senor, D. Claudio Martinez de Pinillos, Grand Cross of the Royal American Order of Isabel the Catholick, Counsellor of State, Intendant General of the Army and Royal Revenues of this Island, Commissary Judge of this Mixed Commission, and the Colonel D. Rafael Quesada, and D. William Sharpe Macleay, Commissioners of Arbitration, assembled together, in consequence of the absence of the British Commissary Judge, with permission of his Government; having considered these Proceedings, adopted in virtue of the detention made by the British Schooner of War "Skipjack," Lieutenant James Pulling, Commander, which Vessel, after some shots having been fired on both sides, captured, on the 2d of this Month, near Cape Tiburon, on the Island of St. Domingo the Spanish Brigantine Schooner "Intrepido," D. Jozé Puig y Miro, Master and Captain, and the Second Mate, D. Jozé Fonst, being Owner; having at the time of detention, 153 Bozal Negroes on board, of whom 18 have since died, and the remaining 135 have been delivered up to the Spanish Authorities; and it appearing plainly proved, by the Declaration of the said Captain,

and of the other Witnesses examined, and by the Documents found on board the said Brigantine Schooner, that she sailed from this Port the 31st day of December, or the 1st day of January last, with Papers and a Cargo for the Isla de Principe, that she directed her course to the River Bonny, on the Coast of Africa, where she took on board 343 Slaves, of whom the greater part have died, so as to reduce the number to the abovementioned 135; the said Commissioners, with due regard to the merits of the Cause, and according to the usual brief and summary mode of proceeding, adopted by the Mixed Commission in all such Cases, when the truth has been made manifest; do hereby declare, that the Capture of the said Brigantine Schooner "*Intrepido*," and of the 153 Negroes found on board, is good and legal, and that the said Schooner, her Tackle and Apparel, and whatever else she may contain, as mentioned in the Inventory, are subject to confiscation, with the exception of the 135 Negroes remaining alive, who are hereby declared to be free from all slavery and captivity. The said Commissioners accordingly direct that the condemned Vessel, and all that belongs to her, be valued under oath, by the principal Masters of the Royal Arsenal, who shall give a proper Voucher to this effect, and that she shall be exposed to publick auction in the presence of the Auxiliary Notary of the Real Hacienda, D. Francisco Jozé de Correr, in order that, being disposed of to the highest bidder, the Proceeds may be applied to the benefit of the two Governments; the said Vessel being for the present placed in deposit with D. Jayme Andreu, who shall likewise swear faithfully to perform his duty, and shall receive her from the Captor according to formal inventory. The Commissioners proceed, moreover, without loss of time, to deliver, as is customary, to the aforesaid 135 Negroes, their Certificates of emancipation, by means of the Secretary, D. Juan Francisco Cascales, and address an official Letter, with a certified Copy of the Sentence, to His Excellency the Captain General, in order that he may take the proper measures to carry it into effect; and by this their Decree, the Commissioners definitively deciding, have thus provided, ordered, and signed, in the presence of their Secretary, who certifies.

(Signed) CLAUDIO MARTINEZ DE PINILLOS.  
RAFAEL QUESADA.  
W. S. MACLEAY.

(Signed) JUAN FRANCISCO CASCALES, Secretary.

No. 106.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received October 28.)*

MY LORD,

Havana, September 2, 1828.

THE Spanish Ship "*Veloz Pasagera*," formerly the "*Montezuma*," D. Jozé de la Vega, Master, cleared out from this Port on the 25th Ultimo for Manilla. There can be no doubt, however, that her real destination is the Coast of Africa, and her object Piracy, but particularly that most profitable species, the plundering of Slave-vessels. She is pierced for 28 guns, and mounts 25. I am happy to say that, her detestable and dangerous objects being known, she has found it impossible to get her full complement of men, and has sailed with only about 70.

On the 22d Ultimo, the Spanish Brig "*Vengador*," D. Jozé Garay, Master, arrived from the Coast of Africa, after having landed a Cargo of Slaves on the Coast. I announced her arrival in the usual manner to the Captain General, and I have received the ordinary Answer, that among her Papers nothing has been found to prove her guilt. Copies of His Excellency's Answers are enclosed.

On the 31st Ultimo, arrived in this Port the Spanish Brig "*Pirro*," in ballast, Juan Gonzalez Cespada, Master; she is announced to be from *St. Thomas* in 13 days. This, however, appears to be merely a fiction, in order to make her appear as from the *Danish West India Island*, for, according to the general report prevalent in the Havana, she landed a Cargo of nearly 400 Slaves previously to her entry into this Port; as, however, she did not clear out from this Place, and I have nothing to urge in substantiation of her guilt but common rumour, I did not think it of use to denounce her to the Captain General.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

First Enclosure in No. 106.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, August 30, 1828.

I HAVE received your Letter of the 27th Instant, in which you inform me, that it will be your duty to apprise your Government of the arrival in this Port of the Spanish Brig "*Vengador*," after having disembarked Negroes in this Island. I have to inform you, in answer, that, in obedience to the Resolution of The King, my august Sovereign, dated 2d January 1826, I this day have issued the necessary orders to the Officer Second in Command on this Station, directing him to enter upon the necessary investigations, of the result of which you shall be duly informed.

God preserve you many Years.

(Signed)

FRANCISCO D. VIVES.

*The Commissioner of His Britannick Majesty.*

Second Enclosure in No. 106.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, September 2; 1828.

IN his Letter of Yesterday, the Officer Second in Command over the Naval Forces on this Station writes me as follows :—

" MOST EXCELLENT SIR,

" The Commandant of the Registers of this Island informs me, under date of the 25th Ult., that having examined the Log-books of the Spanish Merchant Brig "*Vengador*," which anchored in this Port on the 23d, after her Voyage from the Island of St. Thomas, he finds no proof that this Mercantile expedition has been engaged in the prohibited Traffick of Negroes. This I state for your Excellency's information, in answer to the Note on the same affair, dated the day before yesterday."

I now, Sir, transcribe this Letter for your information, in answer to your Note of the 27th August, adding at the same time, that I shall take the first occasion to inform The King, my Master, of this affair.

God preserve you many Years.

(Signed)

F. D. VIVES.

*The Commissioner of His Britannick Majesty.*

No. 107.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received Nov. 28.)*

MY LORD,

Havana, September 30, 1828.

I HAVE to inform your Lordship that, on the 18th Instant, the Spanish Schooner "*Cubana*," alias "*Marinera*," D. Antonio Zabata, Master, sailed for the Coast of Africa.

On the 16th Instant, the Spanish Schooner "*Josefa*," alias "*Fortuna*," D. Ramon Casal, Master, arrived in this Port, in ballast, after having landed a Cargo of Slaves on the Coast.

I beg to enclose Copies of the Answers I have received from the Captain General, on my announcing to him that it would be my duty to report her arrival to your Lordship.

I have the honour to be, &amp;c.

(Signed)

W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

First Enclosure in No. 107.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, September 20, 1828.

I HAVE received your Letter of the 18th Instant, acquainting me, that it will be your duty to inform your Government of the arrival in this Port, from the Coast of Africa, of the

*Spanish Schooner* "Josefa" alias "Fortuna," after having disembarked Slaves on the Coast of this Island, and in answer I have to inform you, that, in obedience to the Resolution of The King, my august Sovereign, of 2d January 1826, I have written to-day to the Second Chief of the Naval Forces on this Station, directing him to proceed to the requisite investigation, of which you shall be duly informed.

God preserve you many Years.

(Signed) F. D. VIVES.

*The Commissioner of His Britannick Majesty.*

Second Enclosure in No. 107. (Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, September 23, 1828.

IN his Letter of Yesterday, the Second Chief of the Naval Forces on this Station, writes me as follows:—viz.

"MOST EXCELLENT SIR,

"The Principal Commandant of the Registers informs me, in his Letter of the 18th, that having examined the Log-books of the *Spanish Merchant Schooner* "Josefa," alias "Fortuna," which anchored in this Harbour on the 18th Instant, after a Voyage from the Island of St. Thomas, he has found nothing to shew that this Mercantile speculation has had any concern with the prohibited Traffick of Bozal Negroes."

I transcribe this Letter for you, in answer to your Letter of the 18th.

God preserve you many Years.

*The Commissioner of His Britannick Majesty.*

(Signed) F. D. VIVES.

No. 108.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received Nov. 28.)*

MY LORD,

Havana, October 11, 1828.

On the 2d Instant, the four following *Spanish Vessels* sailed for the Coast of Africa:—viz. the Schooner "Transito," D. Joze Rodriguez, Master; the Schooner "Voladora," D. Bonifacio Echelaen, Master; the Schooner "Constancia," D. Joaquim Bergallo, Master; and the Brig "Ricardo," D. Marcellino Moran, Master. The "Transito" and "Ricardo" are Vessels but lately arrived from Africa with Negroes, and which the Local Authorities have declared to be innocent, because their Log-books said nothing of the nature of their nefarious traffick.

On the 5th Instant, the *Spanish Schooner* "Amistad," D. Manuel Fernandez, Master, sailed for the Coast of Africa. This Fernandez was the Master of the "Minerva" in 1826, when she disembarked her Negroes in the Havana, on being chased into Port by His Majesty's Ships "Pylades" and "Magpie."

On the 30th Ult. the *Spanish Privateer* "Fama de Cadiz" arrived here under the name of "Diana," D. Manuel Igartua, Master, after having disembarked on the Coast a Cargo of Slaves. I have the honour to enclose Copies of the Correspondence which passed between the Captain General and myself on this occasion. Some little delay occurred in my denunciation of this Vessel, owing to the confusion occasioned by her change of name and the consequent difficulty of ascertaining her identity. I may now, however, assure your Lordship, that the Privateer is the "Fama de Cadiz," and that she landed Slaves on the Coast, previously to coming into this Harbour, on the 30th Ult.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
 &c. &c. &c.

## First Enclosure in No. 108.

*The British Commissioner of Arbitration to the Captain General.*

SIR,

Havana, October 3, 1828.

IT is with regret that I have again to inform your Excellency, that it will be my duty to acquaint my Government of the arrival of another Slave-vessel from the Coast of Africa. On the 30th Ultimo, the *Spanish Privateer*, which sailed from this Port, in the beginning of the Year, under the name of the "*Fama de Cadiz*," D. Juan Sandrino, Master, arrived here, under the name of the "*Diana*," D. Manuel Igartua, Master, after having, as I have reason to understand, landed a Cargo of Slaves on the Coast. I avail myself, &c.

His Excellency the Captain-General.

(Signed)

W. S. MACLEAY.

## Second Enclosure in No. 108.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, October 7, 1828.

I HAVE received your Letter of the 3d Instant, in which you inform me, that it will be your duty to acquaint your Government with the arrival in this Port of the *Spanish Privateer*, that sailed from hence in the beginning of the Year, under the name of the "*Fama de Cadiz*," D. Juan Sandrino, Master, and which returned on the 30th Ultimo, under the name of the "*Diana*," D. Manuel Igartua, Master, after having disembarked, as you have been given to understand, a Cargo of Slaves on the Coasts of this Island. In reply, I have to inform you, that, in obedience to the Decree of The King, my august Sovereign, dated 2d January 1826, I address this day a Letter to the Officer Second in Command over the Naval Forces on this Station, directing him to proceed to the requisite investigation, of the result of which you shall be duly informed.

God preserve you many Years.

The Commissioner of His Britannick Majesty.

(Signed)

F. D. VIVES.

## Third Enclosure in No. 108.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, October 9, 1828.

THE Officer Second in Command over the Naval Forces on this Station, in his Letter of Yesterday, writes to me as follows:—

"Most Excellent Sir,—The Principal Commandant of the Register Office in this Island, in his Letter, dated the 3d Instant, has written to me as follows:—'In order to obviate all suspicion as to the objects of the Privateer equipment of the *Spanish Merchant Vessel* "*Diana*," which sailed from Cadiz the 2d of last March, under the command of D. Manuel Igartua, and arrived here on the 30th Ultimo, I asked the said Captain for his Log-book, and from the examination of it, there is no proof that this Vessel has been employed in the prohibited Traffick of Negroes.—I transcribe this for your Excellency, in answer to your Letter relating to the same affair.'"

God preserve you many Years.

The Commissioner of His Britannick Majesty.

(Signed)

F. D. VIVES.

## No. 109.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received Dec. 23.)*

MY LORD,

Havana, November 4, 1828.

ON the 11th Ultimo, the *Spanish Schooner* "*Josefa*," alias "*Fortuna*," D. Ramon Casal, Master, sailed for St. Thomas, on the Coast of Africa, and on the 12th Ultimo, the *Spanish Brig* "*Segunda Teresa*," D. Saturnino Escull, Master, sailed for the same destination.

On the 1st Instant, the Schooner "*Constanza*," D. Antonio Moniel, Master, sailed for the Island of St. Thomas, and the Schooner "*Aerostatico*," D. Pedro Manegal, Master, for the Isla de Principe.

This last mentioned Vessel, "*Aerostatico*," returned into Port in ballast, on the 16th Ultimo, after an absence of 169 days, and under circumstances of the greatest suspicion. She was reported to be from the *Danish* Island of

St. Thomas, in 12 days, but her being fitted up as a Slave-vessel, and her having cleared out for the Coast of Africa, renders this very improbable. As, however, I could not learn any thing certain about the Slaves that she is rumoured to have landed on the Coast, I thought it better not to denounce her to the Captain General.

On the 26th, the Schooner "*Primera Gallega*" D. Joze Balandra, Master, arrived here in ballast, after having landed her Cargo of Slaves on the Coast, near Vanes. I have the honour to enclose Copies of the Correspondence which passed between myself and the Captain General on this occasion, by which your Lordship will perceive, that he continues to found the innocence of the Vessel, on there being no mention of her traffick in the Log-book.

The suspicious Brig "*Pirro*," mentioned in my Despatch of the 2d September last, has cleared out for Corunna, but there is every reason to believe that her real destination is the Coast of Africa.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

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First Enclosure in No. 109.

*The British Commissioner of Arbitration to the Captain General.*

Havana, October 30, 1828.

THE Undersigned, Commissioner of His Britannick Majesty, has the honour to acquaint His Excellency the Captain General, that, in pursuance of his duty, he will be under the necessity of informing his Government of the arrival in this Port of the Spanish Schooner "*Primera Gallega*," D. Joze Balandra, Master, after having landed on the Coast a Cargo of Negroes.

The Undersigned avails himself, &c.

*His Excellency the Captain General.*

(Signed) W. S. MACLEAY.

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Second Enclosure in No. 109.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, November 3, 1828.

I HAVE received your Letter of the 30th Ult., informing me, that it will be your duty to inform your Government of the arrival in this Port of the Spanish Schooner "*Primera Gallega*," after having disembarked a Cargo of Slaves; in reply, I have to state, that, in obedience to the Royal Order of my august Sovereign, dated 2d January 1826, I have this day addressed the necessary Letter to the Officer Second in Command over the Naval Forces on this Station, directing him to proceed to the proper investigation, which I shall make you duly acquainted with.

God preserve you many Years.

*The Commissioner of His Britannick Majesty.*

(Signed) F. D. VIVES.

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Third Enclosure in No. 109.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, November 5, 1828.

IN a Letter, dated Yesterday, the Officer Second in Command over the Naval Forces on this Station, writes me as follows:—

"Most Excellent Sir,—The Commandant of the Registers of this Island has written me, under date of the 28th Ult., that having examined the Log-books of the Spanish Schooner "*Primera Gallega*," which anchored in this Port on the 26th, coming from the Island of St. Thomas, he finds nothing to shew that this Mercantile expedition has been employed in the prohibited traffick of Bozal Negroes. I transmit this information to your Excellency, in answer to your Letter of Yesterday, enclosing me the Translation of one which Your Excellency has received, relative to this Vessel, from His Britannick Majesty's Commissioner, Don Guillermo S. Macleay.

I now transcribe the above passage for your information; and may God preserve you many Years.

(Signed) F. D. VIVES.

*The Commissioner of His Britannick Majesty.*

No. 110.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, December 27, 1828.*

I HAVE received the Despatches of Mr. Macleay up to the 4th of November last.

I have the satisfaction to acquaint you, that His Majesty's Government approve of your proceedings in the Case of the *Spanish Vessel "Intrepido;"* and of your transmission to the Lieutenant Governor of Jamaica, of the Documents purporting that a Subject of His Majesty, resident in Jamaica, had been implicated in the concerns of that Vessel; so as to enable His Excellency to make enquiry into the conduct of that Individual.

I am, &amp;c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*



## RIO DE JANEIRO.

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No. 111.

*Henry Hayne, Esq. to John Backhouse, Esq.—(Received March 4.)*

SIR,

*Brighton, February 25, 1828.*

AFTER mature deliberation, I have come to the determination to make my Petition to you for an extension of my Leave of Absence.

My own feelings regarding my state of constitutional debility, combined with the decided opinion of my Medical Advisers, to remain as long as possible from the Climate which has so enervated me, have suggested to me the necessity of taking this step.

I should therefore feel obliged, Sir, by your naming the Case to Lord Dudley, and requesting the indulgence of 6 Weeks, beyond the leave already granted, at the expiration of which, I trust I shall be ready, and in a fitter state to return to my Post, than I am at this moment.

I have &c.

*John Backhouse, Esq.*  
&c. &c. &c.

(Signed) HENRY HAYNE.

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No. 112.

*The Earl of Dudley to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, March 6, 1828.*

I HEREWITH transmit to you His Majesty's Commission, bearing date the 15th of January 1828, constituting and appointing you to be His Majesty's Commissioners at Rio de Janeiro, under the Convention concluded in that City between Great Britain and *Brazil*, on the 23d of November 1826, for the regulation and final abolition of African Slave-trade, and pursuant to an Act of Parliament, passed in the 58th Year of the Reign of His late Majesty, for carrying into effect a Convention between this Country and *Portugal*, for preventing illegal traffick in Slaves, and pursuant also to an Act, passed in the 8th Year of the Reign of His present Majesty, for carrying into effect the above-mentioned Convention.

You will at the earliest opportunity, after the receipt of this Despatch, take an oath according to the form prescribed in the said Act of the 58th of George III.

You will also convene a Meeting, between yourselves and the Commissioners who may have been appointed on the part of The Emperor of Brazil, for carrying into effect the Convention of November 23, 1826, and you will exhibit your Commission to such Commissioners, and permit them, if required, to take a Copy thereof.

You will also invite the said Comisioners to exhibit to you a corresponding Commission on the part of their Sovereign, The Emperor of Brazil; and, having ascertained that it is in proper form, you will send to His Majesty's Secretary of State for Foreign Affairs a transcript thereof, accompanied with any remarks which may suggest themselves to you thereupon; and you will proceed to the execution of such duties as may be required of you, and as you may be authorized to transact in virtue of the said Commissions of Appointment.

You will bear in mind the Instructions which have been heretofore addressed to you, as His Majesty's Commissioners, as well under the Convention

between this Country and *Portugal*, as under the relations which have subsequently grown up between this Country and *Brazil*, prior to your receipt of the present Appointment.

You will obey those Instructions so far as they shall be consistent with the Stipulations of the present Convention.

I herewith transmit to you, for your information and guidance, Copies of the Convention, and Acts of Parliament, under which you will have to act.

Further Instructions and Directions will be issued to you from time to time, as circumstances shall require.

I am, &c.

(Signed) DUDLEY.

*His Majesty's Commissioners.*

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No. 113.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 10.)*

MY LORD,

*Rio de Janeiro, January 6, 1828.*

IN conformity with our Instructions, we beg leave to inform your Lordship, that no Slave-vessel has been brought into this Port for adjudication, since our last Half-Yearly Report of the 5th of July 1827.

We have the honour to be, &c.

(Signed)

A. J. HEATHERLY.

*The Right Hon The Earl of Dudley,*  
 &c.                    &c.                    &c.

ALEX. CUNNINGHAM.

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No. 114.

*John Backhouse, Esq. to Henry Hayne, Esq.*

SIR,

*Foreign Office, March 13, 1828.*

HAVING laid before the Earl of Dudley your Letter of the 25th of February 1828, requesting an extension of 6 Weeks' leave, beyond the period to which your leave of absence had already been prolonged; I am directed by his Lordship to acquaint you, that, under the circumstances of ill health represented by you, he consents to your request.

I am, &c.

(Signed)

J. BACKHOUSE.

*Henry Hayne, Esq.*

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No. 115.

*Henry Hayne, Esq. to John Backhouse, Esq.—(Received May 10)*

(Extract.)

*London, May 7, 1828.*

WHEN I had last the honour of addressing you, I applied for only 6 Weeks' leave of absence, in the hope that I should, at the expiration of that time, be well enough to embark; but, in the interim, I have been so much reduced by a severe relapse, that I am wholly unfitted to return to my Post at present, as my appearance, as well as the Medical Certificate which I have the honour to enclose, will testify. I earnestly trust, that, in consideration of

my shattered constitution, his Lordship will be pleased to extend to me all the indulgence possible, both as regards the time required to put me in a state to embark, and the time I shall have to serve at my Post, if, by the blessing of God, I am permitted to reach it.

*John Backhouse, Esq.*  
*&c. &c. &c.*

(Signed) HENRY HAYNE.

Enclosure in No. 115.

*Medical Certificate.*

I WAS consulted by Mr. Hayne some time after his arrival from Rio in 1827, and found his health materially broken under the influence of that Climate, his restorative powers have gradually, but *unequally*, risen since his arrival in the temperate Climate of Great Britain.

I am of opinion, that his immediate return is inadmissible; but from the progress towards convalescence, which he has already made, that his health will, *if he suffer no relapse*, be sufficiently restored, in the course of 4 or 6 Months, to enable him to cope with the Climate of Rio; especially if any arrangement can be made which shall enable him to escape the three severe Months of December, January, and February.

(Signed) JOHN RICHARD FARRE, M.D.

4, Charter-House-Square, May 7, 1828.

No. 116.

*John Backhouse, Esq. to Henry Hayne, Esq.*

(Extract.)

*Foreign Office, June 17, 1828.*

TAKING into consideration the state of your health, Lord Aberdeen farther consents to grant to you an additional leave of absence in this Country, for 3 Months from this present time, at the end of which, you will be expected to return to your Post without fail.

(Signed) J. BACKHOUSE.

*Henry Hayne, Esq.*

No. 117.

*Henry Hayne, Esq. to John Backhouse, Esq.—(Received June 24.)*

(Extract.)

*Tunbridge Wells, June 23, 1828.*

I HAVE the honour to acknowledge the receipt of your Letter of the 17th Instant, in reply to a Memorial I had the honour of transmitting to you on the 7th May last, for the Earl of Dudley's consideration.

I have to express my thanks for the additional 3 Months' leave of absence, which Lord Aberdeen has been pleased to grant to me, in consideration of my state of health, as well as my anxious hope, that, at the expiration of that time, I may be in a state to embark.

(Signed) HENRY HAYNE.

*John Backhouse, Esq.*  
*&c. &c. &c.*

No. 118.

*His Majesty's Commissioners to The Earl of Dudley.—(Received July 8.)*

MY LORD,

*Rio de Janeiro, April 28, 1828.*

WE have had the honour to receive your Lordship's Despatch, dated March 6, 1828, transmitting to us His Majesty's Commission, bearing

date January 15, 1828, constituting and appointing Henry Hayne, Esq. and Alexander Cunningham, Esq. His Majesty's Commissioners at Rio de Janeiro, under the Convention concluded in that City between Great Britain and *Brazil*, on the 23d of November 1826, for the regulation and final abolition of African Slave-trade, and pursuant to an Act of Parliament, passed in the 58th Year of the Reign of His late Majesty, for carrying into effect a Convention between Great Britain and *Portugal*, for preventing illegal traffick in Slaves, and pursuant also to an Act passed in the 8th Year of the Reign of His present Majesty, for carrying into effect the above-mentioned Convention.

In conformity with your Lordship's Instructions, Mr. Alexander John Heatherly, His Majesty's Acting Consul General, now doing the duty of Commissary Judge, during the leave of absence granted to Mr. Hayne; and Mr. Cunningham, Commissioner of Arbitration, will not fail, as soon as possible, to take the oath, according to the form prescribed in the said Act of the 58th Geo. III.

We will also, in obedience to your Lordship's commands, convene a Meeting between ourselves and the Commissioners who have been appointed on the part of The Emperor of *Brazil*, for carrying into effect the Convention of the 23d of November 1826, for the purpose of exhibiting our Commission to such Commissioners, and permit them, if required, to take a Copy thereof.

We will not fail, likewise, to invite the said Commissioners to exhibit to us a corresponding Commission on the part of their Sovereign, The Emperor of *Brazil*; and, having ascertained that it is in proper form, we will send to His Majesty's Secretary of State for Foreign Affairs, a transcript thereof, accompanied by such remarks as may suggest themselves to us thereon.

We will also proceed to the execution of such duties as may be required of us, and as we may be authorized to transact, in virtue of the said Commissions of Appointment.

We will bear in mind the Instructions which have heretofore been addressed to us, as His Majesty's Commissioners, as well under the Convention between England and *Portugal*, as under the relations which have subsequently grown up between Great Britain and *Brazil*, prior to our having received the present Appointment, and we will implicitly obey those Instructions, so far as they shall be consistent with the stipulations of the present Convention.

We have also to acknowledge the receipt of 6 Copies of the Convention and Acts of Parliament, which your Lordship has done us the honour to transmit, for our information and guidance, and under which we shall have to act.

We have, &c.

(Signed)

A. J. HEATHERLY.  
A. CUNNINGHAM.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

No. 119.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Sept. 12.)*

MY LORD,

*Rio de Janeiro, July 10, 1828.*

IN obedience to our Instructions, we have the honour to inform your Lordship, that no Slave-vessel has been brought into this Port for adjudication since our last Half-Yearly Report of January 6, 1828.

We have, &c.

(Signed)

A. J. HEATHERLY.  
ALEX. CUNNINGHAM.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

No. 120.

*His Majesty's Commissioners to The Earl of Dudley.*—(Received Sept. 12.)

MY LORD,

Rio de Janeiro, July 10, 1828.

IN conformity with your Lordship's Instructions, after the receipt of your Lordship's Despatch, dated March 6, 1828, we took the earliest opportunity to convene a Meeting between ourselves and the Commissioners appointed on the part of The Emperor of *Brazil*, for carrying into effect the Convention of the 23d of November 1826, when we exhibited our Commissions to such Commissioners, and, at their request, permitted them to take a Copy thereof.

On the 25th of June, we took the oath before the Chancellor Mor of this Empire, according to the form prescribed in the Act of the 58th of Geo. III., and, having obtained from the *Brazil* Commissioners, a transcript of their Commissions on the part of their Sovereign, The Emperor of *Brazil*, we have now the honour to enclose the same to your Lordship, with Translations thereof, together with a Copy and Translation of the Protocol of the Commission Court, held on the 1st Instant.

The Diplomas granted to the Brazilian Commissioners by His Imperial Majesty, appear to us to be drawn up in a proper form, and we have no other remark to make, than to state, that hitherto we have every reason to be satisfied with the propriety and deportment of Senor Joao Carneiro de Campos, and Senor Joao Pereira de Souza's conduct towards us, whenever our duty has called upon us to meet them.

We have, &amp;c.

(Signed)

A. J. HEATHERLY.  
ALEX. CUNNINGHAM.*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

First Enclosure in No. 120.

(Translation.)

*Commission of Appointment of Senor Joao Carneiro de Campos, as  
Brazilian Commissary Judge.*

IT having been stipulated by the 4th Article of the Convention, concluded on the 23d November 1826, between this Empire and England, for the abolition of the Slave-trade, that Mixed Commissions should be forthwith appointed, after the form of those already established under the Additional Convention of the 28th of July 1817, between *Portugal* and Great Britain, and as it is necessary to employ different Persons to fulfil the Mixed Commission of this City;—I, reposing especial trust and confidence in the wisdom and other qualities of Joao Carneiro de Campos, of my Council, have named and appointed him to be the Commissary Judge, *ad interim*, of the said Mixed Commission, with the Salary of 1,200 Milreis Yearly.

The Marquis of Aracaty, Minister and Secretary of State for Foreign Affairs, will so understand and will give all the necessary directions.

Palace of Rio de Janeiro, May 14th 1828.—7th Year of the Independence of the Empire.  
With the Signature of His Majesty The Emperor. (Signed) MARQUIS OF ARACATY.

True Copy, (Signed) BENTO DA SILVA LISBOA.

Sworn before me, on the 25th June 1828. (Signed) MONSENHOR MIRANDA.

(Signed) THEOPHILO DE MELLO, Interpreter.

Second Enclosure in No. 120.

(Translation.)

*Commission of Appointment of Senor Joao Pereira de Souza, as Brazilian  
Commissioner of Arbitration.*

IT having been stipulated by the 4th Article of the Convention, concluded November 23d 1826, between this Empire and England, for the abolition of the Slave-trade, that Mixed Com-

missions should be forthwith appointed, after the form of those already established, under the Additional Convention of July 28th 1817, between Portugal and Great Britain; and, as it is necessary to employ different Persons to fulfil the Mixed Commission Court of this City;— I, reposing especial trust and confidence in the wisdom and other qualities of Joao Pereira de Souza, have named and appointed him to be the Commissioner of Arbitration of the said Mixed Commission, with a Salary of 1,000 Milreis Yearly.

The Marquis of Aracaty, Minister and Secretary of State for Foreign Affairs, will so understand and will give all the necessary directions.

*Palace of Rio de Janeiro, May 14, 1828.*—7th Year of the Independence of the Empire.

With the signature of His Majesty The Emperor. (Signed) MARQUIS OF ARACATY.

True Copy, (Signed) BENTO DA SILVA LISBOA.

Sworn before me, June 25, 1828, (Signed) MOSENHOR MIRANDA.

(Signed) THEOPHILO DE MELLO, Interpreter.

Third Enclosure in No. 120. (Translation.)

*Protocol of the Mixed Commission. 1st July 1828.*

ON the 1st of July 1828, in the very loyal and heroic City of Rio de Janeiro, and in the Audience Chamber of the Mixed Commission, relative to the Slave-trade; appearing, on the part of His Imperial Majesty The Emperor of the Brazils, the Judge Commissioner, *ad interim*, Joao Carneiro de Campos, and the Judge of Arbitration, Joao Pereira de Souza, and, on the part of His Majesty The King of the United Kingdom of Great Britain and Ireland, the Vice Consul, Alexander John Heatherly, acting for, and doing the duties of, Consul General, and of Judge Commissioner, during the absence of Judge Commissioner Henry Hayne; and the Arbitrating Commissioner, Alexander Cunningham: the Brazilian Commissioners having laid before the Board, the Diplomas of their Nominations as under written, and the British Commissioners having presented their Diplomas in the Sitting of the 29th of April last past; and I, Braz Martins Costa Passos, the Diploma of Nomination to my place of Secretary, also underwritten; and all of the aforesaid Commissioners having taken their oaths in the presence of each other, and under the hands of the Chancellor Mor of the Empire, the Desembargador do Paso, Monsenhor Miranda, and I, the Secretary, under the hands of the Brazilian Judge Commissioner, all under the Form of the Convention of the 23d of November 1826, and of the 28th July 1817, in addition to the Treaty of the 22d of January 1815; they were unanimously acknowledged to be possessed of sufficient authority to exercise, conjunctively, the jurisdiction which, by the aforesaid Convention, belongs to the Mixed Commission; and thereupon was ordered the publication of the corresponding Edict, with a Copy of the underwritten Decree, by which His Imperial Majesty The Emperor of the Brazils, was pleased to name the Subaltern Officers to be employed in this Commission.

And in order to verify this Act of Installation, I have passed this present Document, which the said Commissioners have signed with me.

(Signed)

ALEXANDER JOHN HEATHERLY.

JOAO CARNEIRO DE CAMPOS.

ALEXANDER CUNNINGHAM.

JOAO PEREIRA DE SOUZA.

BRAZ MARTINS COSTA PASSOS, *Secretary.*

(Signed)

THEOPHILO DE MELLO, Interpreter.

No. 121.

*His Majesty's Commissioners to The Earl of Aberdeen.—*

*(Received September 27.)*

MY LORD,

*Rio de Janeiro, August 5, 1828.*

WE have had the honour to receive your Lordship's Despatch, dated 30th May 1828, acquainting us that The King has been pleased to accept of the Earl of Dudley's resignation of the Office of His Majesty's Principal Secretary of State for Foreign Affairs, and to confide to your Lordship the Seals of that Office.

We shall accordingly obey your Lordship's commands, by addressing our future Despatches, and Letters on publick business, to your Lordship, and we will not fail to pay due attention to such Orders and Instructions as we may receive from your Lordship, for our guidance and information.

We have, &c.

(Signed)

A. J. HEATHERLY.

ALEX. CUNNINGHAM.

*The Right Hon. The Earl of Aberdeen.*

&c.

&c.

&c.

No. 122.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, September 27, 1828.*

I HEREWITH transmit to you, for your guidance, the Copy of an Instruction which, in accordance with the opinion of The King's Advocate, I addressed, on the 18th Instant, to His Majesty's Commissioners at the Havana, upon the question, whether the presence of the Commander of a Capturing Ship is necessary to the due adjudication of a Prize.

I am, &amp;c.

(Signed)

ABERDEEN.

*His Majesty's Commissioners.*

No. 123.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, November 7, 1828.*

I HAVE received your Despatches up to the 5th of August 1828.

Your Despatch of the 10th of July, containing Copies and Translations of the Commissions granted on the part of The Emperor of *Brazil*, to His Imperial Majesty's Commissioners of the Mixed Commission at Rio de Janeiro, has been referred for the opinion of His Majesty's Advocate General.

The King's Advocate has reported, that the Appointments of the Brazilian Commissary Judge, and Commissioner of Arbitration, appear to be in due and proper form, and that as the Protocol of the Commission Court states, that all the Commissioners have taken the Oath prescribed by the Treaty, he is of opinion, that the Court is duly constituted, and sufficiently authorized to take cognizance of such Cases as may be brought before it under the Provisions of the Treaty.

I am, &amp;c.

(Signed)

ABERDEEN.

*His Majesty's Commissioners.*

No. 124.

*His Majesty's Commissioners to The Earl of Aberdeen.—(Received Dec. 14.)*

MY LORD,

*Rio de Janeiro, October 7, 1828.*

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 9th of July 1828, accompanied, for our information, by 6 Copies of Papers, marked A and B. relative to the Slave-trade, which had been presented to both Houses of Parliament, by His Majesty's Command, during the course of the last Session.

We have, &amp;c.

(Signed)

A. J. HEATHERLY.

ALEX. CUNNINGHAM,

*The Right Hon. The Earl of Aberdeen,*  
 &c.                    &c.                    &c.

No. 125.

*Henry Hayne, Esq. to The Earl of Aberdeen.—(Received December 14.)*

MY LORD,

*Rio de Janeiro, October 21, 1828.*

IN compliance with the Standing Order from His Majesty's Principal Secretary of State, bearing date the 31st of January 1824, I have now the honour to inform your Lordship of my having arrived at my Post, to resume my duties at the Mixed Commission, Yesterday, the 20th Instant.

I have, &amp;c.

(Signed)

HENRY HAYNE.

*The Right Hon. The Earl of Aberdeen,*  
    &c.           &c.           &c.

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## SURINAM.

No. 126.

*C. E. Lefroy, Esq. to The Earl of Dudley.—(Received Feb. 5, 1828.)*

MY LORD,

*Surinam, December 13, 1827.*

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, dated June 28, 1827, informing me, that His Majesty's Government had had the satisfaction of receiving, through the British Ambassador, an Answer from the Netherland Government, on the subject of the want of Cruizers for the suppression of the Slave-trade in this Colony, of which I had complained, in my Despatch of the 1st of February last, and transmitting to me a Copy of the Despatch of Sir Charles Bagot, dated June 18, 1827, and of the Note Verbale, delivered to him by M. Verstolk, upon that subject.

I have the honour to be, &c.

(Signed)

CHRIS. EDWD. LEFROY,

*The Right Hon. The Earl of Dudley.*  
 &c.                    &c.                    &c.

No. 127.

*The Earl of Aberdeen to His Majesty's Commissioners..*

GENTLEMEN,

*Foreign Office, June 17, 1828.*

I HAVE to acquaint you, that a Communication has been received at this Office from the Admiralty, under date of the 19th of May, stating, that the Instructions referred to in the Treaty between Great Britain and The Netherlands for the suppression of illegal Slave-trade, have been issued to the following Ships and Vessels of His Majesty's Navy, viz. :—

Guns.	Ships.	Commanders.
48 .....	<i>Sybille</i> .....	F. A. Collier.
46 .....	<i>Aurora</i> .....	C. J. Austen.
" .....	<i>Briton</i> .....	Hon W. Gordon.
26 .....	<i>Eden</i> .....	W. F. W. Owen.
18 .....	<i>Espiegle</i> .....	W. Sandom.
10 .....	<i>Bustard</i> .....	G. S. Smith.
" .....	<i>Fairy</i> .....	J. O'Brien.
12 .....	<i>Clinker</i> .....	Lt. W. G. W. Matson.
" .....	<i>Plumper</i> .....	E. Medley.
3 .....	<i>Black Joke, Tender,</i>	H. Downs.

and that the Instructions which had been issued to His Majesty's Ships "Druid," "Maidstone," "Atholl," "Brazen," "Esk," "Pylades," "Redwing," "Scylla," and "Conflict," have been recalled and cancelled.

I have accordingly to desire, that you will communicate this information to the Mixed Board of Commission of which you are Members.

I am, &c.

(Signed)

ABERDEEN.

*His Majesty's Commissioners.*

No. 128.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, September 27, 1828.*

I HEREWITH transmit to you, for your guidance, the Copy of an Instruction which, in accordance with the opinion of The King's Advocate, I addressed, on the 18th Instant, to His Majesty's Commissioners at the Havana, upon the question, whether the presence of the Commander of a Capturing Ship is necessary to the due adjudication of a Prize.

I am, &amp;c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

No. 129.

*C. E. Lefroy, Esq. to The Earl of Dudley—(Received October 7.)*

(Extract.)

*Surinam, July 29, 1828.*

I HAVE the honour to inform you, that General Van den Bosch, His Netherland Majesty's Commissary General for the Visitation and Regulation of the Dutch West Indies, is about to leave us in a few days, on his return to Holland, after having reconstructed the Government upon new and improved principles.

I am rejoiced to say, that I am informed that the new Laws for regulating the treatment and privileges of the different classes, are of a most liberal and benevolent character towards the Slaves, and people of Colour, even exceeding, in some respects, the provisions of the British Orders in Council.

All distinctions of Colour, between free People are, I understand, to be done away, and the Slaves in general are to be no longer regarded as *Things*, but distinctly recognized as *Persons*; and as one of the first privileges of moral agency, their Evidence is to be admitted in Courts of Justice, upon the same principles as that of other Individuals; viz. credibility of character.

There is also a Protector appointed for them, whose duties, I understand, will correspond very much with those of the Protector, under the British Orders in Council.

It gives me scarcely less pleasure to transmit to your Lordship an Advertisement, acknowledging the necessity of the further diffusion of Christian Instruction amongst the Slaves, and establishing a Society, with the approbation and authority of His Excellency the Lord High Commissioner, for that purpose.

(Signed) C. E. LEFROY.

*The Right Hon. The Earl of Dudley,*  
 &c.                    &c.                    &c.

Enclosure in No. 129.

(Translation.)

*Advertisement of a Society for the Religious Instruction of Slaves at Surinam.**From the Surinam Courant of July 23, 1828.*

THE Undersigned, having satisfied themselves of the necessity of adopting means for effectually propagating the Christian Religion among the Slaves, and other Pagan Inhabitants of this Colony; and being convinced that this end can most properly be attained by means of Missionaries from the Congregation of Moravian Brethren, whose past efforts have already been attended with so much success; they have, with the approbation and authority of His Excellency the Commissary General of His Majesty's West India Possessions, united, in order to form a *Society for the dissemination of the Christian Religion among the Slaves, and the other Pagan Inhabitants of the Settlement, by means of Missionaries to be deputed by the Congregation of Moravian Brethren.*

Entertaining no doubt that these, their endeavours, for bringing about an object so salutary, will meet with the approbation of all well-disposed persons, the Undersigned take the liberty of herewith inviting every one desirous of joining this Society, to inform the Undersigned of such intention, to enable the Applicants to enter themselves as Members of the Society; under an understanding, that Members do thereby take on themselves no other obligation than that of paying an Annual Contribution into the Fund, which may be found requisite for carrying the said purpose into effect, and which Contribution shall amount to, if agreeable, upwards of, but not less than, 2 florins and 50 centimes.

Paramaribo, 22d July, 1828.

(Signed)

E. L. VAN HEECKEREN.  
AS. ROELOFSZ, V D. M.  
DO. JANSEN EIJKEN SLUIJERS.  
H. R. HAYUNGA.  
F. BENDEKER.

No. 130.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, October 22, 1828.*

I HEREWITH forward to you the Commission, bearing date the 21st day of October 1828, by which His Majesty was graciously pleased to appoint Mr. John Henry Lance to be His Majesty's Commissary Judge, and Mr. Campbell James Dalrymple to be His Majesty's Commissioner of Arbitration, to the Mixed British and Netherland Commission, established at Surinam, under the Treaty concluded on the 4th of May 1818, between Great Britain and The Netherlands, for the prevention of the illegal Slave-trade, and pursuant to the Acts of Parliament which have been passed for carrying that Treaty into effect.

You will, at an early opportunity, after your arrival at Surinam, take in due form the oath prescribed to you by the enclosed Instrument, prior to the entering upon your further respective duties, in the character assigned to you in His Majesty's Commission of Appointment.

You will announce these Appointments to the Foreign Members of the Mixed Commission destined to act with you under the Treaty above-mentioned.

You will strictly follow the line of conduct pointed out in the Instructions, which have heretofore been given by His Majesty's Secretary of State to His Majesty's Commissioners at Surinam.

Further Instructions will, by His Majesty's Command, be transmitted to you, according as it shall appear that such Instructions shall be necessary for your guidance.

I am, &c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

No. 131.

*C. E. Lefroy, Esq. to The Earl of Dudley.—(Received November 18.)*

(Extract.)

*Surinam, August 27, 1828.*

IN May last, I had a visit from Captain Lloyd, of His Majesty's Ship "Victor," whom I had the honour of introducing to the Lord High Commissioner of His Netherland Majesty, General Van den Bosch, and our present Governor, Rear Admiral Sir Paulus Roeloff Cantzlaar.

Captain Lloyd informed us, that he had been making a very careful inspection of the whole Coast of the Colony, standing in within 2 French leagues of the Shore almost the whole way, although the "Victor" draws 15½ feet water; and that he observed nothing that indicated the existence of any illicit Slave-trading, at present, on any part of the Coast.

Captain Lloyd and myself suggested to General Van den Bosch, the possibility of the illegal introduction of Africans into this Colony, over land,

through the French Colony of Cayenne; but His Excellency said, that, from there being a Settlement of *Noirs Maroons* (Bush Negroes) on the River Marewana, which divides the 2 Colonies, who would probably intercept and seize them for themselves, as they knew their importaion into this Colony to be illegal, he thought such an experiment would be too hazardous for any one to engage in it.

I am happy to communicate to your Lordship the foregoing circumstance, as it tends to the confirmation of the hopes, which I have before ventured to express, that at length the Slave-trade in this Colony, for the present, is overcome.

(Signed) C. E. LEFROY.

*The Right Hon. The Earl of Dudley,*  
                   &c.                   &c.                   &c.

No. 132.

*C. E. Lefroy, Esq. to The Earl of Aberdeen.—(Received November 29.)*

(Extract.)

*Surinam, September 23, 1828.*

BY a Schooner from Barbadoes, which arrived here on Friday last, the 19th Instant, I have had the honour to receive your Lordship's Circular, dated 30th of May, acquainting me that The King had been pleased to accept of The Earl of Dudley's resignation of the Office of Principal Secretary of State for Foreign Affairs, and to confide to your Lordship the Seals of that Department; and, in consequence, directing me to address to your Lordship my future Despatches and Letters on publick business, to be laid before The King, and to receive from your Lordship such Orders and Instructions as His Majesty shall think proper to give for my guidance and direction.

I have also the honour to acknowledge the receipt, at the same time, of your Lordship's Despatch, dated June 17 1828, announcing to me a Communication, received at the Foreign Office, from the Admiralty, under date of the 19th of May, respecting the issue and recall of the Instructions, under the Treaty between Great Britain and The Netherlands, for the suppression of illegal Slave-trade, to and from the several Ships and Vessels of His Britannick Majesty's Navy, therein particularly specified; with a Copy of which, in obedience to your Lordship's desire therein expressed, I have already supplied my Colleagues in the Mixed Board of Commission, of which I am a Member.

(Signed) C. E. LEFROY.

*The Right Hon. The Earl of Aberdeen,*  
                   &c.                   &c.                   &c.

