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Class A.

(FURTHER SERIES.)

CORRESPONDENCE

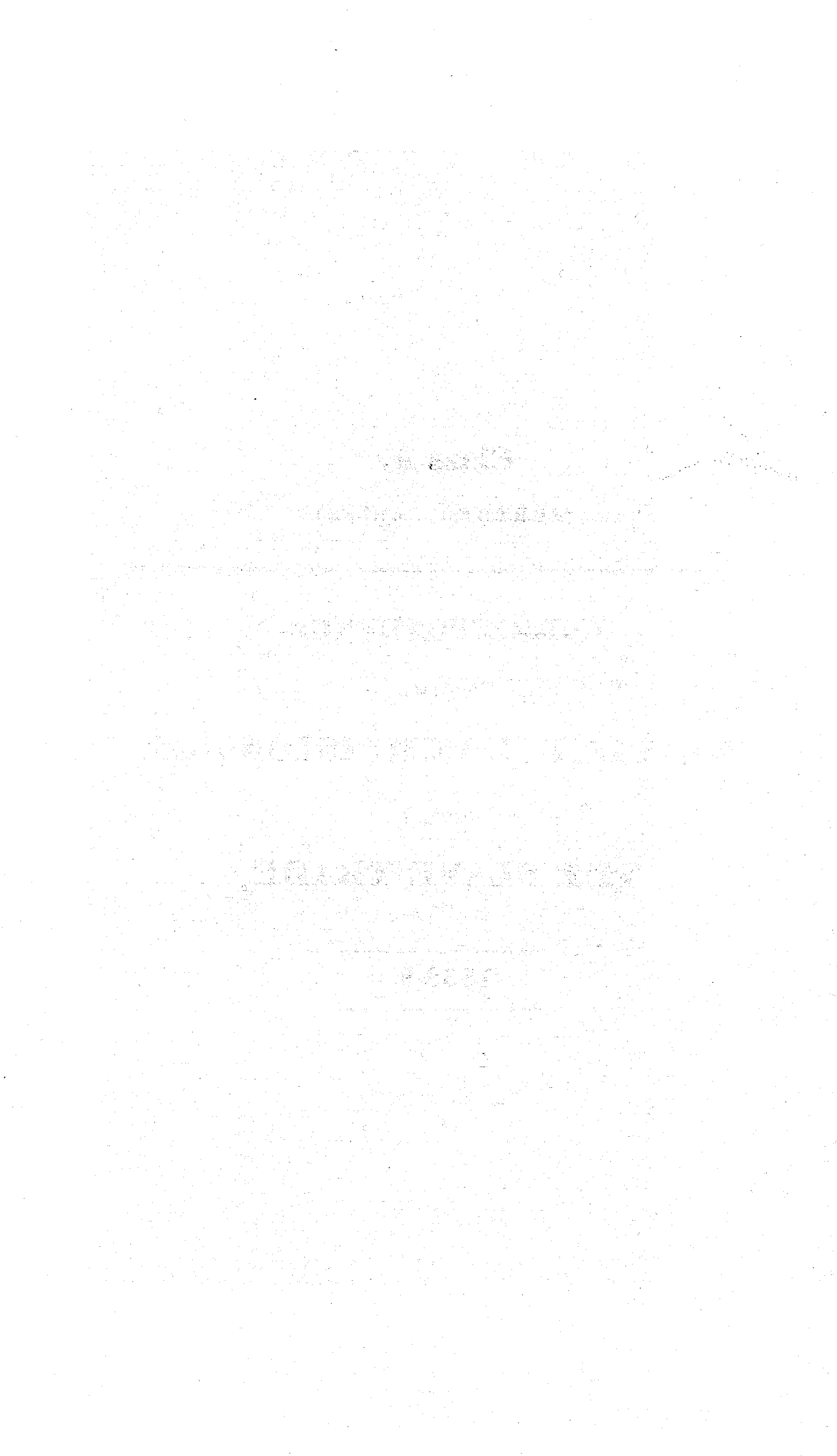
WITH THE

BRITISH COMMISSIONERS

RELATING TO

THE SLAVE TRADE.

1838-9.



Class A.

(FURTHER SERIES.)

CORRESPONDENCE

WITH THE

BRITISH COMMISSIONERS.

AT

**SIERRA LEONE, THE HAVANA, AND
RIO DE JANEIRO,**

RELATING TO

THE SLAVE TRADE.

FROM FEBRUARY 2, TO MAY 31, 1839.

Presented to both Houses of Parliament, by Command of Her Majesty,
1839.

LONDON:

PRINTED BY W. CLOWES AND SONS, STAMFORD STREET,
FOR HER MAJESTY'S STATIONERY OFFICE.

1839.

Class A.—(Further Series.)—1838-9.

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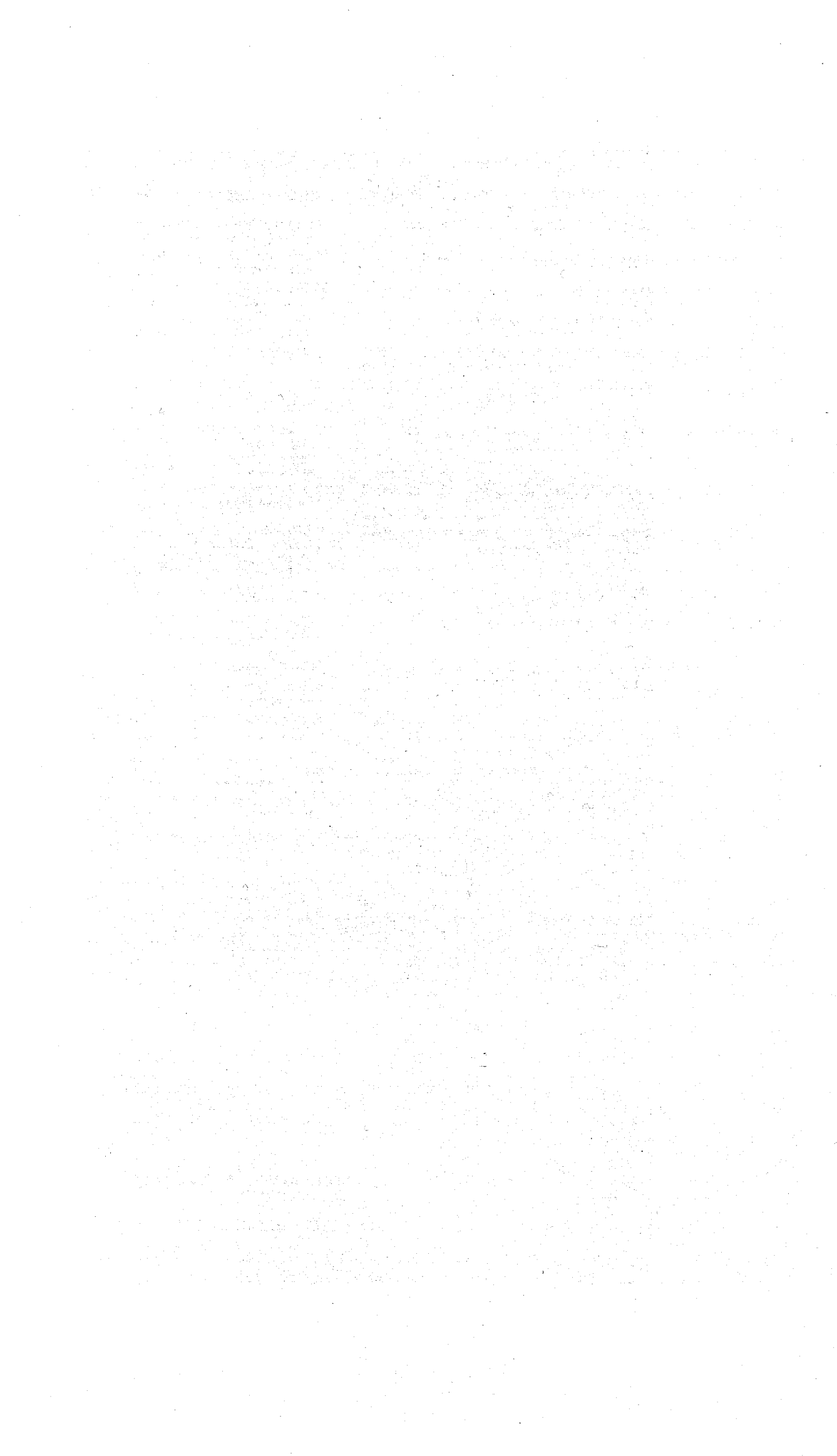
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Class A.—1838-9.

FURTHER SERIES.

C O R R E S P O N D E N C E

WITH

THE BRITISH COMMISSIONERS.

SIERRA LEONE. (*General.*)

No. 1.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 1, 1839.)

MY LORD,

Sierra Leone, October 31st, 1838.

WE have the honour to hand to your Lordship inclosed the copy of an order, issued a few days since to the Marshal to the courts, and which seemed to us to be rendered necessary, by the notoriety of the fact, that frequent robberies have been committed on board of prize vessels, and that goods and stores have been clandestinely landed by the Spaniards and Portuguese, composing the detained crews, before the prizes were placed under the charge and superintendence of the Marshal to the Courts.

To remedy this evil, by which captors are plundered, and the revenue defrauded, it has now been ordered, that the Marshal shall take charge of all vessels, brought before the courts for adjudication, immediately on the witnesses in preparatory being landed from them; first taking, in concert with the prize officer or the captor's agent, an inventory of the tackle and stores, so far as the same may be possible without removing the cargo. From that moment the Marshal becomes responsible for every thing on board; the prize-master and his crew leave the vessel, and go on board the "Conflict" gun brig, provided for the reception of prize crews; and the Portuguese or Spaniards are sent on shore, where if they remain, (which seldom happens in a clear case of slave dealing), until the adjudication of the vessel a few days afterwards, they receive from the Marshal, day by day, three shillings and sixpence for a master or mate, and two shillings for a seaman, for the purpose of providing board and lodging for themselves. The convenience of this practice is great; the expence trifling, there being seldom more than three witnesses sent up in any particular case. The plunder of the stores and cargo, and the wasteful expenditure of provisions are thus prevented, and all the property awaiting adjudication is placed under the care and protection of a responsible officer of the court. For this slight additional expence, entailed in the first instance by this arrangement, the captor is eventually much more than compensated by the increased amount of goods for sale by public auction, and by the opportunity which is thus afforded to prize officers and prize crews of leaving this place, and of joining their ships, by the earliest conveyance which offers after their arrival.

On these grounds we trust, that the order in question will meet with your Lordship's approval.

We have, &c.

(Signed)

W. H. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

CLASS A.—FURTHER SERIES.

Enclosure in No. 1.

Order.

Sierra Leone, October 22nd, 1838.

WHEREAS it appears from examinations taken at the police office, that a quantity of clothes and other articles were lately landed from the Spanish schooner "*Constituição*," prize to Her Majesty's schooner "*Fair Rosamond*," before the said prize was placed under the charge and superintendence of the Marshal to the courts,

And whereas there is reason to believe, that similar robberies have frequently been committed by the detained crews, whilst the prize officers in charge of prizes have been necessarily absent on duty on shore,

It is hereby ordered,

1st. That immediately on witnesses in preparatory being landed from a vessel before the Court, for the purpose of their being examined on the standing interrogatories, the marshal shall proceed on board and take charge of such vessel, and shall secure her stores and cargo by locking, sealing, and fastening the hatches and bulk heads, or by other means, and that he shall leave on board a sufficient crew, with a trusty person in charge.

2nd. That the Marshal shall, as early as possible after he has taken charge of such vessel, take, in concert with the prize-master, or a person appointed by the captors, or the captors' agent, a true and correct inventory of her tackle, apparel, and furniture, stores, and cargo, so far as the same may be possible without removing the cargo, and that the said inventory shall have particular reference to, and shall be compared with, the list of stores &c., found on board the detained vessel at the time of her capture, and attached to the captor's declaration; and that the said inventory shall be signed by the Marshal, and by the prize master, or by the person appointed by the captors or by their agent, to take the said inventory, and shall then be left at the Registry Office.

3rd. That, from the time of his taking charge of a vessel, the Marshal shall be held responsible for all the property placed under his care, and that the prize-master and his crew shall leave the vessel, immediately on the Marshal taking charge of her.

4th. That the detained crew shall likewise leave the vessel at the same time, and shall be allowed for every day, between the day of their so leaving, and the day on which the vessel may be adjudicated, the sum of three shillings and sixpence for a master or mate, and two shillings for a seaman, per day, for board and lodging, to be paid by the Marshal day by day, during that interval, to each person of the detained crew.

5th. That all the bags, chests, and packages, claimed as the private property of the detained crew, shall be searched by the Marshal, previous to their being taken on shore, and that nothing shall then or afterwards be removed from the vessel, which shall not be *bonâ fide* private and personal property.

(Signed.)

H. W. MACAULAY.
R. DOHERTY.

A true Copy.

(Signed)

J. MILLER, Acting Registrar.

No. 2.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 1, 1839)

MY LORD,

Sierra Leone, November 15, 1838.

WE have had the honour to receive your Lordship's Despatch of the 17th of September, 1838, acquainting us that the Queen's Advocate is of opinion, that the course prescribed by the Treaties in the case of death, absence, or illness of a regularly appointed Commissioner, should be adopted in a like contingency occurring in the case of an acting Commissioner; and instructing us to provide for the case of the *illness* of an acting Commissioner, by swearing in the Colonial Officer next in succession, to carry on the business, until such time as the acting Commissioner shall be able to resume his duties.

We shall not fail to follow your Lordship's directions, whenever the supposed case occurs.

We have, &c.
(Signed.)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

No. 3.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, April 22, 1839.

CONSIDERABLE inconvenience has been occasioned to the public service, by delay which has taken place in the arrival of your Despatches, giving accounts of the cases, which have been adjudicated by you towards the latter period of the year, and containing reports of your proceedings, made up to the conclusion of the twelvemonth. I have therefore, to desire, that you will in future take care to transmit those accounts and reports to me, for the information of Her Majesty's Government, as soon as possible after the transactions which they record shall have been completed.

You will likewise be careful to transmit to this office your Annual Report upon the Slave Trade, at the earliest possible moment after the end of the period to which it refers.

Your Report upon this subject for the year 1838 has not yet been received.

Her Majesty's Commissioners,
&c. &c. &c.

I am, &c.
(Signed) PALMERSTON.

No. 4.

Her Majesty's Commissioners to Viscount Palmerston,—(Received April 25, 1839.)

MY LORD,

Sierra Leone, December 31st, 1838.

WE have the honour to transmit herewith to your Lordship, a certified copy of the list of slaves, registered here by the different Mixed Courts, from the 30th of June 1838, to this date. The number so registered was 1963.

We have, &c.
(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

Enclosure in No. 4.

Abstract.

	Number Registered.	Number died before Registration but Emancipated.	Number Emancipated.
Prova	193	1	194
Pacquete Feliz	187	0	187
Prova	293	1	295*
Dolcinea	249	0	249
Liberal	583	0	583
Emprededor	458	0	458
	<u>1963</u>	<u>2</u>	<u>1966</u>

Memorandum.

Number registered up to the 30th June, 1838	46,396
Number registered from June 30, to December 31, 1838	1963
Total	<u>48,359</u>

* Remark—One girl absconded.

In addition to the foregoing list of emancipated slaves registered during the period set forth, there were 475 slaves landed from the Portuguese brig "*Diligente*," 569, from the Portuguese brig "*Camoens*," and 79 from the Portuguese schooner "*Ingemane*," at Nassau, New Providence, Bahama Islands; and 324 from the Portuguese schooner "*Feliz*," at Kingston in the island of Jamaica; in all 1447, the survivors of whom are emancipated by Decrees of the British and Portuguese Court of Mixed Commission.

(Signed.)

J. MILLER, Acting Registrar.

Sierra Leone, December 31, 1838.

These are to certify, that the foregoing is a true and correct copy of the original list of slaves, registered and emancipated by Courts of Mixed Commissions, established at Sierra Leone, under the Treaties with Foreign Powers for preventing the Illicit Traffic in slaves, during the period from the 30th day of June, to the 31st day of December 1838.

In faith and testimony whereof I have hereunto set my hand, and affixed the seal of the Mixed Commissions, at Freetown, in the said colony, this 31st day of December, in the year of our Lord 1838.

(L. S.)

(Signed.)

J. MILLER, Acting Registrar.

No. 5.

Her Majesty's Judge to Viscount Palmerston.—(Received May 30.)

MY LORD,

Sierra Leone, February 15, 1839.

I HAVE the honour to report to your Lordship, that Walter William Lewis, Esq., Her Majesty's Commissioner of Arbitration, arrived yesterday from England.

It is only due to His Excellency Colonel Richard Doherty, the Governor of the colony (who has for some time filled Mr. Lewis's place), to say, that on every occasion where his assistance was required, he has afforded it with the utmost cordiality and cheerfulness.

I have, &c.

(Signed)

H. W. MACAULAY.

The Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

SIERRA LEONE. (*Spain.*)

No. 6.

Her Majesty's Commissioners to Viscount Palmerston.—(Received February 4, 1839.)

MY LORD,

Sierra Leone, August 15th, 1838.

WE have the honour to forward herewith to your Lordship our Report of the case of the Spanish schooner "*Opposiçao*," Joao Rodriguez, Master, condemned in the British and Spanish Mixed Court of Justice, on the 13th instant, for being equipped for the Slave Trade, in contravention of the Tenth Article of the Slave Trade Treaty between Great Britain and Spain.

At the time when this vessel was captured by Her Majesty's sloop "*Pearl*," Lord Clarence Edward Paget commanding, she was on her way to the port of Havana, from one of the numerous keys which abound on the coast of Cuba, where she had just before landed a cargo of slaves from the coast of Africa. That she had effected the object of her voyage in this respect was sufficiently indicated by symptoms, which will not admit of question or explanation; and it was Captain Paget's intention, in the first instance, to have prosecuted the "*Opposiçao*" under the additional Article, which subjects to seizure and condemnation vessels, which may have shipped a slave or slaves in the particular voyage in which they are captured, even though no slave should be on board at the moment of detention.

The "*Opposiçao*" was sailing under Portuguese colours, and was furnished with Portuguese papers, when she was met with and detained by the "*Pearl*." She was therefore, as soon as possible, dispatched to this place, where alone Portuguese vessels can be adjudicated.

From the evidence taken in the case it was discovered, that the detained schooner was altogether employed in the Slave Trade of Spain; that she sailed from Havana on the outward voyage with a cargo of goods laden at that port; and that she was returning to Havana, when fallen in with, after having landed a cargo of slaves in the neighbourhood. The owner was, by his own statement, "*a merchant resident at Havana*;" and the greater part of the officers of the vessel, all indeed except the nominal Portuguese captain, were Spaniards, and were, with the rest of the crew, hired and shipped, for a voyage from Havana to the coast of Africa and back.

The principle, "that the national character of a merchant is to be taken from the place of his residence, and of his mercantile establishment, and not from the place of his birth," had therefore unquestionably affixed a Spanish character on the "*Opposiçao*" and her owner, and had rendered them subject to all the penalties, which would have been incurred by natural-born subjects of Spain, for a breach of the municipal laws, or of the Treaty stipulations entered into by that Power.

On the discovery of the facts to which we have above referred, the Captor's Proctor exercised, we think, a sound discretion in withdrawing the vessel from the Portuguese Court, and prosecuting her in the British and Spanish Mixed Court of Justice for being illegally equipped. Of the illegal equipment no doubt could be entertained; and the employment in Spanish trade was proved with equal clearness. The "*Opposiçao*" was accordingly pronounced to be a Spanish vessel, so far at least as respects the particular voyage in which she was detained; and she was condemned for having on board almost every one of the articles, denounced in the Tenth Article of the Spanish Treaty.

(Signed)

We have, &c

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

Enclosure in No. 6.

Report of the Case of the Spanish Schooner "Opposiçao," Joao Rodriguez, Master.

The following papers were found on board this vessel at the time of her capture:—

1. A Portuguese passport from José Maria de Souza Almeida Macedo e Vasconcellos, Governor and Captain General of Angola and its dependencies, dated at St. Paul de Loando on the 5th of April, 1834, notifying that the Portuguese schooner called the "*Opposiçao*," of which Manuel Baptista dos Santos e Silva was Master, and Jacintho Pereira Carneiro, Owner, both Portuguese subjects, was about to make a voyage from Loando to Maranham. This passport appears not to have been made use of during the three following years, as the first and only visa endorsed on it is made by José Miguel Fernandez, the Portuguese Consul at Havana, on the 27th of September, 1837, in which it is stated that the "*Opposiçao*" was then bound from Havana to St. Paul de Loando, under the command of Joao Rodriguez, who had been appointed Master by Don Manuel Cardozo, to whom that right belonged, in consequence of his having purchased the vessel.

2. A list of crew, dated at Havana, September 26th, 1837, describing Joao Rodriguez as the Master, and Manoel Cardozo as the owner, at that time.

3. Is the Custom House clearance from Havana, dated a few days previously, and in which the Master is said to be Don Manuel Cardozo, who is named merely as owner in the other Papers, the extra water-casks are declared, in the usual style, to be shipped "for the purpose of bringing back palm-oil," and three slave-boilers are called "three caldrons for clarifying palm-oil."

4. The Bill of Sale of the "*Opposiçao*" was executed at Havana only a few days before the vessel cleared out from that port; and it is therein stated, that Joaquim José Pereira d'Abreo, as the Agent by power of attorney of Jacinto Pereira Carneiro, the original owner, sells to Manuel Cardozo all right and title to the "*Opposiçao*" for the sum of one thousand and twenty Spanish Dollars.

5. The Log-book purports "to contain an account of the homeward voyage from Cape Padron on the Rio Zaire (or Congo) towards the port of Havana." It commences on the 2nd of March, 1838, and is kept up regularly to the 25th of April, 1838, on which day the vessel was captured by Her Majesty's sloop "Pearl," Lord Clarence Edward Paget commanding.

The "*Opposiçao*" was taken possession of by the "Pearl" off the northern part of the Island of Cuba, in consequence of there being every indication that she had just before landed a cargo of slaves on some part of the coast; and it was the intention of Captain Paget to prosecute his prize, for a breach of the 1st Additional Article to the Portuguese Convention, signed at Lisbon the 15th day of March, 1823.

Immediately after capture the "*Opposiçao*" was taken into the port of Havana; and the case was submitted, with the vessel's papers, for the consideration of Her Majesty's Commissary Judge at that place; who thereupon gave a written opinion, which Lord Clarence Paget considers "rendered it impossible for him to pursue any other course than that of sending the vessel to Sierra Leone." Mr. Kennedy's opinion is in the following words:—

"Havana, 29th April, 1838.

"In the case of the '*Opposiçao*,' Portuguese schooner, brought into this harbour yesterday by Her Majesty's sloop 'Pearl,' understanding that, though no slaves were actually found on board, yet that all the circumstances which attend the fact of her having very recently landed a cargo of slaves, were so strongly existing as to leave no reasonable doubt of slaves having been put on board in this particular voyage, I should have no hesitation in giving a decision for condemnation, in accordance with the Additional Articles of the 15th of March, 1823. But, as the construction of what may be required under the words, or what may be considered clear and undeniable proof of slaves having been put on board for the purpose of illegal traffic, may very probably be different with different persons, I should wish it to be understood, that I would put on them a construction the strictest for the putting down of the Slave Trade, where there can be no question of the actual guilt; and of this I feel assured, that any officer acting honestly and zealously will be supported by Her Majesty's Government.

(Signed)

J. KENNEDY."

It is much to be regretted that this case was not adjudicated in the British and Spanish Mixed Court of Justice established at Havana, rather than in that established here, whereby much expense, inconvenience, and loss of time would have been spared to the captors; and the reasoning of Mr. Kennedy would, of course, have been equally applicable to the case of a vessel captured under the explanatory article to the Spanish Treaty of 1817, which was signed at Madrid on the 10th of December, 1822, because in both cases the same words and expressions are used. We do not feel called upon to admit or to deny the correctness of the opinion, which Mr. Kennedy has here expressed; as the only grounds on which the "*Opposiçao*" was ultimately prosecuted, and condemned in this place were:— First, that the Spanish character, with which the detained vessel and the owners had been invested, by employment in Spanish Trade, and a domicile in a Spanish port, had brought the case within the reach of the Spanish Treaty. Secondly, that there was an unquestionable equipment for the illicit Slave Trade, evidenced by the presence of almost every article enumerated in the Spanish Treaty, as indicative of an employment in that trade.

A prosecution, it is true, was commenced by the captor's proctor against the "*Opposiçao*" in the British and Portuguese Court of Mixed Commission; but the case was subsequently transferred, on petition, to the British and Spanish Mixed Court of Justice, when it was found by the learned gentleman, that a Spanish national character could be clearly affixed to the adventure, in which the detained vessel was engaged at the time of her capture; and that, taking into account the circumstances and correspondence, which preceded and accompanied the publication of the 1st Additional Article to the Portuguese Convention, some doubt might possibly be entertained by the Judges of the British and Portuguese Court, whether the article in question would authorise the capture of vessels, which had completely effected the object of their voyage by the final disembarkation of their slaves at their appointed destination; or of such vessels only as had "put their slaves momentarily on shore, immediately prior to their being visited by ships of war," with the object of re-embarking those slaves at a favourable opportunity; and "*thus* finding means to evade forfeiture, and to pursue their unlawful course with impunity."

Upon these points, we repeat, the Court was not called upon in the present case to decide; as the condemnation of the "*Opposiçao*" was claimed by the captor's proctor, merely on the ground of the violation of the equipment article of the Spanish Treaty.

After leaving Havana, the "*Opposiçao*" was carried by the captor to Bermuda, where she underwent such repairs as were necessary to enable her to prosecute a voyage to Sierra Leone; and she reached this place on the morning of the 6th ultimo, under the charge of Mr. Donald McLeod Mackenzie, senior Mate of Her Majesty's sloop "Pearl," and having on board the Captain, Boatswain, and Cook, as witnesses.

The case, on the following day, came regularly before the British and Portuguese Court, at the instance of the captors; the ship's papers and the seizer's Declaration having been filed, the monition sent forth, and the evidence directed to be taken.

The following is the substance of the Captor's Declaration:—"I, Clarence Edward Paget, Commander of Her Majesty's sloop 'Pearl,' do hereby declare that, on the 25th day of April, 1838, in latitude 23° 55' North, longitude 84° 47' West, I fell in with and detained, whilst sailing under Portuguese colours, the schooner '*Opposiçao*,' with a crew list containing the names of twenty-three individuals, including Joao Rodriguez, the master, of whom there was found on board, at the time of detention, only nine, whose names, as declared by them respectively, are given in the annexed list. Joao Rodriguez, the Master, declared that the '*Opposiçao*' was from St. Paul de Loando, bound to Havana. Upon a strict examination of the vessel's hold, she was found to betray such evident indication of having very recently discharged a cargo of negroes, that I have considered it my duty to send her for trial, as a vessel engaged in the illicit traffic in slaves."

The "*Opposiçao*" was shortly afterwards withdrawn from the Court in which she was at first libelled, and a petition from the captor's proctor prayed, that an affidavit of the Prize Officer, authenticating the papers and verifying the facts of seizure, might be received and filed in the British and Spanish Mixed Court of Justice; that a monition might issue, returnable into the registry of that Court; that the evidence taken before the British and Portuguese Court of Mixed Com-

mission might be admitted on behalf of the captor, as evidence in the new prosecution ; and that a commission of survey and inspection might be issued to the surveyors of the Court, for the purpose of ascertaining the nature of the outfit and equipment of the detained vessel.

The affidavit of the Prize Officer is as follows :—

“ In the British and Spanish Mixed Court of Justice, Colony of Sierra Leone.

“ Our Sovereign Lady the Queen against the schooner ‘ *Opposicao*,’ Joao Rodriguez, Master, her tackle, apparel, and furniture, the goods, wares, merchandise, and stores on board the same, taken by Her Majesty’s sloop-of-war ‘ Pearl,’ Lord Clarence Edward Paget, Commander, and brought to Sierra Leone.

“ Appeared personally Donald McLeod Mackenzie, Mate of Her Majesty’s sloop-of-war ‘ Pearl,’ Lord Edward Clarence Paget, Commander, duly authorized and empowered, according to the provisions of the Treaty between His late Britannic Majesty and the Queen Regent of Spain, signed at Madrid on the 28th of June, 1835, to make seizures of vessels belonging to the subjects of Spain engaged in the Slave Trade ; and the said Donald McLeod Mackenzie, being duly sworn, maketh oath, that on the 25th day of April last, being in latitude 23° 55’ North, and longitude 84° 47’ West, the said Lord Clarence Edward Paget seized and detained the schooner or vessel called ‘ *Opposicao*,’ whereof Joao Rodriguez was Master, by reason that the said schooner was employed in and equipped for the Slave Trade, contrary to the said Treaty ; and the deponent further maketh oath, that the papers, writings, and documents hereunto annexed, marked from No. 1 to 5 inclusive, were given to this deponent by the said Captain Paget, who received the same from the boarding officer, to whom they had been delivered by the master of said schooner ; and that the same are now brought and delivered up, in the same plight and condition as when so received by this deponent, without any fraud, addition, subduction, alteration, or embezzlement whatever, save the numbering and marking thereof.

(Signed) “ DONALD M. MACKENZIE.”

“ On the 9th day of August, 1838, the said Donald McLeod Mackenzie was duly sworn to the truth of this affidavit.

(Signed) “ Before me,
“ M. L. MELVILLE, *Registrar.*”

“ *Schedule of Papers.*

- “ No. 1. Passport.
2. Muster-roll.
3. Clearance of Havana.
4. Bill of Sale.
5. Log Book.”

From the report of the Surveyors as to the equipment of the “ *Opposicao*,” we found, that there were on board, hatches with open gratings, and grated scuttles, evidently intended for giving air to slaves ; a large quantity of planks, also beams, and clamps fitted for beams, sufficient for a slave deck ; six shackles, and a long bolt ; a large number of leaguers, capable of containing between nine and ten thousand gallons of water ; twenty-five large mess tins, a large quantity of mess pannikins, and other tin vessels of different sizes, three boilers of an unusual size, and distinct from the cabouse, which is fitted for four boilers, and capable of cooking for three hundred people.

From the examinations taken in the case, the following summary is made :—Joao Rodriguez, the Master of the “ *Opposicao*,” deposed “ that he was born in Lisbon, and has always lived there ; that he has never served any State but Portugal ; that he appointed himself to the command of the vessel (being part owner of her) about ten months since, at Havana ; that possession of the vessel was given to him there and then by Felipe Rodriguez, the former Master, a Spaniard, from whom witness purchased the vessel ; that he does not know where the said Felipe Rodriguez resides, for though of the same name, he is not related to witness ; that witness first saw the vessel at Havana about ten months ago ; that she is Spanish built ; that he was present at the time of seizure ; that the vessel was, at the time, sailing under

Portuguese colours, and had no others; that the vessel is one hundred and sixty tons burthen, and had originally a crew of about seventeen officers and mariners, all hired and shipped at Havana by witness, nine months since; that there was no cargo on board at the time of capture; that witness has a half share in the vessel; that no other person of the officers or mariners had any interest in the vessel or cargo; that the voyage began, and was to have ended, at Havana; that Havana was the last and only clearing port; that the vessel cleared at Havana for St. Paul de Loando, but went into the Rio Congo, where his people falling sick, he was detained for two months and eight days, and having endeavoured to trade with the natives for palm oil and ivory, had his factory plundered of all his goods; and several of his people having died, he judged it better to return to Havana; that the capturing vessel was first seen off Cape St. Antonio, Island of Cuba, about 6 A. M. of the 25th of April last; that witness' vessel was steering for Havana at the time; that witness is himself half owner of the vessel, and José Morales, a Brazilian by birth and allegiance, is the proprietor of the other half; that Morales has always resided at Bahia, where he keeps a wine and rum store; that a bill of sale was made at Havana in September last by Felipe Rodriguez to witness' father, Francisco Cardozo Rodriguez, a Portuguese, and to the before-named Morales; that witness was not present when the bill of sale was executed, and does not know the names of the subscribing witnesses, or who were the former owners, or whether Felipe Rodriguez was the owner or not, or what was the exact price of the vessel; that witness believes that the price was about 6500 dollars, all paid in cash at the time; that the cargo shipped at the Havana was the joint property of witness and Morales; that there is no cargo on board at present; that no slaves were taken on board during any part of the voyage; that, after capture, the vessel was taken first to Havana, thence to Bermuda, and from that place to Sierra Leone; that the papers found on board were and are all true and fair; that the vessel was under witness's management with regard to her trade; that witness corresponds with his partner Morales in regard to her concerns."

Antonio Munhos, the boatswain of the "*Opposiçao*," deposed "that himself, the first and second mates, and two seamen, were Spaniards; that the rest of the crew were Portuguese, but all hired and shipped in Havana." In all other respects this witness corroborated the Master's testimony.

Publication of the above evidence having been decreed, and a day of trial prayed for, the case was finally adjudicated on the 13th instant.

The equipment of the "*Opposiçao*" for the Slave Trade having been clearly proved, it only remained to consider, whether or not she could be considered as a Spanish vessel.

"That the national character of a merchant is to be taken from the place of his residence, and of his mercantile establishment, and not from the place of his birth," was declared by Her Majesty's Government to be "an established rule of the law of nations."—See Class A, 1834, p. 147.

Guided by this principle, the court decided, in the present case, that the owner of the "*Opposiçao*" must be deemed a Spanish merchant, with respect at least to the particular adventure, in the prosecution of which that vessel was detained; that the trade in which the "*Opposiçao*" was employed was, from the beginning to the end of her voyage, essentially Spanish, conducted in a great measure by Spanish officers, and the returns made to the same Spanish port, from which the outward cargo was shipped.

Whether we refer to the official papers with which the "*Opposiçao*" cleared out from Havana, or to the evidence of the Master, Joao Rodriguez, we meet with abundant reasons for considering the "*Opposiçao*" as a Spanish vessel.

An endorsement on the Portuguese passport, received by the original owner from the Governor-General of Angola, on the 4th of May, 1834, is made by the Portuguese Consul at Havana, on the 27th of September last, certifying that the present master was on that day appointed to command the "*Opposiçao*," by Manoel Cardozo, who had, by purchase, become the owner of the schooner a few days before. On the 20th of the same month, the bill of sale, certified by the same Portuguese Consul, declares that the before-named Cardozo, the purchaser of the detained vessel, was "*a merchant resident at the Havana.*" The Master swears "that all the papers of the vessel were and are true and fair."

Applying then to these circumstances the rule laid down for our guidance by His Majesty's Government, (Class B, 1835, p. 75,) the Court was of opinion, "that the owner of the ("*Opposiçao*,") by his residence and employment in

(*Havana*.) has, for commercial purposes, divested himself of his original national character, and that he has become a (Spaniard) in all matters appertaining to commerce, and has made himself amenable to the same tribunals, to which he would have been amenable, if he had been a natural-born subject of (Spain); the afore-said owner having, by his own act, become a (Spanish) subject, must be presumed to have given a tacit assent to the commercial regulations of (Spain), whether founded upon Treaties or otherwise, and cannot be allowed to claim any privileges or exemptions, beyond those to which natural-born subjects of (Spain) are entitled."

It was accordingly decided by the Court, that the "*Opposiçao*" was brought, as a Spanish vessel, within the operation of the Spanish Treaty; that unquestionable proof had been afforded of her being, at the time of her seizure, equipped in a manner prohibited by the 10th Article of the Treaty of the 28th of June, 1835; and that the said schooner, her cargo and furniture, be condemned as good prize to the Crowns of Great Britain and Spain.

It may here be asked, why the Captor should have been allowed, in this instance alone, to prosecute the "*Opposiçao*" as Spanish, when almost every vessel, which has lately come before the British and Portuguese Court of Mixed Commission, might with equal reason be considered to possess a Spanish character? We reply, that it is entirely optional with the Captor to prosecute his prize, either in her real or assumed character. If, under the character which she has fraudulently assumed, condemnation is certain, the Captor is not obliged to go out of his way to prove the perjury of his own witnesses, and to seek for new, and perhaps doubtful, sources of accusation, when ample grounds of condemnation already exist in the admissions of the party accused. In the case of the "*Fortuna*," (1 Dodson, p. 87,) Sir William Scott observes:—"The opinion of the Court respecting the effect of flag and pass is this—that the party who takes the benefit of them *is himself bound by them*; he is not at liberty, when they happen to turn to his disadvantage, to turn round and deny the character which he has worn for his own benefit, and upon the credit of his own oaths and solemn declarations; but *they do not bind other parties as against him*; other parties are at liberty to show that these are spurious credentials, assumed for the purpose of disguising the real character of the vessel." So also do we consider, that when a slave vessel is captured under such circumstances as would lead to her condemnation, whether prosecuted in the Portuguese or the Spanish Mixed Court, it is competent for the Captor and for the Court to receive her in the character which she by her papers professes to bear, and to save themselves the trouble of proving the falsehood of her pretensions.

(Signed)

H. W. MACAULAY.
R. DOHERTY.*Sierra Leone, August 15, 1838.*

No. 7.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, February 16th, 1839.

I HEREWITH send to you, for your information, copies of two Despatches from Her Majesty's Commissioners at the Havana, containing reports of the arrivals of slave-vessels at the Havana, and of the departure of slave-vessels from that port, during the months of October and November, 1838.

I am, &c.

(Signed)

PALMERSTON.

Her Majesty's Commissioners,
&c. &c.

First Enclosure in No. 7.

Havana Commissioners, November 23, 1838.

(See First Series, Class A., No. 94, p. 133.)

Second Enclosure in No. 7.

Havana Commissioners, December 24, 1838.

(See No. 38, page 101)

No. 8.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, February 23rd, 1839.

I HEREWITH send to you, for your information, a copy of a Despatch from Her Majesty's Commissioners at the Havana, containing a report of the arrivals of slave-vessels at the Havana, and of the departure of slave-vessels from that port, during the month of December, 1838.

I am, &c.

(Signed)

PALMERSTON.

Her Majesty's Commissioners,
&c. &c.

Enclosure in No. 8.

Havana Commissioners, January 17, 1839.

(See No. 42, page 108.)

No. 9.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, February 23rd, 1839.

I HEREWITH transmit to you, for your information, a copy of a Despatch, and of its enclosures, which I have received from Her Majesty's Commissioners at the Havana, containing a report of the state of the Slave Trade in Cuba, during the year 1838.

I am, &c.

(Signed)

PALMERSTON.

Her Majesty's Commissioners,
&c. &c.

Enclosure in No. 9.

Havana Commissioners, January 1, 1839.

(See No. 41, page 103.)

No. 10.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 1, 1839.)

MY LORD,

Sierra Leone, October 20th, 1838.

WE have the honour to enclose herein to your Lordship our Report of the case of the brig "*Diligente*," Miguel Sierra, master, condemned on the 12th instant, in the British and Spanish Mixed Court of Justice, for being equipped for the illegal traffic in slaves; also, Copy of the Judgment which was pronounced by the Court on that occasion.

The "*Diligente*" was captured by Her Majesty's brig "*Brisk*," whilst under Portuguese colours, and furnished with Portuguese papers from the Portuguese Consul-General at Cadiz, who, in this instance, seems to have been at no pains to conceal the disgraceful part, which he took in protecting a slave-trading adventure, in violation of the laws of his own country, and of that in which he was an accredited Agent.

The "*Diligente*" was condemned at Sierra Leone on the 2nd of March, 1837, and was subsequently purchased at this place by Miguel Bertinote, who carried her in the first instance to Havana, and afterwards to Old Spain, where he arrived at the latter end of the same year. At Cadiz a pretended transfer of the vessel was effected, and a Bill of Sale was made by Bertinote to the agent of Francisco Cardozo de Mello, of the Cape de Verd Islands. The "*Diligente*" then left Spain for the Coast of Africa, fitted in every respect for the Slave Trade, and with Bertinote still on board.

The Bill of Sale is dated on the 2nd of January, 1837, and the Passport and Muster-roll of the crew on the 5th of the same month. These papers were prepared in the Office of the Consul-General Machado, and are attested by his seal

and signature; but all the witnesses examined in the case were compelled to admit their falsehood. The Captain and Mate declare, that they did not join the vessel until eighteen months after the date of the Matricula, in which their names are inserted; and Bertinote declares (what indeed is within our own knowledge) that he did not purchase the vessel at Sierra Leone, for some months after he is stated to have sold her at Cadiz. The object of ante-dating these papers on the 2nd and 5th of January, 1837, was evidently to escape from the operation of the Portuguese Commercial Decree, which took effect a few days afterwards. But Machado has himself furnished sufficient evidence of the fraud which he committed; for the Manifest signed by the Captain, Sierra, and to which the seal and signature of the Consul are likewise attached, is dated by him in June, 1838; and he thus overlooked the absurdity of declaring, as he does in effect, that a crew of 38 men were hired and shipped at Cadiz, 18 months before the vessel sailed from that Port.

It was urged in argument for the claimant, and Bertinote strongly pressed this view of the matter, that the mistake in date was a clerical one; that the year 1837 was inserted, by a common error at the commencement of a new year, instead of the year 1838; that the Bill of Sale was actually made on the 2nd of January, 1838, and not on the "2nd of January, 1837;" and that 1838 should be read for 1837 in the Passport and Matricula. But allowing for a moment the correctness of this explanation with regard to the *year*, the insertion of the *month* of "January, 1837," for that of June, 1838, cannot be accounted for in the same way; and it is positively sworn by the captain and mate, that they were not shipped until June, 1838, six months after the date (amended as proposed) of the Consul's certificate as to the correctness of the Muster-roll in which their names appear. Whether, therefore, the Matricula is to be taken as dated in January, 1837 or January, 1838, a gross fraud was committed in either case, even on the showing of the claimants themselves.

On these grounds the Portuguese papers were set aside as fraudulent and false; and the "*Diligente*" stood before the Court in her former Spanish character, the character which it was thus clumsily attempted to cover; and the equipment for the Slave Trade brought her within reach of the Tenth Article of Treaty with Spain.

Had the Portuguese papers of the "*Diligente*" not been so glaringly irregular and untrue, we should still have looked with great suspicion on the asserted change in the national character of a vessel, on board of which the former Spanish owner and master still continued, ostensibly in the character of a passenger, but really for the purpose of directing all the proceedings of the voyage. So little, indeed, was the person who figured as master conversant with the duties of his situation, that he declared his perfect ignorance of the nature and contents of the ship's Papers and Bill of Sale, or even of the name of the owner of the outward cargo.

No documents or clearances of any description, from the Custom-house or the Spanish authorities at Cadiz, have been produced; and no bond was taken that the large quantity of water-casks on board the "*Diligente*" should be employed in lawful trade. It would appear from this and other circumstances, as if the outward cargo had been smuggled on board without entry or clearance, the only articles named in the Manifest, signed by Machado, being a few iron-pots and some water-casks for ballast; whereas, according to the ship's log, the vessel was employed 14 days in the river Gallinas "*discharging her cargo*;" and tobacco, rum, powder, &c. were found on board of her at the time of her seizure.

The case of this vessel has received our fullest and most anxious consideration; and we earnestly hope that the judgment we felt it our duty to pronounce will meet with your Lordship's approval. But before your Lordship's opinion can reach us, it may be anticipated, that the promulgation of our sentence will lead to numerous seizures under similar circumstances.

We have, &c.
(Signed) H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

First Enclosure in No. 10.

Report of the case of the Spanish brig "Diligente," Miguel Sierra, Master.

The following papers were found on board this vessel at the time of her capture:—

1. A Passport from Manoel de Souza Machado, Portuguese Consul-General in Spain and the Canaries, resident at Cadiz, stating that the Portuguese brig called the "*Diligente*," commanded by Miguel Sierra, and owned by Francisco Cardozo de Mello, a native Portuguese, established in the Island of St. Jago, Cape Verd, was authorized to make a voyage to the said island, in order to obtain the necessary papers to enable her to sail as a Portuguese vessel. This document is signed by the Consul-General, and sealed with the consular seal at Cadiz, and is dated on the 5th of January, 1837.

2. A Manifest, with Bill of Lading attached, declaring that the cargo on board the "*Diligente*," consisted of 2000 iron-pots, and 69 water-casks of different sizes *for ballast*; that it was shipped by Don Gabriel Lopez to the order of F. C. de Mello, and was bound to Cape Verdes by way of the Gallinas. The Bill of Lading is without date, but the Manifest, which is certified by the signature of the Portuguese Consul, is dated on the 16th of June, 1838.

3. The Matricula, dated on the 5th of January, 1837, signed by the Captain, Sierra, and certified by the Portuguese Consul, declares the names and offices of 38 men, shipped as a crew at Cadiz on that date.

4. The Bill of Sale is dated at Cadiz on the 2nd of January, 1837, and is certified, like the other papers, by the Portuguese Consul-General. It declares that Miguel Bertinote, the owner of the Spanish brig "*Ferox Africano*," lying at Cadiz, sold that vessel to Francisco Cardozo de Mello, of the Cape de Verde Islands, through his empowered attorney at Cadiz, Don Gabriel Lopez, a merchant of that place.

5 and 6. There are also two Log-books, one kept in Spanish and the other in Portuguese, both concurring to show that the "*Diligente*" left Cadiz on the 30th of June last, and that she came direct to the river Gallinas, where she arrived on the 30th of July, and that, from that time, she continued discharging her outward cargo until the 12th of August; three days after which time she was captured.

From these papers it will be observed as very remarkable, that, whilst the Bill of Sale, the Provisional Passport, and the Muster-roll of crew are dated at Cadiz in January, 1837, the Manifest and Bill of Lading of the cargo, taken on board at the same place, and the Log-books of the voyage from that port to Gallinas, show that it was not until 18 months after the time pretended, that the Spanish schooner "*Ferox Africano*," took her departure for this coast, under the new name of "*Diligente*," and carrying a Portuguese flag. This fact is still more clearly established, by the admissions of the real owner of the vessel, and by the evidence which has been collected respecting her, and furnishes another proof of the shameless manner in which the Portuguese Consul-General, Machado, prostitutes his office to the protection of an illicit trade. The object to be answered in the present case by certifying that the sale of the "*Diligente*" took place on the 2nd of January, 1837, appears to have been to escape from the operation of the Portuguese Decree of the 16th of January, 1837; and so determined was Machado to lend the support of his official situation to forward this fraudulent purpose, that he altogether overlooked the absurdity of declaring, that the captain and crew of the "*Diligente*," consisting of 38 persons, were hired and shipped at Cadiz 18 months before their vessel left that port; and that all the cargo which was taken on board during that long interval, consisted only of 2000 iron-pots (a great article of trade on this coast) and 69 water-casks of different sizes *for ballast*.

The "*Diligente*" appears to have received no papers whatever from the Custom-house at Cadiz; but it is impossible to conceive that a vessel of her size and appearance could have taken on board so large a number of water-casks, and such a complete and extensive slave-trading equipment, as she brought out to the coast, without the knowledge and connivance both of the Spanish authorities and of the Consular Agent of Portugal. And it is not to be wondered at, that protection should be openly afforded to contraband Slave Trade in Cuba, when such a disgraceful example is held out by the mother-country.

It will be observed from Paper No. 4, that the "*Diligente*" was formerly the Spanish schooner "*Ferox Africano*," and was ostensibly sold by her former owner

and master, Miguel Bertinote, to Don Gabriel Lopez, "a merchant resident at Cadiz," and the professed agent of Francisco Cardozo de Mello, of St. Jago de Praia. But passing by the purchaser at Cadiz,—who, it is to be hoped, will not go unpunished,—we will briefly state what we know of the "*Diligente*," and of the former character and pursuits of Bertinote.

The Portuguese brig "*Paquete de Cabo Verde*" was condemned at this place on the 2nd of March, 1837, and reported Class A. 1837, page 46. The former history of the vessel up to that date is related in the report referred to, and shows that although Francisco Cardozo de Mello had been put forward as owner, she was really the property of the slave-trading firm of Pedro Martinez and Company, of Havana. After condemnation, the "*Paquete de Cabo Verde*" was purchased by Mr. Lake, a merchant of this colony, and was subsequently sold by him to Miguel Bertinote. She was then cleared out for Havana under the same name, but under Spanish colours, and left this place for her destination on the 6th of April, 1837, arriving at Havana on the 15th of the following month. From Havana she was carried by Bertinote to Old Spain, and was navigated as a Spanish vessel, under the name of "*Feroz Africano*," until her pretended transfer at Cadiz to her former nominal owner, De Mello.

Miguel Bertinote has frequently been before the Courts. His name appears in the Muster-roll of the Spanish brigantine "*Christina*," condemned in the year 1829. He was also Master of the Spanish brigantine "*Clemente*," reported Class A. 1835, page 27, and which was condemned on the 29th of November, 1834. For about six months after that date Bertinote remained in this colony as the agent of Pedro Blanco, of the Gallinas; and on the 20th of June, 1835, he cleared out for the Cape de Verde Islands, in the Spanish brigantine "*El Manuel*," which he had purchased at this place. At Porto Praia, in the Island of St. Jago, Bertinote purchased Portuguese papers for his vessel, which he thenceforward called "*Vigilante*," and at the same time changed his own name to Manoel de Barros. The capture of the "*Vigilante*" brought him again before us; and in spite of the documentary proof found on board his vessel, of his being no other person than Miguel Bertinote, and although, from his previous long residence here, he was well known to every merchant in the colony, and to every person connected with the Courts, he had the impudence to swear that "his name was Manoel de Barros; that he was born in Algarve, in Portugal; has lived at St. Jago, Cape Verdes, for the last two years, and is not married; and that he had never served any state but Portugal." In the face of this solemn deposition he immediately afterwards resumed his true name of Miguel Bertinote, and as such purchased the Portuguese brig "*Paquete de Cabo Verde*," and entered her outwards for Havana as a Spanish vessel, under the command of himself as a Spanish subject. His consequent connexion with this vessel has been already mentioned; and even after she became the Portuguese brig "*Diligente*," he has still continued with her, having taken out a passport at Cadiz, as a passenger bound to the Gallinas and Havana, although the ship's papers named the Cape de Verde Islands as her destination.

With a slave-trading character thus strongly stamped on the "*Diligente*" by her former employment, she was met with in the Gallinas on the 15th of August by Her Majesty's brig "*Brisk*," Lieutenant Arthur Kellett commanding, and detained "for being engaged in, and equipped for, the Slave Trade." The arrival of the vessel off the harbour was reported by the Marshal on the 23rd of August, and on the 24th a prosecution was commenced against her in the British and Spanish Mixed Court of Justice. It is evident, that the Captor could only obtain the condemnation of his prize, taken as she was without any slaves on board, by setting aside the Portuguese character which the "*Diligente*" claimed to belong to her, and by fixing upon her some other national character, which would enable him to urge her confiscation on the ground of equipment for the Slave Trade. The sentence given by the Commissioners in the late case of the "*Opposicao*" was evidently that on which the Captor rested his hopes of success. In that case, however, the residence of the asserted Portuguese owner was declared, both in the evidence and in the ship's papers, to be at Havana; and it was not necessary to the acceptance and condemnation of the "*Opposicao*," as a Spanish vessel, to deny the correctness of her documents, or to disprove the testimony of the claimant. She was captured with slaving equipment on board; her owner confessedly resided at Havana; she was avowedly engaged in Spanish trade; and, applying to these facts the principle, "that the national character of a merchant is to be taken from the place of his residence and of his mercantile establishment, and not from the place

of his birth," we condemned the "*Opposiçao*" as a Spanish vessel for a violation of Spanish law. In the case of the "*Diligente*," on the contrary, the papers proclaimed the owner to be a resident merchant of the Cape de Verde Islands, and the voyage to be intended to end at the same place. It was therefore incumbent on the Captor to prove the falsehood of these averments, and to show that the ownership and employment of the vessel were really Spanish.

On the 24th of August the declaration of the Captor, and his affidavit, authenticating the "*Diligente's*" papers, were received and filed; the usual monition was published; the witnesses in preparatory were ordered to be produced for examination; and a commission was issued to the Surveyors of the Court, to inspect and report upon the nature of the outfit and equipment of the detained vessel, particularly with regard to the Tenth Article of the Spanish Treaty.

Miguel Sierra, the Master, deposed "That he was born at Coimbra, in Portugal; has lived at Cadiz for the last fifteen years; is a subject of Portugal, and has never served any other state; that he was appointed to the command of the detained vessel, and possession of her was given to him, at Cadiz, in June last, by Gabriel Lopez, a resident of that city, and, witness believes, a Portuguese subject; that he first saw the vessel there and then, and does not know where she was built; that he was present at the time of capture; that the vessel was sailing under Portuguese colours at the time, and had no others; that the vessel has never borne any other name than "*Diligente*," to witness's knowledge; that she is about 200 tons burthen, and had a crew of thirty-four or thirty-five men, all hired and shipped at Cadiz before witness joined the vessel; that neither he nor any of the officers and mariners had any interest in the vessel or her cargo; that he was Master on board; that there was one passenger, Miguel Bertinote by name, a Spaniard, a seaman by profession, who had a passport from Cadiz, but witness does not know on what business he came to the coast; that the said Bertinote had no authority on board, or interest in the vessel or cargo; that the last clearing port was Cadiz, where the present voyage, which was to end at Cape Verdes, commenced; that the vessel proceeded direct from Cadiz to Gallinas; that the capturing vessel was first seen in the river Gallinas on the 15th of August, and capture took place there and then, the vessel being at anchor; that the owner of the vessel is Don Francisco Cardozo de Mello, a Portuguese by birth and allegiance, and a resident of St. Jago, Cape Verdes; that witness does not know whether there was any bill of sale to the aforesaid owner; that he has never seen such a document; that he does not know to whom the cargo belongs; that he was instructed by Lopez, the consignee of the vessel at Cadiz, to dispose of the cargo at Gallinas, and then to take the vessel to St. Jago, and deliver her up to De Mello; that witness believes the cargo, if restored, will belong either to Lopez or De Mello, but he does not know to which of them; that he knows nothing of the former voyage of the vessel; that the cargo shipped on the present voyage was staves (in shakes), iron pots, and rice; that the cargo now on board consists of tobacco, rum, and powder, procured at Gallinas in barter for the cargo brought from Cadiz; that the papers found on board the vessel were and are all true and fair; that no slave has been put or received on board at any time during the present voyage, for the purpose of the traffic in slaves; that there are thirty-five or thirty-six pieces of plank of different lengths and thickness on board, not numbered or fitted to any part of the vessel, but intended for necessary repairs; that there are six or seven shackles on board, but they are intended for the anchor and rigging chains, and for no other purpose; that there are nine pipes and fourteen barrels on board, but not capable of containing more water than would be requisite for the crew for three months; that the pipes were filled with fresh water, the barrels with salt water."

Francisco Sierra, Mate of the detained vessel, and brother of the former witness, was also examined on the same day. He deposed "That he first saw the "*Diligente*" at Cadiz in June last; that the crew of the vessel consisted of thirty-six officers and mariners, exclusive of the Master, who were all hired and shipped at Cadiz, and were all on board when witness joined the vessel in June last; that the vessel was fourteen days discharging her cargo at Gallinas before she was captured; that he knows nothing of any bill of sale, or the price of the said vessel."

In the report made by the Surveyors respecting the "*Diligente's*" equipment, they state—"We found the hatches close, but there is an addition to the main-hatchway, both at the fore and after part, which is evidently intended to be taken up as occasion might require, that part being more new, and the curlings intended apparently to unship. We found a large quantity of planks (about 1500 feet)

and beams, secreted under the sand by the kelson, also a new beam, nailed on the fore bulk-head in addition to the old one, and corresponding with a strong beam abaft it, the ship's sides being regularly marked for receiving beams. We found sundry pieces of short wood notched, and apparently intended for cleats for laying the slave-deck. We found two double bolts and shackles. We found between 2000 and 3000 gallons of water on board, also 7 large leaguers and 27 hogsheads, capable of containing about 3000 gallons, a much greater quantity than requisite for a merchant vessel of her class. We found 35 mess kids or buckets, also a quantity of wooden spoons and dishes, evidently intended for the use of slaves. We found the coppers of a very unusual size, and we consider them sufficiently large to provide food for at least 300 people. We found a large quantity of rice, beans, calavances, and farina, also an immoderate quantity of salt provisions secreted under the sand."

The monition issued on the 24th was returned on the 31st of August, bearing the certificate of the Marshal that it had been duly served; and on the same day a petition, for the admission of a claim, which had been granted on the 29th, was filed in the Registry.

The claim of Miguel Sierra, the Master of the "*Diligente*," was in the usual form; and was supported by an affidavit, in which both vessel and cargo are sworn to be the sole property of Francisco Cardozo de Mello.

The examination of witnesses on interrogatories prepared by the claimant's Proctor elicited no new facts of any importance. Miguel Bertinote, the passenger, deposed, "that he was present when the Portuguese Consul-General at Cadiz signed the bill of sale amongst the ship's papers; that he imagines the year "1837" has been inserted in the bill of sale through the mistake of the clerk who wrote it; that the brig "*Ferox Africano*" was much in want of repair when she arrived at Cadiz, and witness sold her there, because he did not choose to be at the expense of repairing her."

The evidence obtained by the Captor's Proctor from the Master and Mate of the "*Diligente*," and from Bertinote the passenger, was of more importance; but owing to the protracted illness of the last-named witness, his examination could not be taken until the 28th ultimo.

The Master deposed, "That his reason for believing Don Francisco Cardozo de Mello to be the owner of the vessel was, his having been so informed by Don Gabriel Lopez, the consignee at Cadiz; that his reason for stating, in his first examination, that he did not know who was the owner of the cargo, and for having afterwards stated in his claim, that De Mello was the sole owner of both vessel and cargo, was because, on further consideration, he had come to this conclusion; that he cannot account for the vessel's papers being dated in January 1837, as he did not join her until the month of June, 1838, six days before her sailing from Cadiz; that witness received no paper or clearance from the Spanish authorities at Cadiz; that no bond was taken or required from witness at Cadiz, either by the Spanish Custom-house or by the Portuguese Consul, that the leaguers shipped on board should be employed in lawful trade; that the signature "Miguel Sierra" to the Muster-roll No. 3 is in witness's handwriting, and was affixed by witness three or four days before he sailed from Cadiz in June last; that witness supposes the date, "5th of January, 1837," must be a mistake, but witness did not observe at the time he signed the paper that it was dated incorrectly; that witness did not keep, and therefore cannot produce, any accounts whatever of the disposal of the outward cargo of iron pots in barter for the tobacco, rum, &c., now on board; that he did not consider those goods of sufficient importance to require accounts; but he holds himself responsible to Francisco Cardozo de Mello for his mercantile transactions."

The Mate, Francisco Sierra, deposed, "That he was on board the "*Diligente*" only three days before she sailed from Cadiz in June last; that the reason why the Log-books Nos. 5 and 6 mention the *discharging* of the outward cargo at the Gallinas, and not the shipment of the goods now on board, was owing to bad weather, which rendered it difficult to take a particular account of the articles received; that witness does not know from what person in Gallinas the goods now on board were received."

Miguel Bertinote, who was throughout a most unwilling witness, deposed "That he was born in Cadiz, and lives there; that he resides sometimes at Havana; that he is a subject of Spain, and never served any other State; that he left Sierra Leone in April, 1837, in a vessel of his own, called the "*Paquete de Cabo Verde*," under Spanish colours, bound to Havana; that the said vessel arrived at Havana in the middle of May, 1837, and afterwards went on a trading voyage to different

ports in Spain; that the seller's signature attached to the bill of sale of the "*Diligente*" is in his own writing; that the "*Paquete de Cabo Verde*," the "*Feroz Africano*," and the "*Diligente*," are one and the same vessel, which was sold by witness to Don Gabriel Lopez at Cadiz, about the 2nd or 3rd of January, 1838; that the name of "*Feroz Africano*" was given to the brig when she exchanged her English papers for Spanish ones at Havana; that the said vessel had no other name or names between May, 1837 and January, 1838; that although his passport from Cadiz was for Gallinas and Havana, it was not intended that the vessel in which he took his passage should go to Havana after leaving the Gallinas."

When these examinations had been concluded, a joint petition from the Proctors of the Captor and Claimant prayed a day of trial, which was fixed for the 4th instant, and then, by adjournment, for the 12th instant, on which latter day the judgment of the Court was pronounced on the case at great length. A copy of the judgment being annexed, it will not be necessary here to repeat all the grounds on which a sentence of condemnation was founded. The Portuguese papers of the vessel were set aside, on account of their evident and admitted falsehood; her former Spanish character consequently reverted; and her equipment for the Slave Trade brought her within the reach of the Tenth Article of the Spanish Treaty. The "*Diligente*" was accordingly condemned, as good and lawful prize to the Crowns of Great Britain and Spain.

Sierra Leone, October 12th, 1838.

H. W. MACAULAY.
R. DOHERTY.

Second Enclosure in No. 10.

Judgment given in the case of the Spanish brig "Diligente," Miguel Sierra, Master.

In the present case, and in two other corresponding cases, the Court has been called upon by the Proctor for the Captors to affirm the principle, "that the national character of a merchant is to be taken from the place of his residence, and of his mercantile establishment, and not from the place of his birth."

That principle was first brought prominently under the notice of Her Majesty's Commissioners on the 10th of November 1834 (Class A 1834, page 56 and page 147); and it was acted upon by the British and Brazilian Court of Mixed Commission, in the "*Incomprehensivel*," (Class A 1837, 1st Series page 74), and by the British and Spanish Mixed Court of Justice, in the late instance of the "*Opposicao*."

The present case may, therefore, be looked upon as concluded by previous decisions. It is however due, as an act of courtesy, to Claimants, who have now for the first time had an opportunity of contesting the justice of those decisions, particularly with regard to Spanish vessels; and it is due to the diligence and ability displayed by the Captor's Proctor, in maintaining the cause of his clients, that we should examine the question more closely than has been hitherto done.

It is unnecessary, as it would be puerile at this time of day, to quote on such a subject the opinions of Grotius, Puffendorf, and Vattel, the most modern of whom wrote at a time when the commerce of European states was yet in comparative infancy, and when the commerce of America, now so extensive, can scarcely be said to have had an existence. It is sufficient, therefore, to remark, that the authority of these writers, as far as it goes, is, if not directly confirmatory of, certainly not opposed to, the now generally received interpretation of the law of nations, with respect to domicile and national character.

From these earlier authors we turn with pleasure to the judgments delivered in the High Court of Admiralty by Sir William Scott; judgments extending over more than a quarter of a century, embracing a most eventful period of naval warfare, and by which the maritime law of nations, formerly so doubtful and inconsistent, has been moulded into a just and harmonious system.

It has been urged by the claimant's proctor, that it is unfair in the opposing counsel to apply to seizures, made under a Treaty in time of peace, rules and precedents drawn from the proceedings of Her Majesty's ships, and of commissioned cruisers, in time of war. We are far from being of the same opinion. The right to search and detain the merchant vessels of a friendly Power, which, in time of war, belongs to a belligerent by the law of nations, has been granted by Portugal and Spain, in solemn treaties, in time of peace. And the analogy is so strong be-

tween the case of the neutral vessel captured, during war, on suspicion of enemy's interests being concerned in the ship or cargo; and the case of a vessel, ostensibly Portuguese, detained under the Slave Trade Treaty with Spain, on the ground that she is really the property of Spaniards, and employed in carrying on their trade; that we think a justification is hardly required, for applying the same principles to circumstances so nearly similar. In both cases a flag and pass are fraudulently assumed to conceal the real character of a trade which, if discovered, would lead to the confiscation of the property embarked in it; the same arts are resorted to in both cases; nominal transfers are effected; men of straw are substituted for real owners; false instructions and false log-books are manufactured; false muster-rolls and bills of sale are presented and sworn to as true; and the acuteness of counsel, and the impartial judgment of a Court, are equally required to detect the latent fraud.

It will not, we are sure, be considered necessary by the legal gentlemen, that we should point out all the cases (too numerous to mention) in which our Maritime Courts have recognized the principle, "that the national character of a merchant is to be taken from the place of his residence, and of his mercantile establishment." We shall therefore content ourselves with quoting two or three, out of the many strong passages, in which that principle is broadly maintained.

In the case of the "*Indian Chief*," 3, Robinson, p. 18, Sir William Scott says: "No position is more established than this, that if a person goes into another country, and engages in trade, and resides there, he is, by the law of nations, to be considered as a merchant of that country."

In the case of the "*Matchless*," 1. Haggard, p. 103, the same learned and excellent judge, then Lord Stowell, remarks: "It has been laid down by accredited writers on general law, and upon grounds apparently not unreasonable, that if a merchant expatriates himself as a merchant, to carry on the trade of another country, exporting its produce, paying its taxes, employing its people, and expending his spirit, his industry, and his capital in its service, he is to be deemed a merchant of that country."

In the case of the "*Nancy*," tried in the Vice-Admiralty Court at Halifax, where a similar judgment was given, in regard to the national character of the claimant, Dr. Croke, the Learned Judge of that Court, stated (see Stewart's Reports, p. 62), "If a British-born subject resides, and carries on his traffic, in a foreign country, the British Empire derives no benefit whatever from his capital, his labour, and his industry. The profits all flow to the country of his domicile. The mere place of his birth is perfectly immaterial. Every benefit which a country derives from a man, as a subject, depends upon the place of his residence."

Such is the general rule with regard to mercantile residence, and its effect on national character. The rule, however, has been modified and restricted in some respects, and, in some respects it has even been extended; and we shall now proceed to notice one, and that the principal, circumstance, by which the effect of mere residence is qualified and restrained, leaving other minor circumstances and points of distinction to be considered, as they present themselves, in each particular case.

It is to be observed, then, that the national character may be determined by the *intention* with which a residence is taken up and continued. For instance, residence may be occasioned by a design of engaging in the trade of the country; or it may be encountered, for the purpose of removing property from it, and of putting an end to all connection with it; thus, an Englishman, to whom the share of a partner in a mercantile house in America has been left by will, might visit that country, with the sole object of removing the property of which he had become possessed. In the former case, a national character would be acquired by voluntary residence, but not in the latter case, where residence has been taken up only for a special and temporary purpose. In all such cases, however, the claimant is bound to show that there was a real *animus revertendi* on his part (See 1 Robinson, p. 103). The claimant "must explain the circumstances of his residence; the presumption arising from his residence is, that he is there *animo manendi*: it lies on him to explain it."

It is further necessary that the claimant should bring, in aid of his asserted intention of removing, some proof that he had actually taken measures to withdraw himself, and that some overt act with that object had been performed (see 5 Robinson, p. 280). "A mere intention to remove has never been held sufficient without some overt act. Something more than a mere verbal declaration, some solid fact, showing that the party is in the act of withdrawing, has always been held necessary in such cases."

It will not be difficult to prove, by a reference to numerous authorities, the effect which intention, thus ascertained and established, has always been allowed to have in determining national character; but, as before, we will quote only two or three strong cases which immediately occur to us, in support of this view of the subject.

In the case of the "*Diana*" (5 Robinson, p. 60—67), the property of two descriptions of persons was adjudicated by the Court; the property of those, in whose favour an intention of removing was established, being restored, whilst a sentence of condemnation was passed on the property of those by whom no such intention was manifested.

In the case of the "*Boedes Lust*" (5 Robinson, p. 247), Sir William Scott says:—"In the case of Mr. Whitehead, who had but just set his foot in the colony of an enemy for a few hours, but was proved to have gone there for the purpose of settling, his property was condemned, although, at the time of adjudication, he had again become a British subject, by the surrender of the enemy's colony to the British forces." The inference drawn from this decision by Sir William Scott himself, will be found in the case of the "*Diana*" (5 Robinson, p. 60), where it is laid down that short duration of residence, "mere recency of establishment, would not avail, if the intention of making a permanent residence was fully fixed upon the party."

In the case of "*Les Trois Frères*" (Stewart's Reports, p. 1), a Frenchman, who had been settled in America, was returning to France, but, having spoken an American brig, and been informed that war had been proclaimed between England and France, he altered his course, and, in the act of returning to America, was captured by a British cruizer. It was satisfactorily proved that the claimant had totally abandoned his intention of returning to France; and the decision of the Court respecting the national character of the claimant, that is, whether he was to be deemed an American or a Frenchman, was made to rest solely on the establishment of this fact; the Judge declaring (see page 8) that it was altogether "a question of intention."

We have been able to meet with one, and only one qualification, to diminish in any degree the powerful effect of a *bonâ fide* intention and purpose, in determining national character. In the case of the "*Harmony*," 2 Robinson, page 324, it is laid down by Sir William Scott, that the rule, "that a special purpose shall not fix a domicile, is not to be taken in an unqualified latitude, and without some respect had to the time which such a purpose may or shall occupy; for if the purpose be of a nature that may probably, or does actually, detain the person for a great length of time, I cannot but think a general residence might grow upon the special purpose. A special purpose may lead a man to a country, where it shall detain him the whole of his life. A man comes here to follow a law-suit; it may happen that it may last as long as himself. Some suits are famous in our judicial histories for having even outlived generations of suitors. I cannot but think that, against such a long residence, the plea of an original special purpose could not be averred. There is a time which will estop such a plea; no rule can fix the time *à priori*; but such a time there must be."

But even here, where the extreme case is supposed of an intention or special purpose being entertained, which requires a residence in a foreign country, during the ordinary period of a man's life, to procure its accomplishment, the obligation of the general rule can hardly be said to be impaired by such a doubtful and indefinite qualification as this: "There is a time which will estop a plea of special purpose. No rule can fix the time *à priori*; but such a time there must be."

For all practical purposes, then, it may be acknowledged, as an established rule of the law of nations, that the national character of a merchant is to be taken from the place of his residence; and that wherever an exemption from this rule is claimed, on the ground that residence has been taken up for temporary purposes, and with an intention of early and final removal, it lies on the claimant to prove the truth of his assertion.

It has been attempted by the Proctors to introduce a new qualification of this general rule. Our attention has been directed to Class A, Second Series, 1837, pages 33 and 93, and to Class B, Second Series, 1837, page 36, and more particularly to the following passage in a Despatch, addressed by Lord Palmerston to Her Majesty's Commissioners at Rio de Janeiro on the 30th of April last: "I have now to instruct you, that vessels owned by Brazilian subjects, or by Portuguese subjects resident in Brazil, and which shall be found carrying slaves for sale from Africa to Brazil, may, notwithstanding that they are

sailing under the Portuguese flag, be properly brought before the Court of which you are members, and may be condemned by that Court under the Treaty of the 23rd of November, 1826, between Great Britain and Brazil, for the suppression of the slave trade; *unless* such vessels shall have been built in a port belonging to the dominions of Portugal, or shall have borne the flag of Portugal, and no other, before the issue of the Decree of the 16th January, 1837; or unless they shall be steam-boats purchased within three years of the date of the Decree, and belonging to Portuguese subjects, and navigated according to the laws of Portugal."

Referring to these instructions, the Captor's Proctor has argued, that no vessel can be admitted by this Court to possess a Portuguese national character, which shall have borne any other flag than that of Portugal previous to the 16th of January, 1837.

Another argument, not quite so favourable to Captors, has been drawn from the same source by the Claimant's Proctor. It is that no vessel engaged in Spanish Slave Trade can be condemned as a Spanish vessel, if she have borne the flag of Portugal, and no other, from the date of her construction in a Portuguese port.

Consequences the most disastrous might arise to captors from an erroneous view of this matter. It is, therefore, of great importance that we should at once state, that we do not assent to the position of either of the learned gentlemen. We approach the subject with great diffidence, as it may be thought that Her Majesty's Government has expressed a different opinion from that which we entertain; and we might excuse ourselves from entering upon the discussion at all, on the ground that the principle, which it is now sought to apply to vessels brought before the British and Spanish Mixed Court of Justice, was laid down by Her Majesty's Government with reference only to vessels brought before the British and Brazilian Court of Mixed Commission; and that it can have no necessary or important influence on the decision in this case. But we will not shrink on such grounds from noticing the subject, more particularly as it has been mooted by one, whose advice, deservedly esteemed, is known to have great influence on the proceedings of Her Majesty's squadron, employed on this coast in the suppression of the slave trade.

We cannot admit the correctness of the argument drawn from these passages by the Captor's Proctor, namely, that the Brazilian or Spanish construction of a vessel, and the Brazilian or Spanish flag which, in consequence of such construction, she must at one time have carried, shall, at any subsequent period, when the same vessel has become Portuguese by a *bonâ fide* transfer, exclude her, under all circumstances, from the benefit of a character, which she has acquired and possesses under the sanction of her own government. But we have still greater difficulty in thinking with the Proctor for the claimant, that it could have been intended, that the single fact of Portuguese construction, and the having borne the flag of Portugal, and no other, shall avail to protect from capture, under the Brazilian or Spanish Treaty, a vessel upon which a Brazilian or Spanish national character has been clearly affixed by domicile and employment.

But, taking those passages with their context, we can only understand them to mean that, where there is some doubt and uncertainty as to residence, and as to the national character of the persons and interests involved in a slaving voyage; and where it is at the same time clearly proved, that the vessel engaged in such a voyage has been transferred from a flag which will not, to one which will, protect her in her illegal pursuits; from the flag of Spain, for instance, to that of Portugal; the fair and reasonable presumption is, that her transfer has been fraudulent; and, to make use of an expression of Sir William Scott on a similar occasion (4 Robinson, p. 119):—"This circumstance operates, in such a case, to fill up the totality of all that is required to constitute a Spanish character." Such we must believe to be the scope and meaning of the passages referred to.

When a Spanish character can be positively fixed on a merchant and his vessel, the place where that vessel may have been built twenty years before, and the flags which she may have carried in the intermediate period, are matters of slight or rather of no importance. The vessel may have been built in Portugal; her owner may have been a Portuguese subject; she may have borne the flag of Portugal, and no other, from the day of her being launched; and she may be sailing, on the day of her capture, under the original register which she received from the Portuguese Minister of Marine, and we shall nevertheless deem her, for all commercial purposes, a Spanish vessel, or there is no soundness in the principle, that national character shall be fixed by the domicile of the merchant.

We cannot, however, so easily take leave of this question, which has been mooted now for the first time in this Court, and from which it is likely that much future difficulty may arise. We shall, therefore, proceed to adduce such authorities and arguments, as appear to us to support and justify the opinion which we have expressed.

In the case of the "*President*," (5 Robinson, p. 279,) that vessel, owned by an American merchant, resident at the Cape of Good Hope, during the time that the Cape was possessed by Holland, was pronounced to be a Dutch ship, and was condemned accordingly; although, as Sir William Scott states, "she was purchased by the claimant of an American owner, and still continued to be documented as an American vessel," and does not appear to have previously borne any other flag than that of America. The claimant, Elmslie, was also pronounced to be a Dutchman, although the commercial regulations of America permitted him, under the circumstances, to retain his American character; Sir William Scott observing, with reference to the argument urged in the claimant's favour on this ground: "The American Government has undoubtedly a perfect right to grant such a privilege for the purposes of *their own* navigation; at the same time that this country is also at liberty to apply, what we consider as the more correct principle of the law of nations, so far as third parties are concerned."

So also in the case of "*Le Louis*," (2 Dodson, p. 217,) Sir William Scott states:—"The right of searching French ships could not be claimed but in virtue of express agreement. Even if it should be expressly stipulated in a Treaty between Great Britain and France, that *France* would no longer permit this trade to its subjects, no right of seizure and confiscation would *thereby* arise to the *British* nation."

Again at p. 232:—"But what is the delictum here? It is said: if not an offence against the law of nations, it is an offence against the internal laws of France; but are the municipal laws of one country armed with authority to notice offences against the internal laws of another country? How can the French law give jurisdiction to an English Court sitting at Sierra Leone?"

It is true that *we* cannot be considered either as a Municipal or as an English Court; but the principle laid down is equally applicable to us. It is, that only by the express stipulations of a Treaty can any Court be "armed with authority to notice offences against the internal laws of another country." In this case, there is no article in the Treaty by which we are armed with authority to take cognizance of the build and transfer of Portuguese ships; or to deprive a vessel, sailing under a Portuguese flag and pass, of her Portuguese character, solely on account of her foreign construction. On the contrary, the Treaty is directly opposed to the exercise of such an authority, and declares (see Article 6 of the Instructions,) "that the Portuguese or Foreign construction of a vessel *shall in no-wise affect* her nationality." In the face, however, of such a prohibition, we are requested to pronounce,—that the Portuguese or Foreign construction of a vessel, ostensibly Portuguese, shall be *the sole test* of her nationality; for such is the necessary result of the argument, that vessels owned by Brazilian subjects or by Portuguese subjects resident in Brazil, and carrying slaves from Africa to Brazil, cannot be condemned as Brazilian vessels, if they have been built in a port belonging to the dominions of Portugal.

It may be urged, that this article of the Treaty is virtually abrogated by the total abolition of Portuguese Slave Trade. We might reply, that the abolition on the part of Portugal can affect only her own subjects; and that no additional powers have accrued thereby to Great Britain; as it is certain that Slave Trade to any extent may still be carried on by Portuguese vessels south of the Line with perfect impunity, so far as British cruisers are concerned, who enjoy at the present day no more right to seize such vessels in southern latitudes, than they did when that traffic was permitted by the Portuguese law. We might also reply, that the intention of the contracting parties, with regard to the effect which Portuguese or foreign construction should have on the nationality of a vessel, was, at any rate, positively shown in this article; and that nothing but an additional article, or equally formal stipulation, would authorise us to act in direct contradiction to a declared intention, which will not admit of question or mistake.

But we take a higher ground, and maintain that, had there been no declaration in the Treaty, "that the Portuguese or Foreign construction of a vessel shall in no-wise affect its nationality," those who are appointed to administer that Treaty would still have been unable, in the absence of any opposing declaration, to adopt the principle, that the port where a vessel may have been built, and the flag which

she may have carried, shall protect her from the operation of the general rule, that the national character of the vessel must be determined by the residence and trade of her owner.

With regard to the practice of the Court, and the instructions of Her Majesty's Government, we will quote a few passages from the printed correspondence, shewing that it has always been desired, that Her Majesty's Commissioners should strictly confine themselves to the Treaties. See Class B, 1822, 1823, pp. 35 and 36, where the Commissioners were seriously warned by Mr. Canning that "on no other grounds than on those stated in the Treaty," could a decision be given by them; that they should not "go beyond the terms of the Treaty," that it "was their particular duty to decide conscientiously according to the Treaty, and to rely on the wisdom of the legislature to provide a remedy for the inconvenience which might result therefrom;" and he adds, "I have expressed myself thus plainly upon the subject, lest the difficulties of your situation should lead you to do that which is not pursuant to the Treaty and the Act of Parliament, under which you are appointed."

At Class A, 1835, p. 315, Lord Palmerston writes to Her Majesty's Commissioners at Rio de Janeiro:—

"It is right, however, and necessary, that I should take this occasion to warn you, that your only safe and proper course is, to abide most strictly by the Treaty between Great Britain and Brazil, of the 23rd of November, 1826; and the previous Treaty and Convention, and additional Articles therein mentioned, between Great Britain and Portugal, and the Regulations and Instructions annexed thereto; under which documents alone, together with the Acts of Parliament for carrying them into effect, you are authorised to act; and you will understand that, in future cases which may come before you, you are not in any instance, or under any circumstances, to deviate, in the least degree, from the directions laid down for your guidance in the documents above-mentioned."

At Class A, 1837, 2nd Series, p. 89, Lord Palmerston thus again addresses Her Majesty's Commissioners at Rio, within twelve days from the date of his Lordship's despatch (at p. 92), which has given rise to this discussion:—

"You will bear in mind that in your Commission, and in the conventions with Portugal, confirmed by the convention with Brazil, under which documents the power is given to you of adjudicating slave-vessels, you are enjoined to conform to those conventions, to their several annexes, and to the Acts of Parliament, which have been passed to carry those conventions and their annexes into effect. Those conventions, together with the legislative enactments which have been passed with regard to them, supersede the previous laws, both of Great Britain and Brazil, on those matters which belong to the execution of those conventions. The legality of the proceedings of the Mixed Commission does not, therefore, properly depend upon the conformity of such proceedings with the general law of Brazil, but properly upon their conformity with the conventions under which your powers are given."

The reasonableness of these injunctions, and the danger of going beyond the terms of the Treaties, in the attempt to render our decisions conformable to the commercial laws of any particular state, are fully exemplified in the present case.

In an English, and probably an imperfect translation of the Second Article of the Portuguese Decree of the 16th of January, 1837, Class B, 2nd Series, 1837, p. 37, the following words occur—"Only those vessels shall be considered Portuguese which have been navigating under the Portuguese flag *until* the publication of this Decree."

It is difficult to say what is the precise meaning of the word "until," as used in this passage; and we shall find that it has been understood by the Portuguese authorities in a sense totally different from that which appears to have been affixed to it by Her Majesty's Government.

In the circular addressed by the Viscount de Sa da Bandeira, the Minister of Foreign Affairs at Lisbon, to the Portuguese Consuls stationed at Brazilian ports, that Minister explains the passage to mean, "that such vessels only would be considered Portuguese *as were already* under the Portuguese flag *at the date* of that Decree"—that is, on the 16th of January, 1837.

The British Government, on the other hand, Class A, 2nd Series, 1836, p. 93, declare, "that by the Portuguese Decree, the only vessels which are to be considered Portuguese are those which had been navigated under the Portuguese flag *before the date* of that Decree, or which shall have borne the flag of Portugal, and no other, *before* the issue of the Decree of the 16th January, 1837."

Thus the Portuguese Minister considers the Decree not to have a retrospective effect, and will acknowledge any vessel, which was under the Portuguese flag on the 16th of January, 1837, and which has not subsequently changed her flag, as a *bonâ fide* Portuguese vessel, without reference to the flag or flags which she may have carried prior to the month of January, 1837; whereas Her Majesty's Government appear to consider that the Decree *has* a retrospective effect; and that no vessel can be deemed to possess a *bonâ fide* Portuguese character, which has at any time, before the issue of the Decree of the 16th of January, 1837, borne any other flag than that of Portugal.

We cannot presume to give any opinion as to which of these two interpretations of the Decree is the correct one, nor does the apparent difference between them place any difficulty in the way of Her Majesty's Commissioners, as would have been the case if those conflicting interpretations had referred to an article of the Treaty, instead of referring to an article of the Portuguese commercial code, with which we maintain the Commissioners acting under the Treaties can have nothing whatever to do.

It always has been, and we are sure that it always will be, the practice, as it is the duty, of Her Majesty's Commissioners to treat with attention and respect the instructions of Her Majesty's Government. On doubtful points, and where contradictory clauses in the Treaty involve in obscurity the real objects of the high contracting parties, such instructions are *conclusive*, as expressing the positive intention of one party to the Treaty, not opposed by the declared intention of the other. In this case, however, no ambiguity or contradiction has to be explained; and if the Treaty cannot be considered to contain a clear and express direction, that the construction of a vessel shall in nowise affect her nationality, it contains nothing whatever on the subject of the construction.

Let us now reflect, for one moment, on the probable consequences of admitting that a vessel, owned by Brazilian subjects, or by Portuguese subjects resident in Brazil, and employed in the transport of slaves from Africa to Brazil, cannot be adjudicated by us as a Brazilian vessel, if she have always been navigated under the flag and pass of Portugal.

For any thing that we know to the contrary, the commercial codes of Spain, Holland, and Brazil may, at the present instant, confine, in like manner, the benefits of a Spanish, Dutch, and Brazilian national character to such vessels as shall have been built in Spanish, Dutch, and Brazilian ports, and borne the flags of Spain, Holland, and Brazil, and no others, from the date of their construction. It would follow, then, if we are to adopt the principle now recommended to us, that no Portuguese, Spanish, Dutch, or Brazilian vessel, which has ever, during any period of her history, changed her flag, even in consequence of a *bonâ fide* sale and transfer to a foreign merchant, could be adjudicated *by any* of the courts of Mixed Commission, appointed to carry into effect the Treaties for the suppression of the Slave Trade.

It is a fact well known to all who have any expérience in our Courts, that at least three-fourths of the vessels under the Portuguese flag, now employed in the Slave Trade of Cuba, have been built in the ports of the United States, and have therefore necessarily, in the first instance, carried the American flag. When these vessels, then, are captured with slaves on board, are we to tell the Captors that we cannot admit them into the British and Portuguese Court of Mixed Commission; that we cannot acknowledge them as Portuguese vessels, because a Portuguese law has lately declared that, only such vessels are to be considered Portuguese as "shall have borne the flag of Portugal, and no other, before the issue of the Decree of the 16th of January, 1837?"

And if Portugal may thus be entitled, by the simple publication at Lisbon of a Commercial Decree, to set aside a solemnly ratified Treaty, which was extorted from her in the first instance with great difficulty, and which she has ever since attempted, by every other means, to nullify and evade, Spain will not long delay to imitate her example, and to adopt similar means to escape from the galling and obnoxious restrictions on her favourite trade.

Such are some of the reasons, which have prevented our acknowledging the authority and importance of the late Portuguese Decree, so far as we are concerned; and from the most attentive consideration which we have been able to give to the subject, we are fully persuaded, that neither our Commissions from the Crown, nor the British Acts of Parliament, nor the Slave Trade Treaties, nor the former practice of the Courts, nor the more recent instructions of Her Majesty's Government, nor the solemn oath, which we are required to take before we can enter upon the duties

of our office, will permit us to travel beyond the stipulations of the Treaties which we are appointed to carry into effect, or to model and vary our decisions, in accordance with the shifting legislation of any of the Powers, who have entered into Treaties with us on the subject of Slave Trade. Those Powers are in all respects concluded by the Treaties which they have signed; and no municipal law or internal regulation of theirs can in any degree affect the rights which such Treaties have conferred upon Great Britain; and if the domestic laws of Spain, Portugal, Holland, and Brazil cannot restrict, so neither can they extend, the right possessed by the cruisers of our nation to search and detain, and of the Judges of this Court to adjudicate, vessels suspected of being engaged in the Slave Trade; but if it shall be deemed necessary to lessen or increase the powers now enjoyed under the Treaties, they must be lessened or increased by additional articles, or by formal stipulations, having all the force and effect of the original Treaties.

We shall content ourselves for the present, with this general statement of the views entertained by the Commissioners with regard to national character, as impressed by residence and mercantile employment; reserving all further remarks on the subject for another opportunity, which will shortly occur.

It is now our duty to apply the principles which have been laid down, to the case before us; and in doing so, we shall exactly follow the course pursued in the very similar case of the "*Fortuna*." 1. Dodson, page 81.

Sir William Scott there observes: the first great question of fact is, what is the national character of this vessel? The second question is, was this vessel employed in a traffic which would subject her to confiscation? The result of the inquiry is likewise in both cases the same; the "*Fortuna*" was deprived of the protection of the Portuguese flag, under which she was captured, on the ground that (page 89) "whatever papers were obtained from the Portuguese Government, were fraudulently obtained, and under false pretences of a transfer, which had never taken place, and which could not, with the aid of Portuguese documents so obtained, entitle this vessel to any recognition of a Portuguese character. She continues still an American vessel."

So, in like manner, we consider that the "*Diligente*" still continues a Spanish vessel, inasmuch as the only documents which are produced to prove her transfer from the Spanish to the Portuguese flag are acknowledged by the claimants themselves to be fraudulent, not indeed obtained from the Portuguese authorities under false pretences, but granted with a full knowledge of the fraud which they were intended to cover.

These documents therefore being set aside, the "*Diligente*" necessarily stands before us in her former character; and we have only to consider whether, by employment in the Slave Trade, she is brought within reach of the tenth article of the Spanish Treaty of the 28th of June, 1835.

The Report of the surveyors appointed to examine the equipment of the "*Diligente*" shows that "the construction and furniture of the ship had all the accommodations necessary for the conduct of the Slave Trade;" and we shall now pass sentence upon her in the very words employed by Sir William Scott in the case referred to. By one at least of the papers, "it is disclosed that she was to go to the Havana, the great mart for the importation of negroes. When we see these platforms constructed, and an apparatus for the construction of more; these irons collected together; the nature of the provisions on board; the fraudulent sale, and the fraudulent acquisition of the Portuguese character under it; the false pretences which have travelled with this case throughout, the particulars of which we do not detail, after the ample statements which have been given by the Advocate for the captors; we can have no rational doubt of her real character, and we therefore condemn her and her cargo.

Sierra Leone, October 12th, 1838.

No. 11.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 1, 1839.)

MY LORD,

Sierra Leone, October 29th, 1838.

WE have the honour to acknowledge the receipt this day of a duplicate of your Lordship's Despatch under date of the 20th of January, 1838, (the original having miscarried.) transmitting the copy of a Report from Her Majesty's Com-

missioners at Havana, of the arrivals at, and departures from, Havana, of slave vessels, during the month of October, 1837.

We have, &c.
(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

No. 12.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 1, 1839.)

MY LORD,

Sierra Leone, 5th December, 1838.

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 8th of October, 1838, transmitting to us copies of two Despatches from Her Majesty's Commissioners at Havana, giving an account of the slave vessels, which had left that port for the coast of Africa, in the months of February, March, April, May, and June, of the present year.

We are much obliged to your Lordship for this communication. We beg leave, at the same time, respectfully to suggest to your Lordship that, to render the information contained in these lists more valuable and complete, the names of the masters commanding the different vessels should, as formerly, be attached to each vessel. There are some names so commonly borne by ships of this class, that it is only by having also the names of their Masters, that we can distinguish one vessel from another. In the short list contained in Mr. Kennedy's Despatch, of the 17th of July, 1838, we meet with *two* vessels called "*Constituição*," and *two* called "*Victoria*;" and at Sierra Leone, during the present year, *two* different vessels have been adjudicated bearing the name of "*Camoens*," *two* named "*Veloz*," *two* named "*Prova*," *two* named "*Diligente*," and *two* named "*Constituição*." Under such circumstances it is evident, that it would be difficult to trace the proceedings of any particular vessel, without knowing the name of the person who commanded her.

We have, &c.
(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

No. 13.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, April 10, 1839.

I HEREWITH transmit to you, for your information, a copy of a Despatch from Her Majesty's Commissioners at the Havana, containing a report of vessels that had arrived at that place from the coast of Africa during the month of January last; together with a Report of such vessels as have sailed from the Havana for Africa during the same period.

Her Majesty's Commissioners,
&c. &c. &c.

I have, &c.
(Signed) PALMERSTON.

Enclosure in No. 13.

Havana Commissioners, February 20, 1839.

(See No. 46, p. 118.)

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 21, 1839.)

MY LORD,

Sierra Leone, December 22, 1838.

WE have the honour to forward to your Lordship our report of the case of the schooner "*Sirse*," Serafin Antonio Spenser, Master, captured by Her Majesty's brigantine "*Buzzard*," on the 17th ultimo, about sixty miles to the southward of this place, and condemned yesterday in the British and Spanish Mixed Court of Justice, as a Spanish vessel equipped for the Slave Trade, in contravention of the Tenth Article of the Treaty. We beg leave also to enclose a copy of the judgment pronounced in the case, and anxiously hope, that the course which we have now pursued will meet with your Lordship's approval.

At the time of her detention the "*Sirse*" was sailing under the Portuguese flag; but she was prosecuted in the British and Spanish Mixed Court of Justice, on the assumption that the domicile of her real owner, and her employment in Cuba Slave Trade, had fixed upon her a Spanish national character; and that her equipment for the Slave Trade had consequently rendered her liable to condemnation.

The Captor failed to establish against the vessel any other ownership than that stated in the ship's papers; and if he succeeded in proving the falsehood of the representation, that De Mello, of the Cape de Verd Islands, was the owner, he was not in a condition to put forward any other person, as a substitute for the pretended owner, whom he set aside.

Of illegal equipment for the Slave Trade there could be no doubt: but this fact could only avail in the case of a Spanish vessel. The "*Sirse*" professed to be Portuguese; she was sailing with Portuguese papers, and under the Portuguese flag, and the attempt to fix upon her a Spanish character, deduced from the domicile of her owner, was not successful.

It then, for the first time, became a question with the Commissioners, whether the ample proof which had been afforded of a *Spanish course of trade*, was alone sufficient, independent of every other consideration, to bring the "*Sirse*" within reach of the penalties of the Slave Trade Treaty with Spain. The most careful consideration was given to this important question; and at length it was decided in the affirmative; from a conviction that such a decision was in no degree opposed, either to the letter or spirit of the Treaty, and was in perfect accordance with established rules of international law.

By this sentence, a *course of trade* has been directly adopted by the Courts, as one of the tests of the national character of a detained slave vessel; and we earnestly hope that the judgment which we have given, taken in connexion with that which was lately pronounced in the case of the "*Diligente*," will have the effect of producing a vast increase in the number of captures during the ensuing year; a result which will be attained without the slightest infringement of existing engagements, and without overstraining the meaning of one article of our Slave Trade Treaties with Foreign Powers.

We have, &c.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

First Enclosure in No. 14.

Report of the Case of the Schooner "Sirse," Serafin Antonio Spenser, Master.

OF the numerous papers found on board this vessel, the first in point of date is a bill of sale, which shows that the "*Sirse*" was originally the "*Thomas H. Smith*" of New York, built in 1828, owned by Robert I. Gourlie, an American citizen, who obtained an American register for her in his own name at New York, on the 29th of August, 1837. On the 19th of the following month of September, Gourlie sold his vessel at Havana to Don Thimotio Cardozo de Mello for three thousand dollars. There is no mention of any agent appearing on the part of the buyer; and De Mello himself is represented as having paid the purchase money and received possession of the vessel in his own person. A certificate from the American Consul at Havana, dated on the same day, states that Gourlie had

appeared before him and acknowledged the bill of sale as his own act and deed. It will be observed that there is an interval of only twenty-one days between the date of the New York register and the date of the bill of sale at Havana. The former document must therefore have been obtained, for the express purpose of facilitating the immediate transfer of the vessel.

2. A Portuguese passport or register, granted by the Governor-General of the Cape de Verd Islands to the schooner "*Sirse*," "*of American construction*," declaring that the owner of her was T. C. de Mello, and the Captain Serafin Antonio Spenser; that two-thirds of the crew were Portuguese; and that she was bound to Maranham. This document is dated at Villa da Praia, on the 1st of January, 1838, and was obtained in direct opposition to the Portuguese law of the 17th of January, 1837. The name "*Sirse*" has also been written over the half-obliterated word "*Ceres*."

3. A certificate from Jozé de Silva Pereira, the Receiver of Customs at Porto Praia, saying that T. C. de Mello had paid the fifteen per cent. duty, required by law, on the purchase money of the "*Sirse*," "*bought by his empowered attorney*" at New York." In the bill of sale (No. 1.) the purchase is stated to have been made at Havana, not at New York; and not a word is said about any agent or power of attorney, but De Mello himself is named as the buyer.

4. On the 7th of August last, the "*Sirse*" obtained the usual clearance from Havana to the Cape de Verd Islands, wherein the water-casks on board are stated to be intended for holding palm oil on the return voyage; the slave-boilers are shipped for the purpose of clarifying it; and the slave-deck was to be employed in erecting sheds on shore, whilst trade was being made with the natives.

5. The Matricula, which is certified by the American Consul, states the "*Sirse*" to be bound to the Island of St. Thomas', Princes, and Cape de Verds; although the clearance only names the Cape de Verds as the destination of the vessel.

6. Is a passport for Don Pedro Maria Tito, authorizing him to go to the Cape de Verds on his private affairs. It is dated on the same day as the clearance, and was evidently intended to conceal the real character of a man, who acted as Captain, and conducted all the proceedings of the vessel.

7. The Log-book, which commences on the 8th of August last, shows that the Cape de Verds was not the destination of the "*Sirse*," as no attempt was made to approach them. On the contrary, the vessel came direct to the Gallinas, where arrangements were being made for the return cargo, when capture took place. The Log mentions that the crew consisted of ten seamen and "four officers of the poop," in opposition to the Muster-roll, which contains the names of only three officers, and does not take into account the actual Master, but nominal passenger, Tito.

8 and 9. Two letters found on board show more decisively the control which Tito exercised with respect to the "*Sirse*." The first is addressed by Tito to the Mate, giving him general directions as to his proceedings on board, whilst the writer was trading on shore: the second is written by De Grassi, a noted slave dealer at Gallinas, to Tito, asking him for some goods and stores from the "*Sirse*."

10. Is a set of bills for five hundred dollars, drawn by Pedro Blanco, of Gallinas, on Peter Harmony and Company of New York, in favour of the well-known Theodore Canot, and endorsed by the latter to Tito. They are dated on the 1st of September.

The above papers were produced on the 19th ultimo, on which day the prosecution against the "*Sirse*" was commenced in the British and Spanish Court, the Captor's Proctor petitioning that the declaration of the facts of capture, made by Lieutenant Fitzgerald, commanding Her Majesty's Brigantine "*Buzzard*," should be filed, accompanied by an affidavit authenticating the ship's papers; that the monition against interested parties might issue; and that evidence in preparatory might be taken.

A Commission was then directed to the Surveyors of the Court, to examine the outfit and equipment of the "*Sirse*," with particular reference to the Tenth Article of the Spanish Treaty. The Surveyors thereupon reported: "We found seven hundred feet of plank and nine beams, marked and numbered, with cleats nailed to the ship's side: we found one hundred and twenty-one fore-locks for shackles; we found one thousand gallons of fresh water on board, also six leaguers, and fourteen packs of staves, capable, when made up into casks, of containing about eight thousand gallons; we found one hundred and forty wooden spoons, seven buckets, forty mess dishes; we found the coppers eighteen inches deep, and three feet by two square," &c.

The witnesses in preparatory were examined on the standing interrogatories on the 21st ultimo. Serafin Antonio Spenser, the nominal Portuguese master, deposed, that "he was born at Bonavista, where he has lived during his whole life, and has never served any state but Portugal; that he was appointed to the command, and possession of the vessel was given to him, by Thimotio Cardozo de Mello, a Portuguese living at St. Jago, one of the Cape de Verd Islands; that he first saw the vessel at Bonavista on the 1st of February last, and she is American built; that he was present at the capture, but he does not know why it took place; that the vessel was sailing under Portuguese colours at the time; that she is 90 tons burthen, and had a crew of 12 officers and mariners, exclusive of witness, of whom four or five were Portuguese, and the rest Spaniards, all hired and shipped at Havana in August last, by Francisco Rieira, the consignee of the vessel; that neither he, nor any other of the officers or mariners, had any interest in the vessel or cargo; that he was Master on board; that there were five passengers, seamen by profession, and Spaniards by birth, four of whom were taken on board at Gallinas, about 12 days before capture, and were in search of employment on board some ship; that the other passenger, Pedro Maria Tito, had been mate of a vessel, and had taken his passage at Havana for St. Jago, but on what business witness does not know; that none of the five passengers had any interest in the vessel or cargo; that the last clearing port was Havana, where the voyage began, and was to have ended at Porto Praia, or elsewhere, as might be determined by the owner there; that the vessel called at Gallinas to discharge 15 pipes of rum, by order of the consignee at Havana; that the capturing ship was first seen about 60 miles from Sierra Leone on the 16th instant; that capture took place on the same day without a chase; that the vessel was steering for Rio Nunez at the time, but altered her course a little; the ship's papers destined her for the Cape de Verd Islands; but witness, finding that he had passed them during the night, went first to the Gallinas to discharge his rum, and intended, as he went up to Cape de Verds, to look in at the Rio Nunez for a cargo of rice, or ivory, or anything he could find; that the sole owner of the vessel is Thimotio Cardozo; that he knows this to be the case from the papers, and because he received possession from him; that the owner is a Portuguese by birth and allegiance, lived formerly at Lisbon, where his father's family is established, and has resided for six or seven years at St. Jago; that witness himself, along with Francisco Rieira, the consignee at Havana, was the lader of the cargo, which belongs either to the said consignee, who is a Spanish merchant, residing and carrying on business at Havana, or to the owner of the vessel, but witness, does not know to which of them; that there are about 40 spare planks of various lengths, and one and a-half inch thick, not numbered or fitted to any part of the vessel, but destined for a house to be built at St. Jago, or any other necessary purpose; that there are five casks, great and small, containing one pipe of fresh water, together with stores for about 13 barrels more, all of which together would be capable of receiving from 35 to 45 pipes; that it was intended that some of these casks should receive water for the use of the crew, and the remainder be filled with palm oil from the coast, if, on the arrival of the vessel at St. Jago, the purchase of it should be ordered by the owner."

The other witnesses examined were, the Mate, Joaõ Galban, and the cook, Nicolas Sicardo, whose depositions, in other respects unimportant, agreed in declaring that the present voyage was to have ended (where it began) at Havana; and that they were shipped with that understanding.

The above evidence was published on the 21st ultimo; and on the 26th ultimo, the day when the Monition was returned into the Registry, a petition was presented by the Portuguese master, for the admission of a claim for the detained vessel and her cargo, as the property of Thimotio Cardozo de Mello of the Cape de Verd Islands.

The filing of a claim was followed by further examinations, upon special interrogatories approved by the Court, and which occupied the Registrar between the 29th ultimo, and the 6th instant.

Pedro Maria Tito deposed, "That he was born at St. Sebastian, and is a subject of Spain; that he has generally resided at Matanzas, and is a seaman by profession; that he was a passenger on board the "*Sirse*;" that De Grassi at the Gallinas, who wrote the letter, (No. 9), was not at all connected with the affairs of the "*Sirse*;" that witness does not consider the tone of his letter (No. 8) to the mate of the "*Sirse*" more than he might use as a friend; that De Grassi wrote to witness instead of the Master, because the master does not understand Spanish; that

witness does not know how the vessel was occupied when she was at the Gallinas, which was the concern of the Captain and sailors; that he does not know why the vessel delayed so long proceeding to the Cape de Verds; that witness paid 150 dollars for his passage from Havana to the Cape de Verds."

The Mate, Joaõ Galban, and the cook, Nicolas Sicardo, when cross-examined, confirmed their former evidence as to the Island of Cuba being the destination of the "*Sirse*" on her return voyage; and the latter added "that he had heard every one on board say, that the voyage was to end at Havana."

Nothing new was elicited from the Master on his cross-examination; and his later evidence consisted merely of lame attempts, to account for the manifest contradictions and incongruities in his former deposition.

The case was finally decided on the 21st inst.

It will not be necessary in this place to explain very minutely the grounds on which the Court was led to condemn the "*Sirse*," as a copy of the judgment accompanies this report. The Spanish national character of the vessel, as derived from the domicile of the owner, was not established in the same satisfactory manner, that it was in the other cases in which the Spanish Court took cognizance of vessels under the Portuguese flag; for although a very strict and rigid application of legal rules might perhaps have warranted us in deciding, that the claimant should stand by the representation contained in one of the ship's papers, namely, that the nominal owner, De Mello, was resident in Havana when he purchased the "*Sirse*," and that no evidence had been tendered to show that De Mello's alleged residence in Havana had ceased, condemnation on such grounds would have been a refinement of special pleading to which our courts have never been accustomed, more particularly as it was known to us from other sources that, at the time when the transfer of the "*Sirse*" at Havana is pretended to have taken place, De Mello was actually living, as he is at present, in the Cape de Verd Islands.

But while a Spanish national character, as affixed by *domicile*, was thus imperfectly sustained, a *course of Spanish trade* was clearly established; and it became a question with the court, for the first time, whether, by such a *course of trade*, a Spanish national character would attach itself to the detained vessel, so as to bring her within the reach of [the requirements and penalties of the Slave Trade Treaty with Spain. This question, after the most anxious deliberation, was decided in the affirmative; and on the 21st instant the "*Sirse*" was condemned for a transgression of the Tenth Article of the Treaty with Spain, in having on board an illegal slave-trading equipment.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

Sierra Leone, December 22, 1838.

Second Enclosure in No. 14.

Judgment given in the case of the Spanish Schooner "Sirse," Serafin Antonio Spenser, Master.

ON the 29th of August, 1837 (if we are to believe the bill of sale filed in this cause), this schooner, then called the "*Thomas H. Smith*," received an American register in New York, and, within three weeks from that time, she was sold in Havana by her recently-registered owner, Robert J. Gourlie, a citizen of the United States. The purchaser at Havana is stated to have been Thimotio Cardozo de Mello, of St. Jago de Praya, in the Cape de Verd Islands. On the 31st of January, 1838, a Portuguese passport was granted by the authorities at Villa da Praia to the "*Sirse*," of which Thimotio Cardozo de Mello was said to be the owner, and Serafin Antonio Spenser the Master; and she was on the same day cleared out for Maranh. Instead of proceeding to the port named in her passport, the "*Sirse*," it is admitted, went direct to Cuba after leaving this coast, and cleared out again from Havana, on her present voyage, on the 7th of August last, bound, by her official clearance, to the Cape de Verd Islands alone, although another of her papers states, that she was also destined to the Islands of St. Thomas and Princes; but to none of these places was her course directed; and the first port she entered was the Gallinas, where she arrived on the 26th of September last. Her visit to the Gallinas was not, however, in any degree accidental, as the outward cargo shipped at Havana was consigned to a well-known resident slave-trader in that river; and for nearly two months after the outward cargo had been

delivered, the "*Sirse*" was still found in the same place, or making occasional trips to the neighbouring coasts and rivers to procure rice and provisions, which were again deposited with the same merchant to whom the outward cargo had been consigned. The ultimate object of the "*Sirse's*" voyage was sufficiently shown, by the complete slave-trading equipment with which she was provided; but while on this point no doubt can be entertained, it is only as a Spanish vessel that she can in any degree be affected by the establishment of this fact.

From what has been already stated it will be seen, that the "*Sirse*" professes to be a *Portuguese* vessel; and it will be necessary, in the first place, to examine her title to that character. In the bill of sale, which is the earliest document in point of date, having been executed at Havana on the 19th of September, 1837, we find the following passages.

"Know all men by these presents, that I, Robert J. Gourlie, of the city, county, and state of New York, for and in consideration of the sum of 3000 dollars to me in hand, paid at the time of the perfection of these presents, by Don Thimotio Cardozo de Mello of St. Jago de Praya, the receipt whereof is hereby acknowledged, have granted, bargained, sold, &c., unto the said Don T. C. de Mello, the said schooner "*Thomas H. Smith*," to have and to hold, &c.; and I, the said Robert J. Gourlie, do hereby covenant and agree, to and with the said Thimotio Cardozo de Mello, &c., that I am the true, lawful, and sole owner of the said schooner" &c.

The next paper, in point of time, is the Portuguese Register or Passport, said to have been granted to this vessel by the Government of the Cape de Verd Islands, of the 31st of January last; but which it is impossible to consider valid or admissible, as it was evidently prepared for some other vessel; the name "*Sirse*" being written in a very bungling manner over another half obliterated name. The name of the present master is also inserted in the body of the passport, in much paler ink than that used in writing the other parts of the paper; and the Master himself declares that he is quite unable to account for Maranham being mentioned, in this passport, as the destination of the "*Sirse*," as it never was intended that she should proceed there.

Of the same date with the passport is a certificate, granted by Jozé da Silva Pereira, the receiver of customs at Porto Praya, that the fifteen per cent. on the amount of the costs of the schooner "*Sirse*" had been paid by the purchaser. In the case of all the vessels, which have been nominally or really transferred to the Portuguese flag at the Cape de Verd Islands, we have invariably found a similar certificate copied verbatim into the body of the bill of sale; and when the sale and transfer have taken place elsewhere, and resort is had to the Government of the Cape Verds, merely for the purpose of obtaining a regular Portuguese register, the certificate of the payment of the accustomed fifteen per cent. on the purchase-money is, as in the present instance, given separately, in order to invest the transaction with the requisite marks of validity. Pereira's certificate, however, gives an account of the purchase directly opposed to that contained in the bill of sale. Pereira states that the "*Sirse*" was bought, not at Havana, but at New York; not on the 19th of September 1837, but on the 29th of August 1837, the very day on which the vessel had obtained an American register; not by Thimotio Cardozo de Mello in person, but "by his empowered attorney" in New York. Both statements cannot be, and probably neither is, correct; but we must not forget that whilst the bill of sale is a formal document in itself, signed by the vendor himself, and acknowledged by him in his own person, as his act and deed, before the American consul at Havana, on the day of its execution, the certificate written by Pereira at Porto Praya, professes to refer only incidentally to a transaction which took place on the other side of the Atlantic, and of which the bill of sale is the only authentic record, and the only valid proof.

If, then, we are to receive as correct the representations made in the bill of sale, De Mello, the purchaser, and Gourlie, the seller, of the "*Sirse*," were both personally present at Havana, and took part in the execution of the deed; and such being the case, it certainly lies on the claimant to show, that De Mello's residence at Havana, and his mercantile connection with that place have ceased; nor can the claimant be permitted to say that the averments in the bill of sale are false, for he has himself produced that document, as proof that the ownership of the "*Sirse*" resides with the purchaser therein named.

But without pressing too strongly against the claimant the argument drawn from the actual residence at Havana of the professed owner of the "*Sirse*," at the moment when she became his property, and receiving as true the claimant's asser-

tion, that the professed owner is now living on the island of St. Jago, we consider that a Spanish national character has been sufficiently impressed upon this vessel by her exclusive employment in Spanish trade. The present voyage (like all the former ones made by the "*Sirse*," under her Portuguese papers) was to have ended, where it began, at Havana, where the outward cargo was shipped, and where the return cargo was to have been delivered; where a Spanish resident merchant, named Francisco Rieira, managed all the concerns of the vessel; where a Spanish master was appointed, under the designation of a passenger; where the crew, consisting almost entirely of Spaniards, were engaged, and where they were to have been discharged on the conclusion of the voyage. Rieira, the lader of the outward cargo at Havana, was, it is stated by the claimant, its probable owner also; and the consignee of that cargo on this coast was a well known Spanish slave-trader in the river Gallinas. Every proceeding of the voyage points most strongly to Spanish interests; nor is there a single paper or account, from the pretended agent at Havana to the pretended owner at St. Jago, although the port in which that owner resided was named in the clearance as the destination of the vessel.

From these circumstances, we have no doubt that the ownership of the vessel rests with Rieira, or at any rate in Havana. But allowing that De Mello was, as represented, the real purchaser of the "*Sirse*," and allowing that he is at the present moment residing in the Cape de Verd Islands, we still maintain, that, so far as he is connected with this particular adventure, he must be looked upon as a Spanish merchant. And, in support of this opinion, we will now quote one or two passages from judgments given by the late Lord Stowell.

In the ("*Jonge Klassina*," 5 Robinson, page 302.) "A man may have mercantile concerns in two countries; and if he acts as a merchant of both, he must be liable to be considered as a subject of both, with regard to the transactions originating respectively in those countries." In the "*Bernon*" (1 Robinson, page 102.) "The employment of a vessel is, *in limine*, a point very proper for inquiry; for it may impress a national character, and must, at all events, in such a case as this, very much elucidate the transaction."

The "*Susa*" (2 Robinson, page 256) was the case of a ship taken under American colours, claimed as the property of an American merchant resident at New Bedford, but condemned for being engaged in the trade of France. On this occasion Sir William Scott observed: "It always appeared to this Court, that persons carrying on such a trade were just as much to be considered as incorporated in the commerce of France, as if they were native merchants of France, and that their property so employed would be justly subject to confiscation, be their personal residence where it might."

The case of the "*Vigilantia*," in the first volume of Robinson's Reports, and which has been referred to by the Captor's Proctor, is very strong in showing that even "supposing (De Mello) to be the actual proprietor of the (*Sirse*), and resident at (St. Jago de Praia), yet this vessel and her concerns, however it may be with respect to other ships and other concerns, in which this gentleman may be engaged, are liable to be treated and considered as (Spanish) property. In the first place, she went from (Havana) regularly to the (Coast of Africa), and to return to the port of (Havana), there to deliver her cargo; she is purchased in (Havana); she is purchased evidently for the purpose of pursuing the (Slave) Trade of (Havana); she is purchased at a time when there was a defect of conveniences for carrying on this trade to and from (Havana). Now, we ask, upon what grounds is it that this vessel, so purchased and so employed, is to be considered merely as a (Portuguese) vessel? Here is a ship as thoroughly engaged and incorporated in (Spanish) commerce as a ship can possibly be; she is fitted out uniformly from (Havana); she is fitted out with (Spanish) manufactures; she is fitted out for (Spanish) importation; in all these respects employing and feeding the industry of (Spain); she is managed by a (Spanish) ship's-husband; and finding occupation for the commercial knowledge and industry of the subjects of that country; she is commanded by a (Spanish) Master; she is manned by a (Spanish) crew, and brings back the produce of her voyage for the purpose of (Spanish) consumption and (Spanish) revenue. If to this you add, that the vessel is transferred to the (Portuguese) flag because Spaniards are unable to carry on the trade avowedly in their own persons, it is truly a (Spanish) commerce in a very eminent degree. In our apprehension, unless it can be maintained as a rule, *without any exception whatever*, that the domicile of the

proprietor constitutes the national character of the vessel, this ship must be condemned, even if she had been really transferred.

"Now, on this point we conceive the rule to be, that *where there is nothing particular or special in the conduct of the vessel itself*, the national character is determined by the residence of the owner; but there may be circumstances arising from that conduct which will lead to a contrary conclusion. It is a known and established rule with respect to a vessel, that if she is navigating under the pass of a foreign country, she is considered as bearing the national character of the nation under whose pass she sails. In like manner, and upon similar principles, if a vessel purchased in a (Spanish) port is, by constant and habitual occupation, continually employed in the trade of (Spain), on what ground is it to be asserted, that the vessel is not to be deemed a vessel of the country from which she is so navigating, in the same manner as if she evidently belonged to the inhabitants of it?

"And from this reasoning a doctrine is deduced (page 15), a doctrine supported by strong principles of equity and propriety, that *there is a traffic which stamps a national character, on the individual, independent of that character, which mere personal residence may give him.*"

On these grounds we consider that the schooner "*Sirse*," Serafin Antonio Spenser, Master, has been properly prosecuted as a Spanish vessel; and that she is bound, as such, by all the requirements of the Spanish Slave Treaty. Her illegal equipment for the Slave Trade has been already remarked upon; and we accordingly condemn her, as good and lawful prize to the Crowns of Great Britain and Spain.

Sierra Leone, December 21st, 1838.

No. 15.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 25, 1839.)

MY LORD,

Sierra Leone, December 15th, 1838.

WE have the honour to enclose to your Lordship our report of the case of the brig "*Veterano*," Carlos Estevo Sassetti, Master, condemned on the 11th inst. in the British and Spanish Mixed Court of Justice, on the ground of her being equipped for the Slave Trade.

We have also the honour to transmit a translation of some of the most interesting of the numerous papers found on board the condemned vessel.

Fraud and falsehood have marked all the "*Veterano's*" proceedings from the moment of her leaving England, on the 9th of March last, until the prosecution against her was closed.

On the 14th of April, 1837, this vessel, then called the "*Veloz*," cleared out from Sierra Leone for London, with a British register; and on the 12th of January last she was registered *de novo* in England. A few days afterwards, Mr. John White, the Captain and professed owner of the vessel, began to fit her for sea. Part of her cargo was taken on board in the West India Docks, and the remainder at Falmouth, and she then proceeded direct to Cadiz, where she arrived in due course. On the 2nd of April, 1838, she was handed over to a Spanish Captain and Mate; and about three months afterwards left Spain for Havana, where she came to anchor on the 18th August. On the 27th of the following month (September) she again left Havana, bound by her papers to St. Thomas's, but was steering direct for the River Gallinas, when she was captured by Her Majesty's brig "*Brisk*" on the 18th ultimo, and brought to Sierra Leone.

This statement of facts is, however, quite at variance with that contained in the ship's papers. In them it is declared that the vessel which, after her condemnation in the British and Portuguese Court of Mixed Commission, left Sierra Leone on the 14th of April, 1837, and which left England for Cadiz in March, 1838, was sold at the latter place in December, 1836, four months before she sailed from this place for London, and sixteen months before she arrived at Cadiz from England. To this falsehood we are sorry to perceive that the Englishman above mentioned, of the name of White, was a party. The Portuguese Consul-General in Cadiz also lent the aid of his office to cover the fraud.

The papers with which the "*Veterano*" cleared out from Havana on the present voyage, exhibit an equal disregard of truth. By her clearance her destination was stated to be St. Thomas's.

In the Matricula we find the names of thirty-three seamen, but no officers.

The person who figured as the Master is a Portuguese, of the name of Carlos Estevao Sasseti; the owner is stated to be the notorious Francisco Cardozo de Mello; and some passports amongst the papers described the three persons, named Jimenes, Barrera, and Mendoza, as passengers making a voyage to the Island of St. Thomas. Other documents, happily found on board the detained vessel at the time of her capture, give a different and a more correct statement of the case; and from them we find the real owners are Pedro Martinez and Company, of Havana; that the real Captain is the pretended passenger Angel Jimenes, formerly Master of the Spanish schooner "*Lince*," condemned here a short time since as the Portuguese schooner "*Ingemane*;" that the other pretended passengers are the Spanish officers of the vessel; that the destination of the vessel was the river Brass *viâ* Galinas; and that she was intended to carry, on her return voyage, a cargo of between four and five hundred slaves.

The ownership of the vessel having been clearly proved to reside in the house of Pedro Martinez and Company, merchants, domiciled at Havana, a Spanish national character was affixed on the "*Veterano*;" and with regard to equipment, the Master's evidence was so full an admission of the presence of several of the articles, prohibited by the 10th Article of the Spanish Treaty, that it was not thought necessary to complete the usual survey and inspection, by which Slave Trade intentions are generally ascertained.

We have, &c.
(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

First Enclosure in No. 15.

Report of the Case of the brig "Veterano," Carlos Estevao Sasseti, Master.

The following papers were found on board the "*Veterano*" at the time of her capture:—

1. A Bill of Sale, dated at Cadiz, on the 30th of December, 1836, by which Mr. John White, of the English brig "*Veloz*," sold that vessel to Don Gabriel Lopez, the empowered attorney of Francisco Cardozo de Mello, of the Cape de Verd Islands, the purchaser declaring that she would henceforth be called the "*Veterano*," and sail under the Portuguese flag. This deed is written on paper, surmounted with a large engraving of the royal arms, and is certified and registered by Manoel de Souza Machado, the Portuguese Consul-General, and sealed with the consular seal.
2. A Provisional Passport from the same Consul, dated at Cadiz on the 3rd of January, 1837, authorizing the Portuguese brig "*Veterano*," of American build, owned by Francisco Cardozo de Mello, of the Cape de Verd Islands, and commanded by Felipe Gregorio, to make a voyage to Villa da Praia, of the Island of St. Jago, for the purpose of obtaining a permanent Portuguese register. On this passport there is no endorsement whatever.
3. A Log-book showing that the "*Veloz*," alias "*Veterano*," sailed from Santander to Cuba on the 2nd of July, 1838.
4. A Clearance from Havana for St. Thomas, dated on the 24th of September, 1838.
5. A Muster-roll of crew, dated at Havana, on the 25th of September, 1838, signed by the Captain, and certified by the American Vice-Consul, Mr. John A. Smith, who has added another certificate that Don Jacobo Belasco, a merchant of Havana, had appeared at the American Consulate, as the agent of F. C. de Mello, to declare his appointment of Carlos Estevao Sasseti, to succeed the late Master, Gregorio. It is remarkable that in this Muster-roll, which contains 33 names, not one single officer besides the Captain is mentioned.
6. Is an agreement between the Captain and crew, dated at Havana the day before the Muster-roll, and signed by several persons, whose names are not to be found in the Matricula.
- 7, 8, 9. Three passports, dated on the 25th of September, 1838, authorizing Don

Antonio Gonzales Barrera, Don Angel Jimenes, and Don Estevan Mendoza, to proceed to St. Thomas on their private affairs.

10. Is a private Muster-roll, showing that the three persons, last named as passengers, were really the first, second, and third officers of the vessel.

In addition to the above papers, and to a large collection of correspondence, which will be noticed separately, the English journal of the proceedings of the "*Veloz*," previous to her sale at Cadiz, contains some interesting information. It is headed "Log-book of the brig *Veloz*," commanded by John White, and kept by John Pincombe, chief mate, commencing from the 22d of January, 1838. At this time the "*Veloz*" was lying in the West India Docks, taking in some cargo. On the 19th of February the "*Veloz*" left London for Cadiz, calling at Falmouth, where the greatest part of the cargo was shipped, and where she remained from the 24th of February to the 8th of March. The vessel arrived at Cadiz on the 19th of March, and immediately commenced discharging her cargo; and the Log concludes with the remark—"April 2d, at 9° 30' a. m., the Spanish Captain, and Mate, and crew took charge of the vessel."

The last document, taken in connection with what we know of the former history of the vessel, completely falsifies the ship's Papers, the Certificates of the Portuguese Consul at Cadiz, and the Bill of Sale executed by Mr. John White, who, we are sorry to say, assisted most disgracefully in the manufacture of the fraudulent papers.

The brig "*Veloz*" was condemned at Sierra Leone in the British and Portuguese Court of Mixed Commission on the 16th of December, 1836, and was purchased at public auction on the 23d of the same month by Mr. Elias Deeper, a merchant of this place, for the sum of £360. Early in April 1837 the "*Veloz*" was registered here as a British vessel, and cleared out on the 14th of the same month for London, where she was registered, *de novo*, on the 12th of January, 1838. Further particulars may be learned, if necessary, from Mr. George Clavering Redman, a ship broker, of 48, Lime Street, London, to whom the vessel was consigned. From what has been stated above, it will be seen that the "*Veloz*" shortly afterwards took in a cargo at London and Falmouth for the port of Cadiz, and arrived at her destination on the 19th of March last. On the 2nd of April she was delivered over to a Spanish captain and crew, and within three months from that date she sailed for the Island of Cuba.

In opposition, however, to these facts, and in opposition to his own Log-book, Mr. John White declares that he sold the "*Veloz*" at Cadiz, on the 30th of December, 1836, four months before she left this colony for England, and more than 12 months before he received a British register for her in London. The false papers were all prepared in the office of the Consul-General, Machado, and are attested by the same parties who signed the equally false papers of the "*Diligente*" lately reported. The object of the fraud was also in both cases the same, namely, to escape from the operation of the Portuguese Decree, which would not allow of the "*Veloz*," a vessel of American build, and sailing under the British flag so lately as the month of March, 1838, receiving a Portuguese register. We can require no further proof of the insincerity of the professions of Portugal with regard to the Slave Trade, if she now overlook such repeated acts of villany on the part of her authorised agent at Cadiz—acts which, if committed by a private individual in a civilized community, would not only exclude him from all society, but render him liable to the severest penalties of the law.

The Provisional Register of the Portuguese Consul at Cadiz, only authorised the "*Veterano*" to proceed to Villa da Praia to obtain permanent papers. She nevertheless sailed direct to Havana, and was again at that place, in defiance of the Register under which she was navigated, cleared out, not for Cape de Verd, but for the Island of St. Thomas.

On the 18th ultimo the "*Veterano*," whilst still sailing under Portuguese colours, was captured by that indefatigable cruiser, Lieutenant Kellett, of Her Majesty's brig "*Brisk*," off the river Gallinas, whither, and not to St. Thomas, she had proceeded from Havana. On the 22nd ultimo, a prosecution was commenced against the detained vessel in the British and Spanish Mixed Court of Justice, on the ground that her real national character was Spanish, and that she was equipped for the Slave Trade in violation of Spanish law. Accordingly the Captor's declaration and affidavit of seizure were filed; a monition was issued; the

witnesses in preparatory were summoned; and the Surveyors to the Court were directed to examine, and report upon, the fittings and equipment of the prize.

To the numerous papers and letters, which were at the same time lodged in the Registry, it will not be necessary to refer at length, as a translation of the most interesting of them accompanies this report. The main points which they served to establish were, that the "*Veterano*" was owned by Pedro Martinez and Company, of Havana; that the Captain of her was not Sassetti, but Don Angel Jimenes, formerly Master of the "*Ingemane*," alias "*Lince*," and who was entrusted with the whole conduct of the expedition; and that the return cargo was intended to consist of from 400 to 500 slaves, for the supply of the Cuba market.

The correspondence respecting the "*Ferox Africano*," alias "*Diligente*," is particularly deserving of notice; not only because it proves the correctness of the judgment, formed by the Commissioners some time since, respecting the case of that vessel, but on account of the references which are made therein to the bribes given to the Portuguese Consul, and even to the subordinates of the British Consulate at Cadiz. It also shows that F. C. de Mello, of the Cape de Verds, who figures as the ostensible owner of so many Spanish-Portuguese vessels, was only a man of straw, and that three-fourths of the "*Diligente*" was owned by Messrs. Blanco and Carballo, of Havana, and the other one-fourth by Pedro Martinez, of Cadiz.

These letters also discover the facilities afforded to the trade by numerous vessels under the American flag, which carry out to the coast the necessary supplies of goods, and even articles of slaving equipment, and are readily insured at about $2\frac{1}{2}$ per cent. The property embarked in a Slave Trade adventure is thus insured, both from capture and loss, during the whole of the outward voyage, at one-fourth of the premium, which would be paid upon the same goods, if embarked in a Portuguese or Spanish bottom.

The examinations on the standing interrogatories were taken on the 23rd ultimo; on which occasion Carlos Estevao Sassetti deposed, that "he was born at Lisbon, and has always lived there; is a subject of Portugal, and has never served any other State; that he was appointed to the command of the detained vessel, about two months ago at Havana, by a person named Seperiano, a resident there, and, as he thinks, a Spaniard; that he first saw the vessel there and then, and believes she is American built; that he was present at the seizure, but does not know for what reason it took place; that the vessel was sailing at the time under Portuguese colours, and there were no others on board; that the vessel is called "*Veterano*," and always has been so called since witness has known her; that she was formerly called "*Veloz*," that she is from 110 to 120 tons burthen, that there were thirty officers and mariners on board, exclusive of witness, fifteen or eighteen of whom were Spaniards and the rest Portuguese, all hired and shipped by witness at Havana about two months ago; that neither he nor any of the officers or crew had any interest in the vessel or cargo; that he was Master on board; that there were four passengers, all Spaniards and seamen, embarked at Havana for St. Thomas, on what business witness does not know; that none of them had any concern or authority with respect to the vessel or cargo; that the last clearing port was Havana, where the voyage begun and was to have ended; that the vessel's papers destined her to St. Thomas, but she called at the Gallinas for water and fresh provisions; that the owner of the vessel was one Francisco Cardozo, a Portuguese, residing with his wife and family, also Portuguese, at Porto Praia, Cape de Verds; that Seperiano laded, and is consignee of, the cargo, of which Cardozo is the owner; that the hatches are fitted with open gratings, which witness found on board on embarking, and does not know for what purpose they were intended; that the combings of the hatchways have been bored, but the holes are now filled up; that there are thirty round iron bars on board intended and fit for securing the hatches; that there are three bulk-heads; that there may be about 150 spare planks or upwards on board, from 13 to 14 feet long, and two inches thick, not numbered or fitted to the vessel, but carried as cargo by desire of Seperiano, although they are not included in the manifest; that there is a large bag on board full of shackles, amounting to 100 pairs, which were put on board by Seperiano, and which witness carried in order to sell to slavers on the coast, whom witness knew to be in want of such articles; that there were ten leaguers on board, with staves for casks, which might have been capable of receiving 50 pipes of water; that the said casks were intended chiefly for palm oil; that there were 60 mess tins intended for the use of the crew, and to convey palm oil from the coppers, in

which it was to be boiled on board, into the several casks; that there are two large iron boilers, four feet square, and five feet in depth, intended for boiling palm oil.

The Mate's evidence is merely an echo of that of the Master, with which it agrees in admitting the fact of illegal equipment for the Slave Trade. Both witnesses stated that the agent, the lader of the outward cargo, and the consignee of the return cargo at Havana, was a Spaniard named Seperiano, who also appointed the Master, Sasseti, to the command of the vessel in September last. The American Vice-Consul at Havana (Paper No. 5) states, on the contrary, that it was a Spanish merchant named Don Jacobo Belasco, by whom the appointment of Sasseti was made.

A claim for the detained vessel and cargo was made on the 28th ultimo, and on the following day the Monition, issued on the 22nd ultimo, was returned into the Registry.

The claimant's Proctor having declined, after some time, to produce further evidence, or to cross-examine the witnesses, who had been called on behalf of the captor, a Court was summoned for the 11th instant, on which day a sentence of condemnation was passed upon the "*Veterano*," on the grounds that the ownership of that vessel was positively fixed upon the house of Pedro Martinez and Company of Havana, and that her slaving equipment admitted of no question; indeed, was fully acknowledged by those serving on board of her.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

Sierra Leone, December 15th, 1838.

Second Enclosure in No. 15.

Translation of some of the Papers and Letters found on board the brig "Veterano,"
Carlos Estevao Sasseti, Master.

No. 1.—*The Bill of Sale made at Cadiz.*

Consulate-General of the Portuguese Nation at Cadiz.

Bill of Sale made by Mr. John White of the brig "*Veloz*," his property, which henceforth shall be called "*O Veterano*," to Don Gabriel Lopez, as empowered attorney of Francisco Cardozo de Mello, of Cape Verde.

In the year of the birth of our Lord Jesus Christ 1836, on the 30th day of the month of December of the said year, there appeared at this Consulate-General of the Portuguese nation, as seller, Mr. John White, of the English brig, denominated "*Veloz*," of the burthen of 110 tons, and of American build, now riding at anchor in this bay; and Don Gabriel Lopez, merchant of this place, with a sufficient power of attorney made (in the office of Raphael Salgado de Pina, a notary public of this place) by Don Francisco Cardozo de Mello, a Portuguese subject, of the island of Santiago, town of Praya, in Cape Verde; and, in the presence of the subscribing witnesses, the said Mr. John White declared, that the aforesaid brig was sold with all her appurtenances and fittings up, according to the inventory, for the sum of 1500 Spanish dollars, to the said Don Gabriel Lopez, of whom he acknowledges to have received the above-mentioned sum, and that he is paid and satisfied. In consequence of which, he renounces and gives up his right and title to the said brig "*Veloz*," with all her rigging, sails, boats, oars, and everything that appertains to her, to the above-mentioned Francisco Cardozo de Mello, whom he now and for ever constitutes absolute owner; the said seller binding himself to that effect, notwithstanding any claim whatsoever that may be made to the same brig. In like manner, Don Gabriel Lopez declared, that he was satisfied with the whole of the contents of this writing; accepting the property of the brig "*Veloz*" for his appointer, Francisco Cardozo de Mello, to whom it lawfully belongs, and declares that she will sail under the Portuguese flag, which belongs to her, and will be called "*O Veterano*;" and both parties being agreed, signed with me this instrument; as also the witnesses, all of whom I know to be the persons they state

themselves to be. And in order that it may so appear, I deliver the present original document, sealed with the royal consular seal, and having been registered.

(Signed) Seller,
JOHN WHITE.

Buyer,
(As Attorney of Don Francisco
Cardozo de Mello,
(Signed) GABRIEL LOPEZ.

(Signed) Witnesses,
MANUEL VEGA JOSE BENJO.
R. M. DE SOUZA MACHADO,
The Consul-General.
(Signed) MANOEL DE SOUZA MACHADO.
(L. S.) *Registered.*

No. 2.—*Provisional Passport for the Vessel, from the Portuguese Consul-General at Cadiz.*

(*The Royal Arms.*)

Manoel de Souza Machado, Consul-General of the Portuguese Nation, in the kingdom of Spain and Canary Islands, residing in this garrison of Cadiz, for Her Most Faithful Majesty the Senhora Dona Maria the Second, whom God preserve, &c.

I make known that the Portuguese brig, called "*O Veterano*," American built, of the burthen of one hundred and ten tons, whose Captain is Fillipe Victoria, and owner Francisco Cardozo de Mello, of the Portuguese nation, established in the Island of Santiago, town of Praya, in Cape Verde, is proceeding to that Island to obtain from the authorities of Her Most Faithful Majesty the documents necessary to enable her freely to sail, without any foreigner having any share in the said brig. And as in her voyage she may be met by the Chiefs and Officers of the ships and other vessels of the Kingdoms, Friends, and Allies of the Crown of Portugal, we request that they will not impede her in continuing her voyage, in the certainty that to those recommended by their own Princes, shall be shown the same and equal treatment. And in order that it may so appear, I have signed the present passport, which is sealed with the royal consular seal. Cadiz, this third day of January, 1837.

N. B. The aforesaid brig retains the following arms, which she had on board when she was bought; two cannon of the calibre of 12, with their appurtenances; eighteen large musketoons; an equal number of sabres; and six pistols.

(Signed) MANOEL DE SOUZA MACHADO.

(L. S.) *Registered.*

No. 3. *A Printed Circular of Messrs. Pedro Martinez and Co., addressed to Don Angel Jimenez.*

SIR,

Havana, 31st December, 1836.

As the partnership which we had entered into with our principal, Señor Don Pedro Martinez, residing in Cadiz, expires to-day, we are from this day separated from the management and direction of the business of this his house, and the new partners are charged with the accounts, according to the accompanying document. We beg of you to grant them the same confidence that you, in their time, showed to your most grateful and obedient servants,

(Signed) PEDRO MARTINEZ & Co.

Señor Don Angel Jimenez.

SIR,

Havana, 1st January, 1837.

My firm in this place having been dissolved, by virtue of the annexed circular, I have determined upon the formation of a new one, which from this date I substitute for it, under the same denomination of Pedro Martinez and Company;

conferring the direction on my nephew, Don Cipriano Lopez Martinez; the partners being the same Don Francisco Riera, who was partner in the former, and Don José Rainon Recur. I again offer you the services of this new establishment, which is charged with the liquidation and responsibilities of that which is dissolved.

As a branch of this, I also offer you its social dependency at Matanzas, which will continue in the same order in which it was established at the institution of the partnership now extinct, under the same denomination of Pedro Martinez and Company, and the responsibility of the principal; the direction being entrusted to Don Francisco M. de Bernoya, Don Pastor Perez de Terau being interested in it.

The change will not alter the mode of doing business in my said house, either in its own transactions or in business of commission, for, besides being assisted by the knowledge and credit of the new partners, I assign to each house a sufficient capital to guarantee its transactions.

Be pleased to take a note of the respective signatures of the house here, and that which the dependency at Matanzas will continue to use, disposing as ever of

Your most obedient and faithful servant,
&c. &c. &c.

(By general power from Pedro Martinez, absent at Cadiz.)

(Signed) CIP. LOPEZ MARTINEZ.

Then follow the signatures used for the firm by the three different partners, C. L. Martinez, Francisco Riera, and Francisco M. de Bernoya.

No 4. *Letter from the same to the same.*

Señor Don Angel Jimenez, Havana.

SIR,

Havana January 2nd, 1837.

ON their retirement from business, our predecessors, on the 31st of December past, turned over to us the balance of your account, to the amount of 14,966 dollars in your favour, which we have credited to you as the beginning of an account current, which we have opened with you.

We request that you will be pleased to inform us if we have acted according to your wishes, and remain

(Signed)

Your most obedient servants,
PEDRO MARTINEZ & Co.

No. 5. *Letter of Instructions, from the same to the same.*

Señor Don Angel Jimenez.

SIR and FRIEND,

Havana, September 26th, 1838.

As it is so near the time of your departure, which is to take place to-morrow, should the weather permit, with the vessel under your command, the "*Veterano*," we write this to communicate to you what occurs to us at the moment, as likely to contribute to the undertaking entrusted to you.

Although the point of your destination is the Bras, according to the information which you will there receive of the Calabars, you will proceed thither to make your traffic; and if that cannot be accomplished, you may choose the place that may appear to you the most convenient, for we rely upon your intelligence, experience, and the great desire with which we are persuaded that you are animated for the best result.

As rice, you are aware, is here at a very exorbitant price, and as you will arrive at your destination in want of provisions for your return, and will have to make up for the want of them with rice; on that account you should, in going, shape your course so as to touch at the Pongo, or on the coast of Gallinas, and you will buy what you think necessary for your return cargo, for which purpose you may apply part of the specie which you carry, or of the articles of barter, which ever you may think best.

On which account, and as you will have to pass by the coast of Malagueta, you will touch at Gallinas, where you will deliver the enclosed packet of our correspondence to Don Jozé H. Alvarez; who, if by any unforeseen circumstance, he should be without vessels at his disposal, and should have collected four or five hundred slaves, (bultos), will receive from you the merchandize which you carry, and you will place at his disposal the vessel, and remain yourself there, to await the first vessel that may go to load at that factory, in which you may re-embark the merchandise landed from the "*Veterano*," and proceed with your undertaking at the place intended.

The Portuguese Government has given directions to the respective authorities in its dominions, to take away their papers from vessels under her flag, which arrive at her ports, or have been found by the vessels of war of that nation to have on board suspicious articles, or such as indicate the trade in Slaves; and you will bear this circumstance in mind, and invariably fly from every sail, and avoid touching at any island, or place, where the vessel may be compromised.

We must also inform you, that in case, in coming out, you should suffer any damage, you must on no account enter any port belonging to the United States, for there the adventure would be confiscated, of which there have been instances. On which account, if you should be compelled to go into port, on account of damage, or from any other cause, you may do so at Porto Rico, or Saint Thomas'; consigning yourself at the former place to Don Pedro Enarcho, and at the latter to Don Jozé Ybern; and either of them, on being informed that we are interested in the undertaking, will provide you every necessary assistance, and whatever may be the amount, you may draw upon us for it at sight.

As to the route you are to take on your return, you may pass either by the southern or northern coast, whichever may appear to you more convenient, according to the weather and the circumstances in which you may be at the moment; and the landing your cargo may be effected, in case you should come by the south, at the point of Guanimar or some other in that neighbourhood. If it is at Guanimar, you will find pilots posted at Rocky Key, Crocodile, Isle of Pines, and French Key, and you will direct yourself to Don Jozé Miro Pié, but if you should come by the north, you will land your cargo at one of the places between this and Matanzas, or else between Camarioca and Mariel; it being clearly understood, that wherever the landing may take place, you will immediately despatch a messenger to us with the number of slaves (bultos), classes, and other particulars, in order that some person from this, your house, may be sent to receive them. As you are well aware of the care which is necessary for the cargo to arrive in good condition, as on that depends its greater or less value, it appears to us superfluous to recommend to your experience the best possible treatment. At the same time, we must enjoin upon you extreme vigilance with the slaves (bultos) for fear of an insurrection, of which there have been instances, but which I hope your care will prevent. We also recommend to you, above all things, the greatest order among the crew, and in the distribution of provisions, to enable them to last the time. From want of these precautions, dissensions often arise, which produce most fatal results.

You are of course aware that, in the voyage back, the greatest vigilance is necessary, and a good look-out must be constantly kept; and the moment a vessel is seen, there must be no hesitation as to what she may be, for in such cases misfortunes have constantly happened; but the resolution must be at once taken to fly, while there is time to do so; for if you hesitate, you are lost.

In case you should be pursued while coasting this island, and should be obliged to run ashore, you will take care to save the ship's papers on your own person, as also any letters or documents, and in case of great misfortune, they must be sunk in the water.

Besides the vessel under your command, the "*Veterano*," we shall probably send off, 20 or 25 days after your departure, the schooner "*Lavandeira*," in order that she may arrive at the place where you are about to make your traffic for the other. If she should arrive there before you have finished, (though you must on no account delay for her), you will in that case remain in the schooner, and the "*Veterano*" can come in charge of the mate, if you think him competent, giving him the instructions, and any additional ones you may think fit. The "*Lavandeira*" will sail from hence, as I have mentioned, for Gallinas, and as you will have to touch there, she may either remain or proceed immediately, according to the instructions she may find there from you. In case we should determine on de-

spatching another vessel after the *Lavandeira*," we shall write to you by her what it will be necessary to do.

If you should meet with any vessel belonging to this, your house, in want of any thing, we hope you will assist her to the utmost of your power; and you may also demand assistance, should you be similarly circumstanced; for all the Captains have directions to that effect, and you are also particularly recommended to the factor at Gallinas.

Accompanying this, we transmit to you the papers relating to the vessel; namely, the Certificate of ownership, Muster-roll, Clearance, and Register. These you will endeavour to keep together, for fear of their being mislaid. We also send the contract of the crew, an account of the cargo, and another of the provisions, which we enclose to you for your guidance.

Relying upon your ability and vigilance for the success of the undertaking, we do not doubt that your care and foresight will endeavour to supply, in case any unforeseen circumstance should take place, any want of more specific instructions from us, acting in the same manner as if the business were your own; we therefore conclude, remaining your most obedient humble servants, and affectionate friends,

(Signed) P. M. & Co.

No. 6.—*Letter from the same to Don José H. Almaraz.*

(Duplicate.)

Havana, September 15th, 1838.

SIR,—By the American brig "*Mary Jane*," which sailed on the 1st instant, we transmitted to you our correspondence up to that day, entrusted to the care of Don Cristoval Aragon. We now write by the opportunity of the American brig "*Comet*," on board of which we have embarked, consigned to you, two hundred and ninety jars of rum, as appears by the annexed bill of lading, granted by the Captain of the brig, H. Dickinson, which, on its arrival, you will have the goodness to receive, and apply to the concern under your charge, on account and at the risk of which we make this invoice.

We have just learned the arrival at Camarioca of the schooner "*Amable Salomé*," belonging to Blanco and Carballo. When we have had the pleasure to receive your letters, we will answer them, if there be time, by the "*Comet*."

According to what Blanco and Carballo say, they send this vessel with rum and tobacco to their factory; but as she had room left in her stowage, they offered to take our demijohns, so that we have availed ourselves of the opportunity. It has not been possible to embark the planks which you asked for, but, as they are ready, they shall go by the first vessel.

The day before yesterday we had the pleasure to hear of the arrival of the "*Cleopatra*," now the "*Lavandeira*," at Guanimar, from the River Pongas. We expect her cargo here to-morrow.

If you sent any letter of importance by the "*Rosalía*," and did not send a duplicate, we are sorry to inform you that she was taken on the south side of the island; and therefore whatever letters you may have written to us have not come to our hands.

The "*Dido*" has not made her appearance, nor any other vessel from Onim; but we hope that the "*Alexander*," as soon as she has landed the merchandize, which she carries for the "*Papagayo*," at that place, will proceed to your port to deliver to you the eighty hogsheads of tobacco, which will suffice you for the present. Nevertheless, we have just sent for some more from Orleans, for the purpose of shipping it off when you mention that you require it, or we should be of opinion that you do. But what we shall despatch to you, as soon as possible, is some rum, which you will want much sooner, notwithstanding the shipment we now make to you.

We remain, your most affectionate friends, and very obedient servants,
(Signed) PEDRO MARTINEZ & CO.

Bill of Lading enclosed in the last Letter.

I, Mr. Dickinson, Captain of the American brig "*Comet*," now riding at anchor in this port of the Havana, and about to sail for the anchorage of Gallinas, declare, that I have received on board of the said vessel, from Messrs. Pedro Mar-

tinez & Co., 290 demijohns of rum, which I acknowledge to have been delivered at the vessel's side, in a satisfactory manner. In the same state, as soon as I arrive in safety with the said vessel, I oblige myself to deliver them at the aforesaid port, or at that in which my register may be accomplished, to Don José H. Alvarez; who, on my faithfully delivering the same, is to satisfy me for the freight and carriage, in the sum of four reals for each, payable in the Havana, as soon as advice is received of my faithful delivery of the goods. For the accomplishment of which I oblige my person and goods, according to the practice and law of commerce, signing four of this tenor, one to be accomplished.

(Signed)

H. DICKINSON.

Havana, September 15th, 1838.

I will not be answerable for damage or breakages.

No. 7.—*Letter from the Same to the Same.*

(Duplicate.)

*Señor Don José H. Alvarez, Gallinas.**Havana, September 19th, 1838.*

ESTEEMED FRIEND,

WE have just received your two esteemed letters of July, without the date of the day, by the "*Salomé*;" and as the "*Comet*" will sail to-morrow, we avail ourselves of the opportunity to answer them.

We rejoice at the happy arrival at your port of the "*Constanza*," Captain Juan Prats, and at the pains he was taking to send her back as soon as possible; on which account, in a few days we shall expect her return.

We are happy that you received the articles which we sent to you by the said schooner "*Constanza*," according to the demand you made for them. Whatever you require, whether provisions or other articles, you may always send us lists of requisition, in order that there may be no mistake, and that none of the essential or necessary articles be wanting. We are also pleased, that all the remittances of money by the "*Constanza*" were delivered to the persons for whom they were respectively intended, proper receipts being taken.

We approve of the idea which you had of buying the pilot-boat "*Felix*," for she was a good vessel; but we see that it could not have been carried into effect, in consequence of the event which took place of her being lost.

At the same time we hear with satisfaction the arrival at your port of the "*Veloz*," and approve of your determination to apply the rum which she carried to that commerce; as well as that the other articles, contained in the account that accompanies this letter, should go on in the vessel to her destination at Onim; and that by her you would write whatever you may consider of importance, and whether you thought that the factor at that place would require a vessel or not.

We perceive that the "*Ferox Africano*," of Cadiz, had just arrived at that anchorage, but find that you still had not received the letters of Don Pedro. You will do well to attend to whatever observations he may make to you at any time.

By the contents of your two above-mentioned letters, relative to the request that we made to you, to give us what information you could of the proceedings of Don Francisco R. Rodriguez, when he thought proper to delay giving up to you that establishment, in spite of the order of the master of it, and the principal of our house, we most sincerely thank you; as well as for the information which you furnished to us touching the cargo of slaves (*bultos*) which the said Rodriguez sent by the schooner "*Constanza*" as a speculation of his own, while he was still in charge of that establishment, and on that account prohibited from any private speculation.

Although it is now two months since the said Rodriguez arrived, and since we asked him for the accounts which he ought to have balanced, in order that they might be definitively settled between us, he has not yet presented them for that purpose; but some day or other he must do so, and we hope that they will be in such a state that we may be able to come to some arrangement with him; for if he do not, as far as appears at present, we have discovered enough of him to prevent any possibility of our passing it over.

We have noticed the unfortunate occurrence that took place at the embarka-

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tion of the cargo of the "*Veterano*"—the loss of the slaves (bultos) on the bar of the river. But as it could not be avoided, no more can be said about it.

We see with pleasure the happy arrival at your port of the American brig "*Alexander*," and that she had landed, and you had received, the eighty hogsheads of tobacco which we sent by her on account of her commerce, but regret very much the damage done to those hogsheads at the bottom of the hold. We also saw that this vessel had sailed for Bahia, according to the instructions of the factor at Onim, and are glad that you assisted Captain Hill with the provisions that you mention.

We are of opinion that the business of factories on that coast, at least for the present, will suffer very much from competition; but as we do not think that there has been so much perseverance as you have shown in the business under your direction, it appears to us that the others will not be permanent; for undertakings of such a nature require the greatest attention, and also, above all, ample funds; and as no one can reckon upon what you will possess successively, we flatter ourselves that at last the business under your charge will become, owing to your ability and vigilance, the principal one for commercial transactions. Do not, however, neglect to inform us of every thing that takes place.

Besides the factory under Riera and Grassi, it appears that Aragon, who went out in the "*Mary Jane*," took merchandise with him to establish a business for those of Abarzuza and Azopardo; but from the reasons just stated, we do not think that this need alarm you beyond a certain point, and particularly as we reckon upon the foresight, with which you will endeavour to thwart their views.

If we are so fortunate as to find that the "*Constanza*" arrives soon, we shall send her back at once, fearing that, unless you wrote to Onim for the "*Veloz*," or some of the other schooners to return, after despatching the "*Constanza*" you may be in want of a vessel; and if the "*Constanza*" should not arrive soon, we will send off the first that comes.

Having nothing further to communicate for the present, we remain,

Yours, &c.

(Signed) PEDRO MARTINEZ, & Co.

No. 8.—*Letter from the Same to the Same.*

(Original.)

Havana, September 26, 1838.

Señor Don José H. Alvarez, Gallinas.

ESTEEMED FRIEND,

WE forward to you the duplicates of our last of the 15th and 19th current, of which the originals were sent by the American vessel "*Comet*," which sailed on the 20th.

We avail ourselves of the opportunity of the brig "*Veterano*," whose captain, our friend Don Angel Jimenez, has our instructions, in his passage along the coast to the place of his destination, to touch at your port, and deliver to you our letters; but if it should so happen that you should be without a vessel, and should have 400 or 500 slaves (bultos) actually ready, the captain is desired to put his vessel at your disposal, and deposit in your hands the merchandise which he carries, which he will re-embark in the first vessel which we may send to take in cargo at that factory; and instead of her doing so, the said Jimenez may continue his voyage in her to the place of his destination.

As there are other persons interested in the undertaking of the "*Veterano*," although it might easily be settled, nevertheless we should wish that, only in the event of your having the said quantity of slaves (bultos) actually prepared, you should make use of her; but in that case do not hesitate to do so, for, although the moment the "*Constanza*" arrives from thence, and the "*Dido*" from Onim, we shall despatch them to you, still, for fear anything should occur, you ought to seize the opportunity to prevent the accumulation of slaves (bultos) where you are.

From the aforesaid Jimenez, you will learn the order of the destination of the said expedition, which we have confided to his charge. In going, he will touch at the Pongo, or your coast, with a view to buying rice for his return passage. If there should be any difficulty in procuring the necessary quantity, and you should happen to have any left, which you can spare, or any other assistance which you

can give the said Jimenez, we shall be obliged by your giving it to him, provided it cause no detriment to the concern under your charge. Besides the "*Veterano*," as a sequel to the same undertaking, we intend to despatch the "*Lavandeira*," formerly the "*Inez*," in twenty or twenty-five days, which, in going to Bras (which is her destination), will touch at your port, to leave our letters, should anything particular occur to be communicated to you.

We are momentarily expecting the "*Constanza*," from what you were so good as to write to us by the "*Salome*," but are rather anxious, in consequence of the late heavy gales, which, following the equinox, have taken place during the last few days, and have caused the loss of several vessels; but there is at the same time this advantage, that there is but insignificant care taken, but the moment the stormy weather is passed, vigilance is redoubled, as is always the case.

Having nothing further to communicate at present, and hoping soon to hear from you, we remain,

Your, &c.
(Signed) PEDRO MARTINEZ & Co.

No 9.—*Letter from Messrs. Blanco and Carvallo to Don Tomas Rodrigues Buron.*

(Duplicate.)

Havana, September 13, 1838.

Don Tomas R. Buron, Gallinas.

MUCH ESTEEMED SIR AND FRIEND,

WE forward to you a copy of the statement of cost and refitment in Cadiz of the brig "*Ferox Africano*," sent out to that destination by our mutual friend Don Pedro Martinez, at the end of the month of June last, the final expenses of which, according to the said statement, are 19,963 dolls. 20 rls.; and as you are interested in half the vessel, we have debited you with your proportion, namely, 9,981 dolls. 60 rls., and also with 798 dolls. 52 rls., the amount of the difference of exchange at the rate of eight per cent. according to the currency of Cadiz.

It is very clear that this new charge, united to the preceding one which we made for the purchase here of the said vessel, the merchandise which the "*Emprendedor*" carried, and the result of the voyage to Malaga, forms half of the total cost of fitting out the "*Ferox Africano*," in which you are particularly interested, without noticing the occurrences to Cadiz, in which, according to the statement of our friend Martinez, the Captain, Don Miguel Bertinote, was principally concerned; for which, and the great and annoying expenses occasioned thereby, on the vessel's sailing from thence to your port, we think that our friend ought to make him answerable.

With regard to making use, or not, of the aforesaid "*Ferox*," we do not see any necessity for our giving you any directions; you, being one of the persons principally interested, and holding an equal rank in the firm which we represent, will doubtless decide upon what may be most advantageous, according to circumstances; it being an undertaking of so much consequence, and one in which you are so personally interested. You must, however, bear in mind that, whatever may be the result of despatching this vessel, it has not taken place according to our opinion; for, as we told you before, our idea was to employ her in some legal voyages, until you asked for her, for the purpose of bringing here the proceeds of the merchandise sent to you by the "*Emprendedor*;" and certainly we should have abided by that determination, even though you had delayed asking for her, for one or two years. But our friend Martinez, to whom also we owe deference, as a person concerned in a fourth of the undertaking, wrote to us to send her to Cadiz with sugar; which was done accordingly. But the most extraordinary thing is, that he then writes to us, on no account to send any more vessels to that place for the same purpose, when we should certainly not have done so at all, if he had not expressly asked us to do it.

Judging impartially, and speaking unreservedly, it appears to me, that he ought not to have sent off the "*Ferox Africano*" with so much precipitation; but, on the contrary, should have detained her at Cadiz till the beginning of October, as he well knew the number of vessels with which you were occupied. But when business becomes complicated, it appears that the Devil blindfolds our eyes, in order

to clench the nail. There is nothing extraordinary in that ; I hope, however, that as the affair proceeds towards its termination, God will make it more propitious to us.

We have purchased the "*Espartero*" at auction for 3100 dollars, and are preparing her for what she may answer for, or else to sell her to advantage.

The "*Resolucion*" arrived on the 1st instant, and is discharging her cargo. She has brought nearly to the amount of 3800 dollars.

We have already advertised her for Cadiz and Barcelona, intending to despatch her from the 5th to the 10th of October, with what freight can be procured. For, only in case of finding it necessary to get rid of it, shall we embark any sugar on our own account, or for the purpose of providing funds for our friend Martinez in Cadiz, as bills upon London keep up at 15 per cent premium.

We have not endeavoured to sell the "*Resolucion*," for she has now stood us in a price that nobody will pay, what with cutting down her masts, and her arrival at Cuba. However, there is no merchant vessel superior to her. Her only fault is that the cabin is too small, and cannot accommodate many passengers, which is what gives most profit just now. Neither are we anxious to sell her, till we can see whether she is likely to repay us anything for the great outlay that we have made for her, by sending her a few voyages first.

We are going to send the "*Triunfante*" to New Orleans, to take in cotton for Barcelona ; for we think that in this article you will be able to make a better bargain than by sugar. She will touch at Cadiz to receive orders from our friend Martinez, in case you should think fit to communicate any to him relative to the said vessel, or her going to any other place, to take a flag which may not have been worn out by the Señor Martinez de la Rosa.

The "*Amable Salomé*" we are expecting daily. May God bring her happily, and preserve you as well and happy as your affectionate friends desire.

The 17th.—We have the pleasure to announce to you that yesterday we received agreeable news of the safe arrival at Camarioca of the "*Neuva Amable Salomé*," although we did not hear the number of slaves (bultos) which she disembarked. In order to ascertain it, our Carvallo proceeds to-morrow to Matanzas, and will endeavour to sell them there, if he can do it to advantage.

We have not yet received the letters. Do not, therefore, be surprised at our not answering them by this American brig "*Comet*," which we are sending to our mutual friend, your commercial brother, Don Ignacio P. Rolo, with tobacco and other effects which he had asked for.

Having nothing further to mention at present,

We remain, &c.

(Signed)

B. AND C.

Enclosure in No. 9.

(*Duplicate.*)

Statement of the Total Cost of the Brig "*Ferox Africano*," Captain Don Miguel Bertinote, in her Voyage from hence to Gallinas, consigned to Don Pedro Blanco.

	Dollars.
Value which I affix on this vessel, in the state she was in, which sum I guarantee to Messrs. Blanco and Carballo	6 000 0
For sea-tools applied to this vessel	139 55
Gratifications to the Portuguese Consul, the Commissioner of our own nation, the Commandant of Marine, and other persons concerned in despatching this vessel	750 0
Compensation to Capera for his time	100 0
	Reals.
Accounts of the Captain	25 241 0
Advances	16 880 0
To Capera's account of the rigging, cotton things, and the like	30 261 0
To Pordam's account of casks	4 793 0
Pilotage	1 539 30
Noviega's account for planks for the deck	1 015 20
Guvierre's do. for biscuits	6 535 0
For 6 ggrs. of diet	900 0
Guvieras, for stores	2 060 0
Chira, for cartage	1 660 10
Parodi for labour	1 144 0
Carried forward	92 028 60
	6 989 55

	Reals.	Dollars.
Brought forward	92 028 60	6 989 55
Veles Rubin, bill for iron	0 350 0	
Elers, for repairing instruments	0 80 0	
Provisions for the sailors' mess	26 202 0	
Zulueta, for gunpowder	0 600 0	
Beca, account for sails	15 668 22	
Bernejó, do. for water and other things	1 194 06	
Viana, do. for wood	2 100 0	
Bezo, do. for cordage	6 833 17	
Soto, do. for casks	2 958 17	
Fernandez, do. for iron-work	5 622 24	
For the small boat	2 210 0	
Montal, for naval stores	4 210 19	
Zacasuga, for the cook-house	6 130 17	
For irons for do.	0 401 0	
Rosinol, account for rice	9 167 0	
Maten, do. for grocery	0 807 0	
Lobo, do. for tin-ware	1 166 0	
Joster, for paint	0 790 0	
Espachini, do.	0 797 17	
For sawing staves for casks	0 486 17	
21 barrels of salt beef	8 400 0	
Astiparti, account for boards	0 603 17	
Trigoyen, do. for arms	2 985 0	
Acampo, for a mast	6 400 0	
Lomargan, for cask-staves and hoops	5 509 17	
For the launch	1 369 0	
For cartage of 40 packages of iron hoops for casks	0 40 0	
Duty of 10 per cent. on the staves of the casks	0 420 0	
4 baskets of coals	0 128 0	
A carbine	0 80 0	
Paid to the major-domo for the daily expenses, in different sums	2 020 0	
For taking a-board the crockery-ware	0 271 0	
Fees to health-officers, Captain of port, and on sailing	0 647 18	
Duty on 1000 cigars charged in the sea-register	0 130 0	
Waterman's bill	0 580 0	
2 pipes of wine	1 000 0	
14 barrels of rum	1 400 0	
2 demijohns of aniseed brandy	0 90 0	
Provisions purchased in the market	0 66 0	
Do. do. do.	0 45 0	
A launch backwards and forwards to the ship	0 423 0	
Provisions purchased in the market	0 66 0	
Do. do. do.	0 80 0	
Paid on passport being returned	0 60 0	
To the Captain, for labourers' wages on the last day	1 900 0	
Advances to the cooper	0 750 0	
To the light-house	0 100 0	
For fresh meat, and putting up again the salt meat	0 640 0	
Biscuits	0 495 0	
Messages and sundry minor expenses	0 200 0	
Gratification to the Pilots Francisco and Pedro Bonieta	0 480 0	
A felucca that carried a-board the order to hoist the flag	0 40 0	
For raising the anchor	0 340 0	
For raising the large anchor	0 80 0	
Expense of anchor in depth of stowage	0 110 0	
To La Barca for sundries for delivering suspicious articles	12 749 0	
To our friend Joaquim for 5 double days' work	0 200 0	
To Don J. C. for (trasbordo)	0 640 0	
Custom-house expenses and sundry cartages	0 343 17	
Don Miguel Garcia's account	4 637 21	
R ^{on}	236 324 0	11 816 20
Gratifications in the office of the Maritime Captain-General, in that of the Señor Naval Commandant, to the person who interceded with the English Consul to smooth things as far as possible—(à el que ha intervenido con el Consul Ingles para lizar hásta donde fuese posible lo de otros procedimientos cuales no los primitivos)		0 576 0
For commission on 19 381 75 dolls. at 3 per cent. of the value		19 381 75
		0 581 45
Total value in dollars		19 963 20
<i>Distribution.</i>		
To Messrs. Blanco and Carvallo for the share of three-fourths of the undertaking		14 972 40
To the subscribers for the share of one-fourth part		4 990 80
		19 963 20

Cadiz, 19th July, 1838.

N.B. The assurers have signed papers binding them to satisfy the persons concerned, to whom copies are not sent, as time does not permit.

(Signed) PEDRO MARTINEZ.

No. 10.—*Letter from the Same to Don Ignacio Perez Rolo.*

Original per "*Comet.*"
Duplicate per "*Veterano.*"

Señor Don Ignacio Perez Rolo, Gallinas.

SIR,

Havana, 17th September, 1838.

IN consequence of the request which we made to Messrs. M. S. Cuculla, Lapeyre, and Co. of New Orleans, to freight a vessel there on account of you, and send her to this port, with forty hogsheads of tobacco, a few days ago the American brigantine "*Comet,*" Captain Dickinson, arrived with the said tobacco, and made up by those gentlemen exactly in the manner expressed in the accompanying contract.

On that account we have embarked here the remaining articles mentioned in the annexed note and bill of lading, reserving for another opportunity sending the different invoices with the cost and expenses of the whole. We also send you, in the "*Comet,*" a barrel of small cigars, which your brother Don Jeronimo delivered to us for that purpose. The rum goes in quarter casks, barrels, and ankers. This arrangement was indispensable, in order to avail ourselves of the whole stowage of the vessel; and that we might not pay freight uselessly, we have augmented the equivalent of the thirty pipes which you have asked for, in your note already mentioned, and have added a double number of bars of iron, and 300 boilers of the same metal, which we think will not be injurious to the traffic to which you destine that merchandise.

We have also received on freight 290 demjohns of rum from Messrs. Pedro Martinez and Co., which they will pay for at the rate of four reals each, when we receive here the news of the arrival and delivery of them at your port, when we will credit the amount to you, and advise you of it.

Yesterday we had the gratification to hear from Matanzas the safe arrival at Camarioca of the "*Nueva Amable Salomé,*" in consequence of which our partner, Don Lino, starts to-morrow in the steamer "*Almendares,*" in order to take charge of the slaves (*bultos*), which may have been landed, and try if possible to dispose of them advantageously on the spot.

We have nothing more to communicate at present, except again assuring you that we are your most affectionate friends, and faithful servants.

As soon as the 290 jars of rum, which the "*Comet*" takes to the consignment of Don Jozé H. Alvarez, have been delivered, you will have the goodness to require from him an order for the payment here of the freight, and remit it to us.

The 26th.—By the American brig "*Comet,*" which we despatched to you on the 20th instant, with the tobacco and other articles which you asked for, we had the pleasure to inform you of the happy arrival at Camarioca of the "*Nueva Amable Salomé,*" and now that we have received your two esteemed letters, which you sent by that vessel on the 30th of July, we make use of the first opportunity to answer them, which is that afforded by the brig "*Veterano,*" which will touch at your port. Among the many particulars of which they inform us, our attention has been particularly called to the serious illness of our mutual friend, the principal of our establishment, Señor Don Pedro, who notwithstanding, has himself written to us, and mentioned that he was better. Nevertheless we shall be by no means tranquil till we hear that he is perfectly restored to his former good health.

The aforesaid "*Salomé,*" did not land at Camarioca more than 253 slaves, (*bultos*) of whom twenty-seven were sick, and seven of them died soon after they were landed. There also perished during the voyage, seventy-four others, so that we shall with difficulty get back the cost of the enterprise; for we have to account for the fourteen that were sent as freight, belonging to Don Mariano Dias, Don Joaquim Sanchez, Don Jozé de Abarzuza, and Don Francisco de Grassé.

The captain said in answer to the observations and accusations that were made against him, that there were about 100 slaves (*bultos*), embarked at your port infected with the putrid fever, and that all the precautions that he could use on

board did not suffice to stop the mortality, so that we may say that only half have been saved of the number that ought to have been yielded by the abundant and well-assorted barter put on board, calculated to produce more than 400 slaves (bultos). But, my friend, the undertaking was ours; and on that account, or for some other reason, which it is impossible for us to guess, it could not end otherwise; therefore let us bear it patiently.

As we have already said, the "*Comet*" is on her way to you with the merchandize which you asked for; and as you also wished that we should send to you, a month later, an American private boat, able to carry 250 or 300 slaves, (bultos) to embark the return cargo, we have taken care to purchase one, on purpose to send it to you with some rum and tobacco prepared with the greatest economy.

We shall also most scrupulously take care that the said vessel takes her papers in form; so that she may run no more risk, when she has to touch at Cape de Verd to change her rag.

As yet the Captain of the "*Salomé*," has not delivered to us the little box which you mention, and which contains the two horns and the tail of the elephant, and which we intend to have set, the larger in silver and the other in gold, in the same way as a snuff-box, with little chains at the end; as also the tail in gold, giving it greater length, so as to be able to hold it conveniently by the hand. As soon as the box is in our possession, we shall take care to have everything done in the way that I have mentioned, and as soon as it has been performed, we shall send the things back to you by the first opportunity.

We shall direct the tailor to attend with his account of the clothes, which some time back Don Vincente Fernandez ordered him to make for you, and as soon as we have paid him, shall debit you with the amount of seventy-four dollars according to your instructions.

We will also use all diligence in procuring the black cook, which you request us to provide for you; and if we succeed to your satisfaction, shall pack him off with a good battery of cooking utensils.

We shall be glad to hear that you have received in due course what the schooner "*Veloz*" took for you.

In a few days we shall settle the business of the "*Nueva Amable Salomé*;" we shall credit you with what belongs to you for management, and shall also liquidate the four slaves (bultos) on freight belonging to Don Francisco de Grassi in ready money, to remit it to him by the first opportunity according to his orders.

Having no space left for more, we repeat that we are your most affectionate friends, as always.

As yet they have not come to receive any one of the accounts of the cargo embarked in the "*Comet*," on which account we do not send to you by this opportunity the respective merchandize, but shall do so soon.

(Signed)

B. & C.

We have insured in this first Company, from danger from the elements, 12,000 dollars upon the before-mentioned merchandize sent by the "*Comet*," at $2\frac{1}{2}$ per cent, which amount, that of the bill of lading, and our commission, figure in the account opened for their goods.

Charter Party enclosed in No. 10.

Original per "*Comet*."

Duplicate per "*Veterano*."

Between Captain Don Henry Dickinson, Master of the American brig "*Comet*," of the burthen of 118 tons, anchored in this port of New Orleans, and Messrs. M. S. Cuculla, Lapeyre, and Co., representatives of Messrs. Blanco and Carballo, Merchants of the Havana, it was agreed as follows:—

Don Henry Dickinson, engages and freights the whole of the hold of his vessel, excepting only what is requisite for carrying water, and other provisions for the crew, for a voyage from this port to Gallinas, on the coast of Africa, touching at the Havana, at which last named place the vessel will be consigned absolutely to Messrs. Blanco and Carballo.

The vessel will take on board at this port 40 hogsheads of tobacco, and will receive at the Havana the remainder of her cargo, in whatever effects Messrs. Lanco and Carvallo may please, excepting only such articles as are prohibited by the laws of the United States. Captain Dickinson shall be permitted to receive on

board for the Havana, after taking the 40 hogsheads of tobacco, whatever cargo may offer itself as freight, provided he defray the port duties at Havana. Captain Dickinson shall remain 30 working days at the Havana to load, and at Gallinas to unload, without counting Sundays, but reckoning all other feasts. The laying days shall commence from the day on which the vessel is ready to receive cargo at the Havana. For every day beyond the 30 stipulated for, the Captain shall receive 20 dollars.

Messrs. Blanco and Carballo will afford in the Havana to the aforesaid Captain, without charging him commission, all the good offices and assistance, which are customary on the part of the consigners of a vessel.

The freight agreed upon for the whole voyage, from hence to Gallinas, is 4000 dollars; of which the Captain shall receive in the Havana 1000, and the remaining 3000 in Gallinas, in a bill at short date on the above mentioned Messrs. Blanco and Carballo, who engage to honour it accordingly.

The Captain shall consign himself in Gallinas to the person or persons to whom Messrs. Blanco and Carballo may direct him.

At Gallinas the vessel will not approach nearer the port than her safety requires; and the cargo shall be delivered at the side of the vessel in the bay: the Captain being only accountable for putting it into the launches and boats sent to receive it.

For the faithful fulfilling this contract both parties engage; the undersigned, M. S. Cuculla, Lepeyre, and Co., guaranteeing that which belongs to Messrs. Blanco and Carballo.

Made in duplicate at New Orleans, the 30th of August, 1838.

(Signed) HENRY DICKINSON.
M. S. CUCULLA, LAPEYRE, & Co.

Bill of Lading enclosed in No. 10.

I, Don Henry Dickinson, Captain of the American brig "*Comet*," now riding at anchor in this port of the Havana, about to sail for the coast of Malagueta, declare that I have received on board the same vessel, from Messrs. Blanco and Carballo, on account of, and at the risk of Don Ignacio Perez Rolo, the effects mentioned in the margin, which have been delivered to my satisfaction. In the same condition, as soon as I shall have arrived safely in the said vessel, I oblige myself to deliver them at the side of the vessel in the said port, or in that in which my register may be considered accomplished, to the said Señor Don Ignacio Perez Rolo, or his Attorney, who, on my faithfully delivering the same, will satisfy me for the freight and carriage according to the Charter party, to the accomplishment of which I bind my person and goods, according to the practice and law of commerce, signing four of this tenor, one only to be accomplished.

(Signed) HENRY DICKINSON.

Havana, 18th September, 1838.

Contents of Margin.

- 15 cases containing 300 guns.
- 315 packages of powder.
- 4 cases containing 40 dozen cutlasses.
- 1 " containing 25 dozen knives.
- 1 " containing 100 pieces of blue baft,
- 2 " with 160 pieces of coloured satin-stripe (carranclanes).
- 3 bundles with 105 pieces of madapollams.
- 1 " with 25 pieces of madapollams.
- 1 bale, 17 dozen knives, and 12 dozen caps.
- 1 " with 13 dozen caps.
- 2 cases, with 34 dozen looking glasses, and 20 dozen pairs of razors.
- 300 half bars of iron, containing 41 ggs. 29 lbs.
- 146 bars of iron.
- 1 case, with 20 dozen padlocks.
- 300 pots, with 1500 lbs. of iron (12 broken).
- 40 barrels, containing 51,761 lbs. of tobacco.
- 30 quarter casks of rum.
- 197 ankers of ditto.
- 60 loading barrels of ditto.
- 2 sample parcels of tobacco.
- 1 barrel of cigars.

No. 11.—*Letter from the Same to Don. T. R. Buron.**Señor Don Thomas Rodriguez Buron, Gallinas.*

SIR,

Havana, 26th September, 1838.

By the "*Nueva Amable Salomé*" we received your always agreeable letter of the 24th of last July.

Immediately on your desiring us to remit to Paris the 300 dollars to your sister, we wrote to intrust that remittance to Messrs. Zulueta and Co., of London, who effected it, as you will have seen by our last advices; and the amount of expense we also communicated to you at that time.

We also informed you, by that opportunity, of the share of 1000 dollars which our principal partner made over to you in the cargo of the "*Nueva Amable Salomé*." It would have been better for you if you had not taken it, for the business wears a most unfavourable aspect; so much so, that although the vessel arrived safely, we shall scarcely get back our outlay; for out of the small number embarked, there died 81 during the voyage and shortly after landing.

The sale was effected at Matanzas at an average of 306 dollars; the third part in cash, and the rest at eight months. The buyers are perfectly safe. The sick, who were twenty in number, brought 2303 dollars, 4 reals.

As soon as payment has been made, which will be in a few days we will send you an account of the proceeds, which have been placed to your credit on account of your share.

By Don Angel Jimenez we remit to you, in three packets, labelled with your name, 125 ounces of gold (doubloons) of the Republican mint, of which the value, at the rate of 16 dollars each, and one per cent. premium in addition, amounts to 2020 dollars, and is debited in your accounts. Have the goodness to watch the arrival of the brig "*Veterano*," in order to receive from the said Jimenez the above-mentioned ounces (doubloons) which are partly in small gold.

(Signed) B. & C.

Separately we enclose the bill of lading signed by the Captain, Jimenez, for the 2000 dollars above mentioned; for, to obviate prejudicial occurrences, the Captain will not sign it till the moment of sailing.

No. 12.—*Letter from Lino Carvallo (a partner in the house of Messrs. Blanco & Carvallo) to Don T.R. Buron.**Señor Don T. R. Buron, for his landlord, (para su patron,) Gallinas.*

MY ESTEEMED FRIEND,

Havana, September 26th, 1838.

ALL the pleasure that I have felt at the happy arrival of the "*Salomé*" was turned into the greatest affliction, when I received by her, a few days afterwards, your always desired letter of 1st August, which informed me of the severe illness with which you were still afflicted, after having been at the point of death; and I can assure you, with all the great affection and sincerity which mark the interest which I take in your valuable existence, that I shall not be satisfied till I receive later intelligence, by the first vessel which arrives from thence, announcing your complete recovery, in order that you may make your preparations for returning to this country as soon as possible, so as to be no more exposed to the action of that deadly climate, in which I cannot see any occasion for your remaining any longer, even though our interests were to go to the devil; for these are of comparatively little consequence in such cases, even with regard to others, who are not of so much importance as, thanks to God, you are. It is high time that you should now return to the bosom of your family, to attend to your interests, and repose yourself after the horrors of the life you have led in that dreadful place. For, if necessity obliged you to seek your subsistence in that desert, where you have been exposed to so many risks and privations, it is now essential and indispensable that you decide upon returning to enjoy the fruit of your labours, without waiting till there is no longer hope of your doing so; for sooner or later, sickness will get the better of us. With regard to what business may be in the course of transaction, if the presence of your friend Buron and the other persons employed, be not sufficient, it will be easy, after your return here, to send from hence some one or more persons

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to follow up your subsequent views, and however lucrative these might be, is of little importance in comparison with the risk you run.

You are a husband and father; and it is in no respect fit for you to be deprived any longer of the society of those sacred bonds, more particularly as you are fortunately possessed of the means of amply providing for your future enjoyment and happiness, as well as those of the sacred objects who claim your immediate presence and protection.

Perhaps you may think that I am taking a very great liberty in urging my advice in this manner, and that you only are competent to judge of what may be most fit for you to do in your private affairs; but as I consider that I have the honour to be your sincere friend, I cannot and ought not to refrain from expressing myself as I have done, as a return for the confidence and regard which you have deserved at my hands; for the private affection which I feel and profess for you is totally distinct from, and uninfluenced by, the misunderstandings and disagreements which unfortunately have appeared in our last communications; originating on my side, entirely in the wish to convince you, and free myself from the responsibility in which I was placed by your repeated reproaches, generally unfounded. For as I have often said, you could not, at such a distance, foresee the occurrences whence originated the various subjects of your criticism and reprobation. Besides the good intention of what I have done, and no one has denied it, but, on the contrary admitted that they had a great chance of success, whatever may have been the ultimate result, (and I must confess that misfortune has generally attended my efforts;) still, notwithstanding that, the social co-operation has not, up to the present time, been attended with loss, or failed to produce substantial benefit in the soul and movement of the different individual undertakings, without perhaps your being able to understand what this was principally owing to; and you have therefore recurred to the numerous items of credits which have so much engaged your attention, in spite of that being the first agent on which all the mercantile people in the civilized world reckon for advancing and extending their commercial operations.

Again, the fatality which attends me caused me to undertake, at the conclusion of our social compact, the business of Mendoza and his cousin Fernandez, in order the more to perplex me in an affair which I have never been able to understand. For though I never gave them any reason to consider me as a friend to their views, the vile and unworthy means which they used succeeded too well in injuring me; particularly as you, being imposed upon by their abominable communications, were animated against me, and expressed yourself in terms really severe and uncalled for; which indeed would have been unnecessary, even if you had attached the greatest importance to the foolish and wicked accounts, which those wretches made use of to excite you. It would have been much more simple if you had ordered me to give over the establishment to them, and settle my accounts with them; for indeed I am less interested than you could imagine, when you thought that the resentment that I expressed, in consequence of such powerful reasons, proceeded from my imagining that there would soon be an end to the power which I possessed, and still possess, of dismissing the spy whenever you say the word.

But let us leave this subject, on which I have said so much, in order to avoid repetitions which will make my letters troublesome to read; for my wish, on the contrary is, that they may be agreeable to you, and that you may daily be more and more convinced by them, that if I have been capable of causing you any uneasiness with reference to these people, I was compelled to do so in answer to their accusations, and that I am incapable of behaving with impropriety to a person who has been long entitled to my gratitude.

The pleasure also which I experienced at the arrival of the "*Amable Salomé*" has been turned to sorrow, as on her reaching Matanzas, I found that the cargo which she had brought from your port had been reduced by the death of 81 slaves (bultos) during the voyage, including seven who met with the same fate at Camarioca, after being disembarked; so that the shipment will scarcely, or with difficulty, be free from loss, after paying the insurance.

As soon as I arrived at Matanzas, I sent my son Ramon to Camarioca, in the steamer "*Almendares*," for the above cargo; and aboard the same steamer, in the bay of Matanzas, I assembled the different purchasers, who came with the desire of doing business, and proceeded to sell the cargo. In spite of the bad assortment and bad state of the merchandize, I succeeded advantageously in realizing the price of 306 dolls. for each slave (bulto) in the lump; one-third in ready money, and the rest at eight months' date. The buyers were these:—Messrs. Regules Pardo, and

Co., Don Salvador Martiartu, and Don Julian Zulueta, who jointly and *in solidum* have signed the bills for the part payable in that way, and have paid us the amount agreed upon to be paid in cash; so that, if the cargo had been even moderately good, we should have had the satisfaction to make a round bargain, for the security of the debtors is the same as if we had the cash in hand.

I am very glad to hear that the "*Feroz Africano*" has arrived at your port, for I was very anxious on account of what took place at her sailing from Cadiz; and I am persuaded that your decision to send her away immediately, because our friend Martinez had despatched her of his own accord, will tell doubly in effecting her return as soon as possible; so that we may hope to reimburse ourselves for the great cost which she has been to us, by reason of the incidental expenses which you are aware of. With regard to the Captain, Bertinote, you will consider whether or not you wish to take measures against him, on account of his conduct at Cadiz, according to what our friend Martinez writes from thence, from which it appears that he is in no way worthy of retaining his employment, or of any other favour.

I am also very anxious on account of the delay of the American schooner "*Washington*" in which your cousin Don Vincente Fernandez was foolish enough to embark; for according to what the Captain of the "*Amable Salomé*" informed me, it was another schooner which anchored in the bay on the day that the "*Feroz Africano*" arrived there; and the "*Washington*" was 55 days out from this port; for in spite of the vexation which this young man has caused me, I should be sorry that any accident had happened to him on account of his precipitate departure. Influenced by my regard, I cannot refrain from beseeching you to lay aside your anger against him, and in case he should arrive in safety, to receive him as well as you would have done, previously to his giving you these last motives for resentment; and I shall consider this adding a new favour to those I have received at your hands.

As the house of Martinez has this moment sent to inform me that the "*Veterano*" sails to-morrow, and will touch at your port, you will excuse my not answering at present your letter of the 25th of June last: I shall have the pleasure to do so by the first opportunity. The "*Triumfante*" is now loading for New Orleans what there is of freight, and some passengers, for the purpose I mentioned.

I am also loading the "*Resolucion*" for Cadiz and Barcelona; but as this is the worst time of the year, there is no freight, and I have been obliged to buy 150 cwt. of sugar to put at the bottom of the hold, for we, the loaders of vessels, are like women, who always wish to place themselves above, and not below.

The "*Prat*" is preparing, and we may decide, when she is ready, whether or not we shall despatch her to the south to fetch Congos, in which case Perez, whom you recommended, will command her, and Aragon will go as mate, dividing between them the direction.

We expect the "*Escorpion*" daily from Cuba. According to the last intelligence which we have of her proceedings at that point, the consignees had realized 137 slaves (bultos) for 41,954 dolls., of which 13,883 dolls. was in ready money. There remained at the hut 112, including 25 sick, and there had died 98.

We think of taking the "*Amable Salomé*" for 5,000 dolls., for as she is a new vessel, West India built, and solidly constructed, she will always be worth the money, more or less.

Conceiving that the pilot boat "*Brillante*," with the proceeds of the business of the association, will be the next vessel that we shall have, we intend insuring the part of its value, that will be cleared, judging by approximation according to the last two; and subsequently, at a future day, we will make the distribution of the premium among those who will have to pay it.

As to situation at the most convenient points, I take full care of that, and also that whatever is brought in, is concentrated at Trinidad; and I have the satisfaction to see that these points are also attended to, with laudable exactness and efficacy on the part of those employed under me.

The exchange on London still keeps high—it is now at 15 per cent.—and has also got up at New York to 11 per cent., so that now there is no advantage in taking United States' paper.

Accept the best regards of my wife and family, and be assured of the invariable affection of one, who desires your better health, and has the pleasure to profess himself your sincere friend.

(Signed)

L. C.

No. 13.—*Letter from Messrs. Blanco and Carvallo to Don Mariano Dias.*

Señor Don Mariano Dias, Gallinas.

SIR,

Havana, September 26th, 1838.

WE are informed by our friend, Don Ignacio P. Rolo, that he embarked on your account at the freight of 50 per cent., in the "*Nueva Amable Salomé*," six slaves (bultos) to our consignment; and as she has arrived safely, we take the earliest opportunity to inform you of it. We regret to be obliged to add, that, during the voyage, and after the landing, there has occurred a diminution, by death, of 81 slaves (bultos) out of the cargo.

There were also, out of the 246 saved, 20 sick, whom we could not offer for sale. The next proceeds, one with another, are at the rate of 306 dollars each slave (bulto), one-third in ready money, and the rest at eight months. The sick have been knocked down at 2303 dollars 4 reals; and when the liquidation is effected, which will be in a few days, we will give you an account of the result of your remittance.

We have the honour to be, Sir,

Your most obedient and faithful servants,

(Signed)

B. and C.

No. 14.—*Letter from Juan Agapito de Pereda to Don T. R. Buron.*

Havana, 26th September, 1838.

Señor Don Tomas R. Buron, Gallinas.

MY ESTEEMED FRIEND,

AFTER having communicated with you a few moments before the sailing of the brig "*Veterano*," I have been occupied in copying letters for the firm, and looking for Republican money; so that there scarcely remains time to inform you of the receipt of your esteemed letter of the 15th, with an addition of the 28th of July; and indeed if I were to answer you, chapter for chapter, quoting former letters, which were before me, &c. &c., it would be very diverting; for, believe me, I have sufficient materials to confound your fluency and Jeremiah lamentations; but besides it being useless for our purpose to follow the footsteps of certain persons of our acquaintance, there is not time enough to do it.

As you see by the private letter of Señor Don Lino Gonzales (who was recommended by him) has been selected out of many candidates for the situation of mate of the "*Triunfante*." I was not obliged to have any thing to do with his appointment.

By this date I suppose that you have received the 2000 dollars which I remitted to you by Don Manuel Fernandez, which, with the 2000 which go now, will complete the 4000 which you asked for, and of which the want, to my very great regret, has caused you so much uneasiness and humiliation.

In spite of your saying in your letter of the 28th of July that it is not so, I am of opinion that the four slaves (bultos) embarked by Grassi in the "*Salomé*," are sent on our account; but, whichever way it may be, the proceeds shall be faithfully remitted to him; and on receiving your next advice, we will settle accounts.

In the brig "*Mary Jane*" were sent the articles enumerated in the account, of which the duplicate accompanies this, to the value of 1090 dollars 3 reals, and I hope they will please you; and in the "*Comet*," which went on the 20th, two boxes were forgotten and remained here till then; they contain kitchen utensils and money.

By the first opportunity I will send the shoes which you afterwards asked for, and which I have ordered. May God grant that every thing may please you; for in proportion to the riches you acquire, so does your good humour diminish; and I should be very sorry indeed to try the effect of your temper a second time.

Believe me, my friend, I am very plain, though a little hot-headed; and when I adopt a mode of proceeding, it is in the firm persuasion, that the sincerity due to a frank and open-hearted friendship, honour, and disinterested views require it.

Such were the motives which impelled me to explain myself, touching our firm, with regard to the purchase of slaves (bultos). It is your business to examine your heart, and regulate your actions accordingly.

I believe that in the same letter I thanked you for your goodness towards me. If I did not do so, it was out of forgetfulness, and on no other account, as I am persuaded that you deserve the most heartfelt gratitude on my part. On the other hand, I am sensible that you owe me nothing, nothing, absolutely nothing.

I shall be glad to hear that you have got over the tempest, which you say threatened your shipwreck, for it would be a pity to cast off the rope when you are so near the port. This is only a hint. Take care that you do not give it a sinister interpretation. I know that I have much to apprehend before I take upon myself the character of a master.

Your invariable friend and obedient servant,

(Signed)

JUAN AGAPITO DE PEREDA.

No. 15.—*Letter from Messrs. Blanco and Carvalho to Don Joaquim Sanchez.*

Havana, 26th September, 1838.

Señor Joaquim Sanchez, Gallinas.

SIR,

ACCORDING to a communication from our friend, Don Ignacio Perez Rolo, it appears that he embarked on your account, at a freight of 50 per cent., in the "*Nueva Amable Salomé*," three slaves (bultos) consigned to us; and as she has arrived at Camarioca, we hasten to inform you (and it is with regret) that in the voyage, and soon after the landing, there was a reduction by death of 81 slaves.

Also, among the 246 saved, there were 20 sick, who could not be offered for sale.

The sale has produced, one with another, an average of 306 dollars each slave (bulto); one-third in cash, and the remainder at eight months.

The sick are disposed of altogether at 2303 dollars; and when payment has been effected, which will be in a few days, we shall give you an account of the proceeds of your above-mentioned remittance.

Your most affectionate friends and obedient servants,

B. & C.

No. 16.—*Letter from Mariano de Aldecoa to Don Manuel Boston.*

Havana, 26th September, 1838.

Señor Don Manuel Boston.

FRIEND BOSTON,

I ARRIVED happily and recommend my friend, Don Angel Jimenez, captain of the brig "*Veterano*," to you and to Madame Fèvre, in order that you may supply him with rice and whatever he may require, which I shall consider a great favour to me.

Tell Madame Fèvre not to involve herself with any body, for I intend going there very soon.

I wish you your health. You may command your friend.

(Signed)

MARIANO DE ALDECOA.

Remembrances to Nelly and Sarah.

No. 17.—*Letter of an old date from Messrs. Pedro Martinez and Co. to Don Angel Jiminez.*

Señor Don Angel Jiminez.

SIR,

Havana, 26th April, 1837.

ON the 17th instant, and a month after her sailing from this port, the schooner, "*Josefina*," arrived considerably damaged; but being now entirely refitted, her departure will take place to-morrow under the command of her captain, Don Juan Rosé Rodriguez, who is instructed in every thing relating to the united undertaking of the "*Lince*," both being under your charge.

We are aware that this accident must have caused you some delay, but flatter ourselves that your experience and practice have enabled you to smooth every obstacle.

The vessels which have lately arrived have brought a large proportion of females, of whom we have not been able to dispose at any price; on this account, we recommend you to endeavour to embark the smallest possible number, or none, in order that we may dispose of the cargoes to advantage.

We repeat to you all that we said in our last, on your departure, and hoping that you may have a speedy and happy result, remain your most affectionate and faithful servants,

(Signed)

P. M. & Co.

No. 16.

Her Majesty's Commissioners to Mr. Backhouse.—(Received April 24th, 1839.)

SIR,

Sierra Leone, December 31st, 1838.

IN pursuance of the 75th Clause of an Act passed in the 5th year of the reign of His Majesty George the 4th, entitled, "An Act to amend and consolidate the Laws relating to the abolition of the Slave Trade," we have the honour to enclose a Return of all Vessels, adjudicated in the British and Spanish Mixed Court of Justice, from the 1st of July, 1838, to this date.

We have, &c.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

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

Enclosure in No. 16.

Return of Spanish Vessels, adjudicated by the British and Spanish Court of Mixed Commission, established at Sierra Leone, between the 30th day of June and the 31st day of December, 1838.

NAME OF VESSEL.	NAME OF MASTER.	DATE OF SEIZURE.	WHERE CAPTURED.		PROPERTY SEIZED.	SEIZOR.	DATE OF SENTENCE.	Number of Slaves captured.	Number died before Adjudication.	Total number emancipated.	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.
			Latitude.	Longitude.								
Opposição . . .	João Rodriguez	1838 25 Apr.	23° 55' N.	84° 47' W.	Schooner and cargo	Lord Clarence Ed. Paget, H.B.M. sloop "Pearl."	1838 18 Aug.	..	..	..	Condemned for being engaged in the illicit traffic in slaves.	Vessel and stores sold by public auction, and the proceeds paid into the military chest.
Diligente . . .	Miguel Sierra	15 Aug.	7° 3' N.	11° 46' W.	Brig and cargo	Arth. Kelleth, Esq., H.B.M. brig "Brisk."	12 Oct.	..	..	..	Ditto	Ditto
Ligeira . . .	Antonio Silva	16 Aug.	7° 3' N.	11° 46' W.	Schooner and cargo	Ditto	12 Oct.	..	..	..	Ditto	Ditto
Constituição . .	Eduardo Roberto	21 Aug.	In Accra	Roads.	Ditto	W. B. Oliver, Esq., H.B.M. schooner "Fair Rosamond."	12 Oct.	..	..	..	Ditto	Ditto
Eliza . . .	Manoel Munhiz	24 Sept.	5° 46' N.	10° 1' W.	Ditto	Arth. Kelleth, Esq., H.B.M. brig "Brisk."	12 Oct.	..	..	..	Ditto	Ditto
Constituição . .	Joaquin da S. Pinto	30 Sept.	5° 46' N.	9° 53' W.	Ditto	Ditto	10 Nov.	..	..	..	Ditto	Ditto
Jozephina . . .	Juan Gonsalvez	17 Oct.	7° 3' N.	11° 46' W.	Ditto	Ditto	10 Nov.	..	..	..	Ditto	Ditto
Maria . . .	Alberto M. Mideiros	8 Nov.	10° 18' N.	14° 30' W.	Ditto	Ditto	19 Nov.	..	..	..	Ditto	Ditto
Veloz . . .	João Antonio Ribeiro	17 Nov.	7° 3' N.	11° 46' W.	Ditto	Ditto	24 Nov.	..	..	..	Ditto	Ditto
O'Veterano . . .	Carlos E. Sasseti	18 Nov.	7° 6' N.	13° 0' W.	Brig and cargo.	Ditto	11 Dec.	..	..	..	Ditto	The brig and stores in charge of the Commissioner of Appraisement and Sale, the same being ordered to be sold at public auction, and the proceeds paid into the Registry twenty-one days from the date of the condemnation.
Sirsé . . .	Serafin Antonio Spencer	17 Nov.	7° 6' N.	14° 0' W.	Schooner and cargo.	C. Fitzgerald, Esq., H.B.M. brigantine "Buzzard."	21 Dec.	..	..	..	Ditto	Ditto

N.B.—A schooner, called the "Mary Ann Cassard," John Bacon, Master, was seized on the 27th of October of this year, in lat. 8° 38' N., and longitude 13° 30' W., by Her Majesty's brig, "Brisk," Lieutenant Arthur Kelleth, commanding, and was brought into this Court on the 29th of the same month: on the 24th, however, of the month following, the Court declared itself incompetent to proceed to adjudication in the case, the detained vessel having been captured while sailing under the flag and pass of the United States of America.

Sierra Leone, 31st December, 1838.

(Signed)

J. MILLER,
Acting Registrar.

No. 17.

Her Majesty's Commissioners to Viscount Palmerston.—(Received May 6, 1839.)

MY LORD,

Sierra Leone, October 20th, 1838.

ENCLOSED we have the honour to hand to your Lordship our report of the case of the Spanish schooner "*Ligeira*," Antonio Silva, Master, captured under Portuguese colours, and condemned on the 8th instant in the British and Spanish Mixed Court of Justice, as a Spanish vessel equipped for the Slave Trade.

The ownership in this case was clearly traced to merchants resident in Havana, and the Portuguese flag was assumed merely to protect the vessel in her illicit pursuits.

We have, &c.
(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

Enclosure in No. 17.

Report of the Case of the Schooner "Ligeira," Antonio Silva, Master.

THIS is one of the ordinary cases of vessels, really Spanish, which have sought protection under the Portuguese flag from the penalties of the Spanish Treaty signed in Madrid on the 28th June, 1835.

The "*Ligeira*" was sailing, at the time of her capture, under a Portuguese register or passport, obtained at the Cape Verd Islands, which declares her to be of American construction, and which was granted so lately as the 1st of December, 1837, in direct opposition to the Portuguese decree, which came into force on the 17th of January in the same year.

In this register a resident at the Cape Verd Islands, named Mathias de Mello, is named as the owner; but a letter of instructions, dated at Havana on the 15th of May last, and addressed to the Spanish master of the vessel, on the eve of her sailing for the Coast, leaves no doubt that the ownership of the vessel rests with a mercantile house at Havana, where also the voyage began, and was to have ended.

The "*Ligeira*" cleared out last from Havana for St. Thomas, on the 15th of May; but unmindful of the destination marked out in her papers, she came direct to the river Gallinas, where she was captured on the 16th of August, 1838, by Her Majesty's brig "*Brisk*," Lieutenant Arthur Kellett commanding. Her clearance and matricula declared the vessel to be under the command of a Portuguese named Antonio Silva. It became, however, abundantly evident that the real master was a Spaniard named Vincente Sanchez Larrazabal, well known at this place, and who figured in the muster-roll only as first officer.

On the 23rd of August the "*Ligeira*" arrived at Sierra Leone, and the usual proceedings were adopted by the captor to prove, in the first place, the Spanish character of the detained vessel, arising from the domicile of her owner, and her employment in Cuba Slave Trade; and secondly, her liability to condemnation under the late Treaty with Spain, for being illegally equipped for the Slave Trade.

For this purpose the Captor's declaration and affidavit of seizure were received and filed, the usual monition was issued; the surveyors of the Court were directed to examine and report upon the fittings of the prize, and the witnesses in preparatory were examined on the standing interrogatories.

The report of the surveyors declared, that almost every article of a complete Slave Trading equipment was on board, slave deck, leaguers, slave coppers, and and slave food.

When the "*Ligeira*" was taken possession of in the river Gallinas, the Portuguese master was on shore; consequently he was not present to be examined on the arrival of the vessel here; and his absence was afterwards urged as a ground of delay in the final adjudication of the case, on the petition of the mate, who, when it was found that the master was detained at the Gallinas by severe illness, was allowed to defend the case in his behalf. This was of less consequence, as, although Antonio Silva figured as master, no doubt could exist that Vicente Sanchez de Larrazabal, the nominal mate, was himself the real captain, and exercised complete control over the expedition.

Larrazabal deposed "That the Master's name is Antonio Silva; that he has known him only three months; that the said Master was on shore at Gallinas at the time of capture; that he does not know who appointed the said Master, or gave him possession, or where or when he got the same; that witness first saw the vessel at Havana about three months since; that he was present when the vessel was captured; that he does not know for what reason, or under what pretence the vessel was seized; that she had no colours but Portuguese, and has never had any other name, to witness's knowledge, than '*Ligeira*'; that she had thirteen officers and mariners, exclusive of the Master, Portuguese and Spaniards, all shipped and hired at Havana by the Master about three months and a half since; that neither he nor, to his knowledge, any of the officers or mariners, had any interest in either vessel or cargo; that he was Mate on board; that the last clearing port was Havana, and the voyage commenced and was to have ended there; that from Havana the vessel proceeded direct to Gallinas, where part of the cargo was landed, and the vessel had been there about twenty-eight days when capture took place; that the capturing vessel was first seen in the Gallinas on the 15th of the present month, and capture took place on the same day, the '*Ligeira*' being at anchor in that place; that the vessel's papers were for St. Thomas, but the Master called at Gallinas on his way, for the purpose of repairing a boat; that there were no instructions to avoid or escape from capture, or for concealing or destroying any of the vessel's papers; that he believes the Master to be the owner of the vessel; that he knows no other person connected with her; that he knows nothing of any bill of sale, but thinks, if restored, she will belong to the Master; that the Master acted as consignee of the cargo, but witness knows nothing either of the lader or owner thereof, and cannot say to whom the cargo will belong if restored, unless it be to the Master, who is the only person he knows of concerned in it; that he knows nothing of the former voyage; that the cargo brought from Havana consisted of muskets, tobacco, rum, powder, and dry goods, part of the powder being at present on board; that after capture the vessel was taken to Sierra Leone; that the papers found on board were and are all true and fair, and none have been concealed, destroyed, or made away with; that there was no charter-party to his knowledge; that he is ignorant whether the vessel or cargo be insured; that she was under the Master's management in regard to her trade; that no slave was put or received on board at any time during the present voyage."

Notwithstanding the clear and explicit nature of the sworn report of the Surveyors, this witness did not hesitate to deny all their statements.

A second witness, Juan de Areta, a seaman of the detained vessel, whether in answer to the standing interrogatories, or to the special standing interrogatories, regarding equipment, observed the same line of deposition as Larrazabal. His evidence, in fact, although not so full, is a repetition of that which has been quoted.

The filing of a claim for the "*Ligeira's*" restoration, and for damages for her detention, was followed by a series of special interrogatories, approved by the Court, and framed with the object of clearing up the doubtful points of the transaction, and of compelling Larrazabal to disclose the parties really interested in it. Little, however, was gained from the witness, who pretended either ignorance or forgetfulness of all the most important particulars; and at length the Proctors for both parties jointly petitioned for a day of trial, which was fixed for the 4th inst. The decision of the Court was, that the "*Ligeira*" was sufficiently clothed with a Spanish character by her employment in Spanish trade, and by the domicile of her owner, and that she was consequently liable to condemnation for being fitted for the Slave Trade, in violation of the 10th Article of the Spanish Treaty.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

Sierra Leone, 20th October, 1838

No. 18.

Her Majesty's Commissioners to Viscount Palmerston.—(Received May 6, 1839.)

MY LORD,

Sierra Leone, October 20, 1838.

WE have the honour herewith to transmit our Report of the case of the schooner "*Constituçao*," found sailing under Portuguese colours, and ostensibly
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commanded by a Portuguese, named Eduardo Roberto, on the 21st of August last, at anchor in Accra Roads, when she was detained by Lieutenant Oliver, commanding Her Majesty's schooner "Fair Rosamond," on the ground of her being Spanish property, and equipped for the Slave Trade; and sent to this colony for adjudication by the British and Spanish Mixed Court of Justice established here.

The prosecution of the detained vessel commenced on the 10th ultimo, the day after her arrival here, and ended on the 17th; and her adjudication took place on the 12th instant, when it was made clear by the evidence received in the case that the "*Constituçao*" was really a Spanish vessel, employed in the traffic in slaves, for which she was in many respects fully equipped; and a sentence of condemnation of vessel and cargo was therefore passed.

The "*Constituçao*" is mentioned in the Havana Commissioners' lists as a Portuguese vessel, leaving, in June last, for Loando, to engage in the Slave Trade. At the time of her capture she was found in every respect prepared for immediate action; and had she been met with at sea, it seems probable that the most determined resistance would have been made. Besides an eighteen-pounder pivot-gun amidships, there were twenty other long guns of the same calibre, six blunderbusses, twenty muskets, and twenty cutlasses on board, all of which were kept in a state of readiness, and grape, chain, and bar shot, with corresponding packages of ammunition, were found distributed about the decks. From the crew of the "*Constituçao*," consisting of nearly forty persons, and from the state of military discipline observed amongst them, we are led to believe that the vessel would have had little hesitation in committing acts of piracy on the coast, if the opportunity had offered.

We have, &c.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

Enclosure in No. 18.

Report of the Case of the Schooner "Constituçao," Eduardo Roberto, Master, seized under Portuguese Colours.

At the time of the detention of this vessel, there were found on board of her the following papers:—

1. A Passport from the Portuguese Government of the Cape de Verd Islands, dated December 10th, 1837, describing the schooner as of American build, and owned by a Portuguese, named Luiz Carvalho, whose residence is not stated. The burden of the schooner is given as 128 Spanish tons, although the passport is evidently intended to lead to the opinion of the property being entirely Portuguese. No destination is assigned to the vessel, and the passport has not received any endorsement.

2. The Matricula, dated Havana, June 8th, 1838, states the schooner to be bound, under the command of Eduardo Roberto, to St. Paul de Loando, with a crew of twenty-four men. To this document there have been annexed two certificates from the American Consul, Mr. Trist, who performs these acts on account of there being no Portuguese Consul at Havana. One of these certificates, which is intended to authenticate the Matricula, is dated one day before that document was signed by the Master of the vessel; and the other relates to the Master's appointment by the owner's agent at Havana, T. Estivez, a resident merchant in that city. On the same day that the American Consul's certificates were granted, there was another Muster-roll made out in the Spanish language by Eduardo Roberto, showing the real state of the crew of this vessel, and in which the names of eleven passengers on board were included, as well as those mentioned in the official Muster-roll. The addition of these persons made up a crew of thirty-seven officers and men.

3. Customs' Clearance, dated June 9th, 1838, of the cargo shipped at Havana, the destination of the vessel being the same as in the Matricula. Under the usual sealed cover is also a certificate of the 9th June, 1838, to the effect that the Master, Roberto, had shown that he was owner of the cargo; that the casks embarked were to hold palm oil on the return voyage, and the large boiler was for clarifying palm oil. No bond for the lawful employment of these articles, however, appears to have

been taken. To this certificate there is one added from the American Consul's office, as to the signature of the Customs' officer, which is dated a day previous to the Customs' certificate which it is to authenticate, and which Mr. Trist has not signed.

4. Some Log-books for the voyage in which the schooner was detained, showing the voyage to have been from Havana to the Cape de Verd Islands, and thence to Accra, where she was seized.

5. Eleven Passports for the persons found on board as passengers. One of these is for the real Master of the vessel, Jacinto Derizans, a Spaniard; a second for his brother Benito; and a third for Aracletto Marti, who kept a Spanish log for part of the voyage, by order, as is expressed in it, of the Captain, Jacinto Derizans.

In addition to the foregoing papers, there were a great number of others taken possession of, from which we have collected the following information:—

Jacinto Derizans, who appeared on board as a passenger, had an interest of 2000 dollars in the expedition, in addition to his agreement of 100 dollars a-month for his wages, and 10 per cent. upon the nett proceeds of the sale of the slaves landed in Cuba; the Master, Roberto, was to have 1 dollar for each slave, and 60 dollars per month; the mate 3 dollars for each slave, and 80 dollars per month; and the boatswain $1\frac{1}{2}$ dollar for each slave landed, and 70 dollars per month. The true position of the nominal master is thus proved by the fact that he was receiving considerably less pay even than the boatswain.

Derizans has been long engaged in the Slave Trade, and has been employed as Master in the Spanish vessels "*Mercedita*," "*Fortuna*," and "*Antonica*," previous to the present speculation. The correspondents of Derizans appear to be S. A. Trigoyen and Co., of Havana, Appertegua, Arrecha and Co., of Trinidad, and Ramon Perez, of Porto Rico.

Amongst the papers there are some letters from Juan Ruis, who was residing in June last at one of the Cape de Verd Islands. He has been in correspondence with the firm of Manuel Ruis and Antonio Escotto, of Matanzas, from the year 1832 to the present time, respecting slave adventures, in which period he has had an interest in not less than fifteen shipments.

On the 16th of June, 1838, the "*Constituçao*" quitted Havana for St. Paul de Loando; but, leaving the route for that port, proceeded to the Cape de Verd Islands, where she remained a week, and then visited Accra, in which port she was found at anchor on the 21st of August, 1838, by Her Majesty's schooner "*Fair Rosamond*," the commander of which vessel, Lieutenant Oliver, detained and sent her to this colony for trial.

The "*Constituçao*" arrived here on the 10th of September, and a prosecution was commenced the same day, before the British and Spanish Mixed Court of Justice, against the detained vessel, as Spanish property, equipped for the Slave Trade.

The declaration of the Captor stated, that on the 21st of August, 1838, being in Accra Roads, he detained the schooner "*Constituçao*," sailing under Portuguese colours, commanded by Eduardo Roberto, who could give no information respecting the voyage in which the vessel was engaged, but referred the captor to Jacinto Derizans, who declared her to be bound from Havana to St. Paul de Loando, and thence to Matanzas. The grounds of detention the Captor states were, that the vessel was Spanish property, the Master and Derizans representing that Derizans was the owner, and that he was a Spanish subject, and also that she was equipped for the Slave Traffic. To this declaration the Captor himself was sworn at the time of its being received into court.

On the 12th of September the Registrar examined Eduardo Roberto, the Master of the detained vessel, upon the standing interrogatories, and on the special questions used in all cases of equipment for the Slave Trade. The Master's evidence was as follows:—

"That he was born in Lisbon, and lives there with his family; is a subject of Portugal, and has never served any other state; that he is married, and his wife resides at present at Santander, in Spain; that he was appointed to the command, and possession was given to him, at Havana, in June last, by Jacinto Desidan, or Derizans, a resident of Havana, and a Spanish subject; that he first saw the said vessel there a few days previously, and does not know where she was built; that he was present at the time of capture; that he does not know for what reason the vessel was seized; that she sailed under Portuguese colours; that there was also a

Spanish and a Colombian flag on board ; that he does not know for what reason such colours were on board ; that he found them there when he shipped ; that neither of them were hoisted at any time during the present voyage ; that the vessel is called ‘ *Constitucion*,’ and has never had any other name to witness’s knowledge ; that he does not know her tonnage ; that she had about twenty-eight officers and mariners, exclusive of witness, Portuguese and Spanish, all hired and shipped in Havana by the said Jacinto Desidan ; that neither he nor any other of the officers or mariners had any interest in vessel or cargo ; that he was Master on board ; that at the time of capture there were ten or twelve passengers on board, Spaniards and Portuguese, embarked in Havana in June last, for a passage to St. Paul de Loando, all furnished with passports, and all sea-faring people ; that he does not remember their names, and does not know what their business at St. Paul de Loando might be ; that none of them had any interest in either vessel or cargo, or authority whatever on board ; that the last clearing port was Havana, and the present voyage commenced and was to have ended there ; that witness was hired to return with the vessel to Havana ; that from that port the vessel proceeded towards Cape de Verds, touching at Brava for water and provisions ; and after remaining there five or six days, she went down the coast to Accra, where the vessel anchored, and capture took place six or seven days after her arrival ; that the capturing vessel was first seen about four weeks since off Accra ; that capture took place at Accra the day following ; that he does not remember the date ; there was no chase, the vessel being at anchor when seized ; that the vessel’s papers were for St. Paul de Loando, and she was on her way there when captured ; that there are three guns mounted, about twenty muskets, and as many cutlasses, and some ammunition (does not know the quantity) for defence of the vessel ; that no resistance was made ; that there were no instructions to resist or avoid capture, or for concealing or destroying any of the vessel’s papers ; that he believes the said Jacinto Desidan to be the sole owner of the vessel ; that he believes so from having been shipped and paid by the said Desidan, and knowing of no other person concerned in the vessel ; that Desidan is a Spanish subject by birth ; does not know whether he be married, or where he resided before he lived at Havana ; that he knows nothing about any Bill of Sale, or the price of the vessel ; believes if the vessel be restored she will belong to the said Jacinto Desidan ; that he knows of no private agreement ; that the said Jacinto Desidan is the lader, owner, and consignee of the cargo ; that Desidan is a seaman by profession ; that he accompanied the vessel on the present occasion as supercargo ; that he was not on board at the time of seizure, being ashore at Accra, but that he came on board shortly afterwards ; that the said Desidan was sent ashore by the Captor at Accra with the people not detained ; that the cargo was to have been landed at St. Paul de Loando, on account and risk of the said Desidan, he believes, and that if it be restored it will belong to that person only ; that he believes so from not knowing any other person concerned in it ; that he knows nothing of the former voyage ; that the present cargo consists of cloth, muskets, powder, tobacco, iron bars, rum, &c. ; that after capture the vessel was taken to Princes’ Island, and from thence to Sierra Leone ; that the passports and other papers delivered up were and are all true and fair ; that no papers were destroyed, concealed, or made away with ; that he knows of the existence of no other papers relating to vessel or cargo ; that there was no charter party that he knows of ; that he is ignorant whether the vessel or cargo be insured ; that the vessel was under the management of the said Desidan in regard to her trade, who also directed her navigation on board, and witness acted under his orders in everything ; that he corresponded with no one respecting the concerns of the vessel or cargo ; that bulk was broken at Accra for the purpose of purchasing provisions, but does not know whether bulk has been broken since capture ; that no slave has been put or received on board during the voyage in which the vessel was captured ; that the hatches are not fitted with open gratings ; that the combings of the hatchways are not bored, or fitted for iron bolts or bars ; that there are round iron bars on board, but witness cannot say what quantity, or whether they were intended for securing the hatchways, and knows not for what purpose they were on board ; that there are only the bulkheads of the cabin and forecastle ; that there is a large quantity of spare plank, marked and fitted for a slave deck, and intended for that purpose ; that there is no part of a slave deck laid ; that there are about twenty handcuffs on board to keep the crew in order ; that there are no shackles on board ; that there is a large quantity of water-casks on board, does not know how many, or how much water they could contain ; they were intended for holding water for the slaves and the crew ; that

there is no tank nor any staves; that there were eight or nine pipes of fresh water on board at the time of capture; that there are six or seven mess tins for the crew; that there is a large iron boiler for the use of the slaves; that there is a large quantity of rice and Indian corn, intended for food for slaves."

The evidence of Diego Lopez, the Mate of the said vessel, confirmed in every respect that given by Eduardo Roberto. Concerning the relative positions of Roberto and Derizans, who appeared as a passenger, Lopez stated that they were both acting as Masters on board, Derizans being the principal; a statement which, connected with Roberto's declared inability to give the seizer any information as to the nature of the voyage, and his reference to Derizans upon the subject, as well as the allowance, to be given him for his services on the voyage, being less than the Boatswain was to receive, shows clearly that he was embarked only as the Captain for the Portuguese flag; the adventure being at the same time Spanish, and under the management of the Spaniard Derizans, if not his own entirely.

Publication in the case was allowed on the 12th of September; and on the 15th the sworn report of the Surveyors to the Court, upon the equipment of this vessel, was received. From this report it appeared, that the detained schooner had on board round iron bars with padlocks, evidently intended for use as hatch-bars; plank and beams, regularly fitted for laying a slave deck; and preparations in the vessel's sides for receiving the same. The ground tier, from one end of the schooner's side to the other, was filled with water-casks, some containing water, and others slave provisions. The casks are capable of containing 12,000 gallons of water; in addition to which, there were three tanks upon deck, from 500 to 600 wooden spoons, a regular slave copper complete, and a quantity of slave provisions, more than requisite for the crew of the vessel.

This closed the case for the Captors.

No claim was presented.

The monition, which was issued on the 10th, was returned into Court, duly certified, on the 17th of September.

On the 12th of October the Court met for the adjudication of this vessel. The fraudulent assumption of the Portuguese flag by the detained schooner, her real Spanish character, and her employment in Spanish trade, were fully established by the papers found on board of her, and unreservedly admitted by the Master and Mate in their examinations. The report of the Surveyors to the Court, as well as the evidence of the witnesses, respecting the fittings of this vessel, left no doubt as to her equipment for the prohibited traffic in slaves; whilst the acknowledged Spanish character of her asserted Master and owner, her exclusive employment in the Spanish Slave Trade, her departure from, and intended return to, a Spanish port, clearly brought the present case within reach of the principle, which had been lately laid down in the case of the Spanish brig "*Diligente*." The Court therefore pronounced the schooner "*Constituçao*" and her cargo to be subject to condemnation, as a Spanish vessel equipped for the Slave Trade, and condemned the said vessel and her cargo accordingly.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

Sierra Leone, 20th October, 1838.

No. 19.

Her Majesty's Commissioners to Viscount Palmerston.—(Received May 6, 1839.)

MY LORD,

Sierra Leone, October 20th, 1838.

WE have the honour to enclose herewith our report of the case of the schooner "*Eliza*," Manoel Muniz, Master, which was captured by Her Majesty's brig "*Brisk*," Lieutenant Arthur Kellett commanding, on the 21st ult., and was condemned in the British and Spanish Mixed Court of Justice on the 12th inst., for being illegally fitted for the Slave Trade.

The "*Eliza*" was sailing under the Portuguese flag, and with a Portuguese register, at the time of her capture; but we felt no difficulty in divesting her of her assumed Portuguese nationality, on the admissions of the Master, that his residence

was fixed at Havana; that he was sole owner of the detained vessel; and further, that she was altogether employed in the commerce of Cuba.

The Spanish character which had been acquired by these means, rendered the "*Eliza*" liable to the consequences of the infringement of the laws and treaties of Spain; and her manifest equipment for the traffic in slaves led to her condemnation as good and lawful prize.

We have, &c.
(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

Enclosure in No. 19.

Report of the case of the Schooner "Eliza," Manoel Muniz, Master.

THE above vessel was cleared at the Custom-house at Havana, in the month of July last, for the Island of Princes. She sailed with a Portuguese register, obtained at the Cape de Verd Islands, on the 20th of January, 1837, under the command, ostensibly, of a Portuguese Master, named Manoel Muniz, but actually under the complete control of a well-known Spanish Slave-trader, named Juan Fremul, as appears by several notes and letters which were found on board, and which disclosed Fremul in his real character of conductor of the expedition.

Instead of proceeding to Princes, the "*Eliza*" came direct to the River Sestos, where she anchored on the 3rd of September last.

Eighteen days afterwards, Lieutenant Arthur Kellett, commanding Her Majesty's brig "*Brisk*," boarded her, and finding her fully equipped for the Slave Trade, and entertaining a very just belief that her Portuguese flag covered foreign property, he despatched her to Sierra Leone for adjudication.

The prosecution commenced on the 1st of October, 1838, with the filing of the Captor's declaration, the reception of the vessel's papers, the issue of the monition, and the order for the examination of the witnesses.

It was also necessary, as the detained vessel was libelled in the British and Spanish Court, to commission proper persons to survey and inspect the fittings of the detained vessel. The report of the Surveyors came in on the 6th of October, 1838, and strongly confirmed the allegations of the Captor as to illegal equipment. Of the nine sections of the 10th Article of the Spanish Treaty, no less than seven had been infringed. Iron bars for hatch-way fastenings, beams and planks marked and numbered, an unusual quantity of water, more leaguers than requisite, and a greater number of mess-tins than necessary for the crew of a merchant vessel, appeared in the outfit of the "*Eliza*."

The examination of the witnesses took place three days afterwards. Manoel Muñiz, the Portuguese Captain, deposed that "he was born at Peniche in Portugal, has no fixed place of residence, and has never served any state but Portugal; that he is owner of the vessel, and appointed himself to the command, having received possession in Havana, about a year since, from one Mello, the former Master, and the agent of the owner, Carvalho; that he does not know of what nation either Carvalho or Mello may be by birth or allegiance, or where either of them resides; that he first saw the said vessel in Havana, a few months previously to his purchasing her, and believes she is North American built; that he was present when the vessel was captured, but does not know under what pretence she was seized; that she sailed under Portuguese colours, but there was also a Spanish flag on board, although witness was in ignorance of that fact till it was found by the captors; that the said flag was never hoisted; that the vessel is called '*Eliza*,' and has never had any other name to witness's knowledge; that she is about fifty or sixty tons burthen, and had thirteen officers and mariners exclusive of witness, all Portuguese, except the Mate, who is a Spaniard, all hired and shipped in Havana by witness in June last; that he is sole owner of the vessel and cargo, none of the officers or mariners having any interest in either; that he was Master on board; that the present voyage commenced, and was to have ended, at Havana, which was the last clearing port, and whence the vessel came direct to the coast; that she anchored off New Sestos to get water and fire-wood, and had been there about eighteen days when capture took place; that the capturing vessel was first seen off New Sestos

on the 24th of September last, and capture took place there and then; that there was no chase, the vessel being at anchor; that the vessel's papers were for Princes' Island, and she was proceeding thither when captured, having only called at New Sestos for wood and water; that no resistance was made, nor were there instructions to resist or avoid capture, or for concealing or destroying any of the vessel's papers; that he is sole owner of the vessel; that there is a bill of sale from Mello (does not remember his other name) to witness; that he does not remember the month when it was made; that he left the document at his lodgings in Havana, there being no necessity for bringing it to sea with him; that the price was 3300 or 3500 dollars, but he does not remember exactly which, all paid in cash; that the sale was a true one, and the vessel, if restored, will belong to witness; that he is himself sole owner, lader, and consignee of the cargo; that he has no regular place of residence, having been almost constantly at sea for above eighteen years, previous to which time he resided at Peniche, the place of his birth; that the cargo now on board was to have been delivered at Princes' Island on witness's sole account, and if restored will belong to witness only; that he knows nothing of the former voyage, the present being the first voyage in which the vessel has been engaged since she became witness's property; the present cargo, laden at Havana, consists of rum, tobacco, powder, muskets, and dry goods; that the papers delivered up are all true and fair, and none have been destroyed, concealed, or made way with."

Juan Fremul, the Spanish pilot, gave his evidence, as indeed might have been expected, with much caution and reserve, and the general outline of his testimony resembled that of the Master.

These proceedings closed the Captor's case, and were published on the 10th instant. The Court appointed the 12th for a day of trial, the Monition having been returned on the 9th instant.

No claim was presented for the detained vessel, nor is it easy to conceive on what ground a claim for restoration could have been founded. The Master, although professing to be a Portuguese subject, and the sole owner of the "*Eliza*" and her cargo, declares himself to be at the same time a resident at Havana, with which place he is closely connected in mercantile relations; and thus, even on his own showing, the falsehood of which, however, we do not doubt, he has fixed upon himself and his vessel the obligations of the Spanish character, which he has acquired by residence and employment in Spanish trade. On this ground the illegal equipment of the "*Eliza*," for the prohibited Slave Traffic, exposed her to the penalties of the Spanish Treaty; and we accordingly condemned her and her cargo.

(Signed.)

H. W. MACAULAY.
R. DOHERTY.

Sierra Leone, 20th Oct. 1838.

No. 20.

Her Majesty's Commissioners to Viscount Palmerston.—(Received May 6, 1839.)

MY LORD,

Sierra Leone, November 11th, 1838.

WE have the honour to transmit to your Lordship herewith our report of the case of the schooner "*Constituição*," Joaquim da Souza Pinto, Master, which was captured by Her Majesty's brig "*Brisk*," and condemned in the British and Spanish Mixed Court of Justice on the 10th instant.

Although the "*Constituição*" was sailing under the Portuguese flag at the moment of her capture, she was proved to belong to the house of Rorosa Marino and Company, of Havana; and her detention took place just in time to prevent the embarkation of a full cargo of slaves, for the reception of whom every preparation had been made.

An agreement was signed in Havana by the crew, promising to acknowledge, in the character of Captain, and representative of the owners, not the Portuguese who figures as Captain in the papers, but a Spaniard of the name of Batalla, who embarked as a passenger, with a passport from the Spanish authorities.

From other papers it appears that the nominal Portuguese Master was only of the rank of carpenter on board a small Portuguese brig of war; and that the pay he received for his general services on board the "*Constituição*," and for thus lending his name to cover her true character, is considerably less than that of the man who is said to have been his Boatswain.

The evidence respecting the equipment of the vessel for Slave Trade was very

complete; and Spanish ownership and course of trade having decided her national character, the Court felt no hesitation in declaring the "*Constituição*" to be forfeited for a violation of the Spanish Slave Trade Treaty.

We have, &c.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

Enclosure in No. 20.

Report of the Case of the Schooner "Constituição," Joaquim da Souza Pinto, Master.

THIS case resembles in all its main features those which we have lately been called upon to report, in which the protection of the Portuguese flag has been invoked by Spanish slave traders against the consequences of a violation of the Slave Trade Treaty of Spain, and in which it has been the duty of the Court to remove the disguise which has been assumed, and to disclose the real character of the transaction submitted to its notice.

The ship's papers, Nos. 1 and 2, show the mutual assistance which is rendered by the Portuguese and Spanish authorities, stationed at Havana, to give security and support to illicit Slave Trade adventures. They consist of a clearance from the Havana Custom-house, and a certificate thereof from the Portuguese Consul, Don José Fernandez, declaring that the Portuguese schooner "*Constituição*," Joaquim da Souza Pinto, Master, cleared out from Havana for St. Thomas, on the 24th of March, 1838, "with 38 leaguers and water casks, some to be filled with water, and some in shakes, to be filled with palm oil on the return voyage; two caldrons (slave boilers) to clarify the said oil; and 2000 feet of plank, and 500 feet of scantling (slave-deck and beams to support it), for the purpose of erecting a factory on shore."

No. 3. The Portuguese Register, under which this vessel sails, purports to have been obtained from Leandro José da Costa, Military Governor of St. Thomas, on the 11th of April, 1837, although she is declared, in the same document, to have been built in America, and therefore not entitled, according to the present state of the law, to a Portuguese Register. The owner is said to be Julio Ferreira de Almeida, and the Master, Francisco José Dias, both Portuguese subjects. This register was visaed by Fernandez, the Portuguese Consul at Havana, in March last, on her departure for this coast; and he adds a certificate as to the appointment of the present Master.

Nos. 4 and 5. On the same day (March 24th, 1838) the Portuguese Consul granted a clean Bill of Health to the "*Constituição*," and certified the correctness of her Muster-roll. In the latter, Pinto is named as the Master, and Francisco Coll and Ignacio Sanchez as the first and second officers under him.

No. 6 is a private Passport, countersigned by the same Consul, in favour of Don Juan Batalla, a native of Malaga, authorising him to proceed to the Island of St. Thomas on his own private affairs. Our experience has shown us, that those who pass through this formality of obtaining passports, as passengers, bound to the same nominal destination as the vessel, are generally either the owners or captains of the vessels in which they embark, or the managers of the expedition. So it proved in the present case; and various documents, discovered on board, exhibit Batalla in his true character of Captain and Supercargo of the "*Constituição*."

No. 7. It is also proved that the Portuguese seaman, who figured as Master, is a person of very humble pretensions; for a paper was found in his possession, setting forth "that Joaquim da Souza Pinto had conducted himself like a good seaman and carpenter on board the Portuguese brig of war, '*Boa Esperança*,' fighting against Don Miguel."

No. 8 would at any rate show, in the absence of any other paper, that the pretended passenger, Batalla, really occupied the place which was ostensibly filled by Pinto. It is headed, "Agreement between the crew of the '*Constituição*' and the Master, Don Juan Batalla." Pinto is therein assigned a smaller rate of wages even than the Boatswain of the vessel; and it is agreed by the crew that, although Pinto is to be the ostensible Master, and although Batalla is to be called a passen-

ger, the latter is to be deemed in fact the Captain, and representative of the owners. The fourth and fifth clauses of this agreement stipulate, that wages shall not be due in the event of capture by a vessel of equal force; nor even in the event of capture by a vessel of superior force, unless after an obstinate defence; and in that case the wages of those who will not fight shall be forfeited, and "divided amongst the brave defenders."

No. 9 is a letter from Batalla, the Spanish Captain and Supercargo, to Messieurs Rorosa Marino and Company, Havana, who, from the style in which they are addressed, are evidently the owners of the vessel. The letter is dated at Little Bãssa, on the Malaguetta coast, on the 28th of September, 1838, two days before the capture of the "*Constitução*," and was sent by that vessel, which was making a trip to New Sestos, under cover to Don Bartolomé Ferrer, who was at that place waiting a passage to Havana. The following is an extract from the letter in question:—

"Three months and eighteen days have passed since I opened trade, and I have already two hundred slaves, wanting twenty-two of the thirty-six slaves who escaped during the insurrection of the 20th of last month; but I expect people daily with those that they have got, and when they are paid, they will start immediately for others."

"The schooner is here now, and I am sending her with articles of barter to Triton, where I have a factory. Don Francisco Coll" (the first Mate who afterwards died at Sierra Leone) "is very ill;" the "Captain of the flag" Joaquim da Souza Pinto—(This is the general designation of the persons who figure on board these vessels as the Portuguese Master)—"is worse; and the second Mate is dead."

"The night before last, at 10 o'clock, I received a letter from New Sestos written by Don Bartolomé Ferrer, informing me that the schooner '*Eliza*' had been taken through the bad explanation of the *Captain of the flag*, who at once said, in plain terms, that he was trading for slaves." (The capture of the "*Eliza*" here referred to was reported in our Despatch marked Spain, of the 20th ultimo.) "The crew was left by the English brig-of-war '*Brisk*' on board another vessel at anchor in the same place, and she took away only the *Captain of the flag*, and the first mate, Don Juan Fremul."

"To-morrow the schooner sails for New Sestos, to take on board a cargo of slaves which I have ready there. I have been obliged to have one hundred sets of shackles made at Cape Mesurado," (the American settlement supported by the Colonization Society.) "I hope you are in good health."

(Signed)

"BATALLA."

With these papers on board, the "*Constitução*" was taken possession of by Her Majesty's brig "*Brisk*," Lieutenant Arthur Kellett, commanding, on the 30th of September, and on the 8th ultimo, the arrival of the prize in this harbour was reported by the Marshal.

The prosecution of the detained vessel was immediately entered upon, but much delay occurred in bringing it to a close, owing to the protracted and dangerous illness of the Master and Mate, the two witnesses in preparatory named by the Captor's Proctor. Before the examinations of these two persons could be taken, the Monition, issued on the 8th ultimo, had been served and returned by the Marshal; and in the same period, the Captor's declaration was received and filed, together with the papers of the detained vessel verified by affidavit; and a commission for the inspection of the fittings of the prize was issued, and returned with the Surveyor's Report on the matters submitted to them. By the last document, illegal equipment for the Slave Trade was established in the fullest manner.

To prevent further delay in the case, the Registrar was after some time directed to examine the Master and Mate at their lodgings, as the Surgeon of the Courts reported that it would be a considerable time before either of them would be in a fit condition to attend at the Registry; and it unfortunately happened that the Mate died before his examination could be taken.

The Master deposed that "he was born at Oporto, in Portugal; has lived during the last twenty years at Lisbon; is a subject of Portugal, and has never served any other State; that he is not married; that he was appointed to the command at Havana by a former Captain who died there, and who appointed him when on his death-bed in March last; that he does not know the name of the said former master, who, witness thinks, was a Portuguese; that he received possession of the

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vessel from the Portuguese Consul at Havana ; whose name he believes to be José Fernández, and who was formerly, as he has heard, a merchant, and came from Florida ; that he first saw the vessel at Havana when he obtained the command, and does not know where she was built ; that he was present at the capture, and the vessel was seized without any good reason, but the reason assigned was an order from Donna Maria to seize all vessels with Portuguese colours ; but the vessel sailed under those colours, and she had no others on board ; that the vessel has never had any other name than "*Constituição*" to his knowledge ; she is one hundred and forty tons burthen, and had a crew of thirty officers and mariners exclusive of witness, seven or eight of them being Spaniards and the rest of them Portuguese, all hired and shipped at Havana in March last by the former Captain, deceased ; that neither he nor any of the officers or mariners had any interest in the vessel or cargo ; that he was Master on board ; that there was one passenger named Juan Batalla, a seaman by profession, but witness does not know of what nation, who embarked at Havana to go to St. Thomas', witness does not know on what business ; that Batalla left the vessel before her capture at Little Bassa on the Coast, where he took a passage in another ship ; that he had no concern or authority in or over the vessel or cargo ; that the last clearing port was Havana, where the present voyage began, and was to end at St. Thomas ; that he touched during the voyage at Little Bassa, and at several places along the Coast, from thence to Cape Palmas, in order to procure rice and palm oil ; that he first saw the capturing vessel off New Sestos on the 7th of the present month, and capture took place there and then ; that he was steering towards Cape Palmas at the time, with the intention of touching along the Coast for provisions, and in order to fall in with, if possible, some other vessel, from which he might procure a Mate to assist him in his navigation, his second Mate having died, and himself and his first Mate being sick at the time ; that the course to St. Thomas' had been altered for these reasons only ; that the owner of the vessel was named Almeida, Harbour Master, as he has heard, at St. Thomas', and, as he supposes, a Portuguese by birth ; that he knows nothing further of him, and was told he was owner by the late Captain ; that he knows nothing about any Bill of Sale ; that the late Captain put the cargo on board at Havana ; that he knows nothing of the vessel's lading on the last voyage ; that the present cargo consists of rum, tobacco, gunpowder, muskets, iron bars, and dry goods ;* that after capture the vessel was brought to Sierra Leone."

Publication of the above evidence was granted on the 18th of October, 1838 ; and the Captor's Proctor then reopened the case on the 22nd ultimo, by putting some special interrogatories, with a view to obtain further information respecting the voyage. On these additional proceedings being published, the 10th instant was named for a day of trial.

The Court was fully convinced that Messieurs Borosa Marino and Company, of Havana were the owners of the "*Constituição*;" that Don Juan Batalla was the actual Master ; and that the object of the voyage to the Coast was to obtain a cargo of slaves, whose immediate embarkation was only prevented, by the capture of the vessel destined and prepared for their reception.

On these grounds a sentence was pronounced by the Court, condemning the schooner "*Constituição*" as good and lawful prize to the Crowns of Great Britain and Spain.

We have, &c.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

Sierra Leone, November 12, 1838.

No. 21

Her Majesty's Commissioners to Viscount Palmerston.—(Received May 6, 1839.)

MY LORD,

Sierra Leone, November 12, 1838.

WE have the honour to transmit to your Lordship enclosed our report of the case of the schooner "*Josephina*," alias "*Ramoncito*," alias "*Fausta*," Antonio José Puiga, late Master. This vessel was captured by Her Majesty's brig "*Brisk*," Lieutenant Arthur Kellett commanding, on the 17th ultimo, whilst at anchor in the river Gallinas, and was condemned here on the 10th instant, in the

British and Spanish Mixed Court of Justice for being illegally equipped for the Slave Trade.

The "*Josephina*" exhibited a Portuguese Register and Matricula to the Captor, but she was cleared out from Havana as the Spanish schooner "*Ramoncito*." The owner at Havana, however, strictly enjoined upon the Master, not to make use of his Spanish papers, except when entering a Spanish port.

The allegations of the captor as to the Spanish character of his prize, and as to the Slave Trade intentions evinced by her equipment, were fully established to the satisfaction of the Court by the evidence of the papers and witnesses; and the "*Josephina*" was accordingly condemned, as good and lawful prize to the Crowns of Great Britain and Spain.

We have, &c.
(Signed) H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

Enclosure in No. 21.

Report of the Case of the Schooner "Josephina," Antonio Joze de Puiga, Master.

The papers with which this vessel sailed are the following :

1. A passport or register, granted by the Governor of the Cape de Verd Islands, and dated at Villa da Praia on the 12th January, 1837, setting forth that the Portuguese schooner "*Josephina*," of American build, was owned and commanded by Antonio José de Puiga, and was bound to the city of Bahia. There is no indorsement whatever upon this document, but the usual receipt at the foot of the passport, for the payment of the fees due for affixing the Government seal, is dated the 13th of January, 1838. It is unnecessary to remark upon the discrepancy between the date of the passport and that of the receipt attached to it, as both dates are known to be false, so far as Puiga is concerned.

At the moment of capture, Gonzales, who had embarked on board the vessel as chief officer, and was at that time the master, owing to Puiga's death, was observed to seize a manuscript book and commence tearing the leaves. This was of course prevented, and the book proved to be the log of a voyage from Havana to the Coast of Africa, and back to Cuba, performed by a vessel called the "*Constitucion*," between the 21st of September, 1837, and the 15th of January, 1838, and which landed on the latter date a cargo of slaves at Guanimar on the island of Cuba. The log-book throughout is kept in the handwriting of Antonio Jozé de Puiga, who sailed again from Havana three months afterwards, as the master of the schooner "*Josephina*," now before us. Of the correctness of these facts there can be no doubt; and yet the passport under which the "*Josephina*" is sailing states, that she has been owned and commanded by Puiga since the month of January, 1837, and that the fee for obtaining an official seal to the "*Josephina's*" register was paid by Puiga at Villa da Praia, on the very day before he is proved to have landed a cargo of slaves on the coast of Cuba from another vessel. The authorities at the Cape de Verd Islands may not, however, be so much to blame as would at first sight appear, for an extensive manufacture of these passports is carried on both at Havana and on this coast; and the Portuguese Consuls at Cuba are at little pains to detect forgery and fraud in this respect.

No. 2 is the matricula certified by N. P. Trist, the American Consul at Havana, on the 28th April last, describing the "*Josephina*" as a Portuguese vessel bound to St. Paul de Loando. The captain and owner is said to be Antonio Jozé de Puiga, and the first and second officers are said to be Joao Gonzales and Genaro Truleta, all Portuguese; whereas Gonzales swears that his first name is Juan, not Joao, and that he is a Spaniard, and was born at Cadiz; and with regard to Truleta, his pilotage certificate from Havana declares that he was born at Santandar in Spain. Puiga himself is also proved to have been a Spaniard; his log and letters are all written in the Spanish language; he

mentions in one of his letters that his family are resident at Corunna, and the cook of the same vessel swears that Puiga was born in the same place.

But, although the "*Josephina*" left Havana on the 5th of May last, with the Portuguese register and muster-roll which have been described, she cleared out from that port with different papers as the Spanish schooner "*Ramoncito*," and it was under the latter name that she was known to the slave-dealers on the coast. We have before alluded to the practice, adopted by Cuba vessels, of carrying both Portuguese and Spanish papers, the former of which are made use of when they are boarded and searched by Her Majesty's cruisers, and with the latter they clear out from Havana, and again re-enter that port in ballast. Such was the course pursued in the present instance.

No. 3 is a letter of instructions, addressed by Don Jozé Quevedo, the owner at Havana, to Puiga the master. The following is a translation :

" SIR,

" From the moment that you sail and lose sight of the Morro, you must use no other papers but the Portuguese, unless you should be obliged to put into any of the ports of this island, in which case you will make use of the Spanish papers.

" Your route to the Coast of Africa must be that which you may think the most safe ; you will touch in going at the Gallinas ; there you will see Don Pablo Alvarez. You will hear from him if he will give you your cargo for the merchandize which you carry, which cargo must be from 200 upwards ; and the said Pablo ought also to provide provisions for them, without the undertaking being charged a 'real.' But if you should find that you can do nothing with this gentleman, or with any other with whom you should accidentally meet at that place, you will judge for yourself how you can best make the said cargo, taking care, however, that your stay does not exceed 100 days. Should you, at last, not be able to arrange your business, you will set sail without losing a moment, and continue your voyage towards the south, where you will settle the affair according to circumstances, taking care to visit the points of Loando, Ambriz, and all other trading places throughout Congo, in order to see in which you may find the greatest advantage.

" On your return voyage you will take the route which you may consider the safest for your owners. I prohibit you, under whatever pretext or motive it may be, from landing your cargo, at St. Jago or Trinidad de Cuba. If, however, you should be absolutely compelled to do so, you will not dispose of the cargo until you shall have received my orders.

" As soon as the vessel shall have landed her cargo, you will cause her that instant to get under weigh, leaving on shore fetters, boiler, or whatever may cause detention.

" In case you should go to Guanimar, you will address yourself to Don Jose Miro ; if to Bayahonda, to the house most suitable for the purpose ; at Cabañas to Don Louis Amiot ; at Mariel to Don Antonio Bela ; and at any other place to the person with whom it may be most advantageous to treat for the cargo.

" I most particularly enjoin you not to lose any opportunity of informing me of the state of the undertaking, and what result may be looked for, writing for that purpose by every vessel that sails, whether Spanish or Portuguese.

(Signed)

" JOZE QUEVEDO."

No. 4. Five days before the "*Josephina*," alias "*Ramoncito*," left Havana, the owner, Quevedo, sent on board that vessel a slave belonging to him, giving at the same time the following certificate.

" I, the undersigned, give permission to my negro, Quevedo, to go a voyage in the schooner "*Ramoncito*," of which Antonio Puiga is captain ; and for which purpose I give this present document, this 30th of April, 1838.

(Signed)

" JOZE QUEVEDO."

No. 5: The next document to be noticed is the log book of the voyage, from which it appears that the "*Josephina*," sailed from Havana on the 5th of May, and arrived at the Gallinas on the 9th of July last. On the 22d of July, after delivering her cargo to Don Pablo Alvarez at the last named port, she continued cruising for rice up and down the coast until the 16th ultimo, when

she finally came to anchor at the Gallinas, having looked in there twice during the above interval. Captain Puiga died at sea on the first of August, and Gonzales then assumed the command. Capture took place on the 17th ultimo, the day after the vessel's return to the Gallinas. In several parts of this log, and in two other papers, the "*Josephina*" is called the "*Fausta*," a name which forms her second alias; but these slavers so frequently change their names, that the same vessel is often spoken of under a different name by different persons of the same crew.

No. 6. In addition to these papers, a bundle of letters was found by the captor, some addressed by Puiga, the late Master, who was on shore at the Gallinas, to Gonzales, the present Master, who remained on board; and others addressed by Pablo Alvarez, the consignee at the Gallinas of the outward cargo, and the intended shipper of the return cargo of slaves, to Puiga in the first instance, and after his death, to his successor, respecting the objects of the voyage.

The captor, Lieutenant Arthur Kellett, commanding Her Majesty's brig "Brisk," arrived here with his prize on the evening of the 25th ultimo, and on the following day took the usual measures for the prosecution of the vessel. The captors' declaration, and the affidavit, which verified the facts of capture and authenticated the ship's papers, were, with those papers, received and filed; a monition citing all interested parties was directed to the Marshal; a commission for a survey and inspection of the fittings of the vessel was issued to the surveyors of the Court, and the witnesses in preparatory were examined on the standing interrogatories.

The Master, Juan Gonzales, deposed, "that he was born in Cadiz; has lived, eight years in Havana, is a subject of Spain, and has never served any other state; that he took command of the vessel on the death of the former Master, Don Antonio Puiga, a Portuguese, who generally resided in Havana, and who died three months since on the coast; that Puiga had received possession nine months before at St. Jago, Cape de Verd Islands, but from whom witness does not know, that he first saw the vessel about six months ago at Havana; that she was built at some port of America, witness thinks at Boston; that he was on shore when the vessel was seized, on the pretence, as he was afterwards told, that her papers were not good and right; that she sailed under Portuguese colours, and had no others; that she is about eighty tons burthen, and had a crew of thirteen officers and mariners besides witness, all Spaniards and Portuguese, and all shipped by the late Master at Havana, where the voyage began, and where it was to have ended; that the vessel touched at Gallinas for wood and water, and thence went on two successive trips down the coast for rice, and on her return from the second trip she was captured; that the vessel was detained whilst at anchor; that her papers destined her to St. Paul de Loando, where she would have gone, after two more trips to the coast for rice, which she was bound to make in consequence of a contract to that effect made between the late Master, Puiga, and a merchant at Gallinas; that the late Master often told witness that he was sole owner of the vessel, but witness knows nothing of any bill of sale; that no papers were destroyed, concealed, or made away with; that he knows of no other papers than those produced relating to the vessel and cargo; that he does not know of any charter-party being made, or whether the vessel and cargo are insured; that the Havana cargo was discharged at Gallinas."

Joze de Subisarreta, the cook of the "*Josephina*," was the only other witness examined. He deposed, "that the former master, Puiga, resided at Havana, and was a Galician by birth, as witness has heard from his own mouth; that the detained vessel had a crew of 15 officers and mariners besides the master, *all Spaniards without exception*; that the present voyage began and was to have ended at Havana, which was the last clearing port; that he heard from both the former and present masters, and from all the officers, that the owner of the vessel was a merchant resident at Havana, but witness does not know of what nation the said owner was."

The most material articles of a slave equipment found on board by the surveyors, were 20 iron hatch-bars, sufficient plank to form a slave deck, a few iron bolts, 2300 gallons of water filled, and leaguers capable of containing 5000 gallons more, 10 buckets, and 25 mess tins, coppers large enough to

cook for 300 persons, with a proportionate quantity of fuel, and a sufficiency of rice to feed 300 people for two months.

The publication of all the above evidence having been decreed, and the Monition issued on the 25th ultimo having been returned into the Registry on the 5th instant, the 10th instant was appointed for the day of trial. The ownership of the "*Josephina*" having been clearly traced to the house of José Quevedo of Havana, from which place indeed she cleared out as the Spanish schooner "*Ramoncito*," a sentence of condemnation was passed upon the vessel and her cargo, for a violation of the Tenth Article of the Spanish Treaty, in being illegally equipped for the Slave Trade.

(Signed)

H. W. MACAULAY.
R. DOHERTY.*Sierra Leone, November 12th, 1838.*

No. 22.

Her Majesty's Commissioners to Viscount Palmerston.—(Received May 20.)

MY LORD,

Sierra Leone, January 5, 1839.

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 2nd of November, 1838, transmitting a copy of a Despatch from Her Majesty's Commissioners at Havana, containing an account of suspicious vessels which had arrived at that port from the coast of Africa in the month of August last, and a list of those which had sailed from Havana to Africa during the months of July and August.

We have, &c.

(Signed)

H. W. MACAULAY.
R. DOHERTY.*The Right Hon. Viscount Palmerston, G.C.B.*

&c.

&c.

&c.

SIERRA LEONE. (*Portugal.*)

No. 23.

Her Majesty's Commissioners to Viscount Palmerston.—(Received February 4, 1839.)

MY LORD,

Sierra Leone, August 10th, 1838.

WE have the honour to hand to your Lordship enclosed our report of the case of the Portuguese brig "*Diligente*," Joao Baptista Simoni, Master, captured off the island of Cuba by Her Majesty's ship "*Pearl*," Lord Clarence Edward Paget, commanding, on the 24th April last, with 480 slaves on board, and condemned on the 4th instant in the British and Portuguese Court of Mixed Commission at this place.

After capture, the "*Diligente*" was taken, in the first instance, to Nassau, New Providence, where 475 slaves were, on the 7th May, landed and delivered into the charge of the Collector of Customs at that port. The vessel then proceeded to Bermuda, where she was surveyed, and found to be unseaworthy, and consequently unfit to attempt a passage to Sierra Leone. The ship's Papers, and the requisite certificates, vouchers, and receipts, were, however, sent to us in another prize by the same Captor, and arrived here on the 7th ultimo.

The Captor's allegations against the detained vessel were fully established by the evidence of the witnesses whom he produced. A sentence of condemnation was accordingly pronounced on the "*Diligente*" and her stores; and the survivors of the slaves landed from her at Nassau were decreed to be emancipated.

The transfer of this vessel from the Spanish to the Portuguese flag, was unquestionably fraudulent; the former Spanish owner and master still remaining on board, in the character of a passenger, and having, as admitted by the witnesses, the entire management of the vessel and her concerns.

We have, &c.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.,
 &c. &c. &c.

Enclosure in No. 23.

Report of the case of the Portuguese brig "Diligente," Joao Baptista Simoni, Master.

The ships' papers, with which this vessel was furnished at the time of her capture, were the following:—

No. 1. A register or passport, granted by Roque Callaço da Veiga Vidal, Chief Secretary of Government in the Cape de Verd Islands, charged with the administration of Government during the absence of the Governor-General, to the Portuguese brig "*Diligente*," of American build, owned and commanded by Joao Duarte, 174 tons burthen, and armed with 2 guns (nine-pounders), 35 muskets, 20 cutlasses, and 10 pistols. This passport is dated at Villa da Praia, on the 16th of June, 1836. An endorsement on the following day states that, in consequence of the owner of the vessel being unable to go in her as Master, José Maria da Costa had been appointed to the command; and a warning on the subject of the Slave Trade was signed at the same time by the Secretary of Government, and the newly-appointed Captain. There is no notice on the passport, nor is there any other paper to show for what place the "*Diligente*" cleared out from the Cape de Verd Islands, but she was met with and examined on the coast by Her Majesty's brig "*Bonetta*," on the 4th of December, 1836. Nothing further is on record

respecting her movements until the 20th of September, 1837, when her passport was visaed at Havana by the Portuguese Consul at that port, on the occasion of the "*Diligente*" clearing out for Princes Island, under the command of her present Master, Joao Baptista Simoni.

No. 2. The muster-roll, signed by the Portuguese Consul, Fernandez, on the 20th September, 1837, shows that the "*Diligente*" carried a crew of 37 persons, including the Captain.

No. 3. is a certified copy of a bill of sale of this vessel, dated at Villa da Praya, on the 16th of June, 1836. It describes the "*Diligente*" to have been formerly the Spanish brig "*Vengador*," and mentions a Spaniard of the name of Manoel Esquerdo as the seller, and the before-named Joao Duarte as the purchaser.

Nos. 4 and 5 are clearances and Custom-House papers, dated at Havana on the 21st of September, 1837, and in which the water-casks, boilers, and slave deck, are cleared out in the usual form.

No. 6 is the log-book of the voyage from Onim or Lagos, which was left on the 27th of February, 1838; and it is kept up regularly to the 24th of April, the day of capture.

The following is the Captor's declaration:—"I, Clarence Edward Paget, Commander of Her Britannic Majesty's sloop "*Pearl*," hereby declare that, on this 24th day of April, 1838, being in or about latitude 24° 20' north, longitude 85° 50' west. I detained the ship or vessel called the "*Diligente*," sailing under Spanish colours, armed with 2 guns, (nine pounders,) commanded by Joao Baptista Simoni, who declared her to be bound from Lagos, on the west coast of Africa, to any port in the Island of Cuba, with a crew consisting of 41 men and boys, and 1 passenger, whose names, as declared by them respectively, are inserted in a list at the foot hereof, and having on board 480 slaves, said to have been taken on board at Lagos on the 27th of February, 1838."

This Declaration is signed by the Commander, First Lieutenant, and Surgeon of the "*Pearl*;" and a minute inventory of the stores of the "*Diligente*" on the day of her capture is annexed. attested by the signatures of the surveying officer, the Prize-master, and the Captain of the detained vessel.

On the 7th of May, a declaration of the necessity for disembarking the slaves at Nassau, in New Providence, was made in the form pointed out in the regulations; and on the same day the Collector of Customs at Nassau signed a receipt for 475 slaves, who were placed under his care and custody, 5 slaves having died before they could be landed in the Bahamas. A quantity of provisions, consisting of 240 bags and baskets of beans and Indian corn and 5 half-tierces of rice, were then delivered to the Vice-President of the African Board, for the support of the captured negroes; and the detained vessel forthwith proceeded to Bermuda, where, owing to her apparent unseaworthiness, a survey upon her was ordered by the naval store-keeper at that Island. The persons appointed to execute this survey were the foreman of shipwrights, and the carpenter, and supernumerary carpenter of Her Majesty's ship "*Royal Oak*," who reported, on the 26th of May, that very extensive repairs would be necessary, before the "*Diligente*" could be considered in a seaworthy condition; and that such repairs could not be made at the naval yard without seriously impeding the public service. It was accordingly resolved that the detained vessel should be left at Bermuda, there to await the result of the prosecution against her before this Court. The ship's Papers, and the necessary vouchers and receipts, were then given into the charge of Mr. Duncan M'Leod Mackenzie, senior Mate of Her Majesty's sloop "*Pearl*," the Prize-master of another vessel which was on the point of sailing for this place.

On the 7th ultimo the "*Diligente*" was regularly brought before the British and Portuguese Court of Mixed Commission, on the petition of the Captor's Proctor; the prize-master's affidavit of the facts of seizure was received and filed, together with the Captor's Declaration and its annexes, and the certificate of the disembarkation of the slaves at Nassau; the usual monition was issued; and the witnesses in preparatory, produced by the Captor, were ordered to attend at the Registry, for the purpose of being examined on the standing interrogatories.

The Master deposed, that he was born in Lisbon, and lives there; that he has never served any state but Portugal, and is unmarried; that he was appointed

to the command, and possession was given to him, in Havana, about ten months since, by Manoel Esquerdo, the owner of the cargo, who is a Spanish subject resident at Havana; that he was present when the vessel was seized for having slaves on board; that she had no colours but Portuguese; that the vessel has always been called "*Diligente*," so far as he knows; that she is 174 tons burthen, and had a crew of 36 officers and mariners, exclusive of witness, chiefly Spaniards, but part were Portuguese, and there were some Italians; part were hired by the aforesaid Esquerdo before witness joined the vessel, and the others were shipped by witness himself at Havana about ten months since; that neither witness, nor any of the officers or mariners, had any interest in the vessel or her cargo; that the witness was Master on board; that there was one passenger, the before-named Esquerdo, who was furnished with a passport from Havana as such, though he was the owner of the cargo; that Esquerdo accompanied the vessel from Havana to Lagos, and was on board at the time of the capture; that the present voyage commenced, and was to have ended, at Havana, which was the last clearing port, and whence the vessel proceeded to Lagos, where the outward cargo was landed, and slaves were purchased and shipped by Esquerdo; that the capturing vessel was first seen off the Island of Cuba, at about 4 a. m., and capture took place about the same hour the following morning, after a chase of 24 hours; that the detained vessel was steering for Havana at the time; that one Joao Duarte, a Portuguese by birth, and a resident at the Cape de Verd Islands, is the owner of the vessel; that witness has been so informed by Esquerdo, and has seen Duarte's name in the vessel's passport; that witness knows nothing further about the said Duarte; that he knows nothing about any bill of sale or the price of the vessel; that Esquerdo was the sole owner, lader, and consignee of the cargo; that the slaves were to have been landed on the coast of Cuba, on account and risk of the said Esquerdo; that the cargo, at the time of capture, was slaves, of whom 520 were taken on board at Lagos; that 41 slaves died previous to capture, and 5 or 6 afterwards, and before they were landed; that after capture the vessel was taken to Havana, thence to New Providence, and lastly to Bermuda; that witness does not know whether the vessel be insured, as she was entirely under Esquerdo's management with regard to her trade.

Augustin José Perdoni, the cook of the detained vessel, was also examined on the same interrogatories, and deposed generally to the same facts as the Master; he states, in addition, that the "*Diligente*" sailed under Portuguese colours; that there was also a Spanish ensign on board, which was hoisted when they fell in with a man-of-war; that he is wholly ignorant who is the owner of the vessel, or who would have been the consignee of the cargo; that the lader of the slaves was the passenger, Manoel Esquerdo.

After the publication of the above evidence was decreed, a day of trial was prayed for, and Saturday, the 14th ultimo, on which day the monition, issued on the 7th ultimo, was made returnable into the Registry, was fixed for the purpose. In the meantime, however, Her Majesty's Commissary Judge was attacked with a serious and protracted illness, which incapacitated him from attending to business of any description until the 4th instant, on which day the Court met for the adjudication of the case, when it was decreed that the Portuguese brig "*Diligente*," Joao Baptista Simoni, Master, was legally and justifiably detained by Her Majesty's sloop "*Pearl*," Lord Clarence Edward Paget commanding, and that she be condemned as good and lawful prize to the Crowns of Great Britain and Portugal, for being engaged in the illicit traffic in slaves. The Court further decreed that 480 slaves were on board the "*Diligente*" at the time of her capture, of whom five died previous to the arrival of the detained vessel at Nassau; and the remaining 475, handed over to the Collector of Customs at Nassau, or the survivors of them, were at the same time decreed to be emancipated from slavery.

(Signed)

H. W. MACAULAY.
R. DOHERTY.*Sierra Leone, 10th August, 1838.*

No. 24.

Her Majesty's Commissioners to Viscount Palmerston, (Received February 4. 1839.)

MY LORD,

Sierra Leone, 10th August, 1838.

WE have the honour to inform your Lordship that, on the 4th instant, the Portuguese brig "*Camoens*," Felix Cosmé Madail, Master, was condemned in the British and Portuguese Court of Mixed Commission, for being engaged in the illicit traffic in Slaves; and at the same time the survivors of the 569 slaves, who were landed from the condemned vessel at Nassau in New Providence, were decreed to be emancipated.

From the inclosed report of this case, your Lordship will perceive, that the "*Camoens*" was captured off the Island of Cuba, on the 30th of April last, by Her Majesty's sloop "*Sappho*," Thomas Frazer, Esq, commander, with 572 slaves on board, who had been embarked at Lagos on the 13th day of the previous month. After capture, the "*Camoens*" was taken to Nassau, where all the slaves, with the exception of three who died in the intermediate time, were landed, and delivered into the charge of Mr. Hamlyn, the collector of customs at that place.

From Nassau the detained vessel was carried to Bermuda, and thence despatched to Sierra Leone for adjudication. She arrived here on the 16th ultimo; and the evidence taken in the case having shown that the "*Camoens*" was one of the numerous vessels employed in carrying on a Spanish Slave Trade under the Portuguese flag, a sentence of condemnation against her necessarily followed.

We have, &c.,

(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

Enclosure in No. 24.

Report of the Case of the Portuguese Brig "Camoens," Felix Cosmé Madail, Master.

The following papers were found on board this vessel at the time of her capture :—

1. An extraordinary passport, granted by Joaquim Antonio de Magalhaes, Minister Plenipotentiary from Portugal to the Emperor of Brazil, dated in Rio de Janeiro, the 11th of July, 1836, and by which the Portuguese brig "*Camoens*," owned and commanded by Joao Antonio Chaves, a Portuguese subject, is authorised to sail from Bahia to the Islands of Princes and St. Thomas. This passport was registered in the Portuguese Consulate at Bahia on the 28th of July, 1836; and on the 27th of August the "*Camoens*" cleared out from that port, under the command of José Gonsalves da Silva. On the 21st of November following she was boarded and examined by Her Majesty's brig "*Charybdis*," whilst lying in Lagos roads; and thence proceeded to Havana, it is presumed, with a cargo of slaves, as we find from an endorsement on the passport by José Miguel Fernandez, the Portuguese Consul at Havana, that she left that notorious slave-mart on the 19th of September, 1837, bound again to the coast of Africa, under the command of her present Master.

No. 2 is the Matricula, or list of the crew, attested by the Portuguese Consul at Havana, and dated at that place on the 19th of September, 1837.

No. 3. The Clearances and official manifest, granted on the same day by the authorities at Havana, contain the usual notice as to the water-casks and boilers being intended for holding and clarifying palm oil.

No. 4. The Log-book exhibits nothing deserving of notice.

The "*Camoens*:" had escaped the notice of Her Majesty's cruisers on this coast, and had nearly reached her destination, when she was happily fallen in with and detained by Her Majesty's sloop "*Sappho*," by the Commander of which vessel the following declaration was made and attested in the usual form :—

" I, Thomas Fraser, Esquire, Commander of Her Britannic Majesty's sloop

"Sappho," hereby declare, that, on this 30th day of April, 1838, being in or about latitude 24° 4' North, longitude 80° 8' West, I detained the brig, named the "*Camoens*," sailing under Portuguese colours, unarmed, commanded by Felix Cosmé Madail, who declared her to be bound from the River Lagos to the Island of Cuba, with a crew of thirty-five men, including the Captain, and two passengers; and having on board 572 slaves, said to have been taken on board at Lagos, on the 13th day of March, 1838."

To this declaration is annexed an inventory of the stores, sails, and other furniture on board the "*Camoens*" at the time of her detention, and a certificate as to the necessity of disembarking the slaves at Nassau, New Providence, owing to the disease and debility from which they were suffering, in consequence of their long confinement. Three slaves died before they could be received on shore at Nassau; but the remainder, to the number of five hundred and sixty-nine, were placed in charge of Mr. W. T. Hamlyn, the Collector of Customs there to await the adjudication of the vessel.

On the 10th ultimo, the arrival of the "*Camoens*" in this harbour was reported by the Marshal, and on the same day proceedings were commenced against the vessel by the Captor's Proctor in the usual form. The Prize Master's affidavit, verifying the statements of the Captor's declaration, and authenticating the ship's papers, was, with those papers, received and filed, a monition was issued, calling on all interested parties to appear; and the witnesses in preparatory were ordered to give immediate attendance, that their examinations on the standing interrogatories might be taken.

The Master deposed "That he was born in Lisbon, and lives there; that he is a Portuguese subject, and has never served any state but Portugal; that he appointed himself to the command of the detained vessel, being owner of her, having received possession of her twelve months since at Havana from Manoel Isidore, the former owner; that he was present when the vessel was captured for having slaves on board; that she had no colours but Portuguese; that she is about 280 tons burthen, and had a crew of about thirty-four officers and mariners exclusive of witness, part Portuguese and part Spaniards, all hired and shipped at Havana by witness in September last; that both vessel and cargo belong to witness; that there was one passenger on board, Francisco Silst, a Spaniard, a resident at Havana, who was embarked at Havana in September last for a passage to the coast of Africa and back; that the said passenger had no authority in the vessel; that the last clearing port was Havana, where the voyage commenced, and where it was to have ended; that from Havana the vessel proceeded direct to Lagos, where the slaves were shipped; that there was a bill of sale from Manoel Isidore to witness, made at Havana in July last; that there were no subscribing witnesses; that the said bill of sale has been left at Havana; the price paid for the vessel was seven thousand dollars, and was all paid in cash; that witness is sole owner, lader, and consignee of the cargo; that the slaves were to have been landed on the coast of Havana; that after seizure the vessel was taken to New Providence, thence to Bermuda, and from that place to Sierra Leone."

Jaimé Moysi, the first Mate of the "*Camoens*," was also examined; but his deposition tended to elicit nothing new, being only a repetition of that given by the Master.

The above evidence was published on the 18th ultimo, and a Court was summoned for the 23rd following, on which day the monition which had been published on the 16th ultimo, was returned into the registry, with the certificate of the Marshal of its having been duly served.

The serious illness of the British Commissary Judge prevented the sitting of the Court at the time appointed; and the case was finally adjudicated on the 4th instant, on which day the Court declared that the Portuguese brig "*Camoens*," Felix Cosmé Madail, Master, was engaged in the illegal traffic in slaves at the time of her capture by Her Majesty's sloop "*Sappho*," Thomas Fraser, Esquire, Commander, having on board at the time of her detention five hundred and seventy-two slaves, of which number three died prior to the arrival of the "*Camoens*" at Nassau, and five hundred and sixty-nine were landed on that island on the 7th of May last.

It was thereupon decreed that the "*Camoens*" be condemned as good and

lawful prize to the Crowns of Great Britain and Portugal, and that the survivors of the five hundred and sixty-nine slaves landed at Nassau be emancipated from slavery.

(Signed)
Sierra Leone, August 10th, 1838.

H. W. MACAULAY.
R. DOHERTY.

No. 25.

Her Majesty's Commissioners to Viscount Palmerston.—(*Received February 4, 1839.*)

MY LORD,

Sierra Leone, August 15, 1838.

HEREWITH we have the honour to lay before your Lordship our Report of the case of the Portuguese brigantine "*Paquete Felis*," Manoel de Brito Lima, Master, condemned for having been found to the north of the Line with a cargo of slaves on board, who had been shipped three days prior to capture in the river Bonny.

This vessel was detained by Her Majesty's schooner "*Fair Rosamond*," Lieutenant William Brown Oliver, commanding, on the 13th ultimo, with 195 slaves on board, and was immediately sent to this place for adjudication. She arrived here on the 1st instant, and the proceedings against her were closed on the 8th instant, on which day a sentence was pronounced by the British and Portuguese Court of Mixed Commission, by which the vessel and her stores were declared to be good and lawful prize, and the 187 slaves, the survivors of the cargo shipped, were emancipated.

In this case, as in every other which we have lately had to report, the Portuguese flag was merely used as a cover for Spanish property. The vessel cleared out as the Spanish brigantine "*Ceres*," from Havana, laden with trade goods for the coast; and without finding it necessary either to discharge her outward cargo, or to change her crew, she obtained Portuguese papers from the Governor of the Cape de Verd Islands; and although the former Spanish Master was furnished by the same Governor with a passport, stating that he was "a shipwrecked Spanish sailor," he still continued in the vessel as before, directing her voyage, managing her concerns, and purchasing her cargo of slaves.

We have &c.
(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Honourable Viscount Palmerston, G.C.B.
&c. &c. &c.

Enclosure in No. 25.

Report of the Case of the Portuguese Brigantine "Paquete Felis," Manoel de Brito Lima, Master.

ON the 20th of January last, this vessel, then called the "*Ceres*," cleared out at Havana under Spanish colours, for the Cape de Verd Islands, under the command of Pedro Tudela, and arrived at her destination on the 22nd of February last, being at that time fully laden with goods suited to the African trade. At Villa da Praia, St. Jago, in the Cape de Verd Islands, a nominal bill of sale was executed on the 21st March, 1838, by the Spanish master, Tudela, to Joao Baptista Ferreira dos Santos, said to be a Portuguese subject, and the vessel on the same day assumed the Portuguese flag, and obtained a Portuguese passport from the Portuguese Governor-General of the Cape de Verds. At Porto Praya, the "*Ceres*," whose name was now changed to that of "*Paquete Felis*," was placed under the nominal command of her present Portuguese Master, and cleared out for Maranh, the former Spanish Master, Tudela, still retaining the direction and management of the voyage in the same manner that he had done before the fictitious transfer had taken place.

Instead of sailing for Maranh, the "*Paquete Felis*" went direct to the river Bonny, where, after a short space of time, she shipped a cargo of slaves, with whom she was returning to the Havana, when fallen in with and detained by Her Majesty's schooner "*Fair Rosamond*," on the 13th ultimo.

The papers found on board the detained vessel are:

1. Portuguese passport.
2. Muster-roll.
3. Clearance of cargo.
4. Bill of sale.
5. The log-book of the voyage from Havana to Porto Praya, and thence to the river Bonny.

6. A passport from the Portuguese Governor-General of the Cape Verd Islands, dated on the same day as the four first papers, describing Pedro Tudela, the real owner and nominal seller of the "*Paquete Felis*," as a shipwrecked Spanish sailor, and authorising him to make a passage in the vessel to Maranham.

Immediately after capture, the "*Paquete Felis*" was despatched to Sierra Leone, and her arrival in this harbour was reported by the Marshal on the 31st ultimo. The surgeon of the courts then visited the slaves, and stated that eight of them had died from dysentery since capture; that twenty-seven cases of dysentery and two of ulcer had been marked by him in the usual manner for hospital treatment; that the rest of the slaves were unusually clean and healthy-looking; but that the inadequate size of the vessel, and the inclemency of the weather, rendered it necessary that the whole should be landed as soon as possible. This recommendation from the surgeon was at once carried into effect, and the healthy portion of the slaves were placed in the Liberated African yard in Freetown, and the sick deposited in the hospital at Kissy.

The prosecution of the "*Paquete Felis*" was opened by the Captor's Proctor on the 1st instant, on which day the ship's papers, the Seizor's declaration, and the affidavit of the prize officer, were lodged in court; the monition was issued, and the witnesses in preparatory were produced for examination. The declaration is to the following effect:—"I, William Brown Oliver, Lieutenant and Commander of Her Britannic Majesty's schooner 'Fair Rosamond,' do hereby declare that, on this 13th day of July, 1838, being in or about latitude 4° 15' north, longitude 7° 20' west, I detained the brigantine named '*Paquete Felis*,' sailing under Portuguese colours, armed with no guns, commanded by Manoel de Brito Lima, who declared her to be from the river Bonny, and having on board one hundred and ninety-six slaves, said to have been taken on board in that river, on the 10th day of July, 1838."

In reply to the standing interrogatories, the Master deposed "That he was born at Bona Vista, and lives at Port Praya, in the Cape Verd Islands; that he has never served any state but Portugal; that he was appointed to the command of the detained vessel, and possession of her was given to him at Porto Praya, in March last, by Juan Baptista Ferreira Santos, a resident of that place, and a Portuguese subject; that he first saw the vessel at Havana about nine months since; that he believes she is Portuguese built; that he was present when the vessel was captured for having slaves on board; that she had no colours but Portuguese; that she was formerly called "*Ceres*;" that she is about 120 tons burthen, and had a crew of twenty-six officers and men, exclusive of witness, part Portuguese and part Spaniards, all (except three who were shipped at the Cape Verd Islands by Juan Baptista Ferreira Santos) hired and shipped at Havana, but when or by whom witness does not know; that neither witness, nor any other of the officers or marines, had any interest in the vessel or cargo; that there was one person on board, furnished with a passenger's passport, whose name is Pedro Tudela, who was the former Master of the vessel, and who acted as supercargo at the time of capture; that the said Tudela is a Spaniard by birth, and a seaman by profession, and having commanded the vessel from Havana to Porto Praya as Master (witness being then only a passenger on board), was there furnished with a passport, and was on board for a voyage to Bonny and Havana; that witness was under the orders of the said Tudela with respect to the vessel's course; that the voyage commenced and was to have ended at Havana; that the last clearing port was Porto Praya in the Cape Verd Islands; that the vessel left Havana under the command of Pedro Tudela; that witness cleared out from Porto Praya for Maranham, but after they had got to sea, Pedro Tudela directed witness to steer for the Bonny, and when arrived there, Tudela went on shore and purchased slaves from the natives; that the capturing vessel was first seen outside

the bar of the Bonny on the 13th of July, and capture took place after about two hours' chase; that the vessel was steering for Havana at the time, and made every effort to escape; that he does not know who is the owner of the cargo; that the lader and consignee of the slaves was Pedro Tudela, the supercargo; that the cargo shipped at Havana on the present occasion consisted of rum and dry goods; that the present cargo is slaves, of whom 197 were shipped in the Bonny; that some of the slaves died between their shipment and capture; that the vessel was under the management of the supercargo, Pedro Tudela, in regard to her trade."

The evidencé of the First Mate, Miguel Cerda, the other witness examined, so closely corresponds with that given by the Master, that it will be unnecessary to quote it at length.

An affidavit of the Prize Master was then filed, accounting for the deaths which had occurred amongst the slaves subsequent to the date of capture; and the Monition being returnable on the 8th instant, that day was fixed for the adjudication of the case.

The sentence of the court was that the Portuguese Brigantine "*Paquete Felix*," Manoel de Brito Lima, Master, be condemned as good and lawful prize to the crowns of Great Britain and Portugal, having been captured whilst engaged in the prohibited traffic in slaves, by Her Majesty's schooner, "*Fair Rosamond*," Lieutenant William Brown Oliver, commanding. It was further decreed that there were on board the "*Paquete Felix*" at the time of her capture, 195 slaves, that 8 had died since; and that the survivors, 187 in number, be emancipated from slavery.

(Signed.)

H. W. MACAULAY.
R. DOHERTY.

Sierra Leone, August 15th, 1838.

No. 26.

Her Majesty's Commissioners to Viscount Palmerston.—(Received February 4th, 1839.)

MY LORD,

Sierra Leone, August 15th, 1838.

WE have the honour to transmit to your Lordship enclosed, our Report of the case of the Portuguese schooner, "*Feliz*," Miguel Avalha, Master, captured by Her Majesty's ship "*Madagascar*," Commodore Sir John Strutt Peyton, Commanding, about twenty miles to the eastward of Port Royal harbour, Jamaica. We have also the honour to forward a copy of the judgment pronounced on the 8th instant, and by which the detained vessel was decreed to have been subject and liable to condemnation at the time of her capture; and the survivors of the slaves landed from her at Jamaica, were decreed to be emancipated.

The "*Feliz*" was owned by the notorious Pedro Martinez, who dispatched her from Havana to the Cape de Verd Islands, in the month of October, 1837, having first placed on board a Portuguese subject, named Miguel Avalha, who was nominally to assume the command of the vessel at Port Praya, on her receiving there a Portuguese flag and pass. The adventure was, however, in all its parts essentially Spanish; the crew and the outward cargo were shipped at Havana; and the return cargo of slaves was on its way to Havana, when it was captured by Her Majesty's steam-vessel "*Flamer*." The "*Flamer*," unfortunately for her, was unprovided with the instructions necessary to enable her to make seizures of Portuguese vessels engaged in the Slave Trade. As soon, therefore, as the "*Feliz*" reached Jamaica, she was withdrawn from the possession of the first unauthorised seizer by Commodore Sir John Strutt Peyton, commanding Her Majesty's ship "*Madagascar*," by whom the detained vessel was sent to this place for adjudication, after the slaves found on board had been landed and delivered into the care of the Collector of the Customs at Kingston.

The "*Feliz*" was driven on shore, and lost near Fort St. Louis Senegal, but the papers of the vessel, and a sufficient number of witnesses from the detained crew were soon after brought down to this place by the prize officer.

lation both of Law, and of Treaty ; and consequently, even if Portugal had strictly fulfilled the engagements which she took by the Treaty of 1815, the time is now arrived, when, by the conditions of that very Treaty, Great Britain is released from her temporary engagement, not to interrupt Portuguese Slave Trade to the south of the Line ; and as Portugal accepted that engagement, with its conditional and temporary limitation, she is not entitled to require, that the engagement should survive the existence of the conditions specifically attached to its duration.

The Treaty of 1815 admits the previous existence of a right of interruption on the part of Great Britain, because the Treaty stipulates for a suspension of that right. But it is a suspension, and not a surrender, which is stipulated for in that Treaty ; it is, moreover, a suspension conditional upon specified things, and dependent upon contingent events, which are distinctly mentioned ; and it is not a suspension for any fixed or definite period of time. But the correlative conditions have not been performed ; and the contingent events, upon the occurrence of which the suspension was to end, have happened.

But, in addition to the stipulations of the Treaty of 1815, there were circumstances which took place, when the ratifications were exchanged, which have a strong bearing upon the present question.

The British Government was determined, that there should be no misunderstanding between the two Powers, as to what were the express objects of the Treaty and of the Convention of 1815 ; nor any doubt as to the determination of the British Government, that those objects should be attained. Accordingly, the British Minister, at the Portuguese Court was specially ordered, not to exchange the ratifications of one of those instruments, without, at the same time, exchanging the ratifications of the other : and not to exchange the ratifications of either, unless the Portuguese Minister should, at the time of making the exchange, place in the hands of the British Minister a declaration, prohibiting Portuguese Slave Trade to the north of the Line ; and the British Minister was further ordered to present, at the same time, a declaration, on the part of Great Britain, stating that "it is the firm and determined intention of His Royal Highness the Prince Regent, to use the most effectual means in his power for securing to those parts of the coast of Africa, in which the Court of Portugal has, by Treaty, concluded at Vienna, on the 22d of January, agreed to prohibit the Slave Trade to its subjects, the full benefit of that agreement and prohibition, and that His Royal Highness will think it His duty, in consequence of the mutual declaration of the two Powers, in the Treaty of the 19th of February 1810, and of the special engagements of the Treaty of the present year, to cause to be adopted *the same efficacious means, to secure the observance of that prohibition, which are commonly used by all nations to vindicate the breach of prohibitory laws of trade in restricted parts ;*" and the British Minister was ordered not to exchange the ratifications, unless the Portuguese Government consented to accept this declaration.

The British Minister executed these instructions ; and the declaration was presented to, and accepted by, the Portuguese Plenipotentiaries.

Now, as the Viscount de Sá contends, that Portugal has executed with good faith the engagements she has contracted, it becomes necessary for the British Government to take a short review of the state of Portuguese Slave Trade, since the conclusion of the Treaties just mentioned, and since the exchange of declarations, which accompanied the ratification of those Treaties.

From 1815, down to the present moment, the trade of Portugal in slaves has continued without interruption or diminution. It is now more extensive than at any former period, even when unrestricted by Treaty ; and it prevails with great intensity at the very places, where it was expressly forbidden by the Treaties of 1810 and 1815.

The British Government has incessantly but ineffectually laboured, by the strongest remonstrances, to awaken the Portuguese Government to a sense of the obligation it has contracted to repress this unlawful trade.

But the African seas and the Atlantic swarm with vessels, bearing the flag of Portugal, and loaded deep with human victims.

In 1837, 48 vessels, bearing the Portuguese flag, entered the port of the Havana, after having landed slaves in the neighbourhood ; and, in 1838, 44 Portuguese vessels followed in the same course ; and reckoning upon an average 443 slaves for each vessel, the number of slaves landed in Cuba by these Portuguese vessels must have been at least 40,700.

But the number of Portuguese slave-vessels which carry on the trade with

dication, on account of there not being a sufficient quantity of provisions for their subsistence for more than six days ; on account of the state and condition of the vessel ; and, further, on account of the general sickness and mortality which must ensue amongst the slaves from their continuing any longer in a cramped and confined state ; therefore, from these necessities, 324 slaves, as shown in the accompanying receipt, were, on the 9th day of February, 1838, disembarked at Kingston, Jamaica, where they remained."

The receipt here referred to is signed by Mr. J. G. Swainson, Collector of Customs at Kingston, and states that 240 male, and 84 female slaves, were delivered to him from the Portuguese schooner, "*Feliz*," by Sir J. S. Peyton, on the day already named.

The witnesses in preparatory, produced for examination on the standing interrogatories, were a seaman, and the cabin-boy of the detained vessel. The first, named Marco Rolland, deposed " that the Master, Miguel Avalla, was born in Minorca, and resides either at Porto Rico, or Havana ; that the Master was appointed to the detained vessel at Havana, about seven months ago ; that the vessel is Spanish built ; that he was present when the vessel was seized for having slaves on board ; that she sailed under Portuguese colours ; that there were 16 officers and marines, exclusive of the Master, part Portuguese and part Spaniards, but all hired and shipped at Havana about seven months since ; that the voyage commenced, and was to have ended at Havana ; that the slaves were shipped in the Gallinas, from which river the '*Feliz*' was proceeding to Havana, when she was fallen in with and captured by a British steam-vessel ; that the owner of the vessel is Pedro Martinez, who is a Spaniard by birth, and resides at Havana ; that witness has heard Martinez say that he is the owner ; that the consignee of the cargo at Gallinas, and the lader of the slaves there, was a Spanish Captain, whose name witness forgets, who has been residing there trading for slaves during the last three years ; that the owner of the slaves is Pedro Martinez ; that the lading shipped at Havana on the present voyage was tobacco, rum, and dry goods ; that after capture the vessel was taken to Jamaica, and whilst at anchor off the island, in charge of an officer and party from the steam-boat which had captured her an officer and party from a British man-of-war, lying at Port Royal, boarded the detained vessel, and took possession of her ; that the detained vessel was then anchored close to the man-of-war, and thence she was proceeding to Sierra Leone, when she was lost off Senegal ; that Spanish Captain, who was on board as supercargo, had the sole management of the vessel with regard to her trade."

Juan Miguel Altizen, the cabin-boy of the "*Feliz*" deposed that there were two Masters of the detained vessel, the principal one a Spaniard, called Don Juan, the other a Portuguese, called Don Miguel ; that the said Masters were appointed to the vessel at Havana by Pedro Martinez ; that all the crew were hired and shipped by the Spanish Master ; that there was no passenger, unless the Spanish Captain can be so termed, as he took a passenger's passport at the Cape Verd Islands, though he was in fact the person who had the chief authority on board ; that the last clearing port was St. Jago, one of the Cape Verd Islands, where the vessel's papers from Havana were taken on shore by the two Masters, and new ones procured, and after remaining there three or four days, the vessel went on to the Gallinas, where the slaves were shipped ; that the lader of the slaves was Don Pancho Ramon, a resident slave-trader in the river Gallinas.

On the publication of the above evidence being decreed, the Captor's Proctor was called upon by the Court to state why the Master of the detained vessel had not been produced in accordance with the 8th Article of the regulations. To account for the Master's absence, an affidavit of the Prize Officer was tendered, in which that gentleman deposes that " on Monday, the 23rd of April last, deponent with his prize crew, and the Master and two seamen belonging to the detained vessel, arrived at Senegal, when the Governor of the place engaged a passage for them in a trading cutter bound to Goree ; that the said cutter was ready for sea on the following day about one o'clock in the afternoon ; that the same notice was given to the Master ; but that, when deponent and his crew were ready to embark, the said Master was not to be found, although all the crew were employed in searching for him until 3 o'clock of that day, when they were obliged to embark without him."

It had, however, come to the knowledge of the Commissioners, that the

Master of the "*Feliz*" had subsequently reached St. Mary's, on the river Gambia, and had applied, but unsuccessfully, for a passage to this place in a vessel which was coming down. It might, therefore, be expected that, by some other conveyance, he would reach the colony in a short time. On this ground, when a petition for a day of trial was presented by the Captor's Proctor, the Commissioners followed the same course which was pursued by their predecessors, Messrs. Gregory and Hamilton, in the case of the "*Conchita*," Class A, 1824—1825, p. 31,) in accordance with the first article of the Regulations, and deferred giving judgment on the case until the 16th ultimo, (which day would complete two months from the date of the Monition being issued,) unless the Master should in the mean time make his appearance. The protracted illness of the Commissary Judge caused the judgment to be again deferred until the 8th instant, on which day, after hearing the arguments of counsel, the Court entered upon a close examination of the grounds, on which it might be supposed, that the restoration of this vessel would have been claimed, had any qualified representative of the owners been present in the character of claimant.

The "*Feliz*" having been captured north of the Line, with a cargo of slaves on board, the only argument which could be brought forward in favour of a sentence of restoration, must be founded on the fact that, although the "*Feliz*" was taken possession of and prosecuted by Her Majesty's ship "*Madagascar*," she was brought within the power of that man-of-war by a previous illegal detention by Her Majesty's steam-vessel "*Flamer*;" on which ground it might be urged that reason, and the practice of the Sierra Leone Courts in the case of the "*General Manso*," were opposed to the condemnation of a prize taken under such circumstances.

Plausible as this argument appears, it was not deemed conclusive by the Court. A decision, directly the reverse of that given in the case of the "*General Manso*," had been pronounced by our predecessors, Messrs. Jackson and Smith, in the case of the "*Donna Barbara*;" and this decision, which fully recognized the lawfulness of second captures, under such circumstances as marked the case of the "*Feliz*," had, so far as this important principle is concerned, been unimpeached by the Advocate General, to whom it was referred for his legal opinion.

With these two opposite decisions before us, we adopted that given in the case of the "*Donna Barbara*," as more conformable to the letter and spirit of the Portuguese Treaty; and because the judgment which restored the "*General Manso*," was made to depend, not on the merits of the case, not on the violation of the Treaty and of justice in the capture of the "*General Manso*," but on the supposed disapproval by Government of second captures under any circumstances, and on the supposed absence of any notice by Government of the "*Donna Barbara's*" condemnation for the two years following that event.

Of the opinion and intentions of the Government we took an entirely different view, founded on an important and voluminous correspondence, the existence of which was altogether unknown to the Commissioners who restored the "*General Manso*." We considered that there was no Article in the Treaty which restricted the right of an authorised cruiser to capture Portuguese slave-vessels, having slaves on board, to the northward of the Line; that even when such slave-vessels have been subjected to the power of an authorised cruiser by the illegal act of another, the authorised cruiser may still detain them, unless she have been in some way or other cognisant of, assistant in, or conniving at, the illegal act by which those slave-vessels have been brought within her reach; and that reparation for the illegal act, which has thus led to capture and condemnation, must, by the 13th Article of the Regulations, be sought from the guilty party and from his government, and not from the innocent cruiser, who has acted in strict conformity with the instructions published for his guidance.

It was accordingly decided by the Court, that Her Majesty's ship "*Madagascar*," Commodore Sir John Strutt Peyton commanding, was proved to have been duly qualified to make seizures of Portuguese slave-vessels engaged in the Slave Trade; that by the 5th, 6th, and 7th articles of the Convention, Commodore Peyton was justified in seizing the Portuguese schooner "*Feliz*," Miguel Avalha, Master; that the said schooner was, at the time of her total loss, subject and liable to condemnation; and that the survivors of the 324

CLASS A.—FURTHER SERIES.

slaves landed from the said schooner in the island of Jamaica, on the 9th day of February last, be emancipated from slavery

(Signed)

H. W. MACAULAY.
R. DOHERTY.

Sierra Leone, August 15, 1838.

Second Enclosure in No. 26.

*Judgment given in the Case of the Portuguese Schooner "Feliz,"
Miguel Avalha, Master.*

THIS vessel was sailing under Portuguese colours, and was furnished with regular Portuguese papers, when she was detained by Her Majesty's steam-vessel "Flamer," between the islands of Jamaica and St. Domingo, for having on board a cargo of slaves. The crew of the detained vessel were immediately removed on board the "Flamer," except the Portuguese captain, a Spanish passenger or supercargo, the cook, and the cabin-boy; an officer and six men from the capturing ship, were appointed as a prize crew to carry the "*Feliz*" into Jamaica; and on the evening of the 3rd, or the morning of the 4th of February last, she came to anchor off the east end of that island. A certified extract from the log of Her Majesty's ship "Madagascar," signed by Sir John Strutt Peyton, the Captain, and by the Master and Second Master, of that man-of-war, furnishes some further information respecting the prize. The log states—"Sunday the 4th of February, 1838, at 7 p.m., arrived Her Majesty's steam-vessel 'Flamer,' having detained a slave-vessel, and left her off the east end of the island, not being empowered to make capture of her. Monday the 5th February, 1838, at 4 a.m., sent the Master in the gig to the eastwards, with the requisite slave-papers and authorities for seizing a slaver, to look after and examine the vessel left by the 'Flamer' off the east end of the island. At 4 p.m. arrived the '*Feliz*,' Portuguese schooner, with 326 slaves on board, having been taken possession of by the Master about 20 minutes past 9 a.m., four miles south-east half east from the Yallahs, White Horses, about 20 miles eastward of Port Royal Harbour, there being no log, reckoning, nor papers, relative to her registry and freightage to be found on board of her, nor any authority for her seizure, according to the service of the existing Treaties. At 5° 30' sent a mate, six seamen, and four marines, to take charge of slaver."

A Declaration of the facts of capture was then made in the usual form, stating particularly that the capturing officer belonging to the "Madagascar," was "acting in pursuance of orders given him by Sir John Strutt Peyton." On the 9th of February, the slaves found on board the "*Feliz*" were landed on the island of Jamaica, and placed in charge of the Collector of Customs at Kingston; and on the 18th of the same month, the "*Feliz*," after receiving some repairs, was despatched for trial before this Court, in the charge of Mr. H. W. Baugh, Mate of the capturing frigate.

The Prize-officer had unfortunately no chronometer on board, and was out in his reckoning; and on the 7th of April he came to anchor about 40 miles north of Fort St. Louis on the Senegal, where he landed, and unsuccessfully endeavoured to procure provisions and water, of which he was much in need. In attempting to get under weigh from this inhospitable coast, his vessel drifted on shore and went to pieces. Everything belonging to himself, the vessel, and the crew, was plundered by the Moors, who carried the ship-wrecked men some distance into the country, and treated them with much cruelty, until they were rescued by a party of French traders, by whose assistance they arrived at Senegal on the 23rd of April, and a few days afterwards were provided with means of reaching the British settlement of St. Mary's, on the river Gambia, whence they came to this place in Her Majesty's brig "Curlew." When they left Senegal, the Portuguese Master of the "*Feliz*" was not to be found, and he had evidently absconded, from a disinclination to be carried down to Sierra Leone with his companions.

We much regret this absence of the Master, and the consequent want of a claimant for the detained vessel; and we feel bound, under the circumstances, carefully to examine the arguments which have formerly been advanced in

defence of vessels similarly situated, or which appear to be in favour of a sentence of restoration, in this particular instance.

The detention of the "*Feliz*" by Her Majesty's steam-vessel "*Flamer*," was, there is no doubt, altogether unjustifiable; inasmuch as the latter was not furnished with the Instructions required by the Slave Treaty with Portugal, to enable her even to visit and search, much less to seize and detain, any Portuguese vessels engaged, or suspected to be engaged, in the prohibited traffic in slaves. If the "*Feliz*," therefore, had been brought into Court, and prosecuted by the Commander of the "*Flamer*," she must have been restored, with damages for her illegal capture.

The illegality of the first seizure being admitted, it may be argued that Commodore Peyton, the second seizer, duly qualified as he was to capture Portuguese vessels engaged in the Slave Trade, was not justified in taking advantage of the wrong committed by the first seizer; that he ought not to have overlooked the unlawful means by which the "*Feliz*" was brought within his reach; that a fair and equitable construction of the Treaty with Portugal will not sanction the condemnation of a Portuguese slave-vessel thus taken possession of, not in the ordinary prosecution of her voyage, but when forced out of her intended route by a violent and illegal act; that the second seizure was clearly the consequence of the original unlawful detention; that the knowledge of the illegal employment of the detained vessel having been acquired by improper means in the first instance, it is not competent for any one to proceed upon, or in consequence of, it; that a sentence of condemnation against the "*Feliz*," at the suit of the second captor, would be an effectual bar to the admission of any claim for redress against the first captor.

Such appear to us to be the arguments available in defence of the detained vessel; nor can we discover that any other has ever been made use of, except that which has been drawn from the case of the "*Donna Barbara*," and to which we shall advert separately. But, plausible as these arguments appear, we are far from deeming them conclusive.

We do not consider that the mere fact of second capture, without reference to the particular circumstances under which it takes place, is a bar to the condemnation of a vessel. On the contrary, our deliberate opinion is, that when a slave-vessel, subject and liable to capture by a duly qualified man-of-war has been detained by an unqualified man-of-war; and, in consequence of her detention by the latter, has been brought within the power of the former; the authorized cruiser is justified by the Convention and Instructions annexed to it, in making a prize of the contraband trader, and in sending her for adjudication before the Court of Mixed Commissions; and the detained vessel may be condemned by the Court as a good and lawful prize, *unless* it shall appear that the second captor has been in some way or other connected with the original illegal detention. If, indeed, any collusion whatever can be proved; if the first seizure has been made with the knowledge, connivance, or assistance of the second captor, the latter cannot be permitted to take advantage of the consequences of his own wrong; and he becomes identified, for all practical purposes, with the first illegal seizure, which, being unwarranted by Treaty, must necessarily be followed by the restoration of the vessel which has been unjustly detained.

In all such cases as the present it appears to us that our judgment should wait upon the answers, which can be given to the following questions:—Have the first and second captors acted in all respects independently of each other?—Has there been a total absence of fraudulent or collusive arrangement between the two parties?—Has the second captor, while taking advantage of the wrong done by the first captor, been himself implicated in any degree in the perpetration of that wrong?

Applying this test to the capture of the "*Feliz*," it is evident that there was, and could have been, no collusion between the Commander of the "*Flamer*" and the Commander of the "*Madagascar*." The "*Flamer*" was a post-office packet, and whilst on her way to Jamaica, and not far from her port of destination, she fell in with a Portuguese vessel full of slaves, which she detained. On the arrival of the "*Flamer*" in the harbour of Port Royal, the unauthorised detention of the "*Feliz*" became known to Sir John Strutt Peyton, the Commodore commanding the Jamaica squadron, who was lying in harbour at the time, on board Her Majesty's ship "*Madagascar*," and who

was authorised to seize vessels under the Portuguese flag engaged in the Slave Trade. No time was lost by the Commodore ; and a proper officer was immediately despatched by him to examine and seize the "*Feliz*" as a prize to the man-of-war under his command. The first communication which took place between the "*Flamer*" and the "*Madagascar*" was late in the evening of the 4th of February last, and, by four o'clock the following morning, measures were taken by Commodore Peyton, on his own responsibility, to re-seize the "*Feliz*," and to withdraw her from the power and possession of her first unauthorised captor.

Let us now consider whether this act of Commodore Peyton was authorised by the Portuguese Treaty and its annexes.

It has been proved by the Captor's Declaration, and by the affidavit of the Prize-master, that the Commodore was supplied with the requisite instructions. He therefore possessed the right, in virtue of the 5th, 6th, and 7th Articles of the Convention, to visit and detain any Portuguese vessel "having slaves on board acquired by an illicit traffic." Of this right there is no qualification or restriction to be met with in the Treaty ; and the only condition imposed is, a strict adherence "to the exact tenor of the instructions which shall have been received for this purpose." The condition was complied with by Commodore Peyton in every respect, and the right of seizure was consequently enjoyed by him in its fullest extent.

It will be proper here to notice the argument of the proctor for the Captors, that Commodore Peyton had no discretion, no option, but that he was bound by the Convention and Instructions to seize every Portuguese slave vessel which might be brought within his power. We do not agree in opinion with the learned gentleman. On the contrary, the articles of the Convention and Instructions, which have reference to the right of search and detention, seem to have been studiously framed with the object of leaving the authorised cruiser to act altogether on his own discretion and responsibility, unfettered by any positive order or recommendation. See the terms of the 5th Article of the Treaty :—"Ships of war, which shall be provided with special instructions for this purpose, *may* visit suspected merchant vessels, and *may* detain and bring away such vessels." In the Instructions also, see the first Article, where the cases are enumerated, in which "alone the Commander of an authorized man-of-war *may* detain" Portuguese slave vessels.

We need not argue this matter further ; and it will now be sufficient to state that, in the present case, we consider the Captor who has brought the "*Feliz*" before this Court, exercised a sound discretion in assuming the responsibility which he did.

A reference to the Treaty will also show, with regard to another argument urged in the claimant's favour, that a sentence of condemnation against a detained vessel, in favour of the second seizer, cannot in any degree lessen or affect the claim for redress possessed by the owners of the detained vessel against the officer concerned in the first seizure. By the 13th Article of the Regulations it is stipulated that "in the case of a vessel detained unjustly, and in which the Captor should neither be authorised by the tenor of the Convention nor of the Instructions annexed to it, the Government, to which the detained vessel may belong, shall be entitled to demand reparation." The owners of the "*Feliz*" may therefore fairly be left to adopt such measures as they may think most desirable for obtaining redress from the Commander of the "*Flamer*," either by application to the ordinary courts of law or to the British Government.

Influenced by these considerations, and acting on the principle which we have laid down as applicable to all similar cases of second capture, we have no hesitation in deciding, that the capture of the "*Feliz*" by Her Majesty's ship "*Madagascar*" was in perfect accordance with the letter and spirit of the Portuguese Treaty. It is therefore decreed, that the Portuguese schooner "*Feliz*," Miguel Avalha, Master, her hull, tackle, apparel, and furniture, and the goods, wares, and merchandize laden on board, were, at the time of the capture thereof by Her Majesty's ship "*Madagascar*," Commodore Sir John Strutt Peyton commanding, subject and liable to condemnation for a breach of the Treaty between Great Britain and Portugal on the subject of the Slave Trade, dated on the 22nd of January, 1815, and of the additional Convention thereto signed at London on the 28th of July, 1817. It is further decreed

that there were on board the detained vessel, at the time of her capture, 326 slaves, of which number two slaves died on the day of detention, and that the survivors, at the present day, of the 324 slaves landed in Jamaica on the 9th day of February last, be now emancipated from slavery.

The decision which we have just pronounced, while it is directly at variance with the judgments delivered by Commissioner Lewis and Acting Commissioner Campbell, on the 18th of July, 1836, in the similar cases of the "*General Manso*," "*Victorina*," and "*Josefa*," Class A., 1836, pages 38 to 58, is in exact accordance with the opinion entertained by our predecessors, Commissioners Jackson and Smith, who condemned the "*Donna Barbara*," Class A., 1829, page 52. And with these two distinct and opposite judgments before us, we give our decided preference to that pronounced by Messrs. Jackson and Smith, *so far as the abstract point of second captures is concerned.*

The restoration of the "*General Manso*," by Messrs. Lewis and Campbell, was made to depend entirely on the notice which the case of the "*Donna Barbara*" had received from His Majesty's Government, and on the supposed disapproval by Government of second captures under any circumstances. We read the comments of His Majesty's Government very differently, and draw from them a totally opposite conclusion. Had no such case ever been adjudicated as the "*Donna Barbara*," we should have felt bound to condemn the "*Feliz*," for the reasons which we have already stated; but the condemnation of the "*Donna Barbara*," and the course which the Government subsequently pursued with respect to that vessel, are calculated, in our opinion, to sanction, not to oppose, a sentence of condemnation in the present case.

We will briefly describe the case of this vessel, as it appears in the records of the Brazilian Court of Mixed Commission. His Majesty's ship "*Sybill*," Commodore Sir F. A. Collier commanding, captured the Brazilian brig "*Andorinha*," in Lagos Roads, on the 19th of February, 1829, and despatched her to Sierra Leone in charge of Mr. Browne, a Master in His Majesty's Navy. On his passage to this port, Mr. Browne fell in with the Brazilian schooner "*Donna Barbara*," laden with slaves, and from a mistaken zeal for the service, detained her, and brought her along with him to this port for adjudication. The arrival of the "*Andorinha*" and her prize was reported to the Commissioners in the usual manner by the Marshal. But, before the Commissioners had time to act in any way upon this singular report, Lieutenant Harvey, commanding the "*Paul Pry*," which had just before been purchased at this place on account of the Commodore, and was being fitted out in this harbour, and intended to be employed as a tender to His Majesty's ship "*Sybill*," boarded the detained vessel in a boat belonging to the "*Sybill*," and took possession of her. Lieutenant Harvey then libelled her in the British and Brazilian Court, and stated in his declaration that he was duly authorised, and furnished with written instructions from Commodore Collier, to make seizure of vessels engaged in the illicit traffic in slaves. Although Mr. Browne, the prize-officer of the "*Andorinha*," who was the first captor of the "*Donna Barbara*," and Lieutenant Harvey, who was the second captor, were both officers belonging to the same man-of-war, there appears to have been no collusion between them. The first acted, as the Commissioners state, "*from a mistaken zeal for the service*," believing himself to be justified in what he did; and the second, in taking the detained vessel out of the hands of the first unauthorised captor, acted in equal good faith, firmly believing that he possessed sufficient authority in the written instructions of Commodore Collier, who was lying at Fernando Po, fifteen hundred miles distant at the time. The right of Mr. Browne, the first seizer, to seize the "*Donna Barbara*," was not contended for; and the Commissioners properly remarked that, "had she been brought into Court by this officer, there is no question but that the Court must have instantly pronounced it an illegal capture." "The zeal of Mr. Browne," they add, "betrayed him into an illegal and unwarranted act; and had the case stopped here, and this officer been the person to bring this vessel before the Court for adjudication, she must necessarily have been restored; but, as it now stands, the Court know nothing of Mr. Browne as captor; he appears before them only as a witness in the cause; and the '*Donna Barbara*' is brought into Court as a prize to the '*Paul Pry*,' tender to His Majesty's ship '*Sybill*.'"

With regard to the right of the "*Paul Pry*," the second captor, to be considered as properly qualified under the Treaty, the Commissioners decided that

the "*Donna Barbara*," was seized "by an unauthorised vessel and officer;" that she was captured by Lieutenant Harvey, commanding the "*Paul Pry*," a tender to His Majesty's ship "*Sybille*," with a boat on board belonging to the said ship, and provided with written instructions from Commander Collier, to make seizures of vessels engaged in the illicit traffic in slaves. And again, the "*Paul Pry*" was "*duly authorised* and furnished with the instructions to make seizures of vessels engaged in the illicit traffic in slaves." The "*Donna Barbara*" was accordingly condemned as good and lawful prize to the "*Paul Pry*," tender to His Majesty ship "*Sybille*," Lieutenant Harvey commanding; and the slaves found on board of her were at the same time decreed to be emancipated.

The correctness of this decision, it is true, was subsequently questioned by His Majesty's Government, but *solely* on the ground that the "*Paul Pry*" could not justly be considered "to have formed a part of, or to have been incorporated into, the Royal Navy of Great Britain;" that the instructions under which she seized the "*Donna Barbara*" were signed by Commodore Collier, and not by the Lords of the Admiralty; that she had never joined the "*Sybille*" previous to her taking possession of the "*Donna Barbara*," and that she was not entitled to be considered a tender to the "*Sybille*."

On this point the practice of the Admiralty Court was clear and decisive, even before the case of the "*Donna Barbara*" was adjudicated. See 1 Robinson, page 235. "All title to sea-prize must be derived from commissions under the Admiralty, which is the great fountain of maritime authority."

In the "*Anna Maria*," 3 Robinson, page 211, Sir William Scott states that, in order to prove the required connexion between a ship and her alleged tender, some orders must be produced to show in what manner the tender was attached to the man-of-war. If she was attached as a tender it must have been in consequence of some orders in writing. Unless such orders can be produced, it does not appear that the fact can be properly established. In the "*Melomane*," 5 Robinson, page 41, the authority of tenders acting without a commission from the Admiralty is strongly denied. Also in the case of the "*Charlotte*," 5 Robinson, page 280, the same principle is laid down. "I am of opinion," says Sir William Scott, "that there is no sufficient foundation to induce the Court to consider the capturing vessel in the capacity of a tender. She is not recognised in terms by any authority proceeding from the Admiralty, neither is the nature of the service imposed upon her such as to induce a supposition that she must have been so considered by the Admiralty."

But while on these and similar grounds, the decision of the Commissioners, that the "*Paul Pry*" was "*duly authorised* and furnished with the instructions to make seizures of vessels engaged in the illicit traffic in slaves," was clearly shown to have been erroneous, and was disapproved of accordingly, the lawfulness of a second seizure of a slave-vessel by a duly qualified man-of-war, under certain circumstances, has never yet been questioned or impugned by the Government in the slightest degree.

The judgment in question consisted of two parts. The first declared that the "*Paul Pry*," the captor of the "*Donna Barbara*," possessed the requisite powers and authority for seizing slave vessels; the second part recognized the lawfulness of the capture of a slave vessel by a duly qualified cruiser, under such circumstances as in this case have marked the capture of the "*Feliz*" by Her Majesty's ship "*Madagascar*." The Government was at great pains to express an elaborate opinion that the judgment of the Commissioners on the *first* point was wrong; but, with regard to the judgment of the Commissioners on the *second* point, the Government was perfectly silent; and this silence may reasonably be taken as a proof that this part of the Commissioners' judgment was deemed to be correct and proper.

In drawing this inference from the silence of the Government, and particularly of the Advocate-General, to whom the subject was referred, we are supported by the authority of Sir William Scott, who, in the case of the "*Elsabe*," 4 Robinson, p. 110, in allusion to an appellate judgment of the higher Court affirming a sentence of the Admiralty Court, says: "How far the appellate judgment has confirmed *all* the principles that are laid down in the judgment of this Court, has been questioned in argument. It is a question, however, into which I do not feel myself disposed, or called upon, to enter very minutely, for the reason already given, that if they are not positively *disclaimed* by the

Court above, they continue to bind the legal conscience of the Court below. At the same time, I think it hardly possible to avoid two observations: first, that, if the principles had been such as that Court disapproved, it could not but have felt the obligation of disclaiming them. They are principles of considerable extent, operating on great subjects, and leading to great consequences; they are not indifferent in their nature, and, if erroneous, it should rather seem that public interests called forcibly for a public disavowal of them; secondly, that although it is not to be supposed that every incidental expression of opinion is confirmed by that judgment, it seems, *ex vi necessitatis*, that the leading and fundamental positions must be considered as affirmed." So also do we conclude that the main principle on which the "*Donna Barbara*" was condemned by His Majesty's Commissioners, namely, the *lawfulness of second captures under certain circumstances*, must be considered as affirmed by the British Government, from the absence of any disclaimer or disallowance of that principle by the Secretary of State, or by the high legal authority to whom the judgment in that case was referred.

To show that we are fully borne out in this statement, we will quote at length the correspondence, which has taken place between her Majesty's Government and Her Majesty's Commissioners on this subject; and which, not being inserted in the annual Parliamentary Slave Trade Papers, will be unknown to the legal gentlemen, and seems altogether to have escaped the notice of the Commissioners who decided the case of the "*General Manso*." This indeed is evident; as those gentlemen remark, (Class A., 1837, p. 48,) "The views stated by the Commissioners (Jackson and Smith), in their report on the case of the '*Donna Barbara*,' under date of the 13th of April, 1829, remained unapproved and unnoticed for upwards of two years; whereas the despatches, which we shall now proceed to read, were both written during that interval.

The first is from Lord Aberdeen, and dated July 2, 1830. His Lordship, after remarking upon the evidence detailed in the Commissioners' report of the case of the "*Donna Barbara*," writes:—"Upon these facts, thus established against the '*Donna Barbara*,' the Commissioners pronounced that the ship and cargo were, at the time of the capture and seizure thereof, engaged in the illicit traffic in slaves, and, as such, subject and liable to confiscation: and the Commissioners condemned the same as having been taken in illicit traffic by the '*Paul Pry*,' tender to His Majesty's ship '*Sybille*,' Lieutenant Harvey commanding, and moreover pronounced the slaves to be emancipated from slavery, and to be employed as servants and free labourers.

"The King's Advocate reports that, in this view of the case taken by the Commissioners, so far as respects the establishment of the fact of the vessel having been engaged in the illicit traffic in slaves, he entirely concurs; but he does not agree with them in opinion that the '*Paul Pry*' was duly authorized and furnished with Instructions to make seizures of vessels engaged in the illegal traffic in slaves; for it appears in the letter of the Commissioners, dated 14th of April, 1829, and marked separate, that the '*Paul Pry*' had never joined the '*Sybille*;' that she was originally the '*Arcenea*,' Brazilian schooner, condemned at Sierra Leone in December, 1829, and had never left the harbour since such condemnation, the officer commanding her having been sent up to Sierra Leone as Prize-master in the brig '*Jules*,' with a detachment of seamen belonging to the '*Sybille*,' for the express purpose of taking charge of her.

"The King's Advocate observes that, under these circumstances, he is of opinion that the '*Paul Pry*' was not, at the time of the capture in question, entitled to be considered a tender to the '*Sybille*;' that she had never been attached to, or formed a part of, the force of that ship, in any manner whatever; and that the mere circumstance of her being manned by a part of the officers and crew of the '*Sybille*,' and having one of her boats on board, could not confer upon her the character of a tender to that ship, even supposing tenders to be, as such, authorised to make captures when acting separately, and at a considerable distance, from the ships to which they have been attached,—a conclusion in which the King's Advocate does not concur.

"The King's Advocate adds, that, by the 5th Article of the additional Convention with Portugal, signed at London on the 28th of July, 1817, it is expressly stipulated, that the visit and detention of slave ships shall only be effected by those British and Portuguese vessels, which may form part of the

two Royal Navies, and by those only of such vessels which are provided with the special Instructions annexed to the present Convention; and which Instructions, according to the provisions of the 7th Article, must be signed, for the vessels of each of the two powers, by the Ministers of their respective Marine; and that the 'Paul Pry' does not appear, under the circumstances stated, to have formed a part of, or to have been incorporated into, the Royal Navy of Great Britain, nor to have been furnished with proper Instructions; those under which she was acting having been signed by Commodore Collier, and not by the Lords Commissioners of the Admiralty, who are alone competent to sign and issue Instructions.

"Upon these grounds, the King's Advocate states himself to be of opinion, that the capture in question was irregular, and ought not to have been made; and observes, on this point, that it is difficult, with reference to the provisions of the Treaty, upon which alone the right of seizing Brazilian ships engaged in the Slave Trade depends, to maintain the legality of the sentence pronounced by the Commissioners."

The King's Advocate "having further suggested, that, as the capture of the 'Donna Barbara' appears to have been made by a vessel not duly qualified under the provisions of the Treaty, it will be proper to communicate the facts of this case to the Lords Commissioners of His Majesty's Treasury, in order that their Lordships may take into consideration the expediency of withholding any order for the payment of the bounty for the emancipated slaves to the captors, on the ground that, the seizure having been made without sufficient authority, they are not entitled to the benefits arising from it: a communication to this effect has, in accordance with that suggestion, been made to the Lords of His Majesty's Treasury; and the facts of the case have been communicated to the Lords of the Admiralty, with a request that their Lordships will issue such instructions to the Commanders of His Majesty's ships and vessels, appointed for the prevention of illegal Slave Trade, as their Lordships shall judge to be expedient, to prevent a recurrence of the irregularity alluded to."

The King's Advocate here declares, "That the capture of the 'Donna Barbara' was irregular," on the ground of her having been seized by an *unauthorised vessel*. Is it to be supposed that, if he deemed the capture of a slave-vessel by an *authorised vessel* irregular, under the same circumstances he would have taken so much pains, and have entered into such a long argument, to show that the capturing vessel in this instance was not armed with the requisite powers to seize? If the seizure of the 'Donna Barbara,' whether by an *authorised* or *unauthorised* vessel was unjustifiable and irregular, where was the object, of what importance was it, to discuss so minutely the character of the detaining vessel? If it was irregular for an *authorised vessel* to make such a seizure, it was doubly so for an *unauthorised vessel* to attempt it. But on such a supposition, the elaborate remarks of the King's Advocate must appear to be without object or meaning.

This important Despatch in like manner clearly explains the grounds on which the Lords of His Majesty's Treasury withheld from the Captors the bounty for the slaves belonging to the "Donna Barbara." Was it (as stated in the report of the "General Manso"), because, the first capture of the "Donna Barbara," being illegal, "all the consequences thereof must be also unlawful?" No; it was *solely* because the second capture of the "Donna Barbara" appeared to have been made by a vessel not duly qualified under the provisions of the Treaty.

Let us now turn to the Despatch of His Majesty's Commissioners (Findlay and Smith), in which they acknowledge the Despatch from Lord Aberdeen which has just been read, and in which not one word will be found to show that those gentlemen conceived that the propriety of second captures was in any manner questioned or denied by the King's Advocate.

"Sierra Leone, September 16th, 1830

"MY LORD,

"WE have the honour to acknowledge the receipt of your Lordship's Despatch, of the 2nd of July, 1830, communicating to us the opinion of His Majesty's Advocate-General, upon the subject of the detention and condemnation of the Brazilian schooner 'Donna Barbara,' under a charge of having been concerned in illegal Slave Trade, but more particularly with reference

to that part of the case which bears upon captures made by tenders apart from the ships to which they belong.

“ Upon a careful perusal of the opinion which His Majesty’s Advocate-General entertains upon the subject of tenders capturing ships carrying on an illicit traffic in slaves, we are led to the conclusion, that no vessel, intended to be employed as a tender, can be considered as a tender, unless she have actually joined His Majesty’s ship, to which it is intended she shall be attached; and that her having a boat on board, and being manned with officers and crew belonging to His Majesty’s ships, does not confer authority upon her to make seizures of slave-ships engaged in the illegal traffic; that no tender, after having joined His Majesty’s ships, is authorized to make captures of slave-ships, when acting separately, and at a considerable distance, from the ship to which she has been attached; that, in order to render legal the detention of slave vessels by tenders, when detached from His Majesty’s ships to which they belong, such tenders must be furnished with the signed Instructions, required by the Treaties for the suppression of the Slave Trade, by the Lords Commissioners of the Admiralty, who are alone competent to sign and issue such Instructions.

“ Conceiving that we have thus taken a correct view of the opinion which His Majesty’s Advocate-General holds upon the subject, we shall not fail to take that opinion as the rule of our conduct in future cases which may come before us involving this question; and should any slave-vessel be hereafter captured by a Tender acting separately, and at a considerable distance from the ship to which she belongs, not duly authorised and furnished with Instructions according to Treaty, we shall feel it to be our duty to restore such slave-vessel, on the ground of the irregularity of the capture.

“ At present there are but two tenders belonging to His Majesty’s ships employed on this coast; viz. His Majesty’s brig ‘Black Joke,’ duly furnished with the signed Instructions, now attached to His Majesty’s ship ‘Atholl,’ and a small schooner, not duly furnished with the signed Instructions, attached to His Majesty’s ship ‘Medina;’ and it is with considerable satisfaction we learn from your Lordship that the facts of the case of the ‘*Donna Barbara*’ have been communicated to the Lords of the Admiralty, with a request that their Lordships will issue such instructions to the Commanders of His Majesty’s ships and vessels appointed for the prevention of illegal Slave Trade, as their Lordships shall judge to be expedient to prevent a recurrence of the irregularity which distinguished the case of the ‘*Donna Barbara*;’ and we humbly hope that those instructions may be so distinct and positive that His Majesty’s ships cannot misinterpret them.

“ We have, &c.”

It will be observed that in this Despatch no reference is made to any other subject than the employment of tenders, and the forms requisite to invest those tenders with authority to seize slave-vessels.

The reply to the Commissioners’ Despatch will be found at Class A., p. 70, 1831, dated 9th August, 1831, and is signed by Lord Palmerston.

“ GENTLEMEN,

“ *Foreign Office, August 9th, 1831.*

“ I received your Despatch of the 16th of September, 1830, in which you appear uncertain whether or not you accurately understood the opinion of the King’s Advocate, of which a copy had been furnished to you for your guidance in the Secretary of State’s Despatch to you of the 2nd of July, 1830, upon the subject of captures made by tenders when apart from the ships to which they belong.

“ My attention has recently been called to *this* case by a judgment of the High Court of Admiralty, to whose decision the application of Commodore Collier for payment of the bounty for the slaves captured in the ‘*Donna Barbara*’ was referred; and the Judge in this case pronounced that the capture was not made under such circumstances as entitled the captors to the bounty. As he, at the same time, explained, at considerable length, the principles on which his decision was grounded, I think it may be useful to send to you a copy of the sentence, and I herewith enclose it.

“ You will do right to act in conformity with the principles therein laid

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down; and I do not apprehend that you will experience any difficulty in applying those principles to such cases as may hereafter be brought under your consideration.

“ I am, &c.

(Signed)

“ PALMERSTON.”

From this Despatch it is likewise evident that “ the subject of captures made by tenders when apart from the ships to which they belong ” was the sole subject matter of discussion between the Commissioners and Her Majesty’s Government.

Again, if we turn to the report of the case of the ‘ *Donna Barbara*, ’ 2 Haggard, page 366 to 377, and to the judgment delivered in that case by Sir Christopher Robinson, in the High Court of Admiralty, on the 13th of July, 1831, we shall not find a single allusion, however distant, to the question whether a second seizure of the ‘ *Donna Barbara* ’ by an *authorised* vessel would have been justifiable. That sentence has reference merely to the right possessed by a boat, or by a tender, to be considered as part and parcel of a man-of-war, from which it is separated by a distance of 1500 miles. And the learned Judge carefully abstains from alluding to the proceedings which took place at Sierra Leone. He says, “ The legality of the sentence of the Court of Mixed Commission is not denied on petition, and it will not be necessary for me to do so.”

From all that has been said, we consider ourselves warranted in forming the conclusion, that, so far from there being anything in the opinions expressed by Her Majesty’s Government, or in the sentence of the Admiralty Court, respecting the case of the “ *Donna Barbara*, ” unfavourable to the condemnation of the “ *Feliz*, ” captured as she has been by a duly qualified vessel of war, whose authority to make such seizures will not admit of question or dispute, there is every reason to believe that a sentence of condemnation, in this case, will be as much in accordance with the wishes of Her Majesty’s Government as it is with our view of the correct interpretation of the Treaties which we have been appointed to carry into effect.

We have shown, we think incontestibly, from documents, of the existence of which the Commissioners who restored the “ *General Manso* ” seem not to have been aware, that the *unauthorized character* of the “ *Paul Pry*, ” which re-seized the “ *Donna Barbara*, ” was *alone* the cause of the condemnation of that vessel being disapproved of at home. The Commissioners (Lewis and Campbell), on the contrary, reasoning on the belief that the “ *Paul Pry* ” was duly “ authorized to seize vessels engaged in the illicit traffic in slaves, ” and that it was the re-seizure, after a first illegal detention, to which Her Majesty’s Government objected, restored the “ *General Manso*, ” not because the second captor was unfurnished with proper authority (which indeed he was admitted to possess), nor because any collusion between the first and second captor was imagined to exist, but because the first seizure was proved to have been illegal; and because it was erroneously supposed, that the opinion of Government and of the Court of Admiralty had been expressed that, under such circumstances, no second seizure could be justifiable.

A reference is made by these Commissioners to a reported reversal, by the High Court of Delegates, of the sentence pronounced by the Admiralty Court in the case of the “ *Donna Barbara*. ” The Commissioners expressed their disbelief of such a reversal, “ of which (they say) no authentic proof had been tendered. ” If, then, it had been made clear to those gentlemen that the sentence of the Admiralty Court, on which their decision was founded, had been actually set aside on appeal to the higher court, it is to be presumed that the judgment of the Commissioners would have followed that of the Court of Delegates, and been the reverse of what it was. There is, we believe, no doubt of the correctness of the report noticed by the Commissioners; but whether correct or not is a matter of small consequence, as the judgment on appeal must necessarily have been confined to the only question entertained originally by the Admiralty Court, namely, the authority of boats and tenders under certain circumstances; a question which did not in any way present itself either in this case or the case of the “ *General Manso*; ” nor do we see any cause for surprise, that the sentence of the High Court of Delegates has not been furnished to Her Majesty’s Commissioners, inasmuch as that sentence

could only relate to the laws and regulations respecting tenders, a description of vessels the use of which on this coast has for a long period been discontinued.

Sierra Leone, August 8th, 1838.

No. 27.

Her Majesty's Commissioners to Viscount Palmerston.—(Received February 4, 1839.)

MY LORD,

Sierra Leone, September 20th, 1838.

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 13th July, 1838, enclosing copy of a letter from Mr. Under Secretary Stephen, of the Colonial Office, to the Foreign Department, on the subject of disposing of slaves, prior to adjudication, by enlisting them into the British military service, and by apprenticing them to persons able and willing to provide for them, as was done in the case of the Portuguese vessels "*Don Francisco*" and "*Florida*."

My Lord Glenelg is of opinion that, even if it should ultimately appear that the slaves who were on board these vessels at the time of capture, and who were landed in the West Indies to await the judgment of the Mixed Commission Court, were "not liable to condemnation; the removal of them as slaves, from any British colony at which they may so have arrived, or their detention there in confinement to await the adjudication at Sierra Leone, would be inconsistent with the law for the abolition of the Slave Trade, and with the laws in force in the colonies.

We beg leave to remark, that it was never for a moment contemplated by Her Majesty's Commissioners that slaves, situated like those belonging to the "*Don Francisco*" and "*Florida*," should be detained *in confinement* during the interval between their landing in the West Indies and their adjudication by the British and Portuguese Mixed Court at Sierra Leone; but merely that they "must be kept and detained in the character of slaves until sentence be pronounced whether they shall be restored or not." Such was the deliberate legal opinion of the law officers of the crown, given in a formal and official document dated "Doctors' Commons, January 26th, 1827," and signed by Sir Christopher Robinson, Sir Charles Wetherell, and Sir Nicholas Tindal; and it was communicated to us "for our information and guidance" by Mr. Secretary Canning, under date February 26th, 1827, Class A, 1827, pages 2 to 7.

We have, &c.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

No. 28.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 1, 1839.)

MY LORD,

Sierra Leone, November 12th, 1838.

IN our Despatch, marked Portugal, of the 7th of April last, to which we beg leave respectfully to refer your Lordship, we reported the prosecution, in the British and Portuguese Court of Mixed Commission, of the Portuguese schooner "*Ingemane*," Antonio Joaquim da Faria, Master; and the reasons which induced us to withhold a *final* sentence of condemnation against the vessel, and of emancipation to the slaves found on board of her, until some evidence should be furnished to show that the vessel and slaves were in existence.

As soon as this decision of the Court was known in the West Indies, the Honourable Plantagenet Pierrepont Cary, the Commander of Her Majesty's sloop "*Comus*," and the Captor in the case, took measures to forward the necessary documents and receipts to his Proctor in this Colony, by whom they were presented to the Court a few days since.

These papers consisted of, first, a certificate from Colonel Francis Cockburn, Lieutenant-Governor of the Bahamas, that 79 negroes, captured in the slave schooner "*Ingemane*," were received by His Excellency on the 9th day of October, 1837, from Her Majesty's sloop "*Comus*;" and, secondly, a report from two merchants, and two master mariners, who formed a board of survey on the state and condition of the detained vessel, declaring that the "*Ingemane*" was "in an unfit state to proceed to Sierra Leone."

The prize was placed in the charge of the Comptroller of Customs at Nassau, to await the judgment of this Court.

The documents, just quoted, happily supplied us with all the requisite intelligence, respecting the fate of the detained vessel and her human cargo. It was accordingly decreed, at a sitting of the British and Portuguese Court of Mixed Commission, on the 10th instant, that the Portuguese schooner "*Ingemane*," Antonio Joaquim da Faria, Master, be condemned as good and lawful prize to the Crowns of Great Britain and Portugal. It was further decreed, that there were on board the "*Ingemane*," at the time of her capture by Her Majesty's sloop "*Comus*," the Honourable Plantagenet Pierrepont Cary commanding, 82 slaves, of whom three died before they could be landed at Nassau; and that the 79 slaves, handed over to the Lieutenant-Governor of the Bahamas, on the 9th day of October, 1837, or the survivors of them, on this day, be emancipated from slavery.

We have, &c.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

No. 29.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 1, 1839.)

MY LORD,

Sierra Leone, December 31st, 1838.

WE have the honour to inform your Lordship, that we have only this day received by Her Majesty's brig "*Saracen*," your Lordship's Despatch, dated on the 30th of April, 1838, transmitting the copy of an Instruction, which was addressed by your Lordship to Her Majesty's Commissioners at Rio de Janeiro, pointing out what vessels are deemed to be Portuguese, under the Portuguese Decree of the 16th of January, 1837.

The delay which has occurred in our receiving this Despatch is of less consequence, as we had already seen it in print at page 33 of Class A., (Further Series), 1837.

We have, &c.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

No. 30.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 22, 1839.)

MY LORD,

Sierra Leone, March 4th, 1839.

WE have had the honour to receive your Lordship's Despatch, dated the 13th of December, 1838, in which your Lordship was good enough to forward the copy of a Despatch, written by Her Majesty's Chargé d'Affaires at Rio, covering a Return of Portuguese Slave Vessels, which had entered that port during the month of August last; and a Return of Vessels, which had

arrived at Bahia from the African Coast, and which had cleared out for Africa from the same port during the months of June and July last.

We have, &c.

(Signed)

H. W. MACAULAY.
WALTER W. LEWIS.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

No. 31.

Her Majesty's Commissioners to Mr. Backhouse.—(Received April 25, 1839.)

SIR,

Sierra Leone, December 31, 1838.

IN pursuance of the 75th Clause of an Act, passed in the 5th year of the reign of His Majesty George IV., entitled, "An Act to amend and consolidate the Laws relating to the Abolition of the Slave Trade," we have the honour to transmit enclosed a Return of all Vessels, adjudicated in the British and Portuguese Court of Mixed Commission established here, in the period from the 1st July, 1838, to this date.

We have, &c.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

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

Enclosure in No. 31.

Return of Portuguese Vessels adjudicated by the British and Portuguese Court of Mixed Commission, established at Sierra Leone, between the 30th day of June and the 31st day of December, 1838.

NAME OF VESSEL.	NAME OF MASTER.	DATE OF SEIZURE.	WHERE CAPTURED.		PROPERTY SEIZED.	SEIZOR.	DATE OF SENTENCE.	Number of Slaves Captured.	Number died before Adjudication.	Total Number Emancipated.	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.
			Latitude.	Longitude.								
Prova	Francisco Joze Dias	1838 3 June	Three Miles off Old Calabar.	24° 20' N. 85° 55' W.	Schooner and 225 slaves.	Wm. Langford Castle, Esq. H.B.M. sloop "Pylades."	1838 2 July	225	31	194 ^a	Condemned for being engaged in the illicit traffic in slaves.	Vessels and stores sold by public auction, and the proceeds paid into the military chest.
Diligente	Joao B. Simoni	24 April		24° 20' N. 85° 55' W.	Brig and 480 slaves.	Lord Clarence E. Paget, H.B.M. sloop "Pearl."	4 Aug.	480	5	475 ^b	Ditto	The brig and stores left at Bermuda under the charge of the Storekeeper of Her Majesty's Dock-yard, and commission issued for the sale thereof.
Camoens	Feliz Cosme Madail	30 April		24° 4' N. 80° 8' W.	Brig and 572 slaves.	Thomas Frazer, Esq. H.B.M. sloop "Sappho."	4 Aug.	572	3	569 ^c	Ditto	Vessel and stores sold by public auction, and the proceeds paid into the military chest.
Paquete Feliz	Manoel de Brito Lima	13 July		4° 15' N. 7° 20' E.	Brigantine and 195 slaves.	W. B. Oliver, Esq. H.B.M. schooner "Far Rosamond."	8 Aug.	195	8	187	Ditto	
Feliz	Miguel AVALHA	5 Feb ^y 1837		17° 47' N. 76° 31' W.	Schooner and 326 slaves.	Sir John S. Peyton, Kt. H.B.M. ship "Madagascar."	13 Aug.	326	2	324 ^d	Ditto	
Ingemane	Ant. J. de Faria	12 Sept. 1838		20° 9' 58" N. 30' W.	Schooner and 82 slaves.	The Hon. P. Percy, H.B.M. sloop "Comus."	10 Nov.	82	3	79 ^e	Ditto	This vessel was wrecked to the northward of Senegal on her passage hither.
Prova	Lourenço Viadon-nonte	9 Oct. 1838		2° 15' N. 7° 36' E.	Schooner and 326 slaves.	Woodford J. Williams, Esq. H.B.M. brig "Termagant."	24 Nov.	326	21	295 ^f	Ditto	The schooner and stores left at Nassau, New Providence, in charge of the Comptroller of the Customs, and commission issued for the sale thereof
Dolcinea	Joze da Luz Carvalho	31 Oct.		4° 16' N. 3° 44' E.	Schooner and 253 slaves.	Brunswick Popham, Esq. H.B.M. sloop "Pelican."	3 Dec.	253	4	249	Ditto	Vessel and stores sold by public auction, and the proceeds paid into the military chest.
Liberal	Francisco Gon-salvez	1 Nov.		6° 8' N. 1° 50' W.	Brig and 591 slaves.	Henry Broadhead, Esq. H.B.M. brig "Lynn."	7 Dec.	591	8	583	Ditto	
Empreendedor	Francisco Viega	27 Nov.		7° 4' N. 12° 17' W.	Brig and 467 slaves.	C. Fitzgerald, Esq. H.B.M. brigantine "Buzard."	11 Dec.	467	11	458 ^g	Ditto	The brig and stores in charge of the Commissioner of Appraisement and Sale, the same being ordered to be sold at public auction, and the proceeds paid into the Registry, twenty-one days from the date of the condemnation.

^a One boy died after emancipation, but previous to his description having been taken to be registered.

^b The slaves of the "Diligente" were landed at Nassau, New Providence.

^c The slaves of the "Camoens" were landed at Do. Do.

^d The slaves of the "Feliz" were landed at Kingston, in the Island of Jamaica.

^e The slaves of the "Ingemane" were landed at Nassau, New Providence.

^f One man died, and one girl absconded after emancipation, but before their descriptions were taken to be registered.

^g Two infant slaves were born on board after capture, and prior to the arrival of the vessel at this port.

Sierra Leone, 31st December, 1838.

(Signed)

J. MILLER,
Acting Register.

No. 32.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, May 28th, 1839.

I HEREWITH transmit to you, for your information and guidance, a copy of a dispatch from Her Majesty's Consul at Lisbon, enclosing the translation of an instruction which has been addressed by the Portuguese Government to the Directors of the several Custom-houses of the kingdom, warning them against some foreign vessels suspected of being about to assume the Portuguese flag, for the purpose of engaging in the Slave Trade.

I am, &c.

(Signed)

PALMERSTON.

Her Majesty's Commissioners, Sierra Leone.

Enclosure in No. 32.

Mr. Smith to Viscount Palmerston, Lisbon, April 22, 1839.

(See Class B., No. 65, page 111.)

SIERRA LEONE. (*Brazil.*)

No. 33.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 22d.)

MY LORD,

Sierra Leone, February 15th 1839.

WE had the honour to receive, yesterday, your Lordship's Despatch of the 15th of December 1838, transmitting copies of various letters and Despatches, respecting the slave-vessel "*Flor de Loanda*," together with copies of Despatches addressed by your Lordship to Her Majesty's Commissioners at Rio, and to the Portuguese Chargé d'Affaires in England, on the same subject.

We have, &c.

(Signed)

H. W. MACAULAY.
WALTER W. LEWIS.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

No. 34.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 22d.)

MY LORD,

Sierra Leone, February 15th, 1839.

WE have the honour to acknowledge your Lordship's Despatch of the 17th of December, 1838, on the subject of the slave vessel "*Flor de Loanda*;" and we shall be careful to observe your Lordship's directions, with respect to such individuals of the detained crew as may be brought to Sierra Leone, by giving every facility in our power to the conveyance of those people for trial before a Portuguese tribunal.

We have, &c.

(Signed)

H. W. MACAULAY.
WALTER W. LEWIS.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

No. 35.

Her Majesty's Commissioners to Viscount Palmerston.—(Received May 20.)

MY LORD,

Sierra Leone, January 5, 1839.

WE have had the honour to receive your Lordship's dispatch, dated the 7th of November, 1838, forwarding to us a copy of the answer which was returned by Her Majesty's Consul at Bahia to your Lordship's inquiry, respecting the practice of supplying manifests of cargo to vessels clearing out from that port.

We beg leave to thank your Lordship for this communication.

We have, &c.

(Signed)

H. W. MACAULAY.
A. DOHERTY.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

H A V A N A.

No. 36.

Her Majesty's Commissioners to Viscount Palmerston.—(Received February 8, 1839.)

MY LORD,

Havana, December 20th, 1838.

WE have the honour to enclose your Lordship copies of official communications, received by the Mixed Court of Justice at this place from the Minister of Her Catholic Majesty at Madrid, and from the Captain General of this island, relative, 1st, to the charge preferred against Lieutenant Cruz, of the Spanish royal navy, for not having brought the slave schooner "*Matilde*" before the court; and 2ndly, to the complaint of the Commandant-General of Marine against the Mixed Court, for refusing to communicate with him except through the Captain General.

From these your Lordship will perceive, that the Government of Her Catholic Majesty have directed Lieutenant Cruz to receive a serious reprimand, for not having brought the "*Matilde*" before the Mixed Court, after detaining her upon a suspicion of being engaged in the Slave Trade, with a warning that he is not at present dismissed from the service, on the consideration of some extenuation in the fact, that at the time he sent the "*Matilde*" to Santiago de Cuba she was in a leaky state.

With regard to the difference between the Mixed Court and the Commandant-General of Marine, as to the claim made by the latter to be addressed by us directly, instead of through the Captain-General of the island, your Lordship will also perceive, that the government of Her Catholic Majesty have adopted the views of the court, and have directed that, as the Mixed British and Spanish Court of Justice is not one of the tribunals of the country, and as the affairs of which it takes cognizance are affairs of state, the authorities of Havana be acquainted, that in all affairs they may have with the said court, they shall in future address themselves to it through the Captain-General as the first authority of the island, through whom also they shall receive, as heretofore, the communications from the court.

We have great satisfaction in detailing these instructions from the government of Her Catholic Majesty, not only as acknowledging the peculiar jurisdiction and privileges of the court, and so setting at rest all doubts upon the subject, but also as further, in the case of Lieutenant Cruz, proving their readiness fully to maintain its authority.

(Signed)

. We have, &c.

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

The Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

First Enclosure in No. 36.

PROCEEDINGS adopted in consequence of the Royal Order, directing that the Mixed Court of Justice, as a Commission of State, make its communications through the Captain-General, as the first authority of the Island, and that none of the tribunals of the country address themselves to it, except by means of the aforesaid authority.

Principal Secretary of State's Office, Madrid, 29th August, 1838.

Under this day's date I write to the Secretary of the Marine Department as follows:—

MOST EXCELLENT SIR,

I HAVE acquainted the Queen Regent with your Excellency's communication of the 26th February last, and the documents you were pleased to
CLASS A.—FURTHER SERIES.

forward therewith, relative to the complaint of Her Britannic Majesty's Minister against the conduct of Lieutenant Don José de la Cruz, Commander of the Spanish cutter of war (Pailebot de guerra) "*Teresita*," in not having conveyed before the Mixed Court of Justice at Havana the schooner "*Matilde*," detained by him in the entrance to the port of Guantanamo, on suspicion of being engaged in the Slave Trade. From the declarations taken in the Marine Court of the Cuba station, from those made by the crew of Her Britannic Majesty's ship "*Vestal*" before the Mixed Court of Justice at Havana, from the communications made by the Captain of the said ship, Mr. Jones, and from the despatch of Lieutenant Cruz to the commandant of the station, it is distinctly proved, that the principal and express motive for the detention of the said schooner "*Matilde*" was the suspicion that she might be employed in the Slave Trade. Moreover, the circumstance of the examination being made by order of the said Cruz was the cause of the officers of the British royal navy, who boarded the schooner for the same purpose of examining her, retiring satisfied with the promise made them by Cruz, that he would forward her for adjudication to the competent tribunal. Lieutenant Cruz, in this case, ought not to have been ignorant of the duty imposed on him by the 1st article of annex A to the Treaty of the 28th of June, 1835, between Spain and Great Britain, for the abolition of the trade in slaves, or rather the instructions to vessels commissioned to impede the said trade; and that, in having forwarded the detained vessel to Santiago de Cuba, without having reported to the Mixed Court at Havana, in order that it might deliberate upon the detention, he incurred the penalties set forth in article 9 of the said Treaty. In consideration of these circumstances Her Majesty has been pleased to direct, that the superior officers of Don José de la Cruz be ordered by your Excellency to give that officer a serious reprimand, and warn him that he is not at present dismissed from his employment, in consideration that there may be some extenuation in the fact, that at the time he sent the "*Matilde*" to Santiago de Cuba she was in a leaky state.

In regard to what occurred subsequently, on the question of the competency of jurisdiction raised between the Mixed Court of Justice and the Commandant-General of the Havana station, who was led into error by his assessor, Her Majesty's attention has been particularly directed to the complaint made by the said Commandant-General, that the Mixed Court of Justice had not directly communicated with him relative to this affair; and Her Majesty has been pleased to direct that in future, in all matters that may occur between the authorities of Havana and the said Court, the former shall address themselves through the Captain-General of the Island, and also receive their communications from the Mixed Court through His Excellency, as the Mixed Court, not being one of the Courts of the country, and the cases which come under its cognizance being of a political and judicial nature, it has to communicate with the first authority of the Island, in all matters touching the subjects of Her Majesty, and relating to the execution of the Treaty; in the same manner as it is incumbent on the Captain-General to communicate to this department of the State everything relating to this class of business, whenever it is fitting that Her Majesty should be informed thereof, whether for the strict fulfilment of the compact, or for procuring precise information whereupon to ground a resolution, in every case in which it may be necessary to make claims upon the Government of Her Britannic Majesty.

And I transcribe the above for your Excellency by royal order, for your Excellency's information, and in order that you may keep the Captain-General informed of the proceedings of the Court over which you preside, and also that His Excellency may comply with what Her Majesty directs by this Her royal order.

God preserve your Excellency many years.
(Signed) EL CONDE DE OFALIA.

*The Señor Conde de Fernandina,
President of the Mixed Court of Justice.*

Second Enclosure in No. 36.

The Conde de Fernandina to the Captain General.

MOST EXCELLENT SIR,

Havana, December 7th, 1838.

UNDER date of 29th August last, His Excellency, the Principal Secretary of State, writes me as follows:—

(Here follows the preceding Royal Order.)

And I transcribe the above to your Excellency, that you may be assured of my disposition to comply with the said sovereign resolution.

God preserve your Excellency many years.

(Signed) EL CONDE DE FERNANDINA.

To His Excellency Don Joaquin de Ezpeleta,
&c. &c. &c.

Third Enclosure in No. 36.

The Captain-General to the Mixed Court of Justice.

Havana, November 23rd, 1838.

MOST EXCELLENT SIR AND GENTLEMEN,

IN a Royal Order of the 4th of September last, His Excellency the Secretary of State, and of the Department of Grace and Justice, acquaints me as follows:—

“ Most Excellent Sir,—The Minister of State informs the Minister of Grace and Justice, in his communication of the 28th of August last, as follows:—
 Most Excellent Sir,—The Commandant-General of Marine of the Havana station has represented, that the Mixed Court of Justice refused to acknowledge his authority, in affairs which occurred between the said Court and the Tribunal of the said ‘Comandancia General;’ and the Queen Regent, taking into consideration that the Mixed Spanish and British Court of Justice is not one of the courts of the country, and that the affairs of which it takes cognizance are affairs of state, has been pleased to direct, in order to prevent doubts which might occasion delay in that class of affairs, to the prejudice of Her Majesty’s service, that the authorities of Havana be acquainted that, in all affairs they may happen to have with the said Court, they shall in future address themselves to it through the Captain-General, as the first authority of the island; through whom they shall likewise receive, as heretofore, the communications from that Court. Which arrangement is, moreover, very convenient, in order that this Department may receive with due punctuality, from the Captain-General, the necessary information for ascertaining in what manner the Treaty of the 28th of June, 1835, for the abolition of the Slave Trade, is complied with, and that it may be able to reply opportunely to whatever representations may be made by Her Britannic Majesty’s Government.”

By Royal Order I transcribe the above for your Excellency’s information, for that of the Mixed Court, and any other purposes you may require.

And I transcribe it to your Excellency, and the other Members of the Mixed Court, for your information.

God preserve you many years.

(Signed) JOAQUIN DE EZPELETA.

To their Excellencies the Conde de Fernandina,
and the other Gentlemen of the
Mixed Court of Justice.

Fourth Enclosure in No. 36.

The Judges of the Mixed Court to the Captain-General.

MOST EXCELLENT SIR,

Havana, December 7th, 1838.

We have received your Excellency’s official letter of the 23rd November last, in which you are pleased to transcribe the Royal Order, prescribing the forms to be observed by the tribunals of this country in addressing this Court, and also by this Court in addressing them, and we beg to assure you

Excellency, that we shall give exact compliance thereto, as we have hitherto done, since we have always made our communications through your Excellency, as the first authority of the island, our affairs relating to matters of state and jurisdiction. Which we beg to state to your Excellency, in reply to your before-mentioned official letter.

God preserve your Excellency many years.

(Signed)

EL CONDE DE FERNANDINA.

J. KENNEDY.

Don Joaquin de Ezpeleta.

No. 37.

Her Majesty's Commissioners to Viscount Palmerston.—(Received February 8, 1839.)

MY LORD,

Havana, December, 24, 1838.

IN obedience to the instructions given us in your Lordship's Despatch of the 29th September last, informing us of the conditions upon which the Government of Her Catholic Majesty had consented to the occasional landing of detachments of the Black Marines of the "Romney," and desiring us to put ourselves in communication with the Captain-General of this Island, that the necessary arrangements might be made for that purpose, with as little delay as possible, we addressed a letter to his Excellency, informing him of our Instructions, and stating our readiness to receive his directions. To this letter, of which we enclose your Lordship a copy, we have received his Excellency's reply, also enclosed, stating that the Royal Order on the subject has not been communicated to him. As soon, however, as this shall be the case, his Excellency promises to give it due fulfilment.

We have, &c.

(Signed)

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

To the Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

First Enclosure in No. 37.

Her Majesty's Commissioners to the Captain-General.

MOST EXCELLENT SIR,

Havana, December 17th, 1838.

HAVING received a communication from Her Britannic Majesty's Principal Secretary of State, informing us that the Government of Her Catholic Majesty had been pleased to direct permission to be granted to the black soldiers, serving on board the hulk "Romney," to come on shore under certain precautions, we have now the honour to request your Excellency will favour us with a detail of the regulations which, agreeably to those directions, your Excellency will think it advisable to adopt.

The precautions proposed, namely, "1st. The designation of a place where the black soldiers can enjoy themselves without going beyond it; 2dly. That only six at a time shall land, and accompanied by an English or Spanish officer, who would look after them; and 3dly. That for this, periods should be fixed, not very proximate, and days and hours be previously determined on," we are prepared with due respect to accept, in the full assurance that your Excellency will carry those directions into effect, in the same liberal spirit in which they have been proposed. On the other hand, we beg to assure your Excellency, that every care will be taken on our part to prevent as much as possible any such contact between the soldiers of Her Britannic Majesty and the slaves of the island, as might lead to dangerous consequences. We, however, are fully convinced, that any apprehension of dangerous consequences arising will prove unfounded.

We have, &c.

(Signed)

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

To His Excellency the Captain-General,

&c.

&c.

&c.

Second Enclosure in No. 37.

(Translation.)—*The Captain-General to Her Majesty's Commissioners.*

GENTLEMEN,

Havana, December 20th, 1838.

I HAVE before me your official Note of the 17th instant, in which you are pleased to acquaint me, that you have received a communication from Her Britannic Majesty's Principal Secretary of State, informing you, that Her Majesty the Queen Regent had been pleased to grant permission to land, to the black soldiers serving on board the hulk "Romney," under the conditions you specify.

The Royal Order in question has not been communicated to me, but I hope to receive it by the next Packet, as you have had information of it already. As soon as this shall be the case, it shall, on my part, be duly fulfilled, subject as I am at all times to the directions my Sovereign may deign to impose on me in regard to the subject.

Which I have the honour to state to you in reply, and beg to offer the assurance of my personal consideration.

God preserve you many years.

(Signed)

JOAQUIN DE EZPELETA.

*To Her Britannic Majesty's Commissioners
in the Mixed Court of Justice.*

No. 38.

*Her Majesty's Commissioners to Viscount Palmerston.—(Received February 8,
1839.)*

MY LORD,

Havana, December 24th, 1838.

THE list we have received of vessels arrived in this harbour during the last month, suspected of being engaged in the Slave Trade, enumerates only the two following, viz. :—

5th Nov.	Portuguese schooner "Maria Segunda,"	after having landed, as it is said, on the adjacent coast	216 slaves.
13th	Portuguese schooner "Chiva,"	after having landed, as it is said, on the adjacent coast	140 slaves.

Another vessel, however, has been named in the diario of the 15th November, the Portuguese schooner "Cerca," as having arrived here on the 14th from Matanzas, where she had brought, it is said, in the early part of the month, not only a cargo of negroes, but also the crews of two vessels, seized by the British cruisers on the coast of Africa, for informality in their papers, as stated in our Despatch to your Lordship, of the 23d November last.

With these we may add, that Her Majesty's sloop "Wanderer," on the 26th November, fell in, on the coast, with a Portuguese brig (bearing at the time the American flag) which they took upon discovering to be a Slaver, and found her to have on board 250 slaves, since landed at Nassau. The crew stated her to be named the "Escorpion," and to have come from Cadiz, but we understand she was the property of the notorious slave-dealer of this place, Mr. Forçade.

Of the vessels despatched from the port of Havana in the month of November, suspected of being engaged in the Slave Trade, we have received the following list :—

7th November,	Portuguese schooner	"Lavandeira,"	for Isla del Principe.
20th	," American	," "Clara,"	," San Tomé.
	," Portuguese	," "Emprededor,"	," Gallinas.
	,"	," "Maria Teresa,"	," Lagos.

Besides these, we have received information of the American schooner "Liberty," Captain Russell, having cleared out for Rio Pongos on the 30th November, though she may perhaps be more justly included among the departures for the current month. But we ought not to omit including another American schooner, the "Gago," Captain Dupuy, which after clearing out hence for Matanzas, sailed from that place on the 13th November for San Tomé, as stated in the Custom House returns of that port "in ballast," consequently not with stores, as in other cases has been asserted to have been lawfully done.

In the case of another flagrant abuse of the American flag, we have great satisfaction in informing your Lordship, that steps have been taken which will have

the effect, in a great measure, of defeating the object of the parties, even if nothing further be the result. In the beginning of this month, an American of the name of Howell having taken a Spanish vessel over to Key West, made there an affidavit before a Notary Public that he had purchased the vessel, that it was entirely his property, and that he was an American citizen. With this affidavit, in which the vessel was named the brig "*Thomas, of Havana,*" instead of a ship's register, according to usual form, he came before the American Consul at this place, who, being dissatisfied with the informality in the papers, and learning that the crew of 18 men was composed entirely of Spaniards, and that the destination of the vessel was for the coast of Africa, concerted with the Commander (M'Kenney) of the United States sloop of war "*Ontario,*" and delivered her up to the Captain General of the island. His Excellency in return has, we understand, agreed to keep the brig "in detention," until instructions be received from the Government of the United States, as to what further measures should be adopted.

We have great pleasure in adding, that the "*Ontario*" has been ordered to remain for some time in this port, for the special purpose of putting down, where practicable, all similar abuses of the American flag; and that we learn two other sloops of war have been ordered, with the same object in view, to the coast of Africa. These measures have no doubt been adopted in consequence of your Lordship's representations.

We have, &c.

(Signed)

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

To the Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

No. 39.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, February 8, 1839.

I TRANSMITTED to Her Majesty's Envoy at Copenhagen, a copy of your Despatch of the 1st of March 1838, stating that the Spanish schooner "*Con la boca*" was reported to have landed recently a cargo of slaves at the Danish Island of St. Thomas; and I instructed Her Majesty's Envoy to request from the Danish Government, that they would inquire into the facts of the case.

I now transmit to you a copy of the reply, which I have received from Her Majesty's Minister at Copenhagen, containing the result of the investigation instituted by the Danish Government into the truth of the report which was contained in your Despatch.

I am, &c.

(Signed)

PALMERSTON.

To Her Majesty's Commissioners,

&c.

&c.

&c.

Enclosure in No. 39.

Sir H. W. Wynn to Viscount Palmerston.

Copenhagen, January 11, 1839.

(See Class C. No. 13, p. 7.)

No. 40.

Her Majesty's Commissioners to Viscount Palmerston.—(Received February 16, 1839.)

MY LORD,

Havana, January 1st, 1839.

WE have the honour to state to your Lordship, in obedience to the Act 5 Geo. IV., c. 113, requiring returns to be made on the 1st day of January and the

1st day of July of every year, from the several Courts of Mixed Commission, under Slave Trade Treaties, of cases of vessels brought for adjudication before them, that no vessel has been brought before the Mixed Court at this place during the six-months last past.

We have, &c.
(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

To the Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

No. 41.

Her Majesty's Commissioners to Viscount Palmerston.—(Received February 16, 1839.)

MY LORD,

Havana, January 1st, 1839.

WE have the honour to inclose, agreeably to usual practice, a list of such vessels as have arrived in this harbour, during the last year, from the coast of Africa, and also one of those despatched hence, during the same period, for that destination, together with the list reported in our Despatch of January 1st, 1838, of vessels that cleared out in the year 1837, suspected for the Slave Trade.

While we feel gratified to think that these lists, on account of the source from which they are obtained, are much more complete than any furnished in preceding years, we regret to add, that they still remain less complete than might be desired, from the parties being more upon their guard to baffle our inquiries. Still it is apparent from them, that no increase of the traffic has taken place during the past year, the number of vessels despatched being precisely the same, namely 71, as in the preceding year, deducting from the list, Enclosure No. 3, the Austrian brig "Trasibolo," (No. 52 in the list,) which so far from being engaged in the illicit traffic, carried hence a number of free negroes to the colony of Liberia. Whatever increase has taken place has been from vessels being despatched more from the other ports of the island, though in this, as in many other particulars, little reliance can be placed on the reports that reach us. But there is great reason to believe that this plan has been for some time increasing. Eight vessels were condemned as Spanish at Sierra Leone in the year 1837, and two at this place, of which it appears from the printed accounts that

2 belonged to Puerto Rico,
2 „ to Santiago de Cuba,
1 „ to Matanzas,
1 „ to Trinidad de Cuba, and that
4 only were connected with Havana.

Of 18 vessels condemned at Sierra Leone under the Portuguese flag in the same year, 9 only appear to us to have belonged to this port. Of 8 Portuguese condemned in the first six months of the present year at Sierra Leone, we can, from the names and particulars communicated to us, trace only 2. Thus, then, it appears, that an increasing trade is carried on from other places, which is further corroborated by the well-ascertained fact, that an astonishing number of new estates have been opened throughout the island within the last two years. In the district of Cienfuegos, of 40 estates now working there, 27 have been of recent formation, and though this may be above the average, we believe it does not much exceed the proportion of many other districts in course of cultivation. We regret to think, that of these estates many have been commenced by American and some even by British subjects, who will thus, of course, give considerable impetus to the Slave Trade by means of their capital, industry, and skill. Nor have the efforts of the Planters (relying on the falling off of exports from the British West Indies, consequent on the measure of emancipation,) been unrewarded with success. In the three years preceding the last, the exportations from this place and Matanzas of boxes of sugar, were in

1835	.	.	.	.	491,570
1836	.	.	.	.	500,153
1837	.	.	.	.	506,952

while in the last season the number amounted to 610,512, and in the present it is

calculated a like quantity will have been raised, and but for a severe drought in the autumn, would have reached 50,000 more.

With regard to the vessels engaged in the Slave Trade, your Lordship will perceive that in the year 1837 there appear to have been,

Portuguese	.	.	.	.	40
Spanish	.	.	.	.	19
American	.	.	.	.	11
Swedish	.	.	.	.	1
					<hr/>
Total	.	.	.	.	71

And in the past year the numbers are

Portuguese	.	.	.	.	42
American	.	.	.	.	19
Spanish	.	.	.	.	8
French	.	.	.	.	1
Brazilian	.	.	.	.	1
					<hr/>
Total	.	.	.	.	71

so that while your Lordship's efforts have been successful in inducing the Spanish Government to deter their subjects from adventuring under their flag in this traffic, and may be equally successful with the Portuguese, it appears that the American flag will be at the command of whoever chooses to embark in such inhuman speculations.

We have only further to add, and it is with great regret that, on account of the new plantations, the demand for negroes in the market is as high as ever, and the price therefore remains proportionally high also; consequently the inducement to prosecute the trade will continue the same, so long as those inclined to engage in it may find protection from the Governments, which refuse the only co-operation that would be effective to control them.

We have, &c.

(Signed)

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

To the Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

First Enclosure in No. 41.

List of Vessels that have arrived in the Port of Havana from the Coast of Africa, during the Year 1838.

No.	Date.	Nation.	Class.	Name of Vessel.	Master.	Remarks.
1	Jan. 17	Portuguese	Schooner	Unknown		
2	" 19	"	"	Josefina	Nieves.	
3	" 21	"	"	Maria Segunda	Albuquerque.	
4	" 26	"	Brigantine	Felicidade	Verriél.	
5	Feb. 25	Spanish	Schooner	Cou-la-boca	Ferreira.	
6	March 3	Brazilian	Brig	Feliz Constançia	Sacramento	Consigned to Mazorra.
7	" 5	Portuguese	"	Tres Febreiro	Guillermin.	Ditto.
8	" 10	"	"	Victoria	Ferreira.	
9	" 14	"	Ship	Amalia	Flores	{From Madagascar, con- signed to Forçade.
10	" 16	"	Schooner	Dulcinea	Reyes.	
11	April 1	"	Brig	Matilde	Ferreira.	
12	" 19	"	Schooner	Don Amigos	Careira	Consigned to Mazorra.
13	" 19	"	Brig	Serafina		
14	" 21	"	Schooner	Feliz Triumvirate	Larazabal.	
15	" 26	Russian	Brig	Gollupk	Barnadas.	
16	May 3	Portuguese	Schooner	Segunda Union	Canosa.	
17	" 6	"	"	Buen Viage	Proenza.	
18	" 6	"	"	Constancia	Plat.	
19	" 23	"	"	Veloz	Roberdeo.	
20	June 8	"	Brig	Josepha	Duarte	From San Tomé.
21	" 15	"	Schooner	Ligera	Losa Barti	" Isla del Principe.
22	" 24	"	Brig	Fortuna	Barbosa	" San Tomé.
23	" 24	"	"	Ligero	Miguel Antonio	" Rio Pongo.
24	" 30	"	Pailebot	Eliza	Galindo	" Puerto Praya.
25	" 30	Spanish	Brig	Explorador	Gorranda	" Madagascar.
26	July 7	Portuguese	Schooner	Tirsa	Espencer	" Cape de Verds.
27	" 8	Spanish	Brig	Irene	Ageo	" Madagascar.
28	" 19	Portuguese	"	Unknown		
29	Aug. 9	"	Schooner	Victoria	Proenza.	
30	" 12	"	Brig	Triunfo de Loanda	Bandara.	
31	" 13	"	Ship	Maria Segunda	Pegada.	
32	" 13	"	Brig	Unknown		
33	" 28	"	"	General Espartero	Barreiro.	
34	Sept. 14	"	"	Vigilante	Sonza	Landed 500 slaves.
35	" 16	"	"	Gabriel	Girand	" 340 "
36	" 16	"	Schooner	Ala		" 200 "
37	" 18	Spanish	"	Salomé	Foz	" 203 "
38	" 19	Portuguese	"	Lavandeira	San Martin.	
39	" 23	"	Brig	Palmella		
40	" 25	"	Schooner	Montana	Griana	" 213 "
41	Oct. 4	"	Brig	Maria Teresa	Sampayo	" 360 "
42	" 4	"	Schooner	Constancia	Rodriguez	" 213 "
43	" 5	"	"	Sin Igual	Pereira	" 240 "
44	" 6	"	Brig	Escorpion	Carlo	{Formerly the "Tres Manu- elas," landed 269 slaves.
45	" 7	"	Schooner	{Nostra Senora del } Buen Viage	Vellar	{Formerly the "Volador," Landed 213 slaves.
46	" 9	"	"	Amalia	Aloes	" 200 "
47	Nov. 5	"	"	Maria Segunda		" 216 "
48	" 13	"	"	Chiva		" 140 "
49	" 13	"	"	Serca		
50	Dec. 9	"	Brigantine	Trueno		" 528 "

Portuguese	44
Spanish	4
Russian	1
Brazilian	1
	—
	50

Second Enclosure in No. 41.

List of Vessels which have Sailed from the port of Havana for the Coast of Africa, during the Year 1838.

No.	Date.	Nation.	Class.	Name of Vessel.	Destination.	Remarks.
1	Jan. 18	Spanish	Schooner	Negrta	Isla del Principe.	
2	" 19	American	"	Gabriel	"	Returned.
3	" 20	Spanish	"	Ceres	Cape de Verds.	
4	Feb. 1	Portuguese	"	Olympia	San Tomé.	
5	" 15	Spanish	"	Pronta	Cape de Verds.	
6	" 20	"	"	Josefina	San Tomé.	
7	" 22	American	Brig	Alexander	"	
8	" 27	"	"	Dido	"	
9	March 17	French	"	Havre	San Pablo de Loanda.	
10	" 24	Portuguese	"	Constitucion	San Tomé.	
11	" 27	Spanish	"	Carmen	"	
12	April 4	Brazilian	"	Feliz Constancia	Lagos.	
13	" 5	Portuguese	Brigantine	Felicidad	"	
14	" 18	"	Schooner	Vigilante	San Tomé.	
15	" 24	"	Brig	Maria Teresa	Lagos	Returned.
16	" 26	Spanish	Schooner	Victoria	San Tomé.	
17	May 2	"	"	Ramoncito	"	
18	" 5	Portuguese	"	Prova	"	
19	" 7	American	"	Mary Hooper	Cape de Verds.	
20	" 8	Portuguese	"	Maria Segunda	San Pablo de Loanda.	
21	" 9	American	Brig	Eagle	San Tomé.	
22	" 15	Portuguese	Schooner	Triunfante	"	
23	" 23	"	"	Circe	Santiago de Praya.	
24	" 26	"	"	Maria	San Tomé.	
25	" 26	"	"	Dulcinea	Lagos.	
26	June 2	"	Brig	{ Nostra Señora del } { Buen Viage }	Cape de Verds	Returned
27	" 7	"	Schooner	Constitucion	Santiago de Praya.	
28	" 8	"	"	Segunda Union	Isla del Principe.	
29	" 9	"	"	Constitucion	Loanda.	
30	" 16	"	Ship	Amalia	Madagascar	Returned.
31	" 16	American	Schooner	Fame	San Pablo de Loanda.	
32	" 16	Portuguese	"	Veloz	San Tomé.	
33	" 21	"	Brig	Matilde	"	
34	" 26	Spanish	"	Esperanza	Isla del Principe.	
35	" 30	Portuguese	"	Victoria	San Tomé.	
36	July 5	"	"	Dos Amigos	Lagos.	
37	" 10	"	Schooner	Ligera	Isla del Principe.	
38	" 12	"	"	Josefita	San Tomé.	
39	" 13	"	"	Eliza	Isla del Principe.	
40	" 17	"	"	Elisa	Santiago de Praya.	
41	" 18	American	"	Traveller	Isla del Principe.	
42	" 23	"	"	John Holland	San Tomé.	
43	Aug. 6	Portuguese	Brig	Matilde	Cabo Lopez.	
44	" 7	"	Schooner	Sirce	Cabo Verde.	
45	" 13	"	"	Victoria	San Tomé.	
46	" 14	"	Brig	Maesimo	Isla Oriental.	
47	" 18	"	Ship	Maria Segunda	"	
48	" 18	American	Schooner	Dolphin	San Tomé.	
49	" 22	"	Brig	Plant	Cabo Verde.	
50	" 23	"	Ship	Venus	{ Bahia de todos los } { Santos. } Cabo Verde.	
51	" 27	"	Schooner	Shark	"	
52	" 29	"	Brig	Mary Jane	"	
53	Sept. 18	"	"	Comet	"	
54	" 24	Portuguese	"	Veterano	San Tomé.	
55	" 29	"	"	Triunfo	Loanda.	
56	" 29	"	Schooner	Victoria	Rio Pongo.	
57	Oct. 9	American	"	Florida	Cape de Verds.	
58	" 11	"	"	Hazard	San Tomé.	
59	" 13	Portuguese	Brig	Vigilante	S. Pablo de Loanda.	
60	" 23	"	Schooner	Sin Igual	San Tomé.	
61	" 27	"	"	Amalia	Bonny.	
62	Nov. 7	"	"	Lavandera	Isla del Principe.	
63	" 7	American	"	Clara	San Tomé.	
64	" 20	Portuguese	"	Emprendedora	G. Jinas,	
65	" 20	"	Brig	Maria Teresa	L. gos.	
66	Dec. 3	American	Schooner	Liberty	Rio Pongo.	
67	" 7	Portuguese	"	Cerca	Cape de Verds.	
68	" 21	"	"	Reyna de los Angeles	San Tomé.	
69	" 21	"	"	Maria Segunda	S. Pablo de Loanda.	
70	" 22	"	"	Constanta	San Tomé.	
71	" 24	American	"	William Savin	{ Bahia de todos los } { Santos. }	

Portuguese	42
American	19
Spanish	8
French	1
Brazilian	1

Third Enclosure in No. 41.

List of Vessels which sailed from the Port of Havana for the Coast of Africa, during the Year 1837.

No.	Date.	Nation.	Class.	Vessel.	Master.	Remarks.
1	Jan. 13	Spanish	Schooner	Dolorita		
2	" 14	Portuguese	"	Constituciao . . .		Detained by H.M.S. "Racer." Returned 19th September.
3	Feb. 1	"	"	Dido		
4	" 3	"	"	{ Tres Manuela (a), } Sin Igual		" See No. 68.
5	" 4	"	"	Maria Segunda		"
6	" 5	Spanish	Brig	Isabel		"
7	" 8	Portuguese	Schooner	Triunfo		" 14th June.
8	" 14	Spanish	"	Constitucion		" under Portuguese colours 15th December.
9	" 20	"	"	Lince		"
10	" 22	American	"	Bee		{ Sailed for Cape de Verds, under suspicious circum- stances.
11	March 1	Spanish	Brig	General Ricafort		Condemned at Sierra Leone.
12	" 7	American	"	Two Friends		
13	" "	Portuguese	Schooner	Tratado		
14	" "	"	"	Olimpia		Returned 16th November.
15	" 20	Spanish	Brig	Tajo		"
16	" 22	"	Schooner	Francisca		{ Returned in October under Portuguese colours as the " Estela." See No. 62.
17	April 1	"	"	Ligera		Condemned at Sierra Leone.
18	" 4	Portuguese	"	Belencita		
19	" 14	"	Ship	Palmira		Returned 17th December.
20	" 20	"	Schooner	Dulcinea		
21	" 25	"	"	Margarita		
22	May 9	"	"	Eliza		
23	" 13	"	"	Primorosa		Condemned at Sierra Leone.
24	" 20	Spanish	"	San José		
25	" "	Portuguese	Polacra	Palmira		
26	" 23	"	Schooner	Felicidad		Condemned at Sierra Leone.
27	" 24	"	"	Vibora de Cabo Verde		Ditto.
28	" 26	"	Ship	{ Maria Segunda (a), } Socorro		Returned.
29	" 27	Spanish	Brig	Anita		
30	" "	"	Schooner	Jacinto		
31	June 3	Portuguese	Brig	Matilda		
32	" 13	American	"	Morris Cooper		
33	" "	Spanish	"	Aguila Vengadora		{ Returned 30th June, 1838, as " Esplorador.
34	" 16	Portuguese	"	Liberal		
35	" 19	American	Schooner	Terrible		
36	" 26	Portuguese	Ship	Amalia		{ Returned. Formerly the " Cavallo Marin."
37	" 27	Spanish	Schooner	Nueva Amable Salomé		
38	July 7	"	Brig	Irene		Returned 8th July, 1838.
39	" 8	Portuguese	Schooner	Constitucion		" 15th Dec., 1837.
40	" 11	American	"	George Washington.		
41	" 13	Portuguese	"	Triunfo de Cabo Verde		
42	" 14	"	"	Dos Hermanos		
43	" "	American	"	Perry		
44	" 18	Portuguese	Brig	Maria Teresa		Returned 30th November.
45	" 26	"	Schooner	Prueba		
46	" 27	"	"	Segunda Maria		Returned.
47	" 28	Spanish	Brig	Emprendedor	Garcia	{ Brought a cargo to St. Jago de Cuba.
48	" 29	"	Schooner	Josefita	Manegat	
49	Aug. 5	Portuguese	Brig	Fortuna		
50	" 19	Spanish	Schooner	Famosa Estrella.		
51	" 21	American	Brig	Teazer		
52	" 22	Austrian	"	Trasibolo	Smaserick	{ Carried negroes from Ha- vana to the coast of Africa.
53	Sept. 9	Portuguese	Schooner	Destemida		
54	" 16	"	Brig	Ligero		
55	" 19	"	"	Camoens		{ Captured by H. M. S. " Sappho."
56	" 23	"	Schooner	Oposicion		Captured by H.M.S. "Pearl."
57	" 26	"	"	Circa		Returned.
58	" 30	"	"	Feliz		
59	Oct. 2	"	"	Felicidad		
60	" 3	American	"	Washington		
61	" 18	Spanish	"	Primera Union		
62	" 19	Portuguese	"	Estela		Wrecked off Jamaica.
63	" 20	American	"	Joseph Hand		
64	Nov. 2	Portuguese	"	Ligera		
65	" 7	Swedish	Brig	Victorina		Cleared for Cape de Verds.
66	" 18	Portuguese	"	Vigilante		Returned.
67	" 25	American	Schooner	Cleopatra		
68	" 25	Portuguese	"	Sin Igual		Returned.
69	" 30	"	Brig	Triunfo de Loanda		{ Returned with cargo to Santiago de Cuba.
70	Dec. 11	American	Schooner	Itramurra		
71	" 15	Spanish	"	Montana		Returned.
72	" 23	Portuguese	"	Veloz		Ditto.

Portuguese	40
Spanish	19
American	11
Austrian	1
Swedish	1

No. 42.

Her Majesty's Commissioners to Viscount Palmerston. (Received February 16.)

MY LORD, -

Havana, January 17th, 1839.

DURING the last month the following vessels were despatched from this Port, suspected of being engaged in the Slave Trade.

Dec ^r .	3rd American Schooner	"Liberty"	for Rio Pongo.
"	7th, Portuguese	"Cerca,"	Cape de Verds.
"	21st, "	"	"Reyna de los Angeles" San Tomé.
"	21st, "	"	"Maria Segunda" San Pablo de Loanda.
"	22nd, "	"	"Constanta" San Tomé.
"	24th, American,	"William Savin"	Bahia de todos los Santos.

During the month the following is the only vessel reported to have arrived from the coast of Africa :—

Dec^r. 9th, Portuguese Brigantine "Trueno," with 528 negroes.

She took in her cargo at Isla del Principe, Master's name Costa.

We regret, however, to add that a great number of negroes have been brought here during the present month, respecting which we have this day prepared a communication for the Captain General of the Island.

We have, &c.

(Signed)

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

The Right Hon. Viscount Palmerston, G.C.B.,
&c. &c. &c.

No. 43.

Her Majesty's Commissioners to Viscount Palmerston. (Received April 11.)

(Extract.)

Havana, January 19th, 1839.

In the Despatch dated the 22nd August last, from Her Majesty's Commissioner at this place, your Lordship was informed of the arrival here of the American ship "*Venus*," built at Baltimore expressly for the Slave Trade, and of her departure shortly after for the coast of Africa. The "*Venus*" sailed hence under the American flag, with several American citizens on board, but in the Ship's Articles, of which a glance, in bravado, was afforded Her Majesty's Commissary Judge, it was expressly stipulated that she was to be taken to Bahia, there to be transferred to the Portuguese Flag. This, however, appears not to have been done, for in the almost incredibly short period of four months the ship has returned, and in the beginning of this month landed on the coast the extraordinary cargo of not fewer than 860 slaves. At this time the name was changed to the "*Duquesa de Braganza*," and she bore the Portuguese Flag, but it was a matter of doubt whether a valid, if any, transfer of her had taken place; and it was currently believed that the American subjects who had sailed in her from this Port had been present at the time when the slaves were taken on board. Indeed it was reported from the parties themselves that they had been visited on the coast of Africa, when bearing the American Flag, by the officers of a British cruiser; and upon being asked what they were doing there, answered the inquirers by saying "it was no business of theirs, and that they were Americans." They boasted also that though one of the cruisers watched, and saw them take part of their cargo on board, and attempted afterwards to follow them, yet the chase was made in vain, and undoubtedly the wonderfully short time in which this unprecedentedly successful voyage has been made, fully warrants the character which the ship brought here with her for her fast-sailing qualities.

Under these circumstances we felt it our duty to call the attention of the American Consul, who is also acting as Portuguese Consul, to so gross a violation of the laws, as well as of the Flag of the United States.

To this communication of ours the answer was returned, of which we enclose your Lordship a Copy, stating at very considerable length the opinions which had

actuated him (the Consul) on the occasion just referred to, as well as his views in the present instance. The answer is worthy of consideration, as an evidence of the feelings held by certain classes of the American community with regard to the Slave Trade, and the part taken by the British Government to suppress it. In our reply, we confined ourselves to a general assertion of our duties, and of the grounds on which we exercised them. As we hear the correspondence has been sent to the Government of the United States, we trust your Lordship will consider the terms in which we addressed the Consul, as well as those in which we answered his reply, to be deserving the support of Her Majesty's Government.

With regard to the ship "*Venus*," otherwise the "*Duquesa de Braganza*," we should state that the original cost, we understand, was 30,000 dollars; and that the fitting out, and expenses of every description for the voyage, including the value for the return cargo, was estimated at 60,000 more; say altogether 100,000 dollars. The number of negroes brought back, as has been before stated, was 860, and they are said to have been sold at 340 dollars per head, producing the sum of nearly 300,000 dollars, of which, therefore, two-thirds was net profit. So long as such returns can be effected, we fear that no efforts whatever will be effectual in suppressing the traffic, and certainly not while the dealers have only to meet such a system of corruption, as pervades every department of the Government of the Island.

We have only further to add, that the ship "*Duquesa de Braganza*" is principally owned by the slave-dealer Mazorra, whom we have so often had occasion to name, and a Frenchman named Gautier; and that she is preparing again for another voyage.

First Enclosure in No. 43.

Her Majesty's Commissioners to the American Consul.

SIR,

Havana, January 8th, 1839.

As it may possibly not have come to your knowledge, we think it right to make you acquainted with the report, prevalent in this place, respecting the ship "*Venus*," which arrived here the 4th August last, from Baltimore, and sailed shortly after for the coast of Africa.

This vessel, you will no doubt remember, arrived and sailed hence under American colours, under which it is said she took in a cargo of negro slaves, and has landed them within the last few days on this coast, about 860 in number. The report further states there are several American citizens implicated in this flagrant violation of the laws of the United States, and as the "*Venus*" may be hourly expected in the harbour, we would respectfully suggest to you, that such immediate steps may be taken on her arrival as may lead to the punishment of such offenders.

The peculiar relationship in which the United States are placed with Great Britain, induces us more anxiously to hope you will participate in the feelings with which this communication is made.

We have, &c.

(Signed)

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

N. P. Trist, Esq.
&c. &c.

Second Enclosure in No. 43.

Mr. Trist to Her Majesty's Commissioners.

GENTLEMEN,

Consulate of the United States of America,
Havana, January 8th, 1839.

I HAVE received at a late hour this evening your letter, addressed to "N. P. Trist, Esq.," and dated "Havana, 8th January, 1839," which the presence of

company in my parlour, where it was delivered, has prevented my opening until the night is too far advanced to permit me to engage in the task of a reply, without encroaching on the rest which a long day of unremitting labour demands. Unfitted as this has rendered me for resuming my pen at this moment, I am, however, impelled to do so by the desire to obtain, without delay, the important information which your letter affords ground for believing that it may be in your power to furnish.

Upon referring to the files of your predecessors in office, you will probably find there a letter, addressed by them to me, towards the close of the year 1836, and by me returned, upon the ground that I deemed it incumbent upon me to decline receiving any communication of that nature.

Upon comparing the two, you will perhaps be sensible, that the letter now before me, although differing from the other in one material particular, is yet so far of the same nature as to come within the rule which, upon that occasion, I announced as that of my conduct, and my conviction in regard to the indispensableness of which has since been fortified. Thus viewed by me, it would now impose again the unpleasant duty then discharged, were it not that the essential difference just adverted to leaves me, to a certain extent, free, in this instance, to avail myself of the information of which you may be possessed, and at the same time to indulge the disposition towards British functionaries, which fixed sentiments for the people have long made a part of my character.

In thus departing from the course pursued towards your predecessors, it is necessary that, to preclude misapprehension, I should trouble you with an explanation which would have been made to them, had it not been prevented by the tenor of their communication.

This was of so extraordinary a character, indicating so utter an oblivion or innate ignorance of the simplest applications (until then deemed by me self-evident) of first truths, in regard to inter-national independence, that it left me no other alternative to the course of passing it over, as I did, without remark or notice, than that of facing it with a rebuke, such as my command of language would have been severely tried in making commensurate with my sense of the insult. It would have accorded as ill with the habitual tone of my feelings towards their nation, as the provocation did with a decent respect for the independence of mine. From this unwelcome necessity I was spared by the relations, or rather the no-relations, in which we stood; a circumstance no sooner adverted to, than it stripped the communication of every attribute save naked absurdity, rendering it a fit object of derision alone, until, upon the contemplation thus awakened of what was going on around me here, and connected with it, in Great Britain, that feeling gave way to the more serious mixture of sorrow and indignation, at the spectacle of such prostitution of the energies of the British people in theatrical playings-off, to their delusion, and to the benefit of whomsoever it might concern, in a cause which, whatever differences of opinion may exist with respect to the justness or the immoderateness of the zeal displayed in it, is sanctified by a sincerity and a self-forgetfulness, in proportion to the intensity of which every empty show, got up by self-seekers, turning it to profit, becomes intensely disgusting and hateful.

Had the case been different, through the existence of any tangible relations between us, as agents of the two countries, the necessity would have been forced upon me, and, consequently, upon the Government of the United States, to demand to know upon which of the principles that govern the relations of States, and in consequence of what event, it might be, that any crimes or misdemeanors, real or assumed, committed by citizens of the United States, in this port or elsewhere, except on British territory, had become objects of cognizance to the British Government; so as to justify an agent of that Government, placed here in official relations with an agent of the Government of the United States, in supposing himself entitled to communicate in formal manner to the latter the results of the supervision, exercised by him over the proceedings of American citizens and American vessels (which proceedings, it may be remarked, were subjects of as little concealment here, and those results matters of as great notoriety, as the recent arrival of the French Prince from Vera Cruz), accompanied with the information *that it would be his painful duty to report the same to his own Government!* Such a demand it would, under some circumstances, have been imperative on me to make. But it was not so in the present; and, unpleasant as was the alternative which they presented, I deemed myself fortunate, even at that cost, to escape the obligation to be instru-

mental in forcing upon the British Government a question, from which there was no escape but a direct disavowal of an indecency so gross, that its absurdity was the only palliation of which it could be susceptible, while, at the same time, the circumstances of the case were such as to obviate the necessity for such disavowal; precluding, as they did, unless by gross impeachment of its good faith, the supposition, that the outrage upon the United States could have been intended by that Government. The persons from whom it had proceeded had, it was to be taken for granted, been sent here by their Government, in no other capacity than that in which they had been recognised by the Spanish, under the Treaty which alone entitled them to be here at all; which capacity was purely judicial, or fractionally so, as part of a Mixed Court, whose functions consisted solely in bringing to adjudication, with the least delay and inconvenience, such vessels as, under the Treaty between the two countries, might be detained for having been engaged in an illicit traffic of slaves. Such being the sole purpose for which they were permitted to have an official residence upon Spanish territory, and even the form of process for that limited purpose having been strictly and minutely defined by Treaty, it could not be conceived that their Government had condescended to abuse the opportunity thus afforded, by sending them on any other errand; above all, was it not to be supposed that, openly trampling under foot the plainest rights of a nation which, however unfortunate, is still recognized as one of the States of Europe, it had intended their conversion into organs for offering unprovoked insult, in the same breath, to that nation, and to the foreign consuls holding exequaturs from her, and entitled, through decency to her, if no other motive, to be respected by all who accepted the right to official dwelling in her territory. The Treaty which placed them here, and a decent respect for the good faith of their Government, absolutely precluded, then, the supposition that it could have been a party to the letter addressed by them to me. Moreover the functions assigned them were so very limited, and of a nature so extremely simple, as to afford an obvious apology against even the charge of having neglected so to instruct them in relation to their duties, as to secure against all such abuses of their situation.

Such instructions are requisite, and the duty to give them imperative, only in proportion as the complexity of the functions intrusted to a public agent, or the haste in which he may be called upon to act, is such as to expose him to doubt or oversights. A perusal of the Treaty shows that it afforded neither of these grounds for precautionary instructions. Never were duties, or one single duty, rather (for it consists of a mere decision upon a naked question of fact), more simple in its nature, or more clearly defined, and it almost transcends belief that persons charged therewith should, even undesignedly—the only mode of transgression which a Government can anticipate, on the part of those in whom it puts trust, or provide against by instructions—overlook the boundaries of the field assigned to them, or fancy themselves placed in any official relations whatever towards foreign Consuls resident here.

Such were the considerations which governed my course in regard to the communication from your predecessors; and which, unpleasant as was the task of returning, reconciled me thereto as being, however rude in outward semblance, at bottom by far the least objectionable to all parties, of the alternatives forced upon me.

The present communication, as I was happy to see, is free from the offensive peculiarities of the former. Still it is liable to the fundamental objections, inseparable from any communication which you could possibly address to me, in regard to the conduct of citizens of the United States; one of which, indeed, applies to official communications on any subject whatever. This is, that there exists not any official relation of any kind between us. The other, that whatever relations might exist, and whatever might be my own functions in regard to offences committed by citizens of the United States against our laws, they could not be such as to allow me to recognize the right of any agent of any foreign Government to interfere, in any possible mode or degree, in the discharge of my duties, or to forbear repelling such interference if offered.

This is a necessary consequence of the independence of our two countries. You refer to "the peculiar relationship in which the United States are placed with Great Britain." Since the 4th of July, 1776, the only relation in which they stand to each other, is that of two independent nations, "enemies in war, in peace friends." Of that independence one of the vital parts consists in the exclusive execution, no less than the exclusive enactment, by each, of its own laws; rigorously

excluding and repelling all interference in the one no less than the other. If there be upon earth two nations for whom, above all others, their own welfare and that of the world demands the most scrupulous regard for, and watchful observance of this principle, those nations are the two whom you have named. Mine is wedded to it in all its bearings; and if, as I trust, the harmony now happily subsisting between the two Governments is to endure, so as to allow the elements comprised in the bosoms of the two nations a fair opportunity to work out their natural results, it can only be through the cultivation of the same sentiment by your Government towards ours, if no other.

So thoroughly imbued with it is the latter, that no Consul or other functionary of the United States at this place or elsewhere, however full and accurate the information which he might have acquired on the subject, and however sincere his zeal against the Slave Trade, would ever dream of volunteering an official communication to a functionary of Great Britain, in regard to the amount of British fabrics made expressly for the Coast of Africa, nor of the number of casks of shackles (the distinctive instrument for carrying on the Slave Trade) of British manufacture, annually exported to this Island; some of which I have seen passing through the Custom House here, without attracting any more notice from either officers or bystanders than so many boxes of Dutch cheeses. He might, under instructions from his Government, have traced these things to their sources, so as to be able to designate every British manufacturer, merchant, and ship, from and through which they had reached thus far on their way to the Coast of Africa; and, upon looking into the statutes of their Parliament, he might have discovered, that they could not have got here without gross violation of British law. But, so great is the silent force of the general national sentiment upon this point, it would never occur to him, as a thing proper or decent or possible, that he should assume to take part in the administration of those laws, by addressing official communications, in regard to their violation, to British functionaries, charged or not charged with preventing it. If such an American officer were to be found, he would be a very remarkable exception; and, whatever might be the force of the motives impelling him to a course so inconsistent with the general sentiment of his country, there is one particular in which that course would be seen to evince the utmost respect for, if not dread of it, if his object in thus trampling upon the principles of national independence were to play off before any portion of his countrymen. However insensible he might be to other things, the dread of their penetration would effectually deter him from attempting any such game, unless he had furnished himself with better materials for it than rumours.

If requested to do so, he would doubtless cheerfully comply; as I trust that you will, with the request I now earnestly make of you, to oblige me, at the earliest possible moment, with all the information of any kind, regarding persons, occurrences or things, calculated to be of use to the Government of the United States in regard to the ship "*Venus*," or any matter connected with her; and particularly the fact of her having taken in a cargo of negroes whilst under the American flag; and the other fact that there are several American citizens implicated in this violation of our laws, and who those citizens are. One of you, gentlemen, has enjoyed the advantage of pursuing his studies at the Temple; and I need not tell you, therefore, that the great object is to obtain such materials, in the shape of facts, or persons, or indications of either, as may be susceptible of use towards the conviction of every individual implicated. If materials of this kind cannot be furnished by you, I would thankfully receive any specific facts, although unconnected with names of persons, should you not be at liberty to divulge them, which your peculiar opportunities and command of time for the purpose may have brought to your knowledge.

I am, &c.
(Signed) N. P. TRIST.

Her Majesty's Commissioners,
&c. &c. &c.

Third Enclosure in No. 43.

Her Majesty's Commissioners to Mr. Trist.

SIR,

Havana, January 10th, 1839.

WE have the honour to acknowledge the receipt of your answer of the 8th instant, to our communication of the same date, respecting the ship "*Venus*," which vessel, we have since heard, entered this harbour at a late hour the evening before.

In reply to your request to be furnished "with all the information regarding persons, occurrences or things calculated to be of use to the Government of the United States in regard to the ship '*Venus*,' or any matter connected with her, and particularly the fact of her having taken in a cargo of negroes whilst under the American flag, and the other fact that there are several American citizens implicated in this violation of your laws, and who those citizens are," we beg to say we have already communicated as much of the information we possessed as we felt ourselves at liberty to do. We referred you to the reports prevalent in this city upon the subject, and we hoped, as no doubt is entertained of their truth, that you would have thought them deserving of your own immediate investigation, either through the Captain-General of the Island, or by your own authority, and the intervention of the Commander of the American vessel-of-war now in the harbour. Any such investigation on your part, by examination of the Log-book and crew, could not have failed to elicit, much better than any information we could be expected to divulge, whether the following circumstances, as reported, are well founded or not.

1. Whether there were any American citizens on board the "*Venus*" during her late voyage to the Coast of Africa, and who those citizens are.

2. Whether the "*Venus*" was visited on the Coast of Africa by any British cruizer or cruizers without being detained, in consequence of her bearing the American flag, but one of which cruizers, having observed her take in some negroes under that flag, afterwards chased her, though without success.

3. Whether any sale or transfer was made of the vessel after leaving this harbour, and when, so as to divest her of her American character.

The ship's articles, we have heard, provided that she was to be taken to Bahia, where the sale was to take place, but the short time she has been absent (only four months) puts this out of the question; and whether transferred or not to any other flag, we fear it is indisputable that a gross abuse has been practised of the American flag.

It certainly forms no part of our duties at this place to take any steps to vindicate such a violation of your laws; nor have we any wish to interfere in any such cases, further than arises from an anxiety to suppress, if possible, all similar infringements of the rights of humanity. Our objects are too high, and our conviction of their rectitude too strong, to allow us to be turned from our course by taunts of any kind; and with regard to the United States in particular, we would wish to preserve unimpaired our respect for the laws which have declared the Slave Trade piracy. But it is in proportion to the respect we would wish to entertain, that we should regret to find those laws a dead letter, and your professions not followed up and carried into effect.

We have, &c.

(Signed)

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

N. P. Trist, Esq.
&c. &c. &c.

No. 44.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 19.)

(Extract.)

Havana, January 26th, 1839.

IN the Despatch, dated the 17th July last, from Her Majesty's Commissioner at this place, your Lordship's attention was directed to the circumstance of a vessel having sailed hence, under the French flag, in the month of March previous, for the Coast of Africa. Of this vessel, the "*Havre*," Her Majesty's Com-

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missioner, for reasons then explained to your Lordship, had had no knowledge, until four months after, when it appeared too late to take any other course respecting her, than to use ever diligence in watching for her return. For a long time all enquiries with this view were ineffectual, and we were informed that the owner, M. Forçade, not having had any intelligence himself of her returning, had began to think she had been taken; when, on the 22nd instant, we received information of her being off the Coast, and of her having landed, only a day or two previously, 520 negroes. Having satisfied ourselves that she had not entered the Harbour, and, taking advantage of so many French vessels of war (no fewer than ten) being then in this Port, to call for their intervention, we addressed a letter to the Consul-General of His Majesty the King of the French on the subject. In stating the circumstances attending the sailing of the "*Havre*" under French colours, and with several French subjects on board, we also expressed our belief that no valid, if any, transfer had been made of the vessel to any other flag; and therefore urged him to institute a strict search of the vessel on her arrival. In answer to this letter, of which we enclose your Lordship a copy (Enclosure, No. 1), we received a note the following day (Enclosure, No. 2), stating that our communication had been laid before His Royal Highness the Prince de Joinville, and M. Perceval, the senior officer of the French squadron at this place, who had sent out the brig of war "*Le Petit Thouars*" in search of the suspected vessel. The brig "*Le Petit Thouars*" accordingly went out on the 23rd instant, but returned about noon the following day, without the "*Havre*," of which we have not been able to obtain further information, though there is a report current, that she run on shore shortly after landing her cargo, and was lost. This circumstance is credited in quarters where we have learned to place confidence, though with a suspicion that the wreck was incurred purposely, as the most efficacious mode of putting an end to all enquiries. We have had no further communication from the French Consul-General on the subject.

First Enclosure in No. 44.

Her Majesty's Commissioners to the French Consul-General.

SIR,

Havana, January 22nd, 1839.

WE regret to find it a duty incumbent upon us, to call your attention to the expected arrival soon in this port of the French brig "*Havre*," which sailed hence about the 20th March last for the coast of Africa.

This vessel sailed hence under French colours, with several French citizens on board, and owned by a Frenchman, M. Forçade, who was denounced to you so far back as November 1836, as engaged in the infamous traffic in negroes, for which he now possesses a disgraceful notoriety, not second to any one in this place.

We have not yet heard whether the "*Havre*" has been, according to the practice of these dealers in human misery, transferred, or pretended to be transferred, to any other flag, but we have been well-informed of her return, and of her having landed about 500 negroes in the last week on this coast.

As the vessel may, therefore, be hourly expected in the harbour, we would respectfully suggest to you the propriety of putting her under immediate surveillance, either through the instrumentality of the Captain-General, or by your own authority, and the intervention of the Marine Force of His Majesty the King of the French, now at this place.

The peculiarly friendly relations, in which the Government of Her Britannic Majesty is placed with that of His Majesty the King of the French, makes us feel assured that you will participate in the feelings with which this communication is made; and with regard to your own private dispositions towards this "infamous traffic in negroes," to use your own words, we have to rely on your recorded anxiety "to put a stop to these odious undertakings."

We have, &c.

(Signed)

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

A. M. M. Mollien, Consul-Général,

&c.

&c.

&c.

Second Enclosure in No. 44.

(Translation.)

The French Consul-General to Her Majesty's Commissioners.

GENTLEMEN,

Havana, January 23rd, 1839.

IN consequence of the communication contained in your letter of yesterday, His Royal Highness the Prince de Joinville, in concert with Monsieur le Commandant Perceval, has ordered the brig of war, the "*Le Petit Thouars*," to make ready immediately, to go in search of the suspected vessel which you have denounced to me.

Accept, Gentlemen, the assurances of my distinguished consideration,

(Signed) MOLLIEEN.

The Members of the Mixed Commission.

No. 45.

Her Majesty's Commissioners to Viscount Palmerston. (Received April 1.)

MY LORD,

Havana, February 4th, 1839.

THE great number of slave-vessels that have arrived here during the present month, with full cargoes from the Coast of Africa, appearing to render it imperatively incumbent on us to remonstrate with his Excellency the Captain-General on the subject, we addressed his Excellency a letter, of which we enclose your Lordship a copy, stating the circumstances attending the arrival of three vessels in particular, to which we beg to call your Lordship's attention. To this letter we received a reply from his Excellency, expressed in terms similar to those which have been uniformly in times past employed by the Local Government, to evade the just fulfilment of existing laws and treaties.

On the receipt of this, having procured a copy of a Royal Order recently promulgated at Madrid, dated the 2nd November, 1838, against the continued prosecution of the Slave Trade in this Island, we thought it right again to address the Captain-General, requesting him to insert the same three times in the "*Diario*," as is customary to be done with other royal orders. This we thought advisable, as we stated in the correspondence, not only to show the people here the avowed wishes of the Government of Her Catholic Majesty, but also in support of our assertions, that the importations are not the less an infraction of the laws, on account of their being made under the Portuguese flag.

To this application we received an answer from His Excellency, refusing the insertion, upon grounds of policy peculiar to the Island; and we have heard from a quarter on which we can rely, that he has written to his Government in angry terms of this correspondence, and deprecating our interferences, as contrary to the prosperity of the Island.

We fear that the Royal Order referred to will be as inefficacious as any before published, and we beg therefore to repeat our opinion expressed to the Captain-General, that no laws on the subject will be respected, until a more honest determination be shewn to punish offenders, and until rewards await those who will assist in bringing them to justice.

We have, &c.

(Signed)

J. KENNEDY,

CAMPBELL J. DALRYMPLE.

The Right Honourable Viscount Palmerston, G.C.B.

&c.

&c.

&c.

First Enclosure in No. 45.

Her Majesty's Commissioners to the Captain General.

MOST EXCELLENT SIR,

Havana, January 19th, 1839.

WE regret to feel it a duty incumbent upon us, to call your Excellency's attention to the alarmingly increasing importation of Bozal negroes into this island.

On the 3rd instant the Portuguese ship "*Amalia*," which was formerly well known as a slave ship when under Spanish colours, and then named the "*Cavallo Marin*," entered this harbour, having a short time previously landed more than 500 slaves on the coast.

On the 4th instant, the Portuguese schooner "*Felicidade*," entered the harbour, having also a few days previously landed about 250 slaves on the coast.

On the 7th instant, a ship which, only four months since, sailed from this harbour under American colours, then called the "*Venus*," now returned as the "*Duquesa de Braganza*," and under the Portuguese flag, though there is good reason to believe that no valid transfer of the vessel was effected. This ship, it is we fear indisputable, brought the astonishing number of 860 slaves from the coast of Africa.

These facts, though they must be known to every other officer of the Government, cannot surely have been communicated to your Excellency, or we feel certain that your Excellency would have taken immediate steps to suppress such flagrant prosecution of this disgraceful traffic. We feel assured that the Government of Her Catholic Majesty will look with extreme indignation on this continued violation of the laws of the country, and not consider the importation as less to be deprecated, because the laws are thought to be evaded by the use of the Portuguese flag.

Since the last-named vessel entered the harbour, we have ascertained the arrival of another, the particulars of which have not yet reached us, but the circumstances connected with the trade, and with the "*Amalia*" in particular, we cannot advert to without the extremest horror. This vessel, we fear it cannot be denied, took in her miserable cargo at Madagáscar, above 700 in number, of whom no fewer than 200 died on the voyage.

Such disgraceful violations of the laws, such open defiance of your Excellency's authority, and such murderous practises attendant upon the trade, we feel assured need only be pointed out to your Excellency's notice, to induce your Excellency to institute a strict and honest inquiry as to who are the guilty parties engaged in them, with a view to the punishment of the offenders, and the suppression of their crimes.

We have, &c.

(Signed)

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

His Excellency the Captain-General,
&c. &c. &c.

Second Enclosure in No. 45.

(Translation.)

The Captain-General to Her Majesty's Commissioners.

GENTLEMEN,

Havana, January 29th, 1839.

IMMEDIATELY on the receipt of your communication of the 19th instant, relative to the Portuguese vessels, which you state to have been employed in the prohibited trade in slaves, I referred it to the Commandant of Marine, who replied, under date of the 22nd instant, as follows:—

"Most Excellent Sir—Having considered the communication, made to your Excellency by the British Commissioners, in which they report the arrival in this harbour of three vessels under the Portuguese flag, respecting which they have received information of their having been employed in bringing negro slaves, whom they have landed on the coasts of this island, I have to acquaint your Excellency that I have no other evidence regarding the said vessels than their arrival, as reported by the Captain of the Port; their being foreigners places them beyond the intervention of the Marine department, and thus, although this Department should desire to enter upon an investigation, in consequence of the denunciation, it is not in its province so to do, as would be the case if it regarded a Spanish vessel, against which regular proceedings are commenced, and addressed by me to your Excellency, for your information. The circumstance of the nationality, as pointed out by the Commissioners, of the vessel now called the "*Duquesa de Braganza*," and her having been American property, the Marine Department has no cognizance

of either : therefore I have no means of giving your Excellency any information, as I would wish to do, on any one of the points in the said communication, being absolutely ignorant of the subject of which it treats."

To throw more light on the matter, I directed the Captain of the Port to acquaint me with the particulars to which you refer, and he has reported, under this day's date, as follows :—

"Most Excellent Sir—I have received your Excellency's official letter, in which is transcribed the one addressed to your Excellency's respectable authority, by Her Britannic Majesty's Commissioners, and having well considered its contents, in obedience to your Excellency's directions, I beg to state as follows:—Every national and foreign vessel which leaves this port, after the Custom-house has reported the receipt of the tonnage duties, is despatched from this office with a *rol*, which is certified by her Consul, or by the person appointed by her Government to exercise his functions, and also with the Royal License, which confirms the legitimacy of her flag : those which arrive are most carefully examined, to ascertain if their papers be correct, and their proceedings lawful ; therefore, I can assure your Excellency that no such vessels ever pass the Morro. It is true that since I hold this office of Captain of the Port, I have sometimes seen vessels of Her Britannic Majesty arrive with captured slavers, and that this commerce still exists, notwithstanding the constant, positive, and rigid orders issued by your Excellency to paralyze the roots of so ungracious and inhuman a traffic : but how is it possible, most excellent Sir, as I have before observed, to put a stop to this prohibited trade, in an island of more than 600 leagues in circumference, entirely unpeopled, abounding in harbours and bays, where is no cruizer, and which no cruizer could constantly guard, nor a land force be of any avail over such an extent of territory ? Nobody knows better than your Excellency that this prohibited trade is, and has been the general pest (*polilla*, literally a moth) of nations, even of the most populous, which chance and time have placed in the highest degree of felicity, and in which the laws operate with full force and vigour, in other words, France and England are witnesses if the contraband trade exist or not in those countries.

"I ought to remark to your Excellency, that the Commissioners of Her Britannic Majesty are under a mistake, in stating that the Portuguese ship "*Amalia*" was Spanish property before being put under the Portuguese flag, which she still retains, for she was never, at least in this port, under the Spanish flag, although under the Sardinian. This is all I have to state to your Excellency's respectable authority, in obedience to your superior orders."

All which I transcribe to you, Gentlemen, in reply to your before-mentioned communication ; it being understood that I refer the whole to Her Majesty, for her sovereign resolution.

God preserve you many years,
(Signed) JOAQUIM DE EZPELETA.

Her Majesty's Commissioners,
&c. &c. &c.

Third Enclosure in No. 45.

Her Majesty's Commissioners to the Captain-General.

MOST EXCELLENT SIR,

Havana, January 31st, 1839.

HAVING received a copy of the royal order of the 2nd November last, by which Her Majesty the Queen Regent of Spain, in noticing the frequent introductions of negro slaves of late into this island, in contravention of the principles of humanity and public convenience, and infraction of the Treaties with Great Britain, has especially directed your Excellency to take the most efficacious means to put down this miserable traffic, we beg respectfully to suggest, that your Excellency should command insertion of the same three times in the "*Diario*," as in the case of other royal orders.

At the same time we fear that no hope can be entertained of fully suppressing this contraband traffic, so contrary to the best interests of this valuable island, unless more efficacious means are adopted to punish all offenders, foreign as well as

native, and also unless some reward be held out to those who will give information sufficient to condemn them.

We have, &c.

(Signed)

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

To His Excellency the Captain-General,
&c. &c. &c.

Fourth Enclosure in No. 45.

(Translation.) *The Captain-General to Her Majesty's Commissioners.*

GENTLEMEN,

Havana, February 1st, 1839.

I LEARN by your communication of yesterday, that you have received a copy of the royal order of the 2nd November last, whereby Her Majesty especially directs that I adopt the most efficacious measures for putting an end to the miserable and contraband trade in slaves, and that you request me to permit you to suggest that it be inserted three times in the "Diario," as in the case of other royal orders: upon which particular I have to acquaint you in reply, that the peculiar circumstances of an island, in which there is such an excessive number of slaves, present to the considerations of policy and prudence motives for avoiding the publication of any kind of expression, of easy interpretation, which might lead them on to mutiny or riot, under the supposition that they were unjustly oppressed. The moment I received the aforesaid royal order, I communicated it to the Governors and Lieutenant-Governors of the Island, in order that they might, in compliance with Her Majesty's directions, effectually guard against the infringement, in the provinces under their command, of the solemn Treaty between Her Majesty and England for the abolition of the trade in slaves, and prevent the clandestine introduction of the latter by all the means in their power; of which step I have acquainted Her Majesty, and will not only watch over its observance, but will moreover take care that the infractors be exemplarily chastised in accordance with the laws.

In regard to the measures of offering rewards to those who may give information sufficient to condemn the delinquents, it is not in the province of my authority to adopt them, but pertains to Her Majesty, as being a legislative decree.

God preserve you many years.

(Signed)

JOAQUIN DE EZPELETA.

Her Majesty's Commissioners,
&c. &c. &c.

No. 46.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 1.)

MY LORD,

Havana, February 20th, 1839.

WE have the honour to enclose to your Lordship the lists we have received, 1st, of vessels that have arrived in this harbour during the last month from the Coast of Africa; and, secondly, of those that have sailed from hence, during the same period, for that destination, suspected of being engaged in the Slave Trade.

From the first-named list your Lordship will perceive, that the number of arrivals was very great, but we regret to say that the list was incomplete. On the 22nd January a vessel entered from Ayuda or Whydah, of which we have not ascertained the particulars, but have no doubt of its having been engaged in the illicit traffic.

On the 4th January the American brig "Comet," Captain Dickson, which sailed from this port on the 18th September last for the Cape Verd Islands, with stores, &c. for the slave ships, returned in ballast, and was entered as consigned to the English house here of Drake and Co. On calling upon one of the partners of that house for an explanation, we were assured that this was done without their

being consulted on the subject, and that they had no interest whatever in the vessel, or in her last voyage.

On the 30th of January Her Majesty's Judge saw two Portuguese brigs enter the harbour, for which the red flag designating their arrival from Africa, was hoisted on the signal staff at the Moro Castle as they passed. They have not been put into the list, probably because they were not entered in the Custom-house books, as the dates of all the other vessels are given a day or two after their actual arrival.

The names of the two brigs were, 1st. the "*Felicidad*," from Lagos, Master's name, Barroso; sailed from hence 5th April, 1838; 2ndly, the "*Ulisses*," from Ayuda, Master's name, Fernandez. This vessel belongs, we believe, to Matanzas, where she arrived two or three days previously, in ballast, without the Captain and second Mate, on account of some disagreement between them and the crew on the Coast of Africa. In consequence of this, the vessel was sent on here, under charge of a number of Spanish soldiers, with the crew in irons, as having been guilty of mutiny or piracy, for which they are now in custody.

We regret to add, that there continues every appearance of the trade being persevered in with the same vigour as during the past year. There are, we understand, no fewer than 30 vessels at present in the harbour engaged for that purpose, and we have been informed by a respectable American merchant, that, "if he had for sale 12 or 14 small fast-sailing clippers, suited for the trade, he knew there were customers here for them."

During the present month a vessel has arrived from Africa with 400 negroes, under the Buenos Ayres flag, and on the 15th the schooner "*Rosario*" cleared out for the Cape Verds under the Spanish; the only instance of that flag being so used during the last eight months.

To the list of arrivals we have appended some remarks, to which we beg to direct your Lordship's attention.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

The Right Hon. Viscount Palmerston, G.C.B.,
&c. &c. &c.

First Enclosure in No. 46.

List of Vessels arrived in the Port of Havana in the month of January, 1839, after having, as it is said, landed slaves on the adjacent coast.

1.	January 4th,	Portuguese ship	"Amalia" with about	510 Africans.
2.	" 6th,	" schooner	"Dichosa" "	220 "
3.	" 7th,	" ship	"Duqueza de Braganza	840 "
4.	" 7th,	" schooner	"Josefina "	227 "
5.	" 17th,	" "	"Brillante "	223 "
6.	" 30th,	" "	"Segunda Union	172 "

In all 2192

7. Besides which 540 Africans are said to have been landed from a vessel, formerly the French brig "*Havre*," which, after discharge, was lost on the coast.

Commissioners' Remarks.

1. From Mozambique, Master's name Miquete, sailed from Havana 16th June, 1838, chiefly owned by M. Forcade; took in upwards of 700 negroes, of whom more than 200 are reported to have perished on the passage. (See further the Despatch of 1839, February 4.)

2. From San Pablo de Loanda: Master's name Settos.

3. From San Tomé: Master's name Caelet. (See further the Despatch, of 1839, dated 4th February.)

4. Supposed the same as the Spanish schooner "*Josefina*," which sailed from this port the 20th February, 1838, and afterwards as the Portuguese schooner "*Josefita*," the 12th July.

5. Landed her cargo at Santiago de Cuba : Master's name Sanchez.
6. From Isla del Principe: Master's name Olinda: sailed from this port 8th June, 1838.
7. Sailed from this port 17th March, 1838, the property of M. Forçade. (See further the Despatch, of 1839, dated 26th January.)

Second Enclosure in No. 46.

List of Vessels despatched from the Port of Havana in the month of January, 1839, suspected of being engaged in the Slave Trade.

23rd January,	American schooner	"Rebecca,"	to Gallinas.
26th	"	brig	"Oriental," to Lagos.
28th	"	Portuguese "	"Fortuna," to Lagos.

No. 47.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, April 12th, 1839.

I HEREWITH transmit to you a copy of a Despatch which I have received from Her Majesty's Commissioners at Sierra Leone; and, in compliance with the suggestion therein contained, I have to request that you will add to the list of vessels which leave the port of Havana, destined for Africa, the names of their commanders, whenever the information which you can obtain shall enable you so to do.

I am, &c.

(Signed) PALMERSTON.

*Her Majesty's Commissioners,
&c. &c. &c.*

Enclosure in No. 47.

Sierra Leone Commissioners, Spain, December 5, 1838.

(See No. 11. p. 25.)

No. 48.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, April 16th, 1839.

I HAVE received your Despatch of the 10th of January, 1839, containing copies of a correspondence which had taken place between yourselves and Mr. Trist, the United States Consul at the Havana, on the occasion of your having communicated to that gentleman information respecting the vessel, the "*Venus*," which had sailed from the Havana for Africa, under the flag of the Union, with several American citizens on board, and had returned within four months, with a cargo of 860 slaves, from Africa.

With reference to that part of Mr. Trist's letter to you, which relates to British fabricks made expressly for Africa, and to shackles of British manufacture intended for Slave Trade, exported from England, and imported into Cuba, I have to desire that you will state to Mr. Trist that, if he can at any time furnish Her Majesty's Government, through you, with any information which may, directly or indirectly, enable Her Majesty's Government to enforce the penalties of the law against British subjects who may be concerned in Slave Trade, Her Majesty's Government will feel most sincerely obliged to him.

You will observe to Mr. Trist, that the two Governments having, by the 10th

Article of the Treaty of Ghent, mutually engaged to each other that they would "use their utmost endeavours to promote the entire abolition of the Slave Trade," it seems to be perfectly consistent with the respect, which the Agents of each country must feel for the other country, that they should not only themselves act in strict accordance with the spirit of the engagement which their own Government has contracted, but that they should furnish to the Agents of the other Government any information, which may be calculated to enable that other Government more effectually to accomplish the common purpose.

I am, &c.

(Signed)

PALMERSTON.

Her Majesty's Commissioners,
&c. &c. &c.

No. 49.

Her Majesty's Commissioners to Viscount Palmerston.—(Received May 6.)

MY LORD,

Havana, March 20th, 1839.

WE have the honour to enclose the lists we have received, of the arrivals here, and departures from this port during the last month, of vessels suspected of being engaged in the Slave Trade.

From these, your Lordship will regret to perceive, that the trade continues to as lamentable an extent as ever, and for the reasons we have from time to time given, we fear that there is every appearance of its being still further extended. It should, however, be remarked that the months of November, December, January, and February, have always been the chief months for the arrivals of slave vessels, and at the present time, they have come with comparative impunity, on account of there being so few British cruizers on the coast. We trust that, at the next season, there will not exist a similar necessity for the withdrawal of those cruizers, and would suggest that one or two might, during those months, be stationed permanently on this side of the Island, with orders to leave some of their larger boats and sufficient men at the favourite landing-places (which might be then pointed out) to wait the arrival of the slavers.

With regard to suggestions we have heard made for a squadron of not less than ten vessels to be appointed to cruize off this Island, we think that if so large a force could be spared during the months before mentioned, they might be so employed with success. But if so many vessels could not then be spared, we think that the following points would be advisable to be watched, bearing in mind the stationing of a large boat, with, perhaps, a long gun, and sufficiency of arms, unless the vicinity of the vessel to which they may belong shall render that unnecessary.

On the South Side of the Island.

1. One to cruize off Cape Cruz, bearing towards St. Jago de Cuba; near which port the boat might be kept.
2. One off the Isle of Pines, looking towards Trinidad de Cuba, and the new and very flourishing Port of Sagua.
3. One off Cape Antonio.

On the North Side.

1. One off Cape Maize, from Cumberland Harbour to the Islands of Tortuga and Inagua.
2. To have two vessels stationed off Havana, one on each side, or, if a steam vessel could be spared, with a couple of armed launches in communication.

From Cape Maize, northward, there are so many keys or inlets, and the navigation is altogether so intricate, that the chance of success appears altogether accidental, and we think it therefore would be better to watch the points of approximation, from whatever direction the vessels may arrive.

There is an opinion here now arising, that the British Government is becoming somewhat apathetic on the subject of the trade, and if this be encouraged by no more decisive steps being taken till the next season, and an increased and combined series of operations be then carried into effect, the trade might perhaps receive a

CLASS A.—FURTHER SERIES.

shock from which it would take years to recover. We fear, however, that so long as such a demand exists for negro slaves in the Island, and such a determined and interested partiality in its favour on the part of the local Government, no efforts from abroad can do more than ruin one portion of the speculators and enrich another, as in the manner of a lottery, unless the British Government be prepared to enforce a sort of blockade, which, for other reasons, might be far from desirable.

Of the proceedings of the slave dealers during the present month, we have only further to inform your Lordship, that the celebrated slave ship, the "*Socorro*," under her present name of "*Maria Segunda*," and the Portuguese flag, arrived here from Mozambique on the 11th instant. She took on board, it is said, 820 unfortunate beings, of whom only 570 were landed here, the other 250 having perished miserably on the voyage, reducing, say the speculators, their profits to only 25 per cent.

Feeling unable to express our sense of the continuance of such murderous enormities, we can but point them out to your Lordship, in the conviction that some steps such as we have suggested, will be taken in the proper time to sweep these seas of such traffickers, and punish the dealers by the ruin it would occasion them.

We have, &c.

(Signed)

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

The Right Hon. Viscount Palmerston, G. C. B.

&c.

&c.

&c.

First Enclosure in No. 49.

List of Vessels arrived in Havana in the month of February 1839, after having, it is said, landed Slaves on the adjacent Coast.

2nd	February,	Portuguese brig	" <i>Felicidad</i> "	after landing, it is said, 447 Slaves.
3rd	"	"	" <i>Matilde</i> "	" " 296 "
14th	"	Oriental "	" <i>Primogenito</i> "	" " 467 "
21st	"	Portuguese schooner	" <i>Labandeira</i> "	" " 229 "
25th	"	"	" <i>Elisa</i> "	" " 116 "

In all 1555

Commissioners' Remarks.

N.B.—Besides these vessels, on the same day with the "*Felicidad*" arrived the Portuguese brig "*Ulisses*," from Ayudah, Master's name,—Fernandez.

And on the 20th, arrived from Onin, the Portuguese schooner "*Ligera*," Master's name,—Souza.

The Oriental (or Monte Videan) brig "*Primogenito*" was erroneously characterized in our Despatch, of the 20th February, at Buenos Ayrean.

Second Enclosure in No 49.

List of Vessels despatched from the Port of Havana in the month of February, 1839, suspected of being engaged in the Slave Trade.

8th	February,	American schooner	" <i>Wm. Bayard</i> "	for Cabo Verde.
19th	"	Spanish "	" <i>Nra Sra del Rosario</i> "	"
"	"	Portuguese "	" <i>Montaña</i> "	" San Pablo de Loanda.
"	"	American brig	" <i>Morris Cooper</i> "	" Lagos.
"	"	" schooner	" <i>Perry Spencer</i> "	" Gallinas.

No. 50.

Her Majesty's Commissioners to Viscount Palmerston.—(Received May 23.)

MY LORD,

Havana, April 15, 1839.

DURING the last month, the following vessels were despatched from this harbour for the coast of Africa, suspected of being engaged in the Slave Trade:

March 6,	American	brig,	" <i>Wyoming</i> ,"	for Pitavasa.
" "	Do.	schooner,	" <i>Octavia</i> ,"	" Costa de Oro.
" 12,	Portuguese	"	" <i>Josefina</i> ,"	" San Torno.
" 21,	"	"	" <i>Constitucion</i> ,"	" Do.
" "	American	"	" <i>Joseph Wilding</i> ,"	" Cape de Verds.

Of arrivals of slave vessels during the month, we have received the following list:

March 3,	Portuguese schooner,	"Constitucion,"	after landing, it is said,	213	slaves.
" 7,	"	"Josefina,"	"	235	"
" 11,	" ship,	"Maria 2d,"	(otherwise "Socorro,")	553	"
" 23,	" brig,	"Liberal,"	"	257	"

But, besides these, arrived,—

March 22. The Portuguese schooner, "*Libertad*," otherwise the "*Victoria*," having previously landed a cargo of slaves, at, or near, Matanzas; and on the 16th of March, arrived the Spanish schooner, "*Volante*," from Sierra Leone, bringing a number of passengers, the crews of vessels that had been condemned there by the Mixed Courts of Justice.

On the 24th February, arrived another set of passengers, 40 in number, of the same character we believe, in the Spanish brig, "*Temerario*," from Sierra Leone.

Both these vessels were, no doubt, on the coast, on slave trading speculations, and were chartered to bring home those persons; but their previous names or history we have not been able to trace. Coming on a lawful voyage, they would, of course, assume their proper character of Spanish vessels, to be exempted from the additional port charges, rather than that of Portuguese.

We have, &c.,

(Signed)

J. KENNEDY.

CAMPBELL J. DALRYMPLE.

The Right Hon. Viscount Palmerston, G.C.B.,

&c.

&c.

&c.

No. 51.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, May 28, 1839.

I herewith transmit to you for your information and guidance, a copy of a Despatch from Her Majesty's Consul at Lisbon, enclosing the translation of an Instruction, which has been addressed by the Portuguese Government to the Directors of the several custom-houses of the Kingdom, warning them against some foreign vessels suspected of being about to assume the Portuguese flag, for the purpose of engaging in the Slave Trade.

I am, &c.

(Signed)

PALMERSTON.

Her Majesty's Commissioners,

&c.

&c.

&c.

Enclosure in No. 51.

Mr. Smith to Viscount Palmerston, Lisbon, April 22.

(See Class B, No. 65, page 111.)

RIO DE JANEIRO.

No. 52.

Viscount Palmerston to Her Majesty's Commissioners.

Foreign Office, February 5th, 1839.

Her Majesty's Commissioners at Rio de Janeiro were furnished with copies of the correspondence, herewith given, between the Foreign Office and the Colonial Department, on the subject of negroes, liberated under sentence of the Mixed British and Brazilian Commission, established at Rio de Janeiro; and the desire of Viscount Palmerston was expressed to Her Majesty's Commissioners, that they would inquire into the truth of the statement made in the Enclosures to the Letter from the Colonial Department, and that they would report to Lord Palmerston the result of their inquiry.

First Enclosure in No. 52.

Mr. Stephen to Mr. Backhouse.

SIR,

Downing-street, 19th January, 1839.

I AM directed by Lord Glenelg to transmit to you herewith, and to request that you will bring under the notice of Viscount Palmerston, a copy of a note which has been received from Mr. Gladstone, containing an extract of a communication from a correspondent at Rio Janeiro, from which it would appear that a practice exists of apprenticing, in the Brazils, negroes liberated from slave-vessels, and by fraudulent certificates of death, reducing them to a state of slavery.

I have, &c.

(Signed)

JAMES STEPHEN.

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

Sub-Enclosure A.

Mr. Gladstone to Mr. Stephen.

MY DEAR SIR,

Carlton Gardens, 8th January, 1839.

I HAVE just received the enclosed from my son, at Liverpool; and as I consider the communication from Rio Janeiro to be very important, I enclose it for your perusal and communication to Lord Glenelg, or whatever use you may consider it desirable to make of it.

If these poor people, that are so horribly and unjustly treated, were sent to Bri-

tish Guiana, how differently they would fare there, whilst an important benefit would be conferred on that colony, of which it stands so much in need.

Believe me, &c.
(Signed) JOHN GLADSTONE.

James Stephen, Esq.
&c. &c. &c.

Sub-Enclosure B.

(Extract.)

“IT appears, when slave-ships are taken by the English cruizers off this coast, the slaves in them are very often, instead of being sent home to Africa, hired out to the people in this country, to serve an apprenticeship of ten years, under the protection of the Brazilian Government; but, before the term expires, the people to whom they are apprenticed generally get a false certificate of death sent in, and the unfortunate wretches are never more heard of, and of course kept in a state of slavery all their lives. Now Mr. Ouseley thinks that, if they could be sent to the West Indies to serve their apprenticeship there, it would be a benefit conferred both upon the negroes themselves, (as they would be sure of their freedom if they survived the term of apprenticeship,) and also upon the proprietors in those colonies, where labourers are wanted.”

Second Enclosure in No. 52.

Mr. Strangways to Mr. Stephen.

SIR,

Foreign Office, February 4th, 1839.

I HAVE laid before Viscount Palmerston your letter of the 19th inst., and its enclosures; and I am directed by his Lordship to request that you will state to Lord Glenelg, in reply, that reports had already, some time back, reached Her Majesty's Government, that negroes, liberated from slave-vessels by the Mixed Court at Rio de Janeiro, and apprenticed in Brazil, have, by fraudulent certificates of death, been reduced afterwards to a state of slavery.

Upon a reference to the correspondence, which is marked in the margin of this letter,—and the whole of which, with the exception of five papers herewith sent, will be found in the Slave Trade Correspondence of this office, annually laid before Parliament,—it will be seen that Her Majesty's Government have been unceasing in their efforts to procure for the unfortunate individuals in question, the entire and permanent liberty to which they are entitled by treaty.

The result of these endeavours on the part of Her Majesty's Government has been, that the Brazilian Government have established and published stringent regulations to prevent the abuses complained of. Lord Palmerston desires me to add, that, from the laxity with which all laws against Slave Trade are executed in Brazil, there is too much reason to fear, that the abuses complained of have not been effectually corrected even by the regulations so published.

Lord Palmerston directs me, however, to assure Lord Glenelg that this subject will continue to engage Lord Palmerston's earnest attention.

I am, &c.
(Signed) W. FOX STRANGWAYS.

James Stephen, Esquire,
&c. &c. &c.

Correspondence referred to in this Letter.

	Date.	Class.	No.	Page.
Rio Commissioners to Mr. Canning - - -	November 20, 1826	A.	123.	165.
Mr. Backhouse to Rio Commissioners - - -	February 27, 1830	(Printed as Third Enclosure.)		
Mr. Hayne to Mr. Backhouse - - -	March 4, 1830	(")	Fourth	")
Two Enclosures.				
Mr. Cunningham to Mr. Backhouse - - -	May 19, 1830	(")	Fifth	")
Mr. Cunningham to Mr. Backhouse - - -	Separate (no date.) Rec. July 17, 1830	(")	Sixth	")

	Date.	Class.	No.	Page.
Mr. Pennel to Viscount Palmerston - - -	February 12, 1831	B.	85.	113.
Mr. Aston to Viscount Palmerston - - -	March 5, 1831	B.	61.	95.
to Mr. Aston - - -	November 1, 1831	B.	80.	108.
Mr. Aston to Viscount Palmerston - - -	May 19 1832	B.	45.	32.
Rio Commissioners to Viscount Palmerston	December 10, 1834	A. 1835.	147.	226.
Lord Mahon to Rio Commissioners - - -	January 17, 1835	A.	148.	228.
Duke of Wellington to Mr. Fox - - -	March 4, 1835	B.	69.	63.
Rio Commissioners to Duke of Wellington	March 18, 1835	A.	168.	254.
Rio Commissioners to Viscount Palmerston	July 5, 1835	A.	184.	282.
Rio Commissioners to Viscount Palmerston	July 27, 1835	A.	187.	285.
Rio Commissioners to Viscount Palmerston	September 16, 1835	A.	195.	292.
Rio Commissioners to Viscount Palmerston	January 6, 1836	A.	209.	312.
Rio Commissioners to Viscount Palmerston	September 30, 1836	A.	202.	249.
Viscount Palmerston to Rio Commissioners	April 18, 1838	First Series of Papers of 1837.	A. 66.	89.
Rio Commissioners to Viscount Palmerston	July 14, 1838	Now printed in Papers of 1838.	A. 115.	169.

Third Enclosure in No. 52.

Copy.—*Mr. Backhouse to Mr. Hayne, et mutatis mutandis to Mr. Cunningham.*

SIR,

Foreign Office, February 27th, 1830.

LORD ABERDEEN directs me to send to you the accompanying extract of a letter which has been communicated to his Lordship from Rio de Janeiro; and to desire, with reference to the Despatch from yourself and Mr. Cunningham, of the 20th November, 1826, that you will report to me, for his Lordship's information, what steps you have taken, or what information you have obtained from the Government of Brazil, since the date of that communication, upon the subject of the treatment of slaves emancipated under decrees of the British and Brazilian Court of Mixed Commission at Rio de Janeiro.

I am, &c.

(Signed) J. BACKHOUSE.

Sub-Enclosure.

Extract of a Letter, dated Rio de Janeiro, December 17th, 1839.

Is it known to the British Government that the two prizes with slaves, captured off the Coast of Africa, by the British man-of-war "Morgiana," and another sloop, some years back, and brought in here for condemnation, and given up to the Commission Court; that the negroes are still slaves, and in all probability will remain so; that every person who took them as apprentices, paid so much to the Commissioners, but much under their real value; that many of these unfortunate men are taken to the mines, and other parts, and of course remain as slaves, for no one knows how or where to reclaim them?—I was in the "Morgiana" at the capture of one of them, and I daily see the men as slaves working in the streets; and two days ago one was offered for sale, who appealed to me, and said he was not a slave. The Commissioners have a certain salary. Why do they not look after this?

Fourth Enclosure in No. 52.

Mr. Hayne to Mr. Backhouse.

SIR,

Stonehouse, Plymouth, March 4th, 1830.

I HAD the honour to receive your letter of the 27th February, last night, together with its enclosure, (Extract of a Letter from Rio de Janeiro, dated 17th December, 1829,) desiring me to report to you, for Lord Aberdeen's informa-

tion, with reference to the joint Despatch of Mr. Cunningham and myself of the 20th November, 1826, what steps we had taken, or what information we had obtained from the Government of Brazil, since the date of our above-named Despatch, relative to the treatment of the slaves emancipated by the Mixed Commission at Rio.

In reply, I beg to inform you, Sir, that very soon after our joint letter on the subject in question had been delivered to Mr. Gordon, and transmitted to the Foreign Office, I was constrained, from severe illness, to return to this country. I have reason to believe, however, that Mr. Gordon was unable to obtain from the Brazilian Government any revision of, or alteration in, the Alvara which regulates the system by which the emancipated slaves are governed, or even any public inquiry into the abuses which were said to exist under those regulations.

Having ourselves been more than once reproved for finding fault with the manner in which the Treaty in some of its branches was fulfilled by the Government of Brazil, in which our Brazilian colleagues participated, and having been given to understand that we thereby arrogated to ourselves a diplomatic character, and that our business was confined to the adjudication of vessels for an infraction of the Treaty, we therefore did not think it advisable, without further instructions, to interfere more in the business in question, conceiving that, if any thing could be effectually done in it, that it could not be in better hands than those of our present Minister.

Having replied to the queries contained in your letter, it may perhaps be expected, Sir, that I should add some comments upon its enclosure, having come so recently from the spot, and having the honour of holding one of the commissions therein alluded to.

That there have been abuses of the original intention, there is no doubt; and that some exist to this day, cannot, I fear, be denied: but my experience will not allow me to admit that it goes to the extent contained in the extract before me, the writer of which has evidently taken up the vague report of the city, without having been at the pains to inform himself how far it was founded in fact.

That one of the emancipated slaves should have been offered for sale in his presence, at this time of day, when they can all speak the language, and know perfectly well that they are free, though they have a certain period to serve, is, I own, passing strange, and such as I never yet heard of; and I think it is much to be lamented that the Englishman who witnessed it, did not make an example of such an atrocious attempt.

In order to show how vague, though I fear not unfounded, the report in question is, it will be necessary to point out a few errors into which the writer has fallen.

He speaks of *two* cargoes of slaves having been emancipated at Rio, whereas there never was more than *one*.

He assumes that they all are still slaves, and that they will probably remain so.

Some, unhappily, may have been re-doomed to slavery; but where is the proof of it? Many of them are no more slaves now, than they were the day they received their emancipation; and where they have fallen into good hands,—and some there are, to my knowledge, in very respectable ones,—are no more slaves than apprentices in any country who gain their livelihood by manual labour, and I trust will be forthcoming to receive their final liberty in October, 1835.

He erroneously supposes that the Commissioners received the fees for the apprentices, and that the whole arrangement and care of the negroes, from the emancipation, devolved upon them, whereas it was unfortunately just the contrary,—from that day they were taken out of their hands.

He says he daily sees them working in the streets;—it would be strange if he did not, when fifty of them were apprenticed to the Police, and were employed in paving, and lighting, and cleaning the streets. Some others, too, to my knowledge, are working in the streets on their own account, having been given up by their masters, and if not abandoned characters, are, it appears, allowed to gain an honest livelihood as free men. Some of them have, for disorderly conduct, and crimes, been made to work in chains with other criminals.

With regard to the writer's closing query, Why the Commissioners did not look after this?

I can assure him, I have often lamented that the power was not in the first instance placed in our hands to lend our feeble aid to prevent the abuse which, I was ever apprehensive, would arise, and which, to a certain extent, I don't deny does exist, and always must continue, as long as improper persons have the superintend-

ence; but, judging from the supineness of these persons at the present time, in collecting their annual fees, and in looking up those that may be at large, I conclude that their day of abuse and harvest must be in great measure gone by.

I believe I stated in a letter to the Foreign Office, soon after these very slaves were emancipated, that I had, jointly with my Portuguese colleague, volunteered to the existing local authorities, gratuitously to take upon ourselves the management of their distribution and superintendence, which was refused, and the strict letter of the Alvara served as their guide.

Should this explanation not sufficiently answer Lord Aberdeen's purpose, or should you, Sir, think it desirable to call my notice to any other points of this much-to-be-lamented case, it will be my duty, as well as my earnest desire, to give to them my prompt and best attention.

I have, &c.
(Signed) HENRY HAYNE.

J. Backhouse, Esq.,
&c. &c. &c.

Fifth Enclosure in No. 52.

Mr. Cunningham to Mr. Backhouse.

SIR,

Rio de Janeiro, May 19th, 1830.

I HAVE the honour to acknowledge the receipt of your letter, dated February 27th, 1830, enclosing copy of an extract of a letter which had been communicated to Lord Aberdeen, from Rio de Janeiro; and desiring me, with reference to the Despatch from Mr. Hayne and myself, of the 20th November, 1826, to report to you, for his Lordship's information, what steps I had taken, or what information I had obtained from the Government of Brazil, since the date of the communication, upon the subject of the treatment of slaves emancipated under the Decrees of the British and Brazilian Court of Mixed Commission at Rio de Janeiro.

In compliance with Lord Aberdeen's commands, I lost no time after the receipt of your letter, in applying, by letter, dated 7th May, copy of which I have now the honour to enclose, to Mr. Aston, His Majesty's Chargé d'Affaires at this Court, and requested of him to inform me whether the Brazilian Government had ever taken any measures, in furtherance of the intentions signified to Mr. Gordon in the Marquis of Inhambufé's note of November 6, 1836; and, if not, I trusted he would have the goodness to urge His Imperial Majesty's Government to make such inquiries as might lead to a refutation of the circumstances stated to have taken place in the extract of the letter communicated to Lord Aberdeen; and also to a due performance of the engagements entered into for the present welfare and future maintenance of such emancipated blacks as are remaining in limited servitude; many having freed themselves by running away, and working for their livelihood, thereby forfeiting their claims to such sums as should have been collected and paid them, at the end of fourteen years.

I have now the honour to enclose you a copy of Mr. Aston's reply, in which he informs me that it does not appear that any definitive answer has been received from this Government, and that he will therefore not fail to bring the subject again before the Brazilian Minister for Foreign Affairs, and duly communicate to me the result, which, when received, I will lose no time in transmitting to you, Sir, for Lord Aberdeen's information.

I have, &c.,
(Signed) ALEXANDER CUNNINGHAM.

J. Backhouse, Esq.,
&c. &c. &c.

Sub-Enclosure A.

Mr. Cunningham to Mr. Aston.

SIR,

Rio de Janeiro, May 7th, 1830.

LORD Aberdeen having directed Mr. Backhouse, the Under Secretary of State for Foreign Affairs, on the 27th of February, 1830, to send me the extract

of a letter which had been communicated to his Lordship from Rio de Janeiro, dated 17th of December, 1829, copy of which I have now the honour to enclose you, and being further directed, with reference to the Dispatch from Mr. Hayne and myself, of the 20th of November, 1826, enclosing a copy of our letter dated 31st October, 1826, to the Right Hon. Robert Gordon, His Majesty's Envoy at this Court, to report, for Lord Aberdeen's information, what steps had been taken, or what information had been obtained from the Government of Brazil, since the date of our communication, upon the subject of the treatment of slaves emancipated under the Decrees of the British and Brazilian Court of Mixed Commission at Rio de Janeiro; I have therefore the honour to request of you to inform me whether the Brazilian Government has ever instituted any measures in furtherance of the intention signified to Mr. Gordon, in the Marquis Inhambufe's note of November 6th, 1826, in order to give effect to the law, according to its true spirit, in the manner in which Mr. Gordon expressed himself on the 6th of November, 1826; and if not, I trust, Sir, you will have the goodness to urge His Majesty's Government to make such inquiries as may lead to a refutation of the circumstances stated to have taken place, in the extract of the letter communicated to Lord Aberdeen, and to a due performance of the engagements entered into for the present welfare and future maintenance of such emancipated blacks as are remaining in limited servitude, many having died, and a great number having freed themselves by running away, working for their own livelihood, and thereby forfeiting their claims to such sums as should have been collected and paid to them at the end of fourteen years.

I have, &c.

(Signed) ALEXANDER CUNNINGHAM.

*A. Aston, Esq.,
His Britannic Majesty's Chargé d'Affaires,
Rio de Janeiro.*

Sub-Enclosure B.

Mr. Aston to Mr. Cunningham.

SIR,

Rio de Janeiro, May 17th, 1830.

I HAVE the honour to acknowledge the receipt of your letter of the 7th instant, requesting to be informed whether any measures have been taken by the Imperial Government in furtherance of the representation addressed by His Majesty's Minister at this Court to his Excellency the Marquis of Inhambufe, November 6th, 1826, respecting the abuses existing in the execution of the laws relating to slaves emancipated by virtue of the Convention of 28th July, 1817.

It does not appear that any definitive answer has been received from this Government, and I shall therefore not fail to bring the subject again before the Brazilian Minister of Foreign Affairs, and shall duly communicate to you the result.

I have, &c.

*Mr. Cunningham,
&c. &c. &c.*

(Signed) ARTHUR ASTON.

Sixth Enclosure in No. 52.

No date.—(Received July 27th, 1830.)

MR. CUNNINGHAM takes the liberty of handing the following observations, on the extract of the letter communicated from Rio de Janeiro to Lord Aberdeen, to Mr. Backhouse.

In the first place, the brig "*Emilia*" was the only vessel brought into Rio de Janeiro for adjudication, under the Treaties between Great Britain and Portugal for the prevention of illicit traffic in slaves, and not any have been detained and sent in subsequent to the Treaty entered into between Great Britain and the Brazils, dated 23rd of November, 1826, therefore it is not true that *two* vessels were sent in for trial to the Mixed Commission established at Rio de Janeiro.

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2ndly. The negroes emancipated by the Mixed Commission, brought in the Prize "*Emilia*," were given over, as stipulated, to those authorities appointed by the Portuguese Government, and let out according to their age and abilities, by public auction, at from 9 to 34 milrees per annum, for 14 years, which price was considered at the time and the rate of exchange to be a very fair one.

3rdly. If any of the emancipated blacks are gone to the mines, they were either taken up by those who had hired them, and ought to be called upon to give an account of their present state, or they ran away, and have thereby freed themselves, and consequently forfeited their claim to all accumulation of annual hire.

4thly. If the person who stated that he was on board the "*Georgiana*" at the time of the *Emilia's* capture, did see any of the negroes taken in her working in the streets, it was on their own account; and of course they may be said to have liberated themselves, while those who have hired them did not choose to be at the trouble and expense of recovering them, if they were bad subjects; and several of the women have done so by marrying free men, and their emancipation has been granted.

Lastly. No credit can be given to the assertion that the writer of the communication saw some of the emancipated negroes offered for sale; for it cannot be believed he could remember or identify any individuals out of 369 blacks, resembling each other very much, who were landed from the "*Emilia*," and who bear a strong resemblance to hundreds of their Minas countrymen previously brought into this province.

It is true that the Commissioners have a certain salary, and their correspondence with Her Majesty's Ministers, Sir Charles Stuart and the Right Hon. Robert Gordon, copies of which have been transmitted to the Foreign Office, prove that they did look after and interest themselves in the welfare of those liberated under their adjudication.

I have also to observe that about 50 of the blacks in question were from the first hired by the police, and have no doubt been employed, in various ways, about the city; and several of them have been sentenced to work in chains, as a punishment for the crimes they committed.

No. 53.

Her Majesty's Commissioners to Viscount Palmerston.—
(Received February 6, 1839.)

MY LORD,

Rio de Janeiro, December 12th, 1838.

WE have the honour to inform your Lordship, that Lieutenant Heseltine, of Her Majesty's sloop "*Electra*," arrived in this port on the 8th instant, in charge of a brigantine called the "*Diligente*," detained by Commander Preston, under Portuguese colours, on the 1st instant, in lat. 16° 38' South, and long. 29° 54' West, and having on board 302 slaves.

A Copy of the Commander's Declaration, which, with the Papers belonging to the brigantine, Lieutenant Heseltine has this day brought into Court, we have the honour to enclose herewith.

We have, &c.

(Signed)

GEORGE JACKSON.
FREDERICK GRIGG.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

Enclosure in No. 53.

Captor's Declaration.

I, William Preston, Commander of Her Britannic Majesty's sloop "*Electra*," hereby declare, that on this 1st day of December, 1838, being in South latitude 16° 38', and West longitude 29° 54', I detained the schooner named the "*Diligente*," sailing under Montevidean colours when first seen, and under Portuguese when captured, armed with three guns, commanded by Emigdio Ribeiro da Silva,

who declared her to be bound from Benguela to Rio Janeiro, Montevideo, and Mozambique, with a crew consisting of 14 men, Joaquim Pedro de Freitas, supercargo, and having on board 302 slaves, said to have been taken on board at Benguela about the 30th day of October, 1838, and are enumerated as follows; viz.

	Healthy.	Sickly.
Men	171	1
Women	4	
Boys	60	9
Girls	33	24
Total	302	

I do further declare, that the said schooner appears 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 Rio de Janeiro.

(Signed) WILLIAM PRESTON, *Commander.*

Witness,—

A. SANDERSON, *Surgeon.*
E. WILLIAMSON, *Purser.*

No. 54.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, February 20th, 1839.

WITH reference to that part of your Despatch of the 14th of July, 1838, in which you state that British merchants are concerned, and British capital is employed, in Brazil, in Slave Trade; I have to desire, that you will collect and transmit to me all the information you can obtain, with a view to facilitate the identification and prosecution of such persons as may be concerned in these transactions.

I am, &c.

(Signed) PALMERSTON.

Her Majesty's Commissioners,
&c. &c. &c.

No. 55.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, March 13, 1839.

I REFERRED to the proper Law Adviser of the Crown your several Despatches on the question, whether the proceeding, called an Embargo, should be allowed to take place with regard to sentences passed by the Mixed Court of Commission at Rio de Janeiro; and, in accordance with the view taken of this question by Her Majesty's Law Adviser, I have now to acquaint you, that Her Majesty's Government see no reason to depart from the opinion which they have already expressed upon this point: it will, therefore, be your duty to adhere to the instructions which were given to you by me, under date of the 26th of March, 1836, and you will consequently not allow the practice of Embargoes to continue in the Mixed Court of Commission of which you are members; but you will insist that a sentence once given by the Court shall, as the Treaty directs, be final and without appeal.

I am, &c.

(Signed) PALMERSTON.

Her Majesty's Commissioners,
&c. &c. &c.

No. 56.

Her Majesty's Commissioners to Viscount Palmerston.—(Received March 21.)

MY LORD,

Rio de Janeiro, January 5th, 1839.

IN pursuance of the 75th Clause of the Act passed in the 5th year of the reign of his late Majesty George IV., entitled, "An Act to amend and consolidate the Laws relating to the Abolition of the Slave Trade," we have the honour to report to your Lordship that two vessels, said to be Portuguese, viz., the "*Diligente*" and the "*Feliz*," the former detained by Her Majesty's sloop "Electra," the latter by Her Majesty's brig-of-war "Wizard, have been brought into this port, between the 5th of July, 1838, and the present date, for adjudication by the Mixed British and Brazilian Court of Commission, established in this city; the proceedings in which cases are still before the Court.

We have, &c.

(Signed)

GEORGE JACKSON.
FREDERICK GRIGG.*The Right Hon. Viscount Palmerston, G.C.B.*

&c.

&c.

&c.

No. 57.

Her Majesty's Commissioners to Viscount Palmerston.—(Received March 21.)

MY LORD,

Rio de Janeiro, 7th January 1839.

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 6th October last, enclosing a certified extract from the log kept by Lieutenant Graham E. Hammond, of Her Majesty's sloop "Rover," while in charge of the "*Flor de Loanda*," containing information as to the number of deaths, which took place among the negroes on board that vessel, up to the date of the "Rover's" departure from Rio de Janeiro.

We did not fail to lay the extract in question before our colleagues, and it has been appended to the proceedings, in the case of the "*Flor de Loanda*," for any further reference which may be requisite.

We have, &c.

(Signed)

GEORGE JACKSON.
FREDERICK GRIGG.*The Right Hon. Viscount Palmerston, G.C.B.*

&c.

&c.

&c.

No. 58.

Her Majesty's Commissioners to Viscount Palmerston (Received March 21st.)

MY LORD,

Rio de Janeiro, January 15th, 1839.

REFERRING your Lordship to our Despatch of the 12th December of last year, reporting the detention, by Her Majesty's sloop "Electra," of a brigantine called the "*Diligente*," we have the honour to enclose herewith, in original and translation, the sentence of the Court, delivered on the 10th instant, condemning that vessel and emancipating the slaves.

Our report of the case also accompanies this, by which it will be satisfactory to your Lordship to observe that the Brazilian Commissary Judge joined Her Majesty's Judge, without any difficulty, in this sentence.

A long argument was presented to the Court in support of the claim, on behalf of this vessel for restitution, on the ground of her being exclusively Portuguese property, which it may eventually become proper to lay before your Lordship; at present it does not appear to be necessary, nor to add anything in this Despatch to

what is already submitted, except that this vessel is the first we have found with a certificate of register on board, and that it was precisely on the declaration therein made, viz., that the owner was resident at Rio de Janeiro, that under your Lordship's instructions, arising out of the case of the "*Maria da Gloria*," this vessel has been condemned.

We have, &c.

(Signed)

GEORGE JACKSON.
FREDERICK GRIGG.

The Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

First Enclosure in No. 58.

(Translation.)

Sentence.

THE present proceedings being examined in respect to the brig called "*Diligente*," detained by Her Britannic Majesty's sloop "*Electra*," William Preston, Commander, on the 1st of December last, in lat. 16° 38' South, and long. 29° 54' West, for having 302 Africans on board, it is seen that this vessel, now under one denomination, now under another, now figuring as the property of one owner, and now of another, has been employed, for several years past, in trading between the port of Rio de Janeiro and the coast of Africa, up to the month of August, 1837, when she appears to have been sold at Angola to Joaquim Pedro de Freitas, a Portuguese subject, who thereupon repaired to this city, fitted out and loaded the brig, and sent her on a voyage to that port, under the direction of her present Master and Mate, causing her to be registered there as his property, in conformity with the maritime code of Portugal, ordered to be observed by the Decree of the 17th December, 1836.

This document, which is certainly the most authentic proof of the national character of this brig, and that the above-mentioned Freitas is her owner, is precisely the document which declares the residence of Freitas to be in this city; a fact which, coupled with the finding of Africans on board, although under the specious pretence of their being colonists for Mozambique, the which can never deserve the slightest credit, affords every presumption that her destination was really that of bringing these wretched creatures to be thrown on some point of Brazil, for the inhuman and prohibited traffic in slaves; a presumption which is further corroborated by the marks found on the Africans themselves, serving, as usual, to indicate the persons to whom they belong.

It is shown that this brig, having been despatched at Angola, in ballast, for the port of Mozambique, to touch at those of this city and of Montevideo, after having been two months at sea, without any log or other document being produced to account for the putting into Benguela, appeared there, receiving, in spite of the orders of the Portuguese Government, the Africans above mentioned, with whom the brig was proceeding to Brazil. Without inquiring, therefore, into the truth or the falsehood of the sale latterly made of this vessel, on account of the suspicion arising from the difference of price between three contos of reis, for which she was sold in 1836, and the reduced price of one conto, six hundred milreis, for which it is said she was sold in the last instance; and without adverting either to the infraction of the bond given to take no other cargo than water as the ballast referred to in the several clearances, or to the many other frauds, affording, if not complete proof, at least every presumption that the whole of this transaction is no other than a complete contraband carried on, in all probability, on account of Brazilian subjects residing in this city, as indeed is publicly reported, the Commissary Judges, on the single ground that this vessel was fitted out and laden here by the said Joaquim Pedro de Freitas—that his residence is here, as is positively declared in the certificate of the register above mentioned, and as the Master and Mate deposed, and thus comprehended in the instructions addressed to this Commission, in virtue of which it is invested with the necessary authority to take cognizance of, and adjudge, all vessels which, in such circumstances, are employed in the illicit traffic in slaves—deem the detention of the brig-schooner "*Diligente*," seeing what has been stated, to be valid, and condemn it, its equipment, and whatever cargo may be on board, besides the Africans, as good prize to Her Britannic Majesty's sloop "*Electra*;" and declare the Africans now in existence, in number 246, to be emancipated and placed at the disposal of the Imperial Government: the

whole in virtue of the conventions of the 28th July, 1817, and 23rd November, 1826, of the Instructions referred to, and of the 7th Article of the Regulations annexed to the former of the said Conventions.

(Signed) JOAO CARNEIRO DE CAMPOS.
GEO. JACKSON.

A true copy.

(Signed) BRAZ MARTINS COSTA PASSOS,
Secretary.

A true translation.

(Signed) JOHN BAPTISTE COSMELLI,
Interpreter ad hoc to the Mixed Commission.

Rio de Janeiro, 10th January, 1839.

Second Enclosure in No. 58.

Report of the case of the Brig-Schooner "Diligenté."

THIS is the first vessel that has come before the Court with the certificate of register enjoined by the Portuguese Decree of the 17th December, 1836.

In the following year, having been sold at Loanda by one subject of Portugal to another, Joaquim Pedro de Freitas, and having found her way to the coast of Brazil, whether direct at once to this port or to any other does not appear, she was fitted out and despatched by that individual, in January, 1838, with a passport from the Portuguese Consul-General at Rio de Janeiro, for a voyage to the Cape de Verd Islands and the coast of Africa. With this passport she proceeded direct to Angola; and the above-mentioned Decree having been promulgated in that province on the 20th June last, she was duly registered in conformity thereto.

This register, bearing date 9th July, 1838, declares the "*Diligenté*" to be Portuguese built, and her owner, Joaquim Pedro de Freitas, to be resident at Rio de Janeiro. With this document on board, she appears to have sailed from Loanda in that month, with a passport from the then Governor, Manoel Bernardo Vidal, for Mozambique, to touch at Rio de Janeiro and Montevideo. This passport declares both her owner and Captain to be subjects of Her Most Faithful Majesty, Donna Maria II., but says nothing of any cargo.

Her clearances, however, state her to be in ballast, with 18 pipes of fresh water, and 33 casks of salt water.

From July to September we have no other notice of her than an incidental admission of her Captain, that she was at Benguela in the end of August. No log or protest whatever appears to account for the interval; but, on the 26th September, she appears, by a *visa* of her original passport by the Governor of Benguela, Antonio Manoel Nogueira Campos, to be at that port, on pretext of having sprung a leak; and by a licence to pass the fortress, signed by the Lieutenant-Governor, F. Cangas, to have sailed again from thence on the 31st October.

On the 1st December, she was detained, sailing under Montevidean colours, when first seen, and under Portuguese, when captured by Her Majesty's sloop "*Electra*," William Preston, Commander, in lat. 16° 38' south, long. 29° 54' west, having on board 302 slaves.

These slaves, it appears by a Letter of Orders, dated Benguela, 31st October, 1838, and signed by the owner of the "*Diligente*," Joaquim Pedro de Freitas, were received on board, on leaving that port, to be taken, as colonists, to Mozambique, touching at Montevidean, and at Rio de Janeiro, only in case of extreme necessity.

On the 12th December, the declaration of the Captor, together with the ship's papers, were received, and sworn to before the Court, by Lieutenant Albert Heseltine, to whose charge Commander Preston had committed the prize, and the usual monition having issued, according to the practice of this country, the examination of the only two white individuals on board the "*Diligente*" (the others having been carried on to England by Commander Preston) commenced.

The first witness, Emigdio Ribeiro da Silva, swore, that he is a native of Lisbon, and subject of Her Most Faithful Majesty, that he is the Captain of the "*Diligente*," that he was appointed to the command in December 1837, by the Owner, Joaquim Pedro de Freitas, then residing at Rio de Janeiro; that the vessel sailed

with a passport from the Portuguese consul, for the Cape de Verds, and the coast of Africa, and that no other person than the aforesaid Joaquim Pedro de Freitas, had any interest either in the vessel or in the adventure; that he had no intention of landing the Africans on the coasts of Brazil, and that the "*Diligente*" was bound to Moçambique with the colonists, in conformity to his letter of orders, although he admitted that she sailed from Loanda in ballast.

The second witness, Joaõ Raimundo Pereira, who is said in the muster-roll, to be born at Lisbon, swore that he is a subject of Portugal; that he was appointed, at Rio de Janeiro, in January, 1838, pilot to the "*Diligente*," by her owner, Joaquim Pedro de Freitas, then residing there; that the "*Diligente*" was bound, in ballast, to Moçambique, to touch at Montevideo and Rio de Janeiro, but that, having put into Benguela, it was then the negroes were received on board, without his being told for what purpose; that he had known this vessel for two or three years, and that she had always sailed under the Portuguese flag.

In the course of the examination of this witness, it further appeared that he had been in the naval service of Brazil; and that, though described in the muster-roll as a bachelor, he was, in fact, married to a Brazilian, and that he lived in the province of Rio de Janeiro, where he left his family when he embarked on board the "*Diligente*" for Africa.

A claim was filed by the Captain, Emigdio Ribeiro da Silva, on behalf of the reputed owner of the "*Diligente*," Joaquim Pedro de Freitas, praying for her release, as Portuguese property, as proved by the passport, and other documents, with which she sailed, and denying the competency of this Court, in consequence, to take cognizance of her; but the Commissary Judges, taking their stand on the certificate of register, which declared the owner, Joaquim Pedro de Freitas, to be a resident at Rio de Janeiro, and on the fact of his having fitted out the vessel in this port, condemned, on the 10th January, 1839, the "*Diligente*" as Brazilian, under the instructions addressed to this Commission* in 1834-1835, respecting temporary subjects, and emancipated the surviving slaves, in number, 246; 55 having died, and 1 being missing since capture.

(Signed)

GEORGE JACKSON.
FREDERICK GRIGG.

Rio de Janeiro, 10th January, 1839.

No. 59.

Her Majesty's Commissioners to Viscount Palmerston.—(Received March 21.)

MY LORD,

Rio de Janeiro, January 16th, 1839.

YOUR Lordship will observe, that, in the sentence of the Court on the "*Diligente*," no mention is made of the individuals captured on board, and implicated in that transaction, they being all Portuguese, and the Commissary Judges not deeming themselves authorized, in virtue of the instructions under which this vessel has been condemned,—the first case of the kind that has occurred,—to declare them guilty of piracy; as would have been done, had the individuals in question been subjects of Brazil, or of Great Britain.

In the enclosed translation of a letter from the Brazilian Commissioner to his Government, which he has communicated to us confidentially, your Lordship will see the view taken by the Court of this question, as well as the course adopted by them; which we have communicated to Her Majesty's Chargé d'Affaires, in case the subject should come under discussion between that gentleman and the Brazilian Government.

We may observe, that the question, as put in the above letter, is rather loosely worded; the point being, not what individuals should be included in the sentence, but whether any, other than Brazilian subjects, were liable to be so, in virtue of the principle established by the aforesaid instructions.

"The question, however, is mainly important upon principle, there being little doubt that any person whatever declared guilty by the Commission, would assuredly be acquitted by a Brazilian Jury, whatever his country; unless, indeed, in the case—we trust, not to be supposed—of an English subject, when a jury would be no less sure to wreak their vengeance on the victim, for the anxiety of his nation

and Government to suppress a trade, on the continuance of which they believe their existence to depend.

It may not, perhaps, be improper here to remark—though we do not ourselves attach the importance to the circumstance which it appears to have merited from others—that a threat has been held out to Mr. Stevenson, the gentleman who, in former cases, has been employed on the part of British captors, that, if he interfered, in any way, in the cases now before the Court, he would certainly be way-laid and murdered. The consequence has been, that the Prize-masters have done no more than bring their papers into Court, and that they have been left without any professional assistance whatever.

(Signed)

GEORGE JACKSON.
FRED. GRIGG.

P.S. On reflection, we think it incumbent upon us to add, that the want of assistance above alluded to, has been supplied by Her Majesty's Consul, with a zeal tempered only by the recollection of the contingent relation he stands in towards this Commission, and with all the activity which his other avocations admit of.

(Signed)

G. J.
F. G.

The Right Hon. Viscount Palmerston, G.C.B.,
&c. &c. &c.

Enclosure No. 59.

(Translation.) *The Brazilian Judge to the Brazilian Minister.*

SIR,

Rio de Janeiro, January 10th, 1839.

I HAVE the honour to lay before your Excellency the enclosed copy of the sentence pronounced by the Mixed Commission in the case of the brig "*Diligente*," lately captured by Her Britannic Majesty's sloop "*Electra*," for having Africans on board.

The Commission having given this sentence in conformity with the Instructions of the 15th December, 1834, ordered to be observed by the Portaria of the 29th October, 1835, but not considering the said Instructions to extend to the declaring also what individuals are implicated in this illicit traffic, to include them in the said sentence; the Court has judged it expedient that I should lay before the Imperial Government the names of such individuals, in order that the said Government may determine respecting them what it shall think fit; viz:—

Joaquim Pedro de Freitas, who calls himself a Portuguese, and owner of the aforesaid vessel; Emigdio Ribeiro da Silva, Master; Joze Raimundo Pereira, Mate; and Manoel de Carvalho, Boatswain of the same—

All Portuguese; the Mate, however, being married here, and residing in this province, and who, having been sent to the Marine Hospital for medical treatment, is known to have made his escape from thence.

God preserve your Excellency.

(Signed)

JOAO CARNEIRO DE CAMPOS,

Brazilian Commissary Judge.

To his Excellency Antonio Peregrino Maciel Monteiro,
&c. &c. &c.

No. 60.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, March 22nd, 1839.

I BEG to refer you to your report, upon the several slave vessels adjudicated by the Mixed Court of which you are members, and to point out to you, that the abstract of facts and circumstances therein given is not sufficiently ample, and does not contain the information necessary to enable Her Majesty's Government to form a sure opinion upon the merits of each case respectively.

I have to desire that you will, on all future occasions, transmit to this office a translation in full of the deposition made by each witness examined before the

Court, together with copies or translations of every paper which may, on each case, have been laid before the Commissioners, and a statement of the argument which may have been given by each member of the Court, in illustration of his view, and in support of his decision.

I am, &c.
(Signed)

PALMERSTON.

Her Majesty's Commissioners,
&c. &c. &c.

No. 61.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 8.)

MY LORD,

Rio de Janeiro, January 22nd, 1839.

MR. OUSELEY has communicated to us an extract from the log of Her Majesty's ship "Herald," from which it appears that Captain Nias, of that ship, on his late passage to this port, boarded a vessel under Brazilian colours, fitted out for the Slave Trade.

As Her Majesty's Government has, doubtless, full knowledge of this circumstance, we notice it only in consequence of the understanding which we are led to believe exists in the service, and which the non-detention of the vessel by Captain Nias would seem to accredit, that Brazilian slave-vessels cannot be captured except with slaves on board.

This opinion, my Lord, we hold to be erroneous, and that the Convention of the 23rd November, 1826, gives this Commission every requisite authority to take cognizance of and adjudge any Brazilian case of Slave Traffic whatsoever, whether the vessel be detained with or without slaves on board. That this Government acquiesces in this view of the question, is evident from the fact, that, in several instances, vessels without slaves on board, but in which Brazilian subjects were interested, wholly or in part, have been captured and brought before this Commission. For example—

The "*Pacquete do Sul*," in 1834, captured by His Majesty's sloop "Satellite."

The "*Dous de Março*," also in 1834; the "*Aventura*," in 1835; captured by Brazilian ships of war.

The "*Vencedora*," in 1836, captured by His Majesty's sloop of war "Hornet."

Three of these were taken under Portuguese, and one, the "*Dous de Marco*," under Brazilian colours. Two were condemned, the "*Pacquete do Sul*" and the "*Aventura*;" and of the remaining two, one was released, and the other restored; the first, however, on the ground only of her being exclusively Portuguese—a sentence in which Her Majesty's Commissary Judge was overruled; the second solely because she had been detained by a ship of war, Her Majesty's branch packet, unfurnished with the requisite instructions.

The difficulty has hitherto been to prove the existence of Brazilian interest, and to tear off the Portuguese mask; but this is considerably diminished by your Lordship's instructions of the 30th April last; and, as we had the honour of stating in our Despatch, acknowledging those instructions, we have little doubt that the greater number of vessels which are daily leaving the coast for Africa would be found, on detention, to be liable to condemnation. The misfortune is, that we have so few cruisers employed in this service; and that when a vessel is taken, from the impunity with which the traffic is carried on, the case is considered and denounced as one of individual hardship; a cry in which the commercial community, with scarce an exception, is ready to join.

We have, &c.
(Signed)

GEORGE JACKSON.
FREDERICK GRIGG.

The Right Hon. Viscount Palmerston. G.C.B.,
&c. &c. &c.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 8.)

MY LORD,

Rio de Janeiro, January 22nd, 1839.

The sentence of the Court, in the case of the "*Diligente*," had no sooner been intimated to the parties, than the proctor, on behalf of her master, petitioned to be allowed to present embargoes to that sentence.

The Brazilian Commissary Judge pressed for their admission on the ground so often insisted on, namely, that till some fresh agreement shall be concluded between the two Governments, this resource cannot, by the laws of Brazil, be denied.

Her Majesty's Commissary Judge could only repeat his former arguments, and adhere strictly to his determination, recorded on admitting embargoes in the case of the "*Brilhante*," not, thence forward, to be in any way a party to their future admission.

Ten days being allowed by the Decree for the presentation of embargoes, and the Proctor having petitioned for leave to offer them, it became a question of some nicety to agree upon such a reply as should not commit, or militate against the opinion of either of the Commissary Judges.

After some discussion, it was agreed to intimate to the Proctor, that a difference of opinion existing between the Commissary Judges respecting the admission of embargoes to the sentences of the Commission, he might apply to whom he thought proper.

In a few days, after fruitlessly renewing the attempt to obtain the admission of his embargoes, the Proctor published, in the public papers, a petition to His Imperial Majesty to issue orders to the Commission to receive them, and yesterday the Brazilian Commissary Judge presented a Protest against the refusal of his colleague, a Copy and Translation of which we have the honour to enclose herewith, as also of a Counter Protest which Her Majesty's Commissary Judge has deemed it his duty to offer thereto.

We have only further to assure your Lordship, that no exertion has been wanting, on our part, to bring this question to a satisfactory conclusion; but we fear that no progress can be made in it till the receipt of instructions from your Lordship.

We have not failed, however, to keep Her Majesty's Chargé d' Affaires fully informed of what has passed, and we are happy to be able to state that the Negroes are more healthy than we have known them to be on any former occasion, particularly those captured by the "*Wizard*."

We have, &c.

(Signed)

GEORGE JACKSON.
FREDERICK GRIGG.

The Right Hon. Viscount Palmerston, G.C.B.,
&c. &c. &c.

First Enclosure in No. 62.

(Translation.)

Protest.

THE ten days since the publication of the first Sentence of this Commission respecting the brig "*Diligente*," in which, according to Brazilian legislation, the embargoes which that legislation permits to parties should be decided and adjudged, having this day expired, and the said embargoes not having been admitted, on account of the reluctance evinced by the British Commissary Judge in his opposition to such a resource, insisting on the execution of the first Sentence, without allowing the said embargoes to be offered, a pretension this which, not being comprehended in the existing treaties between the Governments of Brazil and Great Britain, is dependent either on a new arrangement between the two Governments, or on an alteration of the legislation of the country, the which, according to the system of the Brazilian Government, cannot take effect without the intervention of the legislative body. The Brazilian Commissary Judge, not having been able to induce his colleague to concur in continuing to observe the practice hitherto followed even by this Commission, of admitting, and deciding such embargoes and considering that not only a great addition to the expense of the maintenance of the Africans, and of the charge of the vessel, must necessarily result from the

delay in the failure of the execution of the sentence in question, which cannot take effect without the formalities of the law being duly satisfied, but also a great mortality among these unfortunates, particularly affected as they are with small-pox, finds himself under the painful necessity of protesting, as he does solemnly protest, not only against the want of observance of the legislation of the country by which this Commission has hitherto been regulated, but for all expenses which, from this day forward, may be incurred on account of the above mentioned Africans, in order that his Government may not, by a circumstance in which it has no part, have to satisfy such expenses, nor be responsible for the injuries and losses which may accrue, as well in the above mentioned brig as in its respective cargo.

(Signed) **JOAO CARNEIRO DE CAMPOS,**
Brazilian Commissary Judge.

A true Translation,

JOHN BAPTIST COSMELLI,
Interpreter ad hoc to the Mixed Commission.

Rio de Janeiro, 21st January, 1839.

Second Enclosure in No. 62.

(Translation.)

Counter Protest.

HAVING reflected on the Protest presented yesterday by his illustrious colleague with all the attention which the importance of the subject and the respect due to the acknowledged intelligence and straight-forward character of its author demand, the British Commissary Judge can add but little in confirmation of the view he takes of this question to what he has already often had the honour of submitting respecting it.

He pretends not, therefore, to re-open the argument, but simply to remind his worthy colleague that this Commission is a special and exceptional tribunal, and that not only is it not regulated by Brazilian Legislation, but that, by the Third Article of the Convention of the 28th July, 1817, it is expressly stipulated that the legislation of Portugal (Brazil) shall be assimilated as much as possible (in matters tending to the suppression of the traffic in slaves) to that of Great Britain; that in conformity to this stipulation, the Commission is required, by the First Article of the Regulations, to decide (as far as may be practicable) within the space of 20 days, to be dated from that on which every detained vessel shall have been brought into the port where it shall reside, an injunction which embargoes would render it impossible to obey, and that this principle would seem to have been so fully recognized by the "Despacho" given by this Court in the case of the "*Africano Oriental*," and signed by his worthy colleague himself as Brazilian Commissary Judge; that among other reasons given for not receiving the embargoes offered in that case, it is declared that such reception would militate against the above recited First Article of the Regulations.

With these observations, and the assurance that he will lose no time in bringing the above Protest to the knowledge of his Government, the British Commissary Judge passes on to the distressing but no less imperative duty of offering his Counter Protest to that of the Brazilian Commissary Judge, a duty which he cannot perhaps better perform than in the very words—*mutatis mutandis*—employed by him.

Convinced, therefore, that the delay and other consequences dwelt upon by him in his Protest respecting the brig "*Diligente*" are solely to be attributed to the non-execution of the sentence duly pronounced on the 10th instant, the British Commissary Judge hereby solemnly protests, in the name of his Government, not only against the non-observance of the Convention under which the Court is instituted, but for all expenses which from this day forward may be incurred on account of the above mentioned Africans, in order that his Government may not by a circumstance in which it has no part have to satisfy such expenses, nor be responsible for the injuries and losses which may accrue, as well in the above mentioned brig as in its respective cargo.

(Signed) **GEORGE JACKSON.**

A true Translation,

JOHN BAPTIST COSMELLI,
Interpreter ad hoc to the Mixed Commission.

Rio de Janeiro, 22nd January, 1839.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 19.)

MY LORD,

Rio de Janeiro, January 31st, 1839.

THE second slave vessel, mentioned in our Despatch of the 5th instant, viz., the brig-schooner "*Feliz*," detained by Her Majesty's brig of war "*Wizard*," Lieutenant Birch, Commander, on the 27th December, 1818, declaring herself to be Portuguese, but having no colours hoisted, when first seen, was condemned by this Court as Brazilian property, and her then surviving slaves, 229 in number, emancipated in the usual form, on the 10th instant.

We have now the honour to enclose, in original and translation, the sentence of the Court, with our report of the case.

In drawing up the former, the Commissary Judges were unanimous; but, on the presentation of embargoes which the claimant offered, as usual, as soon as the sentence was intimated to him, the obstacle to the due execution of the sentence, arising out of that question, was again raised.

Further argument, on either side, being useless, the Commissary Judges have limited themselves to returning the same answer to the petition, which they had already given in the case of the "*Diligente*," and communicating the circumstance, the one to Her Majesty's mission, the other to the Imperial Government.

We have, &c.,

(Signed

GEORGE JACKSON.
FRED. GRIGG.

The Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

First Enclosure in No. 63.

(Translation.)

Sentence.

THE present proceedings being examined, it is seen that the brig-schooner "*Feliz*," formerly the Sardinian patacho "*Susanna*," was sold in this port on the 10th September, 1836, to Manoel Jozé de Carvalho, a Portuguese subject residing here, who gave her the name which she now bears.

It does not appear, by the papers annexed to these proceedings, what destination he gave her from that time to July, 1838; but it is shown that, in that month and year, he despatched her from this port for the Cape de Verds and the ports of Africa, and that, reaching Benguella, she sailed from thence, in December following, with a cargo of 242 Africans, who, under the title of colonists, it is pretended were shipped, by Jozé Joaquim Ferreira, for Mozambique, to touch at this port of Rio de Janeiro, for which she was making when detained by the English brig-of-war "*Wizard*," on the 27th December last, in latitude 23° 59' south, and longitude 43° 18' west, for having then on board 236 of the above-mentioned Africans.

It is well understood that the sole purport of the Portuguese flag, under which all vessels sail from this port, destined for the inhuman traffic in slaves, is to cloak the fraud with which such speculations are managed as if belonging to Portuguese subjects, who barely lend their names to cover the real owners, for the most part Brazilian subjects residing here, of which the present proceedings afford abundant indication, not only from the different letters seized on board of this vessel, from individuals here established; in one of which, speaking of commissions, it is even recommended to endeavour to reach, if possible, the point of the bar; but also from the contradictions observable in the depositions, particularly in that of Joao Pedro Ferreira, who, having, on his first examination, asserted that, when he agreed for his passage on board of this brig, at Benguella, he did not know that she was to carry Africans, under the title of colonists, and had only knowledge of this by seeing them on board, and that, having left this for the coast of Africa in the year 1836, he remained there till the moment of his return from thence in the same, declared, on being shown, on a second examination, the "*Jornal do Comercio*," from which it appeared that he sailed from hence, as Captain, in this very vessel, in July, 1838, being unable to deny this fact, declared, that he gave up the command in Benguella, on finding that she was to carry Africans,

contradictions so palpable as to cause well-grounded suspicion, not only that this individual is still the real master of this vessel, although another figures as such in the respective documents, but that he is the principal agent in the whole adventure, which probably belongs to subjects of this empire, as well because no credit can be given to the title of colonists, with which these unhappy Africans are invested, being in reality destined for the barbarous slave traffic, as appears as well by the marks which they bear, indicating the persons to whom they are addressed, by their coming in irons, and by other circumstances inconsistent with the treatment which they would receive, if, by chance, they had been shipped as colonists, as, by the fact that the letter of orders from the pretended freighter and shipper of the same is nothing more than a fresh subtlety to cover the object of this criminal speculation.

Seeing, then, what has been demonstrated, and without entering into a new and minute analysis for the purpose of discovering and bringing fully to light those really interested in this adventure, and attending only to the circumstance that this vessel was bought here, as is shown by the copy of the bill of sale annexed to these proceedings, by the Portuguese subject, Manoel Jozé de Carvalho, then resident in this city; that he here fitted her out, and sent her on a voyage to the ports of Africa, although he now pretends to prove, by a "justification," that his actual residence is in Africa, because, besides that a mere gratuitous "justification," and which is so easily obtained in such matters, is undeserving of consideration, and cannot, of itself, destroy the principal title to national character with which this vessel was navigated, namely, the certificate of register required by the commercial code of Portugal, and which, under date of 28th November, 1838, expressly declares the said Carvalho to be residing in the city of Rio de Janeiro, there moreover exists an additional declaration, in the letter of orders, that the object of touching at this port was solely to receive from the owner of the brig some person who should take charge of the same at Mozambique; a declaration, which, being a continuation of the fraud which marks this whole transaction, is no less a convincing proof of the residence of the aforesaid Carvalho in this city.

The Commissary Judges, therefore, in virtue of the recent instructions addressed to this Commission, adjudge lawful the detention of the brig schooner "*Feliz*," and declare her to be a good prize to Her Britannic Majesty's brig-of-war "*Wizard*," and condemn her, with whatever cargo may be on board, besides the Africans, whom, to the number of 229 surviving, they declare to be free and emancipated; to be placed at the disposal of the Imperial Government; the whole in virtue of the conventions of 28th July, 1817, and 23rd November, 1826, of the aforesaid instructions, and of the 7th Article of the regulation annexed to the former of these conventions.

(Signed) JOAO CARNEIRO DE CAMPOS.
GEORGE JACKSON.

A true copy.
(Signed) BRAZ MARTINS COSTA PASSOS,
Secretary.

A true translation.
JOHN BAPTIST COSMELLI,
Interpreter ad hoc to the Mixed Commission.

Rio de Janeiro, 30th January, 1839.

Second Enclosure in No. 63.

Report of the case of the brig schooner "*Feliz*," condemned on the 30th January 1839.

This is the second vessel condemned by this court, in virtue of the instructions transmitted to it in 1834-5, on the subject of temporary residence, and in consequence of information derived from the certificate of register given to her on the coast of Africa, in pursuance of the commercial code of Portugal.

The "*Feliz*" was sold at Rio de Janeiro, in 1836, by a Sardinian to a Portuguese subject resident there. How she was employed from that time to July, 1838, does not appear; but in that month and year, she was despatched from hence, with a passport from the Portuguese consul, for the Cape de Verds, and the coast of

Africa, by the same individual, Manoel Jozé de Carvalho—and, in December following, was on her return voyage from Benguella, with a cargo of 236 Africans said to be bound, as colonists, for Mozambique, when she was detained on the 27th December 1838, by Her Majesty's brig "Wizard," Lieutenant Birch commander, in Lat. 23. 59. S. Long. 43. 18. W.

The documents, with which she was then navigating, were furnished by the Governor ad interim, and other authorities of Benguella, and declare her to be owned and commanded by subjects of Portugal, and to be bound, in ballast, for Mozambique, and touch at Rio de Janeiro, manifesting only thirty pipes of water, and some stone.

On the 5th January 1839, Lieutenant Birch personally appeared and made oath, before the court, to his declaration; and the usual monition having issued, according to the practice of this country, five witnesses were examined.

The first, Jozé Joaquim da Silva, sworn, that he was a Portuguese subject, and boatswain of the brig-schooner "*Feliz*;" that he joined her at Benguella, where he had recently arrived from Lisbon; that he was hired by Jozé Joaquim Ferreira, (a well-known slave-dealer at Benguella,) who freighted her from the owner, Manoel Jozé de Carvalho; that his agreement was to sail for Mozambique with colonists, first touching at Rio de Janeiro to land passengers, and obtain a supply of water and provisions, that the shipment of these colonists was permitted by the authorities at Benguella; that they embarked voluntarily, but that some came in irons, and that if they bore any marks about them, such marks must have been made in the interior of the country; that the "*Feliz*" was making for this port when first seen by the "Wizard," but that she attempted to escape, because they had been told that a pirate was on the coast, and that they mistook the "Wizard" for one.

The second witness, Sebastião da Fonseca, swore that he was a subject of Portugal, native of Algarve; that he was hired by the owner of this vessel as pilot, when about to sail from hence in July, 1838; that on his arrival at Benguella he was discharged, but rejoined her when about to return to Rio de Janeiro. His testimony, on the other points, was the same as that of the preceding deponent.

The third witness, Joaõ Pedro Ferreira, who had already been before the court, as Master of the "*Dois de Marco*," detained in 1834, swore that he was a native and subject of Portugal, that he had no knowledge of the owner of the "*Feliz*," nor any concern in her cargo, that he came in her as passenger, believing she was to sail in ballast, and that it was not till afterwards that he knew of any Africans being shipped, which was done in open day, under the eyes of the authorities at Benguella; that, since 1834, he had given up the Maritime career, and that, in 1836, he had left this for Africa, were he had remained till his return in this vessel.

On a second examination, proof was produced of the falsehood of this statement, and that, on the outward voyage of this vessel, he had sailed from hence, in her, as captain.

This fact, which he at first attempted to deny, and other contradictions in his evidence, left no doubt that he was still the real captain of the "*Feliz*," although another person was declared to be so in the passport.

He alleged ignorance of the owner, Manoel Jozé de Carvalho, he still persisted in declaring that he was appointed to the command by Antonio da Costa Ferreira, who then resided in Rio de Janeiro, but who repaired to Africa in this vessel.

The fourth witness, Joaõ Pereira da Costa, swore that he was a native and subject of Portugal, that he knew nothing as to the ownership of the "*Feliz*;" that he came in her as passenger from Benguella, where he agreed for his passage with Ferreira, who freighted the vessel; that he came to Brazil in 1829, and that the trade of barber which he carried on, not answering, he had repaired to the coast of Africa to trade, but not in Negroes. It was quite evident, however, from letters, &c. directed to him, and found on board, that he was very extensively concerned in this transaction.

The fifth witness, Antonio da Costa Ferreira, (who appointed the Captain to the command on the outward voyage,) swore that he is a native of Portugal; that he has been thirteen years in Brazil, and that he has resided in the country ever since, having been employed as clerk by different houses; that he shipped from hence as second Pilot of the "*Feliz*," although ignorant of navigation, appointing Joaõ Pedro Ferreira captain, in July, 1838, by order of Manoel Jozé de Carvalho, who had bought the vessel, and was at Rio de Janeiro when she sailed; and that, falling

ill on the coast, he agreed with Ferreira, at Benguella, to return in her as passenger.

A claim was presented by the Proctor of the Captain of the "*Feliz*," denying the competency of this Court, and praying for the restitution of the vessel and cargo, and for compensation, on the two-fold ground, that they belonged to a Portuguese subject, and that, even admitting the principle of temporary residence, such principle could not apply in this case, inasmuch as the owner no longer resided in this empire, and protesting, therefore, against all concerned.

In support of this, the several Portuguese papers with which the "*Feliz*" was sailing were adduced; but the Commissary Judges, looking only to the certificate of registry, which declared her owner to be resident at Rio de Janeiro,—confirmed as it is in this case by other internal evidence,—and on the acknowledged fact, that the individual so described, Manoel José de Carvalho, fitted out this vessel himself in July, 1838, in this port, and sent her to the coast of Africa—condemned, on the 30th January, 1839, the "*Feliz*" as Brazilian, and emancipated the surviving slaves, to the number of 229, seven having died since the capture.

(Signed)

GEORGE JACKSON.
FREDERICK GRIGG.

Rio de Janeiro, 30th January, 1839.

No. 64.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 8.)

MY LORD,

Rio de Janeiro, February 4th, 1839.

WE have the honour to acknowledge the receipt of your Lordship's Despatch, 5th December, 1838, acquainting us that you had referred our several Despatches upon the subject of the slave-vessel "*Flor de Loanda*," to Her Majesty's Advocate-General, and that, under the circumstances adverted to by your Lordship, the Mixed Commission Court would have been justified in attributing a Brazilian character to the "*Flor de Loanda*," and in dealing with that vessel, and with the slaves on board, accordingly.

As such a case as that of the "*Flor de Loanda*" can never recur, we will not trouble your Lordship with a recapitulation of the grounds on which the Commissary Judges founded their sentence in that case; but we beg leave respectfully to remark, that the two main motives suggested in your Lordship's Despatch for condemnation of the "*Flor de Loanda*," and which formed the distinction between that vessel and the "*Brilhante*," were wanting in the former instance, namely, that derived from the certificate of registry, and from the passport required by the Decree of 10th December, 1836, the same not having been promulgated here till the 30th March, 1837, and, consequently, not till after the sailing of that vessel from hence, the Brazilian license to her to pass the forts bearing date the 9th of that month.

We have, &c.

(Signed)

GEORGE JACKSON.
FREDERICK GRIGG.

The Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

No. 65.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 8.)

MY LORD,

Rio de Janeiro, February 5th, 1839.

WE have had the honour of receiving your Lordship's Despatch of the 5th December, 1838, in which you wish us to explain, with reference to the last paragraph of our Despatch of the 26th September of last year, "how and why" the various circumstances which have occurred, with regard to the "*Flor de Loanda*," since the final sentence of the Court on the 19th June, have been of a nature to do more harm to our cause, and to indispose even those most favourable to the suppression of the traffic, than any event within our recollection.

In reply, we have the honour to state, that this observation made in our report, of the providential escape of the "*Flor de Loanda*" from a fate which was universally anticipated, if the intention of sending her again across the Atlantic were persisted in, had a two-fold reference—the one to the sufferings of the Africans, the other to the proceedings adopted towards her crew.

With regard to the first object, the mortality and misery which had already attended this unhappy cargo—destitute for a long time, during the most inclement season, not only of the necessaries, but even of the decencies, of clothing—were unexampled.

With respect to the second, it was thought, so soon as the incompetency of the Mixed British and Brazilian Commission in this case was declared, and the refusal both of the Imperial Government and of the Portuguese Consul to take charge either of the vessel or of the negroes was ascertained, that she should at once have been given up, or have been taken, without delay, to Sierra Leone, instead of being kept, in the miserable state she was, in this harbour, for three months: and moreover, however atrocious might be the crime of the individuals concerned in her, that the conduct practised towards them, such as putting them repeatedly in irons, &c., was not warranted by the Instructions, under which the seizure was made, nor by the Portuguese Decrees, supposing them even to have been applicable to the "*Flor de Loanda*," and British cruisers to be authorised to enforce the same. Such was the general feeling on the subject—such were the sentiments expressed to us by our colleagues, and in which it would be a want of candour on our part to deny our own participation.

We have thus, my Lord, without that miserable detail into which we might have entered in justification of the opinion expressed by us, explained the feelings in which it originated, and which was yet further confirmed by observing, that, while the friends of England and of the suppression of the traffic were left with little to urge in reply or palliation, those engaged in, or friendly to, the traffic, tauntingly pointed to the horrors of this case, as a proof of the benefits to humanity resulting from her interference.

We have, &c.
(Signed) GEORGE JACKSON.
FREDERICK GRIGG.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

No. 66.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 8th.)

MY LORD,

Rio de Janeiro, February 12th, 1839.

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 5th December last, transmitting to us copies of correspondence which has passed between the Foreign Office and the Admiralty, from which we perceive, with no small satisfaction, that a vessel will be sent out to Rio, to serve as hulk for the reception of negroes from on board of slave traders captured by Her Majesty's ships, so soon as a suitable ship can be provided.

We beg to return our best acknowledgments to your Lordship for this communication, which we have made known to the Court.

We have, &c.
(Signed) GEORGE JACKSON.
FREDERICK GRIGG.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

No. 67.

Her Majesty's Judge to Viscount Palmerston.—(Received April 8.)

MY LORD,

Rio de Janeiro, February 14, 1839.

I HAVE the honour to acknowledge the receipt of your Lordship's dispatch of the 5th December, 1838, referring me to a paragraph contained in the letter from Dr. William Cullen to Lord Glenelg, of the 28th February of that year, in which he says, "the only Englishmen who obtained any (apprentices) were those belonging to the Mixed Commission;" and wishing to hear from me an explanation of my conduct in the transaction alluded to in that paragraph, and especially as to the charge which appears to be therein implied, that I hired on apprenticeship negroes emancipated by the Mixed Commission.

Her Majesty's Commissioners, my Lord, replied fully, and as they hoped satisfactorily, to every statement which they considered at all deserving of notice in the letter of Dr. William Cullen. Could I for a moment have supposed that your Lordship would have deemed any further matter therein contained to require an answer, much more that it involved any charge which called for explanation from me, most certainly I should not have waited till questioned by your Lordship to give it.

In point of fact no negro emancipated by the Commission was hired by me on the occasion referred to by Dr. Cullen; but it is no less true that I had previously hired one of those apprehended by this Government under their law of the 7th November, 1831; and that I have subsequently engaged the services of two more, taken on board the "*Orion*," and emancipated by the Commissioners in 1836.

In doing so, I considered that I was not only following an approved precedent set me by my predecessors, as announced in a dispatch from Mr. Hayne to the late Marquis of Londonderry of the 24th October, 1821, but that I was best consulting and carrying into practical effect the humane intentions of Her Britannic Majesty's Government, the three Africans so circumstanced in my family being perhaps among the very few whose eventual liberty and wages can be considered as secure. They are, I need hardly say, treated with every proper care, and are qualifying themselves to gain their own livelihood as household servants, at the expiration of their apprenticeship.

I have, &c.

(Signed)

GEORGE JACKSON.

The Right Hon. Viscount Palmerston, G.C.B.

&c.

&c.

&c.

No. 68.

Her Majesty's Commissioners to Viscount Palmerston.—(Received April 8.)

MY LORD,

Rio de Janeiro, February 15, 1839.

WE have the satisfaction of enclosing to your Lordship, in original and translation, the copy of an "Aviso" addressed, under date of the 14th instant, by the Brazilian Minister for Foreign Affairs to the Brazilian Commissary Judge, communicating to him the determination taken by the Regent, in the name of the Emperor, not to require, on the part of the Mixed British and Brazilian Commission, established in this city, the admission of Embargoes either in the two cases, now pending of the "*Diligente*" and "*Feliz*," or in that of any other vessel which may in future be brought before it for adjudication.

As the note, referred to in this "Aviso," will, of course, reach your Lordship through Her Majesty's Mission we do not add it; but we have much pleasure in stating that the sentence in the case of both the above-named vessels, has been already transmitted from this Court to the competent authorities for final execution.

As forming part of the proceedings, we had prepared for your Lordship's information translations of two protests, which were presented to the Court by the respective Proctors against the measure said to have been in contemplation, of sending the "*Diligente*" and "*Feliz*" to some British Colony, as also the copy of a letter in which we forwarded the same to Her Majesty's Chargé d'Affaires;

CLASS A.—FURTHER SERIES.

but the favourable turn which the question of the embargoes appears to have taken precludes the necessity of our troubling you with either.

We have, &c.,
(Signed) GEORGE JACKSON.
FREDERICK GRIGG.

The Right Hon. Viscount Palmerston, G.C.B.
&c. &c. &c.

Enclosure in No. 68,

Palace, February 14th, 1839.

(Translation.)

Aviso.

THE Regent, in the name of the Emperor, having determined, in consequence of the just reasons expressed in the note, the copy of which is enclosed, which has been addressed to Her Britannic Majesty's Chargé d'Affaires, through the Department of Foreign Affairs, under date 4th instant, that the Mixed Brazilian and British Commission in this city shall not admit embargoes to the sentences pronounced by it, as well in the cases of the vessels "*Diligente*" and "*Feliz*" as in that of any other which may in future be brought before it for adjudication, I have to communicate this to you, Sir, for your requisite information, and for the exact fulfilment of the same.

God preserve, &c.
(Signed) ANTONIO PEREGRINO MACIEL MONTEIRO.

No. 69.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, April 26, 1839.

I HEREWITH transmit to you, for your information, a copy of a letter which, by my direction, has been addressed to the Secretary to the Admiralty, respecting the proposed establishment of a hulk at Rio de Janeiro, for the reception of persons from on board Slave Vessels, detained by Her Majesty's Cruizers under the Convention between this country and Brazil on Slave Trade.

I am, &c.,
(Signed) PALMERSTON.

Her Majesty's Commissioners,
&c. &c. &c.

Enclosure in No. 69.

Mr. Backhouse to Mr. Wood.

SIR,

Foreign Office, April 26th, 1839.

I AM directed by Viscount Palmerston to transmit to you, to be laid before the Lords Commissioners of the Admiralty, the accompanying Copies of a Despatch, and of its Enclosures, from Her Majesty's Commissioners at Rio de Janeiro, containing copies of correspondence between the Commissioners and Commodore Sullivan, Commanding Her Majesty's naval force on the Brazil Station; and, with reference to Sir John Barrow's communication to me, of the 23rd of November last, stating that a vessel will, as soon as possible, be sent out to Rio de Janeiro, to be stationed there, for the reception of persons whom it may be desirable to transfer to such ship from slave vessels under process of adjudication, I am to request that you will draw the attention of the Lords of the Admiralty to the increasing necessity for the appropriation of a vessel for the purpose stated. I am to add that it appears to Lord Palmerston to be desirable that such vessel should be so fitted up as to afford all requisite security against the escape of such persons, negroes, and others, as may be placed on board of her; and that it should also have the requisite accommodations and proper officers for the care and treatment of the

sick. And I am to state that Lord Palmerston will be glad to be informed when the arrangements for this service are completed.

Charles Wood, Esq.
 &c. &c. &c.

I am, &c.
 (Signed) J. BACKHOUSE.

No. 70.

Viscount Palmerston to Sir George Jackson.

SIR,

Foreign Office, May 8th, 1839.

I HAVE received your despatch of the 14th of February 1839, containing explanations respecting your employment of liberated Africans as servants.

Without questioning the kindness of your motives in hiring those persons as servants, I think it right to desire that you will not henceforward employ as servants any Negroes liberated under sentence of the Mixed Commission.

You will, of course, understand that this instruction is not intended to sanction your employment of slaves; it is meant to prevent a practice, which may give rise to misrepresentation, and which might lead to abuse.

I am, &c.
 (Signed) PALMERSTON.

Sir George Jackson,
 &c. &c. &c.

No. 71.

Viscount Palmerston to Her Majesty's Commissioners.

GENTLEMEN,

Foreign Office, May 28th, 1839.

I HEREWITH transmit to you, for your information and guidance, a Copy of a Despatch from her Majesty's Consul at Lisbon, inclosing the translation of the Instructions which has been addressed by the Portuguese Government to the Directors of the several Custom-houses of the Kingdom, warning them against some foreign vessels suspected of being about to assume the Portuguese Flag for the purpose of engaging in the Slave Trade.

I am, &c.
 (Signed) PALMERSTON.

Her Majesty's Commissioners.
 &c. &c. &c.

Enclosure in No. 71.

Mr. Smith to Viscount Palmerston, Lisbon, April 22, 1839.

(See Class B. No. 65, page 111.)

SURINAM.

No. 72.

Mr. Samo to Mr. Strangways.—(Received April 22nd.)

SIR,

Surinam, January 26th, 1839.

I HAVE recently been favoured with the enclosed printed minute of the proceedings at a session of the Colonial Council at French Guiana, containing a resolution passed by that body, and declining (conditionally) to accede to some measures for the melioration of their slave population, which have lately been proposed to them by the Government of the King of the French.

I think it right to transmit this document to you, Sir, for the information of Viscount Palmerston and yourself.

I have, &c.

(Signed) JOHN SAMO.

The Honourable W. Fox Strangways,
 &c. &c. &c.

(Enclosure forwarded to the Colonial Office.)

No. 73.

Her Majesty's Judge to Viscount Palmerston.—(Received April 22.)

MY LORD,

Surinam, February 11th, 1839.

I HAVE the honour to transmit herewith the translation of an Act of the Colonial Government, declaring that the value of a slave, in any case, shall not exceed the sum of 1200 guilders (100*l.* sterling).

As this measure emanates from the Council themselves, which is mostly composed of persons connected extensively with slave properties in this colony, it may be presumed that the proceeding will receive the sanction of His Netherlands' Majesty; and I conceive that it may be hailed as a most important step towards carrying into effect any future procedure for the emancipation of the unfortunate slaves.

The total number of negroes held in slavery, within this province, is under 50,000, and, taking the above amount as the maximum, it will be seen that the sacrifice of a comparative small sum would enable the Dutch Government to give entire freedom to these people.

I am informed, by persons who are conversant with the subject, that the number of negroes who might entitle owners to claim the highest valuation, as fixed by this recent law, would be found considerably less than one-twentieth of the whole slave population.

I have, &c.

(Signed) JOHN SAMO.

The Right Hon. Viscount Palmerston, G.C.B.
 &c. &c. &c.

Enclosure in No. 73.

(Translation.)

Publication.

Containing stipulations regarding the manner in which proprietors shall be indemnified in the event of their slaves (in consequence of some extraordinary act of fidelity) being considered by Government as worthy of having the boon of freedom conferred upon them.

In the name of the King,

The Governor-General, *ad interim*, of the Netherlands' West India Possession,

To all who may see or hear these presents read, greeting,

Whereas, it has been deemed necessary that a regular, as well as a reasonable standard should be made with regard to the indemnification to be allowed to the owners of slaves on whom the Government, in certain cases, might wish to bestow the gift of freedom,

We have, after submitting the same to Colonial Council, thought fit and resolved to enact as follows:—

Article 1.

Government shall have the right of appropriating to itself, for the purpose of freedom, any slave who has shown extraordinary marks of fidelity, on indemnifying the owners for the loss of such slave.

Article 2.

The indemnification alluded to in the foregoing Article shall in no instance exceed the sum of *twelve hundred guilders*, and shall be awarded in proportion to the age of the slaves, and their ability in performing field or other labour, by two competent persons, one of whom shall be named by the Government, and the other by the owner of the slave; both parties shall take the necessary oath before the Governor-General, previous to their undertaking such appraisalment.

Article 3.

In case the two persons thus appointed should differ in awarding the amount of indemnification, on application being made by the Procurer-General, in his capacity as representing the Colonial Government, a third party shall be added, and sworn in by a Commission from the Inferior Court of Justice. Should two of the three parties, thus appointed, agree in the amount awarded, their decision shall be conclusive; but, in the event of all three parties differing, the amount awarded by each shall form an aggregate, one-third of which shall be the indemnification allowed.

Article 4.

The present regulations shall be in force, immediately upon their announcement; and, that none may pretend ignorance thereof, they shall be promulgated as usual in the Government papers.

This done and passed at Paramaribo, the 8th day of February, 1839, in the 26th year of His Majesty's Reign.

(Signed) PH. DE KANTER.

By command of his Excellency.

(Signed) G. S. DE VEER,
The Government Secretary.

Published in Paramaribo, the 19th February following.

(Signed) G. S. DE VEER,
The Government Secretary.

No. 74.

Viscount Palmerston to Her Majesty's Commissary Judge.

GENTLEMEN,

Foreign Office, May 28, 1839.

I HEREWITH transmit to you, for your information and guidance, a copy of a Despatch from Her Majesty's Consul at Lisbon, enclosing the translation of an Instruction, which has been addressed by the Portuguese Government to the Directors of the several custom-houses of the Kingdom, warning them against some foreign vessels suspected of being about to assume the Portuguese flag, for the purpose of engaging in the Slave Trade.

Her Majesty's Commissary Judge,
&c. &c. &c.

(Signed) I am, &c.
 PALMERSTON.

Enclosure in No 74.

Mr. Smith to Viscount Palmerston, Lisbon, April 22, 1839.

(See Class B. No. 65, page 111.)

APPENDIX.

SIERRA LEONE. (*General.*)

Her Majesty's Commissioners to Viscount Palmerston.—(Received June 12, 1839.)

(Extract.)

Sierra Leone, December 31st, 1838.

WE have the honour herewith to enclose to your Lordship a list of all the cases, adjudicated in the Mixed Courts, established at Sierra Leone, between the 1st of January and the 31st of December, 1838. In that period no vessel was brought before the British and Brazilian Court of Mixed Commission, or the British and Netherlands Mixed Court of Justice. The number of slaves emancipated by us during the same time was 5341, of whom only 3379 were registered in this place; the whole of the remainder (with the exception of 24, who died or absconded before their descriptions could be taken to be registered), having been landed on the island of Jamaica, or at Nassau, New Providence. The survivors of 138 slaves, embarked in the restored vessel "*Camoës*," were, in like manner, handed over to the Colonial Government here, though without emancipation; their shipment by the captor having been highly irregular, and the claimant having denied all property in them. The total number of slaves emancipated by the Courts at Sierra Leone since their establishment, is 55,578, of whom 48,359 have been registered in the same place.

Thirty vessels (seven of which were captured in the West Indies) have passed through the Courts during the last year, besides a schooner which was prosecuted in the British and Spanish Mixed Court of Justice as a Spanish vessel, but which the Court declined to adjudicate, as she had been captured under the flag and pass of the United States. Five other vessels, now in the harbour, still remain for adjudication, and will appear in the list of the following year.

It is a remarkable fact, that *every one* of the thirty vessels which have been adjudicated, professed to be Portuguese, and was provided with Portuguese papers. To four of them, however, (the "*Deixa Falar*," "*Gratidão*," "*Camoës*," and "*Veloz*,") a Brazilian character was clearly attached, and the remaining twenty-six were undoubtedly Spanish.

One vessel (the "*Camoës*") was restored, with damages, on account of the irregularity of her capture. Eleven others were divested of their Portuguese covering, and condemned in the Spanish Court, on the ground that Spanish ownership and course of trade had placed them within the reach of the requirements and penalties of the Spanish Slave Trade Treaty. And of the remaining eighteen cases, one (the "*Veloz*") was condemned, for having had slaves on board in the particular voyage in which she was detained, although all had been relanded before detention took place; and the others were full of slaves at the moment of capture.

Out of the thirty vessels seventeen received their passports at the Cape de Verd Islands, four at the islands of Princes and St. Thomas, two at St. Paul de Loando, three from the Portuguese Consul-General at Rio de Janeiro, three from the Portuguese Consul-General at Cadiz, and one at Lisbon.

The destinations of the same vessels were severally as follows :—to Bahia two, Pernambuco two, the island of Cuba twenty-four, Porto Rico two.

Nineteen vessels were prosecuted in the British and Portuguese Court of Mixed Commission during the past year. Eighteen of the number were condemned for having had slaves on board, and one was restored. Of the condemned vessels four embarked their slaves in the Gallinas, one in the Sherbro, and one in the Rio Nunez, three rivers in the immediate neighbourhood of this colony ; five were loaded at Lagos, two in the Calabar, two in the Bonny, one in the river Benin, one in the river Nun, and one at Whydah. The restored vessel ("*Camoës*") was intending to take on board a cargo of slaves in the river Benin, at the time of her unauthorised capture.

Only one of the eleven vessels condemned in the British and Spanish Mixed Court of Justice, had embarked any slaves previous to capture. That one (the "*Opposição*") was captured in the West Indies, whilst preparing to re-enter the port of Havana in ballast, after disembarking on the coast of Cuba, a cargo of Congo slaves, which had been shipped in the river Zaire. None of the remaining ten had taken any slaves on board previous to capture, and, with one exception, they were all detained in the neighbourhood of this colony, viz., six in the Gallinas, one in the Pongas, two a little lower down, off the river Sestos, and one at Accra. The American schooner "*Mary Anne Cassard*" was detained a few miles from Cape Sierra Leone.

With reference to this statement of facts, we beg leave to offer a few remarks.

1. The number of vessels and slaves captured during the past year would have been much greater, but for the following circumstances :—An epidemic, which had originated at Sierra Leone, and had proved awfully fatal there in 1837, raged on board almost every vessel of the squadron, long after it had disappeared from this colony ; and either incapacitated Her Majesty's cruizers from active exertion, or drove them from their cruising-grounds to Ascension, St. Helena, and the Cape. This led to strict orders being issued, that no man-of-war should visit our port ; and thus the agents and professional advisers of the Naval Commanders, were deprived of the opportunity of communicating to their clients in the Bights, any information respecting the decisions given in the cases of the "*Opposição*" and "*Diligente*," until after those decisions became known to all the slave-dealers on the coast. During this period also, Admiral Elliot succeeded Sir Patrick Campbell in the command of the squadron ; and the time which precedes, and immediately follows, a change of this nature, is always a season of comparative inactivity. Again, not a single cruizer has been stationed to the southward of the line ; consequently, that large tract of slaving-coast has been left altogether unwatched. It is certain that *all* the slave vessels that have been before us have been captured to the north of the line ; and the only one of them that embarked her slaves in a southern latitude, was captured in the West Indies.

2. The extent and importance of the Slave Trade carried on to the westward of Cape Palmas, as compared with that which still flourishes in the Bights of Benin and Biafra, is generally much under-rated. Fifteen out of the thirty vessels which came before us last year, either were captured, or took on board their slaves, within the former narrow boundary. It is true that some of these captures were made in consequence of certain decisions with regard to *empty* vessels, which were known only on this part of the coast ; but still the fact remains, that one-third of the vessels which were detained *with full cargoes of slaves on board*, or four out of seven, if we only look to vessels detained in the West Indies, embarked their slaves in our immediate neighbourhood.

3. The whole, or very nearly the whole, of the Slave Trade carried on north, or rather west of Cape Palmas, is for the supply of the island of Cuba, and generally on account of Havana merchants. The Brazilians still frequent their old slave-haunts in the Bights, and to the southward of the line. Portuguese trade, properly so called, there is none, nor do we well see how there can be under the newly-applied principle, that the national character of a vessel may be fixed by the domicile of her merchant-owner, and by her mode of employment.

4. The application of the rule just referred to, when it comes to be generally understood and acted upon by Her Majesty's cruizers, will render

the accession of Portugal to the terms of the Spanish Treaty, though certainly desirable, a matter of comparatively small importance.

5. Driven from the shelter which has latterly been afforded by the colours of Portugal, the slave-dealers of all nations are now invoking the protection of the flag of the United States; and the American consuls at Matanzas and Havana show no unwillingness to render the required assistance. Upon the full discussion of this interesting but painful subject we forbear entering at present, as we have lately in our Despatch, marked Spain, of the 30th November last, noticed it at considerable length. On that occasion we ventured to suggest that, should the extensive and scandalous abuse of her flag still fail to induce the free government of the United States to co-operate with other civilized nations, in the suppression of an inhuman traffic, the remedy is in our own hands; on the supposition, however, that the British Government is convinced that the African Slave Trade is an offence against the laws of nature and nations. If it be so, and we are fully persuaded that it is, the formal acknowledgment of that truth by all the maritime States of Europe might be invited. But should these powers, who, not many years since, pronounced the Slave Trade to be "contrary to the principles of religion, justice, and humanity," hesitate at this critical moment to affirm their former declaration, and to brand with the name of pirates the traffickers in human suffering—the "hostes humani generis,"—the enemies of "religion, justice, and humanity," we still possess the right and the power to give full effect to our own more enlightened views of the duties which nations owe to each other. The simple means which England employs, when engaged in war, to enforce her disputed right to visit and search the vessels of all neutral Powers is, we believe, an order in council, arming all British cruisers with authority to act, and binding all Admiralty and Vice-Admiralty Courts to adjudicate such vessels as may be captured under that order. But whatever other means may be necessary, in a time of profound peace, to give effect to England's interpretation of the law of nations, those means she will surely not hesitate to adopt, when her only other alternative is—retiring at once from a contest, which she has so long waged, baffled, beaten, and insulted by a set of lawless and outcast smugglers; or wilfully continuing to sacrifice thousands of valuable lives and millions of money, with the full knowledge that the only result of her further efforts will be, fresh triumphs to the Slave Traders, and the increased misery of their victims.

Desirable as would be the concession by America of the right of mutual search, experience has shown that we can expect no permanent advantages from it. The allegiance professed by the slave-dealers of all nations to the flags of France, Portugal, and America, successively, will then be transferred from one South American State to another, through all the independent Governments that at present exist, or hereafter may arise, in that divided quarter of the world. The plan which we now recommend is a certain and effectual remedy, so far as it is enforced, for the evils complained of; and, if now rejected, *must* be adopted at some future period, when England has grown sufficiently weary of making sacrifices for the attainment of an object which is ever eluding her grasp.

In the mean time, it is our duty to render our present Slave Treaties as efficient as possible, and to employ the means which we already possess, in counteracting the efforts of the slave-dealers. With this view, we beg leave briefly to offer a few suggestions for your Lordship's consideration.

1. The immediate occupation of all the Portuguese settlements north of the Line, viz., the Cape de Verds, Bissau, Cacheo, Princes, and St. Thomas.

We have seen above, that twenty-one out of the thirty vessels adjudicated last year, obtained their fictitious papers at one or other of those wretched places. British occupation would of course put an end to these irregularities, besides opening sources of legitimate traffic. The right to occupy is as clear as the beneficial effects of occupation, so far as Slave Trade is concerned. The determined refusal or neglect of Portugal to fulfil her Treaty engagements with Great Britain, has entitled the latter to demand the immediate repayment of the immense sum by which those engagements were purchased; and the African settlements of Portugal might be held in pawn until the payment be completed. In this view the repayment by Portugal of six hundred thousand pounds, with compound interest thereon for the last twenty-five years (sup-

posing her capable of making it), would annul our Slave Trade Treaties with that power, and cast upon Great Britain the imputation of mercenary motives. But should Portugal be placed in a condition, either from her own resources, or, what is much more likely, from the joint-stock subscription of three or four wealthy Slave-Trading houses, to tender back to England the whole sum which was so generously advanced to her, and to demand the annulment of the Treaty which that sum formerly purchased; with us would still rest the option of rejecting the disgraceful offer; of insisting on the complete execution of the ratified compact; and, having paid the stipulated price, of securing the purchase by all the means in our power. As a collateral security for the attainment of the promised "total abolition of the Slave Trade for the subjects of the crown of Portugal," the occupation of the Portuguese settlements north of the Line is now recommended. Nor need it be attended with any but a very trifling expense, or embrace more than the single object for which it is undertaken,—the visitation and search of every vessel within the Portuguese waters, or three miles from the Portuguese territories above named, and the detention and trial of such as may be equipped for Slave Trade, or be aiding and abetting the illegal traffic; dealing with the suspected and the guilty in the same manner as we should, if they were committing the same offence within British waters.

2. The least known of these settlements, but probably the most important, whether with regard to Slave Trade or fair commerce, is Bissao. In its immediate vicinity is the valuable but neglected *British* island of Bulama, now one of the most active slaving stations on the coast. Here the notorious Kyetan has fixed his residence, and is receiving constant supplies of slaves from the neighbouring rivers, loading numerous vessels, and having seldom less than three hundred slaves in his extensive barracoons. General Sir Neil Campbell, late Governor of this colony, visited the island of Bulama in the year 1826, and wrote an interesting memoir upon it, which may be obtained from the Colonial Office. It is only a few days' sail north of Sierra Leone, and completely commands the Rio Grande and Geva, two of the most important rivers on the coast of Africa, and which, towards their source, almost unite with the river Gambia. It surely is not to be permitted that this eligible trading station, belonging to Great Britain, should be abandoned to the use of such a wretch as Kyetan, who has only very lately returned from the galleys. Under this persuasion, Her Majesty's Commissary Judge lately addressed the following letter to His Excellency Colonel Doherty.

(Copy.)

British Commissioners' Office,

SIR,

Sierra Leone, November 26th, 1838.

MR. BECAISE, who has lately arrived from the rivers to the northward, and who is intending to return to the Rio Nunez this evening or tomorrow, has informed me that, when he visited the British island of Bulama a short time ago, he found there between two hundred and three hundred slaves prepared for shipment by Don Cayetano, the notorious Kyetan, formerly Governor of Bissao. Mr. Becaise describes the island as completely occupied by Slave Traders, and as always containing a larger or smaller number of slaves in barracoons.

Papers, which have been found in several of the vessels lately before the Mixed Commission Courts, tend to confirm Mr. Becaise's representation, and to show that, since Kyetan's return to the coast, the Slave-trading operations of Bissao have been transferred to the British island of Bulama.

Bulama is, I believe, undoubtedly British, and not long since Her Majesty's brig "Britomart" was despatched from Sierra Leone to declare, and maintain, if necessary, our sovereignty over the place. Under these circumstances, I beg leave to suggest to Your Excellency the propriety of seizing and prosecuting, in the Vice-Admiralty Court here, all persons who may be found on Bulama detained as slaves, and of punishing the guilty parties, for having so grossly violated the British territory.

I have, &c.

(Signed)

H. W. MACAULAY.

Governor Doherty, with great promptitude, immediately made a requisition to Her Majesty's brig "Brisk," commanded by Lieutenant Kellett, who was in harbour at the time, and who as promptly proceeded immediately on the required service. The result was, that Lieutenant Kellett returned to us after a few days with 212 slaves, whom he had been enabled to secure, many others having been carried into the woods and concealed. These slaves were all heavily ironed and chained. Kyetan was unfortunately absent at the time at Bissao, but his barracoons were burned down, and the British colours left flying on the island. Shortly afterwards, however, Kyetan returned, the Portuguese colours have been re-hoisted, and the Slave Trade is flourishing as before. On these grounds we recommend the full occupation of Bulama, which will put an end to the extensive Slave Trade, now carried on with impunity on British soil, and will tend greatly to interrupt that which is carried on at Bissao.

3. The only other suggestion which we shall at present offer is, the adoption of means to secure the punishment of *persons* implicated in Slave Trade adventures. As things are now managed, the confiscation of a slave vessel affects only the owner or the underwriters; and the parties who navigate the condemned vessel are constantly seen to embark again, on a second illegal voyage, a few days after the termination of the first. The complete personal impunity which attends the agents by whom illegal Slave Trade is carried on, combined with the high wages by which their services are secured, renders the Slave Trade, notwithstanding all its inconveniences, the most desirable employment for the Spanish and Portuguese sailor. On this subject we beg leave to refer your Lordship to Class A., 1824-1825, pages 142 and 143; and to Class A., 1836, pages 217 and 218.

The plan which we now propose for adoption, with regard to slave-vessels captured on this coast, and condemned at Sierra Leone, is applicable, with some modifications, to similar seizures in other parts of the world; but its effect may be tried here in the first instance.

Both the Portuguese and Spanish Treaties require, that "the Captain, and a part, at least, of the crew," of a captured slave-ship should be left on board; and this clause, whilst it sanctions the present almost invariable practice of sending up only the Master, and one or two of the seamen, of a detained vessel as witnesses before the Mixed Courts, and landing the remainder of the crew, as soon as possible, at the nearest or most convenient port, equally permits *the detention of the whole of the crew*, if it should be thought necessary; and we now beg leave to recommend the latter course, with a view to ulterior proceedings against all the guilty parties.

The hulk already fixed at Sierra Leone may be used as a temporary receptacle for such prisoners; and one small steamer or vessel of war might be constantly employed in conveying the prisoners from this place to England, to obtain the orders of Her Majesty's Government as to their delivery at Lisbon (if Portuguese), or at Cadiz or some other port (if Spanish).

Portugal and Spain are both bound by treaty, as well as by their own law, to punish their respective subjects "who may participate in an illicit traffic in slaves," and "to assimilate as much as possible their legislation in this respect to that of Great Britain;" and those powers will thus enjoy the opportunity of fulfilling their obligations. The punishment of the guilty persons might be strongly urged by the British Ambassadors; but whether punished or not, we are persuaded, that a more severe blow would be given by this proceeding to foreign Slave Trade than it has ever yet received. No less than 687 Spanish and Portuguese sailors were engaged in navigating the thirty vessels which came before us last year. All these men have long since returned to their former occupation; but had they been withdrawn, as we propose, from their old haunts and pursuits, carried to Europe far from their Slave-Trading connexions, fined, imprisoned, and otherwise punished, and left to find their way back as best they could to Cuba and Brazil; the alarm which would have been thereby caused amongst the many thousands of seamen engaged in the same manner, would have done more to check and injure the illegal traffic, than any means that have been adopted for the last twenty years.

The execution of this plan would be attended with little inconvenience and expense. Supposing the number of cruisers on the African Station to remain the same, one would of course be withdrawn from cruising, in order to convoy the detained slaving crews to Europe; and some of the smaller

men-of-war would be obliged themselves to accompany their second prizes into port. This would make little practical difference to the Commanders of vessels of this class, whose practice it is, even under the present system, to convey up their second prizes, with the object of preserving the efficiency of their vessels, and the health of their prize crews.

With regard to expense, the Commissariat at present supplies daily rations of food to every individual of the detained prize crews, so long as he remains in the colony; charging the expense in the public accounts either to Portugal or Spain, as the case may be. The further expense of rationing a larger number of persons for a longer time would be charged in the same way, and repaid to us in the same manner, from *the moiety* of the proceeds of condemned slavers, which is carried to the credit of the power to which the condemned vessel and the detained crew belong. For the care and custody of the prisoners a similar force to that which has been allowed to the "Romney" receiving ship at Havana, might be provided from Her Majesty's services here.

We trust, my Lord, that the above suggestions will not be deemed impertinent or useless. Disappointment has followed every effort hitherto made; and stronger measures are now imperatively called for — measures which, without violating the laws of nations, or the faith of treaties, will at length accomplish the earnest desire of the British nation, by the total abolition of African Slave Trade.

We have, &c.

(Signed)

H. W. MACAULAY.
R. DOHERTY.

The Right Hon Viscount Palmerston, G.C.B.,
&c. &c. &c.

Enclosure.

A List of Cases adjudicated in the Courts of Mixed Commissions, established at Sierra Leone, between the 1st day of January, and the 31st day of December, 1838.

No. of Cases adjudicated between June, 1819, and 31st Dec. 1838.	No. of Vessels liberated between June, 1819, and 31st Dec. 1838.	No. of Cases adjudged and 31st Dec. 1838.	Nation.	Name of Vessel.	Class.	Whether Condemned or Liberated.	No. of Slaves on board at the time of capture.	No. of Slaves emancipated.	No. of Slaves emancipated and Registered.	REMARKS.
305	18	1	Spanish.	Opposicao	Schooner	Condemned	222	222	222	a One man, one woman, and six boys died; and two men absconded after emancipation, but previous to their descriptions having been taken to be registered.
306	"	2	1	Diligente	Brig	"	225	186	186	b These slaves were landed at Port-Royal, in the Island of Jamaica, and therefore not registered here.
307	"	3	3	Ligeira	Schooner	"	452	380a	370	c These slaves were landed at Montego Bay, Jamaica, and therefore not registered here.
308	"	4	4	Constitucão	"	"				d Three men and one boy died after emancipation, but before their descriptions were taken to be registered.
309	"	5	5	Eliza	"	"				e Four men, one woman, and two girls died, after emancipation, but before their descriptions were taken to be registered.
310	"	6	6	Constitucão	"	"				f One boy died, after emancipation, but before his description was taken to be registered.
311	"	7	7	Jozephina	"	"				g These slaves were landed at Nassau, New Providence, and therefore not registered here.
312	"	8	8	Maria	"	"				h Ditto
313	"	9	9	Veloz	"	"				i Ditto
314	"	10	10	O Veterano	Brig	"				j Kingston, Jamaica
315	"	11	11	Sirse	Schooner	"				k Nassau, New Providence,
			Portuguese.							l taken to be registered.
316	"	12	1	Prinzeza Africana	"	"	222	222	222	
317	"	13	2	Deixa Falar	Brigantine	"	225	186	186	
318	"	14	3	Gratidão	Brig	"	452	380a	370	
319	"	15	4	Camoens	"	Liberated				
320	"	16	5	Izabelita	Schooner	Condemned	160	159b		Emancipated at Sierra Leone, but not registered, between June, 1819, and 1st January, 1838 5,257
321	"	17	6	Arrogante	Brigantine	"	407	332c		Died or absconded subsequent to emancipation, but prior to registration, between 1st January and 31st December, 1838 24
322	"	18	7	Felicitades	Brig	"	559	405d	404	Emancipated at Sierra Leone, but not registered there, in consequence of their having previously been landed at Jamaica and Nassau, New Providence, between 1st January and 31st December, 1838 1,938
323	"	19	8	Veloz	"	"				
324	"	20	9	Dous Irmãos	Schooner	"	305	241e	234	
325	"	21	10	Prova	"	"	225	194f	193	Total 7,219
326	"	22	11	Diligente	Brig	"	480	475g		Total of slaves emancipated and registered here between June, 1819, and 1st January, 1838 44,980
327	"	23	12	Camoens	"	"	572	569h	187	Total of slaves emancipated and not registered here, between June, 1819, and 1st January, 1838, for reasons assigned in previous returns 5,257
328	"	24	13	Paquete Feliz	Brigantine	"	195	187		Total of slaves emancipated between 1st January and 31st December, 1838 5,341
329	"	25	14	Feliz	Schooner	"	326	324i		Grand total of slaves emancipated at Sierra Leone between June, 1819, and 31st December, 1838 55,578
330	"	26	15	Ingemane	"	"	82	79j		Of which number there has not been registered here, as appears by the foregoing remarks 7,219
331	"	27	16	Prova	"	"	326	295k		
332	"	28	17	Dolcinea	"	"	253	249		
333	"	29	18	Liberal	Brig	"	591	583		
334	"	30	19	Emprendedor	"	"	467	458		
							5,847	5,341	3,379	Grand total number registered here up to this day 48,359

N.B. Among the vessels brought into the Courts during this year was a schooner without slaves, named the "Mary Ann Cassard," which was labelled as Spanish; but as she had been detained while sailing under the flag of the United States of America, the Court declared itself to be without jurisdiction, and therefore dismissed the case without pronouncing an opinion.

H. W. MACAULAY.
R. DOHERTY.

(Signed) J. MILLAR, Acting Registrar.

Sierra Leone, 31st December, 1838.

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