# Class A.

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# CORRESPONDENCE

WITH THE

# BRITISH COMMISSIONERS

RELATING TO THE

# SLAVE TRADE.

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1839-40.

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# Class A.

# CORRESPONDENCE

WITH THE

# BRITISH COMMISSIONERS

AT

## SIERRA LEONE, THE HAVANA, RIO DE JANEIRO, AND SURINAM,

RELATING TO

# THE SLAVE TRADE.

From June 30th to December 31st, 1839.

*Presented to both Houses of Parliament, by Command of Her Majesty.*
1840.

LONDON:
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FOR HER MAJESTY'S STATIONERY OFFICE.

1840.

# Class A.—1839-40.

## LIST OF PAPERS.

### SIERRA LEONE. (*General.*)



### SIERRA LEONE. (*Spain.*)

## SIERRA LEONE. (*Portugal.*)

## RIO DE JANEIRO.

## SURINAM.

# Class A.—1839-40.

CORRESPONDENCE

WITH THE

# BRITISH COMMISSIONERS.

## SIERRA LEONE. (*General.*)

No. 1.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, June* 29, 1839.

I HEREWITH transmit, for your information, twelve copies of two series of papers, relating to the Slave Trade, which have been presented to the two Houses of Parliament, during the present session, by Her Majesty's command.

I am, &c.,
(Signed) PALMERSTON.

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

No. 2.

*Mr. Macaulay to Viscount Palmerston.*

*Sierra Leone, May* 15, 1839.
(*Received July* 16.)

MY LORD,

ALTHOUGH your Lordship has made no remark upon the delay which has occurred in transmitting to your Lordship's office reports of the cases of vessels, which have latterly come before the Courts of Mixed Commission and the Mixed Courts of Justice, I beg leave respectfully to state to your Lordship, for my own satisfaction, the circumstances under which that delay has taken place.

Whilst, however, the transmission of our reports has been unavoidably deferred, the acknowledgment of your Lordship's Despatches, the preparation and forwarding

of account sales of condemned property, and the ordinary routine of official duty in every other respect, have been kept up to the day. I am aware that much inconvenience may have resulted from the want of these reports, and particularly of the annual report upon all the cases adjudicated during the last year; but this inconvenience, which I deeply regret, has been owing to circumstances over which I had no control, as might perhaps have been presumed from the fact that, during nearly eight years that I have been connected with the courts, our work has never been in arrear before.

But the contrast between former days and the present is remarkable. In the first year of my service, nine vessels were before the courts; in the second year, five; in the third year, eight; whilst, during the last seven months, no less than forty-eight cases have engaged our attention. Many of these cases presented new and peculiar difficulties; many of them were contested, two were restored; and the study and consideration which they called for, the examination of evidence, the framing and approving interrogatories, the general superintendence of the progress of so many cases, and the preparing judgments to be delivered in court, left little time for writing out reports. If one case was adjudicated to-day, another pressed for adjudication to-morrow or the next day; and, for some time, I pronounced judgment in three cases weekly.

I beg leave also to remark to your Lordship, that it was necessary that the adjudications should proceed, even though the business in court prevented my preparing Despatches to your Lordship. The vessels, the detained crews, and the slaves, would otherwise have been kept at great expense to the captors, and in many cases would have more than exhausted the proceeds of sale, and have involved Her Majesty's Government in loss. At one time, indeed, in the month of January, the progress of cases through the court was stayed for a short period, to enable the acting registrar, to whom two extra clerks had been allowed, to make up his annual and quarterly returns and accounts, upon which it had been impossible for him before to bestow the requisite attention, owing to the constant examination of witnesses, the filling up of commissions, and the performance of other duties required to meet the wishes of the different proctors. However, the delay thus occasioned gave rise to much dissatisfaction and loud murmurs on the part of the capturing officers.

Of the forty-eight cases above mentioned, thirty-one occurred whilst his Excellency Governor Doherty was acting as Her Majesty's Commissioner of Arbitration; and of these, twenty-one cases have been already reported. My colleague, Mr. Lewis, has had more than sufficient occupation found for him in the constant succession of vessels which have presented themselves since his return from England; but, unfortunately, he has been suffering for many weeks from a severe attaek of illness, and has only been able to-day to resume his place in the office. Mr. Bidwell, the first clerk of the Commissioners, did not arrive in the colony until January. Mr. Thomas C. Weston, the second clerk, was kept from the office by serious illness from the beginning of October to the middle of February, during the four months when business was most pressing; and his brother, Mr. Frederick Weston, who has been acting as a temporary clerk, is now, and has been for some time past, contending with the fever of the country. The place of this gentleman, however, will now be supplied by Mr. William Smith.

It is only necessary to look at the immense mass of manuscript comprising the 21 reports just referred to, to form an estimate of the manual labour of the mere writing out of such documents in draft, in original and duplicate, and in the office books. Our reports are exceedingly voluminous, and enter into the most minute details of every case.

These remarks I beg leave respectfully to offer to your Lordship, in explanation of the delay which has latterly marked the transmission of reports from this place. In the mean time, as I have already mentioned, acknowledgments of your Lordship's communications, account sales of condemned property, and all other matters of business, have been regularly transmitted and kept up; and as few slavers are to be expected at this period of the year, I hope that another month will enable us to clear off all arrears.

I have, &c.
(Signed) H. W. MACAULAY.

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

No. 3.

*Viscount Palmerston to Mr. Macaulay.*

SIR, *Foreign Office, July* 23, 1839.

I HAVE received your Despatch of the 15th of May, 1839, explaining the cause of the delay, which arose in transmitting to me the reports of cases adjudicated in the Mixed Courts of Justice at Sierra Leone, during the last twelve months; and I am glad to state to you, that your explanation appears to me to be satisfactory.

I am, &c.
(Signed) PALMERSTON.

*Henry W. Macaulay, Esq.*
*&c. &c. &c.*

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No. 4.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August* 25, 1839.

I HEREWITH transmit to you six copies of an address upon Slave Trade from the House of Peers to Her Majesty, and of Her Majesty's most gracious answer thereto. These papers afford an additional proof of the unceasing and earnest desire of the Parliament and Government of this country, for the total extinction of the traffic in slaves.

I am, &c.
(Signed) PALMERSTON.

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

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Enclosure in No. 4.

The humble Address of the Right Honourable the Lords Spiritual and Temporal in Parliament assembled, presented to Her Majesty; with Her Majesty's most gracious Answer.

*Die Veneris, 2° Augusti* 1839.

Ordered, by the Lords Spiritual and Temporal, in Parliament assembled, that an humble Address be presented to Her Majesty praying, "That Her Majesty will be graciously pleased, by all means within Her Hajesty's power, to negotiate with the governments of foreign nations, as well in *America* as in *Europe*, for their concurrence in effectually putting down the traffic in slaves; and also that Her Majesty will be graciously pleased to give such orders to Her Majesty's cruizers as may be most efficacious in stopping the said traffic, more especially that carried on under the *Portuguese* and *Brazilian* flags, or by *Brazilian* or *Portuguese* ships; assuring Her Majesty, that this House will cheerfully concur with the other House of Parliament in whatever measures may be rendered necessary, if Her Majesty shall be graciously pleased to comply with this Prayer."

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HER MAJESTY'S MOST GRACIOUS ANSWER.

MY LORDS,

I receive this Address with great satisfaction.

I will direct orders to be given to my cruizers in accordance with your wishes, fully relying upon your assurance that you will concur in the measures which will thus be rendered necessary.

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No. 5.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August* 26, 1839.

I REFERRED to Her Majesty's Advocate-General your Despatch of the 20th of September, 1838, relating to the disposal of captured negroes, previously to the adjudication of the case of the vessel on board of which they had been captured.

The Queen's Advocate has reported, that slaves taken on board foreign ships and landed in the British West Indies, cannot be kept and detained as slaves, until sentence be pronounced whether they shall be restored or not.

The Queen's Advocate thinks, that the opinion referred to by you as having been given upon this subject by the law officers of the Crown, in January, 1827, was perfectly correct at the time at which it was given; but he states, that the opinion so referred to is no longer tenable, because the detention of negroes at the present time, in the character of slaves, would be inconsistent with the statute for the abolition of slavery, and with the existing state of the law in the British West Indies.

You will bear in mind the principles thus laid down by the Queen's Advocate, and will act in accordance with them, in any cases to which they may apply.

I am &c.
(Signed) PALMERSTON.

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

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No. 6.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, September* 3, 1839.

I TRANSMIT herewith to you, for your information, six copies of an Act of Parliament, which has recently passed for the suppression of Slave Trade.

I am, &c.
(Signed) PALMERSTON.

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

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Enclosure in No. 6.

Act 2 and 3 Victoria, cap. LXXIII. (August 24th, 1839.)

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No. 7.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, July* 1, 1839.
(*Received September* 30.)

MY LORD,

WE have the honour to enclose to your Lordship a certified copy of the list of emancipated slaves registered by the Courts of Mixed Commissions here, from the 1st of January to the 30th of June, 1839.

The number of slaves emancipated during the same period was 1588, of whom 14 died before registration.

In addition to the above number of slaves, 247 were landed from the Portuguese schooner "*Rosalia Habaneira,*" at Honduras, the survivors of whom were emancipated by a decree of the British and Portuguese Court of Mixed Commission.

We have, &c.
(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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Enclosure in No. 7.

ABSTRACT.

| | Number Registered. | Number died before Registration, but Emancipated. | Number Emancipated. | Remarks. |
|---|---|---|---|---|
| Gertrudes . . . . . | 168 | . . | 168 | |
| Violante . . . . . | 191 | . . | 191 | |
| Ontario . . . . . | 199 | 1 | 200 | 1 boy died. |
| Magdalena . . . . . | 293 | 9 | 302 | 8 men and 1 boy died. |
| Lavandeira . . . . . | 247 | 1 | 248 | 1 man died. |
| Passos . . . . . | 81 | . . | 81 | |
| Liberal . . . . . | 40 | . . | 40 | |
| Si . . . . . | 355 | 3 | 358 | 1 man and 2 boys died. |
| | 1,574 | 14 | 1,588 | |

*Mem.*—Number registered up to the 31st December, 1838 . . . . 48,359
Number registered from the 1st January to 30th June, 1839 . 1,574

Total . . . . . 49,933

*Sierra Leone, July* 1, 1839.

In addition to the foregoing list of emancipated slaves registered during the period set forth, there were 247 slaves landed from the Portuguese schooner "*Rozalia Habaneira*" at Honduras, the survivors of whom were emancipated by a decree of the British and Portuguese Court of Mixed Commission.

(Signed) J. MILLER,
*Acting Registrar.*

These are to certify that the foregoing is a true and correct Copy of the original list of slaves registered and emancipated by the 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 1st day of January to the 30th day of June, 1839.

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 1st day of July, in the year of our Lord 1839.

(L.S.) (Signed) J. MILLER,
*Acting Registrar.*

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No. 8.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, July* 1, 1839.
(*Received September* 30.)

MY LORD,

WE have the honour to enclose to your Lordship copy of an Act of the Governor and Council of this Colony, explanatory of the powers and authority of the Marshals to the Courts of Mixed Commission and Mixed Courts of Justice, established in this place, and the passing of which we thought it advisable to urge, lest it should ever become necessary to exercise the authority conferred, or rather confirmed, by this Act, in the case of witnesses obstinately refusing to submit to examination, or upon any other similar occasion.

We have, &c.
(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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Enclosure in No. 8.

SIERRA LEONE.

In the second year of the reign of Her Majesty Queen Victoria. Colonel Richard Doherty, Governor in Chief. At a Council held on the eighteenth day of June, in the year of our Lord one thousand eight hundred and thirty-nine.

An Act for explaining and clearing up certain doubts respecting the authority and powers of the Marshals to the Mixed Courts of Justice and Courts of Mixed Commission, established in the colony

of Sierra Leone agreeably to certain Treaties entered into with Foreign Powers, for the purpose of preventing the illicit traffic in slaves.

Whereas by certain Acts of the Parliament of the United Kingdom of Great Britain and Ireland, passed for the purpose of carrying into effect certain Treaties and Conventions with Foreign Powers for the suppression of the Slave Trade, it is, amongst other things, respectively enacted, that it shall be lawful for the British and Portuguese Court of Mixed Commission, for the British and Spanish Mixed Court of Justice, for the British and Netherlands Mixed Court of Justice, and for the British and Brazilian Court of Mixed Commission, established under the said Treaties, Conventions, and Acts of Parliament, to summon before them respectively all persons whom they may deem it necessary and proper to examine in relation to any suit, proceeding, matter or thing under their cognizance, and to send for, and issue precepts for the producing of, all such papers as may relate to the matters in question before them, and to enforce all such summonses, orders, and precepts, by such and the like means, powers, and authorities as any Court of Vice-Admiralty may do. And whereas in the said Treaties, Conventions, and Acts of Parliament no provision is made for the appointment of Marshals to the said Courts, and whereas it has been found requisite and expedient that such officers should be appointed for the said respective Courts, not only for the purpose of carrying into execution the said powers and authorities of the said respective Courts, but also for making returns of, and superintending the care of, captured slaves pending their adjudication, and delivering them over afterwards to the proper authorities, as heretofore was practised in the Court of Vice-Admiralty in this Colony, and for performing such other and the like duties as the Marshal of the said Court of Vice-Admiralty usually performed: And whereas doubts have arisen whether such Courts respectively have authority to invest their Marshal with such powers and authorities:

Be it therefore enacted by the Governor and Council of this Colony, and by the authority of the same it is hereby enacted, that the said Courts of Mixed Commission and Mixed Courts of Justice established in this Colony shall be respectively deemed and taken to have authority to nominate and appoint such persons to the said offices of Marshals as they shall think fit and proper; and to empower the Marshals so appointed to do, perform, and execute the duties of the said respective offices with the like powers and authorities to execute the process and carry into effect the orders and directions of the said Courts respectively in this Colony as the Marshal of the Vice-Admiralty Court therein established possesses in respect to the process orders and directions of the said Court of Vice-Admiralty.

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No. 9.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, July* 3, 1839.

My Lord, (*Received September* 30.)

We have the honour to acknowledge the receipt this morning of your Lordship's Despatch of the 22d of April, 1839, remarking upon the inconvenience which the public service has sustained by the delay which has taken place here in transmitting our reports of cases, and more particularly our Annual Report upon the Slave Trade during the last year.

Whatever blame may be considered due for the delay alluded to must be attributed solely to Mr. Macaulay, who has endeavoured, in a letter from himself, under date the 15th of May, to explain the circumstances under which that delay occurred.

Within the short period since that letter was written, fourteen other cases have engaged the attention of the Commissioners, six of which are at the present moment before the British and Spanish Mixed Court for Adjudication. The conduct of so many cases through the Courts leaves little time for the reporting of previous decisions, which, however, is proceeded with as quickly as possible during every hour that can be spared from the examination of papers, and witnesses, and the business connected with our judicial decisions.

We regret to add that the deplorable state of Mr. Lewis's health, for some time past, has rendered it impossible for him to take that active part which he formerly did in carrying on our official duties.

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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No. 10.

*Mr. Macaulay to Viscount Palmerston.*

*Sierra Leone, July* 23, 1839.
(*Received October* 31.)

MY LORD,

I HAVE the honour to inform your Lordship that my colleague, Walter W. Lewis, Esq., Her Majesty Commissioner of Arbitration, left this Colony yesterday for England on board the merchant barque "Bernard."

During the short period which has elapsed since Mr. Lewis's return from England he has been suffering almost constantly from severe illness, the consequence of a protracted residence in this most unhealthy climate; and an immediate visit to Europe offered the only chance of preserving his life.

His Excellency Colonel Doherty, the Governor of the Colony, was this day sworn in before his Honour the Chief Justice, as Her Majesty's Commissioner of Arbitration *ad interim;* and it is only due to Governor Doherty to say that he has always shown the greatest alacrity in forwarding the public service by sitting in Court for Mr. Lewis, whenever that gentleman was unable to attend.

I have, &c.
(Signed) H. W. MACAULAY.

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

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No. 11.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, November* 2, 1839.

GENTLEMEN,

WITH reference to my Despatches, marked Slave Trade, of the 25th of August and of the 3d of September last; the first enclosing copies of an Address upon Slave Trade from the House of Peers to Her Majesty, and Her Majesty's most gracious answer thereto; and the second enclosing a copy of an Act of Parliament recently passed for the Suppression of the Slave Trade,—I have to acquaint you, that the Queen has been pleased to command, that orders should be given to the commanders of Her Majesty's cruizers to detain vessels engaged in Slave Trade, and sailing under the flag of Portugal, wherever met with; and also to detain vessels engaged in Slave Trade, but hoisting no flag, and destitute of any papers proving their nationality.

Orders have also been given to establish British Courts of Vice Admiralty at any places within Her Majesty's Dominions and Colonies abroad, where such Courts may be requisite for the adjudication of vessels detained as before mentioned.

Thirdly, orders have been given, that the crews of Portuguese slave-vessels so detained shall be sent to that port of the Portuguese dominions, to which it may be most convenient to convey them, in order that they may there be delivered up to the Portuguese authorities.

Fourthly, orders have been given that negroes found on board such detained vessels shall be landed at the nearest British port or settlement, and shall there be placed under the care of the Governor or other officer in command.

And fifthly, orders have been given to the Governors of Her Majesty's forts and settlements abroad, to make the necessary arrangements for the care and support of the negroes who may be landed and set free under these orders.

The officers commanding Her Majesty's cruizers employed for the suppression of the Slave Trade, have, at the same time, been acquainted, that nothing contained in the before-mentioned Act of Parliament is intended to confer upon British cruizers any new right of search as to any vessel sailing under the flag of a State, with which Great Britain has no Treaty granting a mutual right of search; and that with respect to vessels sailing under the flag of a State, with which Great Britain has a Treaty granting a mutual right of search, that Act of Parliament is not intended to authorize Her Majesty's naval officers to visit and search such vessels, in any other way than that which is prescribed by such Treaties and by the instructions annexed thereto.

I am, &c.
(Signed) PALMERSTON.

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

No. 12.

*Her Majesty's Commissioners to Viscount Palmerston.*

*September* 26, 1839.

MY LORD, (*Received December* 16.)

IN explanation of the circumstance of some of the reports of adjudicated cases, which we have now the honour to transmit to your Lordship, bearing only the signature of Mr. Macaulay, we beg leave to state, that Mr. Lewis, who assisted in the adjudication of the cases referred to, and in preparing the reports of those cases for transmission to your Lordship, was obliged to leave the Colony suddenly, in order to save his life by an immediate change of climate; and as that gentleman is now in England, he will be able there to attach his signature to Despatches, which, although they were approved, and many of them written by him, the state of business in the office would not allow of being copied before his hasty and necessary departure from Sierra Leone.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

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No. 13.

*Mr. Macaulay to Viscount Palmerston.*

*Sierra Leone, September* 26, 1839.

MY LORD, (*Received December* 16.)

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, dated the 23d of July, 1839, stating that the explanation which I gave to your Lordship, in my letter of the 15th of May last, of the delay which had arisen in transmitting the reports of cases adjudicated in the Mixed Courts, appeared to your Lordship to be satisfactory.

I beg leave to return my thanks for this communication, which is highly gratifying to me. At the same time I am obliged again to appeal to your Lordship's indulgence. In my letter to your Lordship above referred to, I expressed a hope that the arrears of business might soon be cleared off, as we were then approaching the rainy months, which have been, generally speaking, a season of comparative inactivity, both with the slave-vessels and Her Majesty's cruizers.

In this hope, however, I have been disappointed. There has been no diminution in the number of captures. My colleague, Mr. Lewis, whose health had failed him almost from the moment of his arrival from England, in February, at length declined so rapidly as to be obliged to return to Europe immediately, in order to save his life; and, finally, my health, which had for some time previously been very good, began to give way a few days before Mr. Lewis's departure, on the 22d of July, and I was shortly afterwards confined to my bed and to my room. For more than a month I was utterly incapable of attending in any degree to the business of the office, and every half hour of comparative relief was necessarily devoted to the study of the numerous cases which were waiting adjudication from the court. Nor could I receive assistance from any of the parties authorized to act in such a case. His Honour the Chief-Justice and the Colonial Secretary were both suffering equally with myself, and the former fell a victim to this dreadful climate on the 24th ultimo. I am still in a most weak and emaciated condition; but your Lordship may rest assured, that if my life, and even a tolerable degree of health, be granted to me, the outstanding reports will shortly be transmitted.

I have, &c

(Signed) H. W. MACAULAY.

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

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No. 14.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, December* 31, 1839.

I HEREWITH transmit to you a copy of a Brief which has been issued by his holiness the Pope, enjoining all Catholics to abstain from Slave Trade; and I have to desire, that you will cause it to be inserted in the principal newspapers of Sierra Leone.

I am, &c.
(Signed) PALMERSTON.

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

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Enclosure in No. 14.

(Translation.)

Apostolic Letter of our Most Holy Lord Gregory XVI., by Divine Providence, Pope, December 3rd, 1839, upon the duty of abstaining from the traffic in negroes.

Enclosure in Despatch from Mr. Fox to Viscount Palmerston, dated Turin, December 10th, 1839.
(See Class C.)

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# SIERRA LEONE. (*Spain.*)

## No. 15.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, December* 31, 1838.

MY LORD, (*Received June* 12, 1839.)

ENCLOSED we have the honour to transmit to your Lordship an abstract of the proceedings in the British and Spanish Mixed Court of Justice during the past year.

The number of vessels adjudicated was 11, on all of which the court passed a sentence of condemnation, for having violated the Tenth Article of the Spanish Treaty of the 28th of June, 1835.

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

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

## Enclosure in No. 15.

*Abstract of the Proceedings in the British and Spanish Mixed Court of Justice, established at Sierra Leone for the repression of the Slave Trade, during the year* 1838.

1. Amongst the Portuguese papers of the "*Opposição*," was a passport obtained at St. Paul de Loando in 1834. The Bill of Sale contains an important declaration, by which the fate of the detained vessel was ultimately fixed; namely, that the Owner was "*a merchant resident at Havana.*"

On the present voyage the "*Opposição*" went to the river Congo, and succeeded in carrying off a cargo of negroes, who had been landed on the coast of Cuba a short time previous to seizure. Immediately after this disembarkation, the "*Opposição*" made the best of her way to Havana, where she would have no doubt entered inwards "*in ballast*," but she was fallen in with on the 25th of April by Her Majesty's sloop "Pearl," and was so fully equipped for the Slave Trade, and betrayed such evident indications of recent employment in that guilty traffic, that she was detained as a prize. The Captor, Lord C. E. Paget, then took the prize to Havana; but the British Commissary Judge having declined to take cognizance of the case, she was next despatched to this Colony for adjudication as a Portuguese vessel, and arrived on the 16th of July. The Captor's Proctor, however, abandoned his original line of prosecution, and libelled the "*Opposição*" in the British and Spanish Mixed Court. The ownership was clearly traced to a merchant resident in Havana; nor was the fact of illegal equipment less doubtful. To these circumstances was applied the principle laid down in the case of the "*Maria da Gloria*," (Class A, 1834, p. 147;) and the Court decreed the condemnation of the "*Opposição*" as a Spanish vessel, equipped for the Slave Trade.

2. The brig "*Diligente*," Miguel Sierra, Master, obtained her sailing papers at Cadiz from the Portuguese Consul-General. That they were drawn up with fraudulent motives, both the questionable interference of the Portuguese functionary, as well as erroneous dates and false attestations, placed beyond a doubt. The notorious Francisco C. de Mello figured as the ostensible Owner, whilst a Spanish merchant, resident at Cadiz, acted as his agent. To lend an additional colouring to the transaction, the Cape Verd Islands, the nominal Owner's domicile, appeared on the papers as the destination of the vessel. Regardless of this, however, the "*Diligente*" sailed direct to the Gallinas, and having arrived there on the 30th of July, 1838, proceeded at once to discharge the outward cargo. When thus occupied, Her Majesty's brig "Brisk" boarded and searched the vessel, and, discovering a complete equipment, sent her to Sierra Leone, with the hope of establishing a Spanish character against the vessel.

The prize arrived here on the 23d of August, and was libelled the day after in the British and Spanish Mixed Court. The case came on for decision on the 12th of October, when the Court, being of opinion that the Portuguese papers must be set aside, on account of their evident and admitted falsehood, the vessel's former Spanish character necessarily reverted, and the "*Diligente*" was condemned for illegal equipment, on the same grounds which guided the decision in the case of the "*Opposição.*"

3. The schooner "*Ligeira*," commanded by Antonio Silva, presents one of the ordinary cases of vessels really Spanish, which have sought protection under a Portuguese flag and papers, procured at the Cape de Verd Islands.

The "*Ligeira*," whilst at the Gallinas illegally fitted up, was captured by the "Brisk" in August, 1838, and arrived here for adjudication on the 23d of the same month. On the 4th of October, a sentence of condemnation was passed upon the "*Ligeira*;" her Spanish character, derived from the domicile of her Owner in Spanish territory, and her illegal equipment, having been clearly proved.

4. A nominal Portuguese character was stamped upon the schooner "*Constitução*" (1) at the Cape Verds in December, 1837, where the register was bought, the other papers having been issued at Havana at a later period.

Her Majesty's schooner, "Fair Rosamond," captured the "*Constitução*" (1) at Accra, quite prepared, in point of outfit, for the reception of slaves.

On the 12th of October the proceedings against the detained vessel closed, and the fraudulent assumption of the Portuguese flag, as well as employment in Spanish Slave Trade, having been fully established, the "*Constitução*" (1) was declared a good prize.

5. Sailing under a false national character, assumed by the aid of the Portuguese authorities at the Cape de Verds, the schooner "*Eliza*" left Havana in July last, ostensibly bound to Prince's; but Her Majesty's brig "Brisk" found the vessel at New Sestos on the 23d of September, with every preparation made for a slave-trading adventure.

The Captor then prosecuted his prize in the British and Spanish Court, and succeeded in procuring her condemnation as a Spanish vessel for unlawful equipment on the 12th of October, 1838.

6. The case of the schooner "*Constitução*" (2) resembles in its main features the other cases above described. The protection of the Portuguese flag was invoked in the usual way by Spanish slave-traders, to evade the penalties of the Spanish Treaty of 1835.

Havana was the last clearing port, and would have been the port of return; but, after visiting various places on the coast, the "*Constitução*" was detained by the "Brisk" off New Sestos on the 30th of September, 1838, for a violation of the Tenth Article of the last Treaty with Spain.

The evidence published brought to light the true ownership of the vessel, which was vested in a mercantile house of Havana. This discovery, coupled with the proof of slave-trading intentions, led to the condemnation of the "*Constituçao*," which took place on the 10th of November, 1837.

7. The schooner "*Josephina*" was so equipped on clearing out from Havana, as to afford clear evidence of the guilty object of her voyage; and she became fortunately a prize to Her Majesty's brig "Brisk" on the 25th of October, before that object was accomplished. Although the usual facilities of evasion were readily afforded at the Cape Verds, still the oral and documentary evidence produced disclosed the real nature of the voyage, and the true character of the vessel. The first could only have been Slave Trade, and the latter, from the ownership being traced to the house of Quevedo of Havana, was clearly stamped with a Spanish nationality. Some of the papers even divulged the circumstance of the vessel having cleared out from Havana in May last as the Spanish schooner "*Ramonçito*." The detained vessel having been fully equipped at the time of seizure in the river Gallinas, the Court condemned her, under the Spanish Treaty, on the 10th of November, 1838.

8. With a Cape Verd register and a Portuguese "Captain of the Flag," the schooner "*Maria*" cleared out from Havana in May, 1838, on the present voyage. The vessel next appears in the Rio Pongos, where she waited in vain for a human cargo, in consequence of a war amongst the natives, and where she was captured by Her Majesty's brig "Brisk."

On the 12th of November the "*Maria*" arrived here, and the usual prosecution closed on the 19th following, when, the proof afforded by the papers and letters which had been discovered having completely set aside any pretension to a Portuguese character, and the fact of improper outfit being indisputable, the Court finally condemned the "*Maria*."

9. The schooner "*Veloz*" sailed formerly under the Spanish flag, and bore the name of "*Segunda Manuelita*." By the Bill of Sale it appears that a transfer was made of the property at the Cape Verds in 1836. Thenceforth the vessel maintained her new but nominal Portuguese character. The "*Veloz*" commenced the present voyage from Havana in June 1838, and, proceeding next to the Gallinas, was there captured by the "Brisk" on the 17th of October, on the ground of her unlawful equipment.

The usual forms of prosecution were gone through, and concluded on the 24th of November. The Court then pronounced a sentence of condemnation upon the "*Veloz*" and her cargo, Spanish ownership having been expressly established in connexion with slave equipment.

10. The brig "*O Veterano*" was formerly condemned here as the Portuguese vessel "*Veloz*" in December, 1836. Furnished with papers, both at Cadiz and Havana, under circumstances of the most questionable nature, the vessel proceeded to the Gallinas from the last-named port, certainly with a guilty intention, as Her Majesty's brig "Brisk" found her fully equipped for the Slave Trade.

The prosecution against the vessel commenced on the 22d of November, and terminated on the 11th proximo. A Court being summoned on that 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 at Havana, and that her slaving equipment admitted of no doubt.

11. The schooner "*Sirse*" was sold as American property in September, 1837, to Don T. C. de Mello, of the Cape Verds, where the owner, at a later period, bought a register for his vessel. Havana was the last clearing port on the present voyage, and thence the vessel proceeded direct to the Gallinas. Arrangements for the return cargo had been nearly completed, when her Majesty's brigantine "Buzzard" captured the "*Sirse*" for illegal equipment.

The case having been contested, the proceedings did not terminate until the 21st of December. The decision of the Court on the present occasion, for the first time, depended exclusively on *a course of Spanish trade*, clearly established against the "*Sirse*," the evidence adduced having proved imperfect in sustaining a Spanish national character, as affixed by *domicile*. This circumstance of "*course of trade*" was deemed sufficient to bring the detained vessel within reach of the requirements and penalties of the Spanish Treaty, and a sentence of condemnation was accordingly passed against the "*Sirse*."

Signed) H. W. MACAULAY.
R. DOHERTY

*Sierra Leone, December 31st*, 1838.

## No. 16.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, November* 21, 1838.

(*Received June* 17, 1839.)

My Lord,

We have the honour to transmit to your Lordship our Report of the case of the schooner, "*Maria*," Alberto Miliano Mideiros, Master, captured under Portuguese colours, by Her Majesty's brig "Brisk," Lieutenant Arthur Kellett commanding, on the 8th instant, and condemned in the British and Spanish Mixed Court of Justice on the 19th instant, on the ground of her being really a Spanish vessel, and carrying an illegal Slave Trading equipment.

The "*Maria*" cleared out from Havana in May last, for the Island of St. Thomas, but came almost direct to the Rio Pongos, in the neighbourhood of this Colony. Her outward cargo was immediately bartered for slaves; but a native war in the river prevented the shipment of the return cargo for some time, and delayed the vessel until Lieutenant Kellett was enabled to seize her, just when the illegal object of the voyage was about to be accomplished.

The "*Maria*" was owned as well as commanded by a Spaniard, Baltazar Pujol; her officers were all Spanish; and her outward cargo was shipped at Havana, which was also to have been her port of return. A Spanish character had thus been acquired by the vessel, both from the domicile of her Owner and her employment in Spanish trade. We trust that the numerous captures which have lately been made of slave-vessels, under similar circumstances, will have the effect of imposing a temporary check on these illegal adventures; at any rate, the losses at Havana must be very great.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

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## Enclosure in No. 16.

*Report of the case of the Schooner* "Maria," *Alberto Miliano Mideiros, Master.*

The Passport of the "*Maria*" is a Cape Verd one, granted on the 23rd of June, 1837, declaring the Owner to be Francisco Jozé de Mideiros; and the Captain, Alberto Miliano Mideiros, although the latter is proved to have been not more than seventeen years of age at that time. He is, however, appropriately described in the Log-book, and in other papers, as being merely the Captain of the Flag, and appears to have exercised no superintendence or command with respect to the vessel. The only indorsement on this paper is one made by Mr. Trist, the American Consul at Havana, on the occasion of the schooner leaving that port in May last, stating the shipment of some addition to her armament.

No. 2. The Matricula is also certified by the American Consul, and contains the names of 19 persons.

No. 3. On the 26th of May, 1838, the "*Maria*" cleared out from Havana for the Island of St. Thomas; and a Certificate is added respecting the slaving equipment of the vessel, the signature to which is verified on the same day, by Mr. Trist. This certificate declares, as usual, that the slave-deck, slave-boilers, and water-leaguers, were shipped for purposes of lawful commerce.

Nos. 4, 5, 6, are three private Passports taken out by Don Baltazar Pujol, Don Jozé Vicente Gonsalez, and Don Jozé Felicio, for a passage on board the "*Maria*," to the Island of Princes. These pretended passengers were, as might have been anticipated, no other than the Spanish Captain, and First and Second Mates of the vessel.

No. 7. It likewise appears that the Spanish Captain, Pujol, was the Owner of the "*Maria*;" and a long account current, between himself and Don Jozé Ribas, a merchant of Havana, was found on board, showing that the vessel belonged to the former person, at least from the month of August, 1837.

No. 8. Is the Cook-book of the voyage from Havana to the Rio Pongos, in this neighbourhood. The "*Maria*" left the Havana on the 27th of May, reached the Cape de Verd Islands on the 5th of July, and left them again eight days afterwards. On the 15th July the vessel entered the Rio Pongos, and was captured up that river on the 8th instant.

The long detention of the "*Maria*" in the Rio Pongos was owing to a war, which has been carried on in the river for some time between the Mulattoes (descendants of European and American traders) and some of the Native Chiefs, and which completely prevented slaves from passing down in security. The "*Maria*" was consigned to Mrs. Faber, or Madame Fébre, as the Portuguese and Spaniards write the name, who took part with the Native Chiefs; and another Spanish schooner, which was there at the same time, was waiting for a cargo of slaves from Mrs. Lightburn, who supported the Mulattoes. Each vessel assisted the party with which it was connected by interest, and angry and threatening correspondence ensued between the opposing Captains. The capture of the "*Maria*" has put us in possession of part of the correspondence, from which much useful information has been obtained.

Mrs. Faber is a Sierra Leone woman, and one of the Nova Scotian settlers. She lived in the Rio Pongos for some years, as the mistress of an American named Faber, who, having amassed a fortune in the Slave Trade, returned to his own country. Mrs. Faber, however, still continues to carry on the business, and is extensively engaged in Slave Trading pursuits. She is assisted by a young man

belonging to Sierra Leone, of Maroon family, and who was formerly a Clerk in this place, of the name of Parkinson. Both these persons are British, and therefore we should suppose amenable to the laws which they are continually violating.

No. 9. Is an Invoice of merchandize delivered to Mrs. Faber (Factura entregada a Madame Fébre), to which about 7,000 dollars in cash is added to make up the exact sum of 18,000 dollars. There is also a Copy of this Invoice, written in English by Parkinson, with the following addition:—

(Copy.)

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60 ) 18000 ( 300 bundles.
     180
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     ...00
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The "bundles" here mentioned are of course slaves, who were to have been supplied at 60 dollars a head all round.

No. 10. While the "*Maria*" remained in the Rio Pongos, Pujol, the Captain and Owner, and the First Mate, José Vicente Gonzalez, lived on shore: and Jozé Felicio, the Second Mate, remained on board in charge of the vessel. The Portuguese Captain of the Flag appears also to have been on board all the time; but he is only once referred to, and that slightly, as wishing to go on shore for some particular purpose. In all the correspondence which took place under these circumstances between the vessel and the shore, the orders for goods sent by Gonzalez to Felicio are all signed for the Captain, Don Baltazar Pujol; and again, one of the letters written by Felicio to the Captain of the other schooner, and which is dated "Schooner '*Maria*,' September 8th, 1838," is subscribed,

"I am, &c.,
"For my Captain, Don Baltazar Pujol,
"Jozé Felicio."

No. 11. Two letters from Don Jozé German, the Captain of the other Spanish schooner which we have already mentioned, show further that the "*Maria*" was not only deemed to be under the command of Pujol, but that she was recognised as Spanish in her national character. In the first letter, dated September the 6th, Pujol is addressed as the Captain of the Spanish schooner going to Havana; and in the second letter, as Senor Don Baltazar Pujol, Captain of the Spanish schooner "*Maria*."

The arrival of the "*Maria*," accompanied by Her Majesty's brig "Brisk," was reported by the Marshal on the 12th instant; and on the same day the vessel was brought into the British and Spanish Court by her indefatigable Captor. The ship's papers and other documents found on board the prize were brought into the Registry and authenticated, the Captor's Declaration was received and filed, the Surveyors of the Court were directed to examine the schooner's fittings and equipment, and the witnesses in preparatory were ordered to attend on the following day, to be examined on the standing interrogatories.

The witnesses thus selected by the Captor's Proctor were the Portuguese Captain of the Flag and the Spanish Second Mate of the vessel.

The alleged Master, Alberto Miliano Mideiros, deposed that he was born at Madeira, has lived for 11 or 12 years at St. Jago, Cape Verd Islands, is a subject of Portugal, and has never served any other State; that he was appointed to the command of the detained vessel at St. Jago, about 13 or 14 months ago, by his father, who is a Portuguese, and lives there; that he thinks she is American built; that he was present at the time of capture; that the vessel sailed under Portuguese colours, but had a Spanish ensign on board for a signal; that there was one passenger on board, named Baltazar Pujol, a Spaniard by birth, and a seaman by profession, who embarked at Havana for St. Thomas, but witness does not know on what business; that the said Pujol had no interest in the vessel or cargo, but witness being only 19 years of age, and his First Mate old and deaf, he gave this person a certain authority over the vessel and her people; that the last clearing port was Havana, where the voyage began, and was to have ended; that, from Havana, the vessel went to the Rio Pongos for palm oil and ivory, and lay there three months; that the vessel's papers named St. Thomas as her destination, but finding he could effect the objects of the voyage at the Rio Pongos, it was witness's intention to return direct to Havana; that his father, whose name is Francisco Jozé de Mideiros, and who resides at the Cape Verds, is the sole owner of the vessel; that he supposes a Bill of Sale must have been made some time in the year 1836 or 1837, in favour of his father, by an American, who sold the vessel; but he knows nothing of it, nor in the presence of what witnesses it was executed, nor what was the price, but believes it was paid; that he does not know whether the cargo or vessel is insured.

The Second Mate, Jozé Felicio, supports the testimony of the Portuguese Captain, and imitates it so closely that we shall not quote his evidence.

The sworn Report of the Surveyors, respecting the equipment of the vessel, contains the following declarations:—We found the hatches open and regularly fitted and bored for receiving iron bars. We found the slave-deck partially laid, with the remainder of it numbered, fitted, and bevilled; also beams and clamps for the ship's side. We found about 3,000 gallons of water, also 24 leaguers, and a number of small casks capable of containing about 10,000 gallons of water. We found a large quantity of buckets and tin mess-dishes, also a bag of wooden spoons. We found the cabouse sufficiently large to supply about 200 people.

The above evidence was published on the 14th instant; and the Monition being returnable into the Registry on the 19th instant, that day was appointed for the adjudication of the case.

The Log-books, Letters, and Accounts, discovered on board the "*Maria*," completely set aside the pretensions of that vessel to the possession of a Portuguese character. The alleged Portuguese Captain is styled by the officers of the "*Maria*," the Captain of the Flag; the pretended Spanish passenger, Baltazar Pujol, is exhibited as the Owner, and was always addressed by his officers as the Captain of the vessel, and by strangers as Captain of the Spanish schooner going to Havana; and the witnesses freely admitted a Spanish course of trade. All, indeed, that was wanting to render this vessel liable to the penalty of confiscation, under the Slave Trade Treaty with Spain, was an illegal equipment for the prohibited traffic. The Captor's allegations in this respect were fully confirmed by the Report of the Surveyors of the Court; and a sentence of condemnation was accordingly pronounced on the detained vessel and her cargo.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, November* 21, 1838.

No. 17.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, November* 30, 1838.

(*Received June* 17, 1839.)

MY LORD,

WE have the honour to enclose our Report of the case of the schooner "Mary Anne Cassard," John Bacon, Master, captured whilst sailing under American colours, and furnished with American papers, by Her Majesty's brig "Brisk," Lieutenant Arthur Kellett, commanding.

We have also the honour to enclose to your Lordship a copy of the judgment publicly pronounced; in which all reference to the delicate and difficult questions connected with the seizure was studiously avoided; the Court confining itself to a simple disclaimer of its competence to adjudicate the cases of vessels captured under the Flag and Pass of the United States.

In another paper we have added, for your Lordship's information, a statement of the ground of the decision which we felt it our duty to give; and our reasons for having in this instance, admitted into one of the Mixed Courts a vessel circumstanced like the "Mary Anne Cassard."

We sincerely trust that the course which has been pursued will meet with your Lordship's approbation.

We have, &c.

(Signed) H. W. MACAULAY.
B. DOHERTY.

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

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First Enclosure in No. 17.

*Report of the case of the Schooner* "Mary Anne Cassard," *John Bacon, Master.*

THE British and Spanish Mixed Courts of Justice, before which this vessel was brought, having declined to adjudicate the case, ordered the papers of every description which had been found on board the detained vessel to be given up to the Claimant. But before these papers were handed over, the following abstract of their contents was made.

1. The document (if such it can be called) of earliest date is, the right half of an American register, which is cut through from the right-hand corner at the top, to the left-hand corner at the bottom. The consequence of the mutilation is, that the commencement of every line is wanting, and we are unable to describe the purport of the paper. From an indorsement, however, which is still preserved, it appears to have been part of the register of an American vessel of 80 $\frac{4}{95}$ tons, and to have been dated on the 9th of September, 1837. From the mode in which this register has been divided, we consider that it has been cancelled; and if so, the fact must have been known to the American Consul at Matanzas, who subsequently accepted this mutilated piece of paper as a valid register.

No. 2 is a Power of Attorney, dated at Baltimore, on the 12th of May, 1838, from Gilbert Cassard, Owner of the "*Mary Anne Cassard,*" to Edgar Montell, also of Baltimore, but "about to proceed to the West Indies;" authorizing the latter to sell the "*Mary Anne Cassard,*" or to appoint a substitute for that purpose. This paper is regularly executed in the presence of John Gill, a notary public, and witnessed by John J. Geoghegan.

No. 3 is another Power of Attorney, made and dated on the same day, in the same place, and witnessed by the same parties, by which Edgar Montell, the Agent appointed by the last paper to sell the "*Mary Anne Cassard,*" nominated as his substitutes for that purpose Messieurs Hernandez and Basden, of Matanzas, directing them at the same time to pass the proceeds of sale to the credit of Mr. J. F. Montell, of Baltimore.

It is not a little remarkable that Edgar Montell, the Agent of Gilbert Cassard, of Lewis, should thus relieve himself of the agency, which was entrusted to him on the ground of his being "about to proceed to the West Indies," on the very day that he was appointed Agent, more especially as we find him, a few days afterwards, present in his own person in the place where the substitutes appointed by him resided, and where from the first it was intended that the sale of the "Mary Anne Cassard" should be effected.

No. 4. On the 20th of June, 1838, the above-mentioned Edgar Montell appeared before the American Consul at Matanzas, to acknowledge his power of substitution (No. 3) in favour of Messieurs Hernandez and Basden, and to desire it to be registered accordingly.

No. 5. Also on the same day Mr. Basden, of the firm of Hernandez and Basden, produced a Bill of Sale to the same American Consul, acknowledging the transfer as the act and deed of his house. This document conveyed all right and title in the American schooner "*Mary Anne Cassard,*" to Don Ramon Monçada, "a naturalized citizen of the United States of America." It is signed by Hernandez and Basden, witnessed by Juan F. Acosta, and H. Bourjolly, and, like all other papers, is certified by the American Consul at Matanzas.

No. 6 is a Power of Attorney setting forth that Don Ramon Monçada, residing at Matanzas, had appeared on the 11th of July, 1838, before José Govin, a notary public of that place, who made out the paper, and declared that he had empowered Don Juan Barba, also residing at Matanzas, to sell the "*Mary Anne Cassard.*" The witnesses to the execution of the deed are Juan Baptista Marijon, Vicente Ferror, and Alexandro Cortes; and the American Consul adds his certificate.

The multiplication of Powers of Attorney in this case is inexplicable. Gilbert Cassard, of Baltimore, appoints Edgar Montell, *residing in the same place*, as his Attorney; and the latter on the same day names substitutes to act for him, although he was himself present at Matanzas, when his substitutes sold the "*Mary Anne Cassard*" to Monçada. Then the latter, three weeks afterwards, appoints Barba, residing like himself at Matanzas, to sell his newly purchased property; and thus, in less than two months, the "Mary Anne Cassard" passed through the hands of five persons.

Juan Barba, in whom the power at present resides of disposing of the American schooner "*Mary Anne Cassard*," when, where, and in what manner he pleases, was invested with this absolute control over all the proceedings of the vessel on the very day when she cleared out from Matanzas for the Island of St. Thomas', as an American vessel, under the nominal command of John Bacon, an American sailor. Barba, with four other Spaniards, took out passports as passengers going to St. Thomas', on their private affairs. Of these persons, Barba acted in all respects as Owner and Supercargo of the vessel, and the others are presumed to have been the officers employed in her navigation, for they accompanied her in all her wanderings; and on her arrival at this port, Bacon was still the only individual on board who pretended to an American character.

No. 7. By the Muster-roll it would appear that the American Consul, at Matanzas, who has attached his certificate thereto on the 9th of July last, was satisfied that an American vessel was properly navigated according to the laws of the United States, when her crew consisted entirely of Spanish subjects.

Nos. 8 and 9. The Spanish papers obtained by the "*Mary Anne Cassard*" were, a clearance and a clean bill of health, one dated at Matanzas on the 10th, and the other on the 11th of July, 1838. The vessel was cleared out for St. Thomas', and the goods laden on board were shipped by Messrs. Texidor and Nephew, and consisted of 39 pipes and 120 barrels of rum, six hogsheads of red wine, 10 cases of sugar, and 20 hogsheads taken to pieces, for the purpose of containing palm oil. St. Thomas was falsely named as the destination of the vessel.

No. 10 is a Log-book in Spanish, from which it appears that on the 12th of July, the "*Mary Anne Cassard*" sailed from Matanzas, and came to anchor in the roadstead of the Island of Bonavista on the 20th of the following month, and she again made sail on the 23d of August, steering to the southward. The anchorage of Bissâo was reached on the morning of the 31st of August, and left again for the British Island of Bulama on the 1st of September. At Bulama, the vessel remained until the 22nd ultimo, a period of more than seven weeks; and on the 27th ultimo, the vessel was captured whilst crossing the latitude of Sierra Leone, on her voyage to the Gallinas.

No. 11. There is also a Log-book kept in English by the American, John Bacon. It mentions, under the date of the 20th of September, whilst the "*Mary Anne Cassard*" was lying at Bulama, that "a Brazilian brig and Portuguese schooner came to anchor there." On the 22nd of October, Bacon "weighed anchor and made all sail, with a pilot on board, for the Sherbro." It was attempted to conceal the real objects with which the "*Mary Anne Cassard*" remained at Bulama from the 3rd of September to the 22d ultimo, by alleging that the fore-topmast required repair; the log, however, shows that the repairs were all completed in a very short time, and that on the 13th of September, "all hands were employed in sending up fore-topmasts." No mention of the facts of capture is made in either of the Logs.

From this English Log, and from a manuscript paper found between its leaves, it was discovered that the real name of the American, who called himself John Bacon, was Edward William Graham.

The manuscript paper referred to contained a copy of verses, which are endorsed "The Dying Widdow," and signed

"Edward William Graham, schooner *Mary Anne Cassard*, (at sea) of (off is apparently meant) Matanzas, at Cuba."

The verses are in the same hand-writing as the Log, which again is marked on the outside "E. W. G."

B.

A remarkable confirmation of our suspicion that Bacon was sailing under a false name was afforded by the evidence of a seaman belonging to Her Majesty's brig "Brisk," who declared on oath before the Police Magistrate here, that he was some years ago a messmate for many months with Bacon, on board Her Majesty's brigantine "Lynx," on this coast, and that during the whole of that time he passed by the name of Edward William Graham, both amongst his messmates, and on the ship's books.

The "*Mary Anne Cassard*" was brought before the British and Spanish Court, on the 29th ultimo

It was with much reluctance that we admitted this vessel into any of the Courts of Mixed Commissions, as we were fully persuaded of our incompetence to adjudicate with respect to any vessel sailing under the Flag and Pass of the United States. Something, however, was due to precedents which appeared on our records of cases, in which vessels (like the "Fanny," Class A, 1828, page 85) captured under the French flag, at a time when France had not as yet conceded the right of search, were allowed to be prosecuted in the British and Netherlands Mixed Court of Justice, on the ground that the French Flag and Pass were employed to cover Dutch interests. We, therefore, permitted the case of the "*Mary Anne Cassard*" to proceed in the usual way.

The Captor's declaration is to the following effect: "I, Arthur Kellett, Commander of Her Majesty's brig 'Brisk,' hereby declare that, on this 27th day of October, 1838, being in or about latitude 8° 32′ North, longitude 13° 32′ West, I detained the Spanish schooner '*Mary Anne Cassard*, sailing under American colours, commanded by John Bacon, who declared her to be bound from Matanzas to Matanzas, with a crew consisting of 10 men, one boy, one Supercargo, and seven passengers, whose names, as declared by them respectively, are inserted in a list at the foot hereof. I do further declare that I have detained the said vessel for being engaged in and equipped for the Slave Trade, contrary to the provisions of the Tenth Article of the Treaty between Great Britain and Spain, dated the 28th of June, 1838."

The above Declaration, accompanied by an affidavit verifying the facts contained therein, was then filed; a Monition was issued; a Commission for the survey and inspection of the fittings and equipment of the detained vessel, was directed to the Surveyors of the Court; and the witnesses in preparatory produced by the Captor's Proctor were summoned to give their attendance, to be examined on the standing interrogatories.

John Bacon, the Master, deposed "that he was born at Barnstaple, in the State of Massachusetts; has generally resided at New York, and sometimes at Baltimore, during the last nine years; is a citizen of the United States of America, and has never served any other Power or State; that he is

not married; that he was appointed to the command of the captured vessel, and possession of her was given to him, at Matanzas, on the 1st of July last, by Basden, an American citizen, and by Hernandez, whose nation witness does not know, both residing at Matanzas; that he first saw the vessel at Matanzas during the latter part of the preceding month of June; that the vessel was built, witness believes, in Baltimore; that he was told by the Captor that the vessel was seized for being engaged in committing a breach of the Spanish Slave Treaty; that the vessel sailed under American colours, and had also on board a Portuguese Ensign, which was used as a signal; that the vessel's name is '*Mary Anne Cassard*,' that she is 80 tons burthen, and had a crew of 10 officers and mariners, exclusive of witness, all Spaniards, and hired and shipped by witness at Matanzas; that neither he, nor any of the officers or mariners had any interest in the vessel or her cargo, so far as he knows; that he was Master on board; that there were eight passengers, five of them from Matanzas with passports, and three without passports from the Island of Bulama; that one of the five from Matanzas was called Juan Barba, a cabin passenger, and the other four were forecastle passengers, and their names consequently are unknown to witness; but with respect to two of the passengers brought in here, he knows that their first names were Sebastian and Gregorio; that witness believes, but is not positive, that Barba and Sebastian are Spaniards, and that Gregorio is a native of Bissao; that he does not know the nation of the others, nor the profession of any of them; that all of the passengers from Matanzas were destined to St. Thomas', but on what business witness does not know; that with respect to Juan Barba, witness regards him as virtually Owner of the vessel, because he had authority from the Owners, as the papers show, to dispose both of the vessel and cargo as he might think proper; that Barba had therefore power to alter her destination, but none over her management whilst at sea; that the three passengers taken on board at the Island of Bulama, for a passage to the River Sherbro, were named José Cadiz, José Bottel or Cottel, and —— Musafont; that witness does not know the national character of these persons; that Cadiz was sent from Bulama by Don Cayetano, a resident at that place, to dispose of a shipment made by that person; that Bottel or Cottel acted as clerk to Cadiz; that witness knows nothing of Musafont's business; that the voyage began, and was to have ended, at Matanzas; that the vessel touched at Bonavista, one of the Cape Verd Islands, for water, and at Bissao, in order to refit, having sprung the foremast, but witness finding it impossible to get out the foremast there in consequence of the swell occasioned by the wind and tide, he called subsequently at the Island of Bulama for the purpose, where the repair was effected; that the vessel was near Cape Sierra Leone on the 27th of October, when the capturing ship was first seen; that capture took place there and then; that there was no chase, and the course which the vessel was steering was not altered; that the vessel was on her passage to the river Sherbro, by direction of the passenger Juan Barba, in order to land there the passengers and cargo which had been taken on board at Bulama; that he regards Juan Barba, the passenger on board, as the Owner of the vessel, that person having power to sell her where he should think proper; that Barba is a Spaniard by birth, born in Barcelona, and residing at Havana; that witness does not know whether Barba has really bought the vessel, or whether he merely represents Hernandez and Basden, by whom witness was appointed to the command at Matanzas; that witness believes that, if the vessel be restored, she will belong to Juan Barba, as long as he holds his present papers or authority; that the cargo which was laden by Hernandez and Basden, who are merchants carrying on business at Matanzas, is owned by the Owner or Owners of the vessel, and the shipment, which was made at the Island of Bulama by Don Cayetano, who carries on business there, and is a native of Lisbon, and was formerly Governor of Bissao; that the cargo shipped at Matanzas was to be sold by Barba wherever he chose, and that shipped at Bulama was to be delivered at Sherbro; that the present cargo consists of rum, salt, wine, tobacco, rice, guns, planks, dry goods, and other articles; that rum, tobacco, wine, and dry goods, were bartered at Bulama for bees-wax, which it was intended to take up on the return of the vessel up the coast; that the vessel, with respect to her trade, is under the management of the passenger Juan Barba; that he and the other people have been well treated, except the Boatswain, who told witness this morning that, since he went on board the captaring ship, on the evening of the 27th of October, he had had nothing to eat but beef and biscuit; that the whole of the casks on board, except what would be necessary for water for the crew, were intended for palm oil; that there are two small coppers for the crew, each holding three or four gallons; that these coppers are larger than the vessel required, but are the only ones that could be procured by witness."

The other witness examined on the standing interrogatories was, the Don Juan Barba referred to in the above evidence, who embarked at Matanzas as a passenger with a passport for St. Thomas', but who acted on board as Supercargo, and agent for the Owners, with the undisputed control over the conduct of the voyage. This man deposed, "that the Master, John Bacon, was appointed to the command by, and witness thinks he received possession from, Ramon Monçada, a native of New Orleans residing at Havana; that the Master took possession at Matanzas on the 12th of June last; that the vessel sailed under American colours; that the vessel had a crew of ten officers and mariners, exclusive of the Master, who were all Spaniards and all hired and shipped at Matanzas; that neither he nor any of the officers and mariners had any interest in the vessel or cargo; that he was a passenger on board, and had the charge of the cargo given to him by the Owner, although he did not consider himself as a regular Supercargo; that the voyage began, and was to have ended, at Matanzas; that the foremast of the vessel was sprung, and she called at Bonavista to have it repaired, and it was repaired there; that the vessel then went to Bissao, that they might look for Don Cayetano, with whom they intended to trade for palm oil, but not finding him there, they proceeded to the Island of Bulama, where they found him; that the vessel was bound to St. Thomas' by the ship's papers, and witness does not know whether she was authorized in going to Bissao, the Island of Bulama, or the Sherbro; that the Owner of the vessel was Ramon Monçada, by whom the charge of the cargo was given to witness; that the vessel if restored, will, witness believes, belong to Ramon Monçada, and to no other person; that the cargo from Matanzas belongs to the Owner of the vessel; that there are 1,000 feet of planks on board from 20 to 30 feet long each plank, and an inch thick; that it was shipped at Bulama, and intended for a house for witness at St. Thomas' or at at the Sherbro, if he should be able to establish himself in trade there; that there are 27 casks on board, capable of containing from 45 to 50 pipes; that all the casks were destined for palm oil, except three for water; that there are no copper or iron boilers."

The depositions thus made are in many respects at variance not only with the ship's papers and the Log-books of the voyage, but with each other. For instance, Bacon says that he was appointed to the command of the "*Mary Anne Cassard*" on the 1st of July, by Hernandez and Basden, of Matanzas; whereas Paper No. 5, which is in English, declares that the vessel had been sold and transferred to

Ramon Monçada, on the 20th of the previous month. Barba swears, on the other hand, that Bacon was appointed Captain of the detained vessel on the 12th of June, by Monçada, although Paper No. 4 shows that it was not until eight days after that date that the Power of Attorney, in pursuance of which the "*Mary Anne Cassard*" was sold to Monçada, was acknowledged before the American Consul; nor had Monçada any power over the vessel and her concerns before the 20th of the same month. Barba again swears that Monçada is a native of New Orleans residing at Havana, in opposition to Paper No. 5, which sets forth that he is "a *naturalized* citizen of the United States of America."

It is surely contrary to the commercial laws of America that a vessel sailing under the Flag and Pass of the United States should be navigated by a crew "all Spaniards," as is freely admitted by Bacon to have been the case with the "*Mary Anne Cassard*," and it must have been well known to the Consul, who assisted in despatching this schooner, that her American nominal Captain was shipped, and her American Flag and Pass were carried, solely for the purpose of protecting both ship and cargo from confiscation under the Equipment Article of the Spanish Treaty. Bacon himself declares that he regarded Juan Barba, "a Spaniard by birth, born at Barcelona, and residing at Havana," as the real Owner of the vessel and cargo, having authority to dispose of both as he pleased, and to direct and alter the destination to such places as he might find convenient. We have, indeed, no doubt whatever that the real object of the voyage will soon be accomplished by the shipment of a cargo of slaves for the Cuba market, but at the moment of that cargo being received the American papers will of course be exchanged for Spanish or Portuguese ones, the former papers having then fully accomplished their purpose, in this as in numberless other instances, of rendering utterly useless and nugatory the concessions which we have lately obtained from Spain.

With respect to the outfit of the vessel, the surveyors reported: "We found about 600 feet of rough plank, sufficient for a slave deck, but not either numbered or marked; we also found beams and clamps fitted for nailing on the ship's side. We found between 2,000 and 3,000 gallons of water on board, much more than necessary for the crew of a merchant-vessel. We found 36 leaguers on board, capable of containing about 12,000 gallons of water. We found a large quantity of mess-dishes, pannikins, wooden spoons, and buckets, more than necessary for the crew of a merchant-vessel. We found the coppers to be of a most unusual size; and we also found other coppers concealed in the hold adapted for the cabouse, and which are large enough to cook provisions for 300 men."

All the above evidence taken on behalf of the Captor having been published, and the Monition issued on the 29th ultimo having been returned into the Registry, the case would have been at once disposed of, but the Master, John Bacon, being in gaol, in consequence of an intention, which was afterwards abandoned, of prosecuting him at the Admiralty Sessions as an Englishman engaged in the Slave Trade, a petition for further time to defend his vessel was granted, and on the 17th instant a claim was filed (which, however, could not be sworn to, owing to Bacon's illness, until the 22d instant) stating the vessel and that part of the cargo which was shipped at Matanzas to be the property of Ramon Monçada, and that part of the cargo which was shipped at Bulama to be the property of Don Cayetano (the notorious Kyetan), resident there.

Two days afterwards a Court was held, and the Proctors on each side were heard on behalf of their respective clients; the one claiming the condemnation of the detained vessel under the Spanish Treaty, on the ground of her Owner being confessedly resident in Cuba, and her equipment for Slave Trade being complete; and the other urging the restoration of the vessel with damages, on the ground that the detention was unjustifiable, and that no right existed to visit and search vessels which were acknowledged as American by American authorities. The Court cautiously abstained from noticing the various delicate and irritating points which were necessarily introduced into a discussion of this nature, and contented itself with the general declaration, that it held itself incompetent to decide upon the propriety of the seizure of a vessel sailing under the Flag and Pass of the United States. The "*Mary Anne Cassard*" was accordingly again taken possession of by her Master, to whom all the ship's papers filed in Court were at the same time delivered.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, November* 30, 1838.

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## Second Enclosure in No. 17.

*Judgment given in the Case of the American Schooner* "Mary Anne Cassard," *John Bacon, Master.*

It is neither necessary nor desirable that this Court should enter upon a minute examination of the various delicate questions connected with the present case; for without presuming to say whether there is or is not some other Court in which the propriety of this vessel's detention may be considered, and in which justice may be awarded both to the Captor and the Claimant; we are clearly of opinion that it is not competent for any one of the Mixed Courts, appointed to carry into effect the Treaties with Foreign Powers for the suppression of the Slave Trade, to adjudicate a vessel sailing, at the time of her seizure, under the protection of the Flag and Pass of the United States.

The Captor himself has declared that the "*Mary Anne Cassard*" was "*under American colours*" at the time of her capture; and the papers of the vessel show that she was acknowledged as an undoubted American vessel by the Spanish authorities at Matanzas, and by the Consular Agent of the United States at that port; nor is it contended by the Captor's Proctor that she was documented otherwise than as an American vessel, or that the American flag was in this instance employed to conceal Portuguese, Spanish, Dutch, or Brazilian papers.

Under these circumstances, the Court will refrain from expressing an opinion whether the "*Mary Anne Cassard*" was engaged in Spanish Slave Trade at the time of her capture, and will content itself with the simple declaration, that it does not possess jurisdiction in this case, and is not authorized to entertain the question which has been submitted to its decision.

*Sierra Leone, November* 24, 1838.

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CLASS A.

## Third Enclosure in No. 17.

*Report explanatory of the Decision pronounced in the Case of the* "Mary Anne Cassard," *John Bacon, Master, on the 24th of November*, 1838.

THERE are so many delicate points involved in the discussion whether Her Majesty's cruizers on this station possess the right to visit and search vessels which, although sailing under the Flag and Pass of the United States, are suspected of being Spanish slavers in disguise, that it was thought undesirable publicly to enter upon an examination of the subject; and the Court contented itself with the declaration that it felt itself incompetent to entertain the question, which had been submitted to its decision in the case of the "*Mary Anne Cassard.*"

This difficulty, however, will not again meet us, as we have resolved not to admit for the future vessels similarly circumstanced into any of the Mixed Courts. We were at first inclined to adopt this course with respect to the "*Mary Anne Cassard,*" and to withhold our sanction to her prosecution in the British and Spanish Mixed Court of Justice; but it was due to our predecessors, who, on various occasions, had not only admitted into Court, but eventually condemned, vessels which had been boarded, searched, and captured, whilst sailing under the Flag and Clearance of a Foreign Power which had not conceded to British cruizers the right of visitation; and it was due to the enterprising and successful officer who had seized this vessel in confident reliance upon precedents furnished by our Court, and apparently sanctioned by the tacit approval of Her Majesty's Government, that we should at any rate hear what might be advanced by the able and experienced Proctor who conducted the prosecution.

But although we felt it our duty to deny the existence of the right contended for by the Captor, we have abstained from any public declaration of the grounds of our opinion, which, however, are now submitted in this separate form, in explanation of the course which has been pursued.

In the judgment which we pronounced on the case of the "*Maria da Gloria,*" Class A, 1834, p. 39, an opinion was expressed that "the right to search and to detain the vessels of a friendly Power, in time of peace, can only be acquired by treaty." This opinion was founded on the decisions given in the cases of the "*Louis,*" 2 Dodson, p. 236; and the "*San Juan Nepomuceno,*" 1 Haggard, p. 265. No attempt has since been made to set aside or impugn those decisions, or to controvert the exposition of the principles of public law applicable to cases like the present, which is contained in one of the most elaborate and celebrated of Lord Stowell's admirable judgments.

Such is the source from which we have drawn the following practical conclusions with respect to the case of the "*Mary Anne Cassard.*"

First, America not having conceded the right of visitation and search, under any modification, to Great Britain, Lieutenant Kellett, of Her Majesty's brig "Brisk," possessed no authority, in a time of profound peace, to board the "*Mary Anne Cassard,*" sailing under the Flag of the United States, except only he had good grounds for suspecting that the said vessel was a pirate, engaged in the commission of an offence against the universal law of nations.

Secondly. Lieutenant Kellett being thus destitute of any authority to *board* the "*Mary Anne Cassard,*" was not justified in searching and detaining the said vessel; nor was it competent for him to take advantage of any information acquired by his unauthorized search, either as to equipment for Slave Trade, or as to the concealment of Spanish ownership under an American cover.

Such, shortly, is the judgment which we formed respecting the case before us, and which we will now proceed to support by authority.

In the case of the "*Louis,*" 2 Dodson, p. 242, Lord Stowell says: "The natural order of things compels me to inquire first, whether the party who demanded had a right to search; for, if no right to visit and search, then no ulterior right of seizing and bringing in, and proceeding to adjudication; and it is in the course of those proceedings alone that the facts are produced that (the detained vessel is a) ship trading in slaves; and if these facts are made known to the seizor by his own unwarranted acts, he cannot avail himself of discoveries thus unlawfully produced, nor take advantage of the consequences of his own wrong."

The first question, "whether the right of search exists in time of peace," p. 243, is answered in the negative; and then allusion is made to various objections which had been urged in argument to the strict observance of the rule. To the objection that a British vessel might thus, by assuming a foreign flag, violate with impunity the navigation laws of her own country, Lord Stowell replies, p. 253:—"Every country has certainly a right to enforce its own navigation laws, so far as it does not interfere with the rights of others. It has a right to see that its own vessels are duly navigated, but it has no right in consequence to visit and search all the *apparent* vessels of other countries on the high seas, in order to institute an inquiry whether they are not in truth British vessels violating British laws. No such right has ever been claimed, nor can it be exercised without the oppression of interrupting and harassing the real and lawful navigation of other countries. It is no objection to say that British ships may thus by disguise elude the obligations of British law. The answer of the foreigner is ready, that you have no right to provide against that inconvenience by imposing a burthen upon *his* navigation. If even the question were reduced to this, that either all British ships might fraudulently escape, or all foreign ships be injuriously harassed, Great Britain could not claim the option to embrace the latter branch of the alternative. When you complain that the regulation cannot be enforced without the exercise of such a right, the answer again is, that you ought not to make regulations which you cannot enforce without trespassing on the rights of others. If it were a matter by which your own safety was affected, the necessities of self-defence would fully justify you; but in a matter in which your own safety is in no degree concerned, you have no right to prevent a suspected injustice towards another, by committing an actual injustice of your own."

And, surely, if Lieutenant Kellett enjoyed no right to visit and search on the high seas the *apparent* American schooner "*Mary Anne Cassard,*" in order to institute an inquiry whether she was not in truth a British vessel violating British law, it cannot be pretended that such visitation and search would become justifiable, when the object was to ascertain whether the "*Mary Anne Cassard*" was not in truth employed under the American flag in violating *Spanish* law, and a Slave Trade Treaty between Spain and Great Britain, in which America had no concern. Nor can it be urged that the strict rule of law laid down by Lord Stowell, in the case of the "*Louis,*" must be relaxed on a coast where Slave Trade is so extensively carried on, and where every possible art is used to deceive our cruizers and to

escape detention; for the "*Louis*" was herself seized off the Gallinas, the greatest slave mart on the coast of Africa, and within a few miles of the place where the "*Mary Anne Cassard*" was detained.

Again, says Lord Stowell, at a time when France, like America at present, had refused "to tolerate any maritime police being exercised on her subjects but by herself," at p. 255, "it is pressed as a difficulty what is to be done, if a French ship laden with slaves be brought in? I answer without hesitation, restore the possession which has been unlawfully divested; rescind the illegal act done by your own subject, and leave the foreigner to the justice of his own country."

Page 256—"It is said, and with just concern, that if (visitation and search be) not permitted in time of peace, it will be extremely difficult to suppress the traffic. It will be so, and no man can deny that the suppression, however desirable, and however sought, is attended with enormous difficulties, difficulties which have baffled the most zealous endeavours for many years. To every man it must have been evident that without a general and sincere concurrence of *all* the maritime States in the principle, and in the proper modes of pursuing it, comparatively but little of positive good could be acquired. It must be equally evident that such a concurrence was matter of very difficult attainment. But the difficulty of the attainment will not legalize measures that are otherwise illegal. To press forward to a great principle by breaking through every other great principle which stands in the way of its establishment; to force the way to the liberation of Africa by trampling on the independence of other states, in short to procure an eminent good by means that are unlawful, is as little consonant to private morality as to public justice." And a remark is then added, p. 258, "that the whole of these premises tend to show that no right of search upon the high seas exists in time of peace."

In time of war the case is, of course, altogether altered; and it was the same Judge who restored the "*Louis*," on the grounds which have been above stated, who said, in the case of the "*Maria*," 1 Robinson, p. 359, "The right of visiting and searching merchant-ships upon the high seas, whatever be the ships, whatever be the cargoes, whatever be the destinations, is an incontestable right of the lawfully commissioned cruizers of a belligerent nation." The right thus forcibly asserted has always been insisted upon by Great Britain, notwithstanding the remonstrances and opposition to which the enforcement of it has occasionally given rise. And had England been engaged in a war *with any Power whatever* at the time when the "*Mary Anne Cassard*" was fallen in with by Her Majesty's brig "Brisk," not only would the latter have been justified in visiting, searching, and detaining the former, but she might lawfully have availed herself of her discoveries of the real Spanish character attached to the detained vessel, and of the slave equipment which was on board; and the British and Spanish Court would, under such circumstances, have felt no difficulty in pronouncing a sentence of condemnation upon a vessel thus illegally employed. The facts and the crime would be, it is true, in both cases the same; but *in peace* the discoveries would be the result of a process which *war* alone will justify, and which can only be considered legitimate when a state of belligerency has placed all ordinary principles in abeyance.

The only other ground on which the forcible visitation and search of a vessel sailing under the flag of the United States might be excused, is a well-founded suspicion that the vessel so visited was a pirate, engaged in the commission of a crime against the universal law of nations. Such an allegation was not put forth in the present case. The offence of which the "*Mary Anne Cassard*" was supposed to be guilty was slave-trading, an offence not yet unhappily branded as piracy; and the commission of which is, on the contrary, receiving encouragement and support even from those who falsely pretend to desire its suppression.

The right enjoyed by British cruizers on this coast to visit and search the vessels of certain friendly Powers, suspected of slave-trading intentions, is derived from recent and conventional arrangement; and the position of those independent Powers who, like the United States, still obstinately refuse to accede to mutual search, is not in the slightest degree altered in consequence of the different conduct pursued by other States. Had no Treaties been entered into for the suppression of the Slave Trade, Great Britain would have possessed "no authority to interrupt the navigation of States in amity upon the high seas, except that which war gives to belligerents against neutrals," (p. 244;) every foreign flag would then have been respected, and British vessels alone would then have been subject to search by the cruizers of their nation; and it cannot be maintained for a moment that the rights and interests of indifferent Powers may suffer compromise and injury from the operation of Treaties in which they have no concern, aud which the contracting parties alone are bound to observe.

The fraudulent assumption of a protecting flag is by no means a new event in the history of the Slave Trade. Before France acceded to a mutual right of search, the slave-dealers of all nations found shelter and security under her flag, and whenever the inconsiderate zeal of British Officers tempted them to disregard the exemption which it afforded from visitation and search, the indiscretion, pardonable as it was, always elicited reproof from the Courts of Law, as in the case of the "*Louis*." Indeed, had not the formal *concession* of the right to visit and search the merchant-vessels of Spain, Portugal, and France, been an indispensable preliminary to its *exercise*, the immense sums of money by which that concession was purchased, and the long and anxious negotiations by which it was secured, were paid and undertaken for nothing.

It may seem that we have insisted unnecessarily upon arguments which no one would be supposed to controvert. But the case is far otherwise; and we believe that there are at present few Naval Officers on this station who would hesitate to search and detain vessels like the "*Mary Anne Cassard*," carrying an American Flag and Pass, but fitted in every respect for the Slave Trade, met with in haunts which are only frequented by vessels engaged in that traffic, laden with Spanish merchandise, bound to Spanish ports, and manned almost exclusively with Spanish sailors. Vessels of this description now abound on every part of the coast.

A remedy for such a state of things must soon be applied, either by the Government of the United States, or by other Governments who will not consent to see the labours of 30 years absolutely thrown away, and rendered altogether useless and inconsequential, by the obstinate jealousy of *one* Commercial Power. Let the great Maritime States of Europe simply declare—what, indeed, is a truth easily demonstrable from the best authority, but not hitherto acknowledged by public law—that Slave Trade is a crime against the universal law of nature and nations; and neither the republican flag of the United States, nor any other, will avail to perpetuate a traffic, of which it is well known our efforts hitherto have only served to increase the horrors, without at all diminishing the extent. But should this general declaration be withheld, let the British Parliament alone affirm the same principle, and the same consequences will follow, so far at least as British cruizers and British Courts are concerned. To America

will then be reserved the peculiar distinction of having been the first to denounce the Slave Trade, as carried on by her own citizens, and the last to afford protection to the outcast slave-dealers of all other nations.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, 30th November*, 1838.

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No. 18.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, November* 30, 1838.
(*Received June* 17, 1839.)

My Lord,

We have the honour to enclose to your Lordship our Report of the case of the schooner "*Veloz*," Joao Antonio Ribeiro, Master, captured by Her Majesty's brig "Brisk," Lieutenant Arthur Kellett commanding, off the Gallinas, on the 17th ultimo, and prosecuted to condemnation in the British and Spanish Mixed Court of Justice for being the property of Spanish subjects, engaged in and equipped for the Slave Trade.

The Spanish ownership of the "*Veloz*," her employment in Spanish trade, and her illegal equipment, were proved not by circumstantial, but by positive and direct evidence, This vessel, formerly the Spanish schooner "*Segunda Manuelita*," was nominally sold at Porto Praia to the notorious Antonio Dionisio Furtado, and from that time to the present she has sailed under a Portuguese Flag and Pass, and with a Portuguese subject on board, who figured on all necessary occasions as the Master. It appears, however, from several of the papers referred to in our Report, that the real Captain was Juan Baptista Cortina, a Spaniard, who was shipped as a passenger bound to Princes' Island, but who signed the Bill of Lading for the cargo taken on board at Havana, and in all respects directed the proceedings of the voyage.

From other papers it was shown that the owners of the "*Veloz*" are Messrs. Pedro Martinez and Co., of Havana, who gave full instructions to Cortina respecting his conduct on this coast, and the mode of landing his slaves on his return to the Island of Cuba.

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

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

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Enclosure in No. 18.

*Report of the Case of the Schooner* "Veloz," *J. A. Ribeiro, Master.*

The following is a brief Abstract of the numerous interesting Papers which are found on board this vessel:—

No. 1. A Bill of Sale, purporting to convey all right and property in the Spanish schooner "*Segunda Manuelita*" from the former Spanish Captain and Owner, Manuel Rodriguez, to Antonio Dionisio Furtado. The notary who draws up this deed, Miguel de Britto Pereira, is as well known as the purchaser, in connexion with these fraudulent transfers; and the same may be said of the witnesses, Francisco de Mello and Ignacio Carlos de Fonçeca. The Bill of Sale bears date at Villa de Praia, on the 3rd of December, 1836, in order to escape the penalties of the Portuguese Decree, promulgated a few days afterwards, and declares that the future name of the vessel under the Portuguese flag will be "*Veloz*."

No. 2. On the strength of this Bill of Sale, a Portuguese Register, dated a few days later, was granted to the "*Veloz*" by the Governor-General of the Cape Verd Islands. The vessel is therein said to be of American build, to be owned by A. D. Furtado, and to be commanded by M. de Brito Lima. This is the same person who nominally commanded the "*Paquete Felis*," lately captured with slaves on board, and condemned on the 8th of August last.

On the back of the Register there is a warning to the Master not to engage in the inhuman Slave Traffic; there is also an endorsement by the Governor of St. Thomas', on the 24th of January, 1837, and another by Jozé Miguel Fernandez, the Portuguese Consul at Havana, on the 6th of December, 1837, stating that the Master at that time was Jozé Lopes Robardão. It thus appears that, at any rate, for the two voyages, the "*Veloz*" has been employed in the commerce of Cuba.

No. 3. The Matricula, which is dated at Havana on the 16th June last, and is certified by the American Consul Mr. Trist, is remarkable as not containing the name of a single Officer besides Ribeiro, the Captain of the flag, and the Boatswain. This we have frequently found to be the case with vessels like the "*Veloz*," and the reason is that the Spanish officers take out Passports as passengers bound to the same destination as the vessel, on their private affairs. A second certificate from Mr. Trist, attached to the Paper on the same day, states, that Don Antonio Rodriguez "being hereunto authorized and empowered by Don A. D. Furtado Owner of the Portuguese schooner

'*Veloz*,' has appointed João Antonio Ribeiro as Master of the vessel, in the place of Manuel de Brito Lima, late Master." The person who here comes forward as Agent of Furtado, at Havana, bears the same name as the person who nominally sold the "*Veloz*" to Furtado at the Cape Verd Islands; and the endorsement on the Passport (No. 2) by Fernandez, the Portuguese Consul, shows that the original Captain named in the Register, Manoel de Brito Lima, had given place to another Captain so long prior to this Declaration as the 6th of December, 1837.

Nos. 4, 5, and 6 are three passengers' Passports, taken out by Juan Baptista Cortina, Don Manuel Cuadrado, and Juan Baptista de Ybarra, Spaniards going to the Island of St. Thomas on their private affairs. It is nevertheless certain that Cortina was the actual Captain of the vessel, and Cuadrado and Ybarra First and Second Mates.

No. 7. This fact is proved by a secret contract which was entered into at Havana between the Owners of the vessel and her crew, and in which the pay and allowances of the above-named Officers are thus stated:—

Ribeiro (the Captain of the flag) 50 dollars per month, and a present (gratification) of 200 dollars in the event of a successful voyage.

Cortina (the real Spanish Captain) 100 dollars per month, and six dollars for each slave that may be safely landed on the Island of Cuba.

Cuadrado (First Mate) 70 dollars a month, and three dollars for each slave.

Ybarra (Second Mate) 40 dollars per month; and Manuel Espinosa, who is inserted in the official Muster-roll as Boatswain, but who had with him a Certificate of his having passed for the degree of First Pilot, was, by this private contract, to receive the same pay as the First Mate Cuadrado.

From this document it will be seen that the Portuguese Captain of the flag was entitled to less than one-third of the pay of the actual Captain, and less than one-half of the pay of two other Officers nominally under his command.

The real station of Cortina is not, however, left to be deduced from such circumstances as these. Direct evidence of the fact was supplied on the very day that the "*Veloz*" cleared out from Havana as a Portuguese vessel bound to St. Thomas'.

No. 7 is the Bill of Lading for the outward cargo, shipped by Messrs. Pedro Martinez, and Co., to be delivered to Don Emilio Martin, at Lagos. The document is made out in quadruplicate, and is signed by Cortina, as Master, on the 16th June, 1838. On the back of the Bill of Lading is a receipt from the Consignee at Gallinas for the rice and brandy which formed part of the cargo; and another receipt thereon from Emilio Martin, at Lagos, shows that the remainder of the cargo, consisting of dry goods, guns, and gunpowder, was also delivered by Cortina.

No. 8. The Letter of Instructions from Pedro Martinez and Co. to Cortina, dated on the same day as the last Paper, is, word for word, an exact Copy of several Letters of Instructions from the same house, which have fallen into our hands; and this circumstance alone, were not the signature "P. M. and Co.," and the handwriting of the Letter, perfectly familiar to us, would serve to point out those persons as the Owners of this pretended Portuguese vessel.

The only passage which refers to this particular adventure is the following:—"We have to instruct you to shape your course direct for the roadstead of Gallinas, where you will deliver the packet of Letters which you carry to the chief of that factory, Don Jozé H. Alvarez. We suppose that he will, without delay, order you to continue your voyage to Onim (Lagos), where Don Emilio Martin will give you your cargo, and where you will hand over the articles of barter which you carry. But if at the Gallinas the said Don Alvarez should wish to dispose of any of those effects, you will deliver to him what he may require, and take the rest with you to Onim, or wherever else the said Don Alvarez may send you.

"On your arrival at Onim you will send our correspondence to Don Emilio Martin, chief of our establishment there, who will also receive the articles for barter which you have on board, and, at the proper time, will give you your return cargo; and whatever orders the said Señor Martin may give you, you will obey them with the same punctuality as if they were ours."

In that part of the Letter which contains the general Instructions from Pedro Martinez and Co., there is a passage which is new to us, and which we shall therefore quote.

"As it may, perhaps, be of use to you, we forward you a Certificate of this Custom-house, legalized (legalizado) by the American Consul, in which it is stated that the water-casks are for palm oil, the boiler for clarifying the said oil, and the planks and beams for building huts on shore; of which document you will make the necessary use, if, in your passage from hence, you are boarded by an English or Portuguese ship of war. But both in going, and during your stay on the Coast, as well as on your return, you cannot be ignorant that it is better to run away from every sail and not to be boarded at all."

No. 9 is the Custom-house Manifest of cargo or official Clearance at Havana; and No. 10 is the Custom-house Certificate alluded to in the Letter of Instructions just quoted, stating that the articles of slaving equipment found on board the "*Veloz*" were shipped for lawful purposes. Both these Papers are dated on the 16th June, 1838, and declare the Island of St. Thomas to be the destination of the vessel; and the latter Paper is accompanied by the attestation of the American Consul.

No. 11 is the Log-book of the voyage. The "*Veloz*" left Havana on the 17th of June last and arrived at Gallinas on the 29th of the following month, which river, after delivering part of her cargo, she again left on the 3rd of August for Lagos, where the remainder of the outward cargo was delivered, and from which port the "*Veloz*" proceeded, on the 26th of the same month, to trade along the Coast for rice and other provisions; and on the 17th ultimo she was detained by Her Majesty's brig "Brisk," whilst attempting to re-enter the Gallinas.

No. 12 is a Letter of Instructions to Cortina from Jozé Alvarez, the Consignee of the "*Veloz*" at Gallinas. It is dated the 3rd of August, 1838, and addressed to Señor Don Juan Baptista Cortina, *Captain* of the schooner "*Veloz*," and directs him immediately to set sail for Lagos, "in consequence of orders to that effect which have been received from Havana."

In the same manner Cortina is spoken of in all the letters and papers from Lagos, as *Captain* of the schooner "*Veloz*." To this correspondence we shall only make one reference.

No. 13 is a letter from Emilio Martin, the Agent of Pedro Martinez and Co. at Lagos, to Jozé Alvarez, the Agent of the same house at Gallinas, dated Onim, 26th August, 1838. The following is an extract:—

"I have to inform you that I have just despatched the schooner "*Sin Ygual*" with 328 slaves only,

in consequence of the town having been set fire to, and a battle having taken place on the 27th of last month, which occasioned us a loss of many heads of cargo; indeed about 180 are wanting altogether.

"As you desire me, in case I should not require the '*Veloz*,' to send her back to you as soon as she has discharged her cargo, I intend to despatch her to you to-morrow, for I have here the '*Josephina*,' which I shall send off, as soon as the '*Catharina*,' which I am daily expecting arrives.

"I shall be glad to hear that you continue well, and that you send off a great many vessels, for that is of most consequence."

The "*Veloz*" having been taken possession of by Her Majesty's brig "Brisk," Lieutenant Arthur Kellett commanding, on the 17th ultimo, arrived in this harbour on the 23rd ultimo, and was immediately brought before the British and Spanish Mixed Court of Justice. The usual forms were gone through with respect to the filing of the Captor's Declaration and the papers, the issue of the Monition, the examination of the witnesses, and the inspection of the fittings of the detained vessel.

The Portuguese Master, J. Antonio Ribeiro, deposed that he was born in Oporto; that he has no fixed place of residence, being generally on board ship; that he has never served any State but Portugal, and is not married; that he was appointed to the command of the detained vessel, and possession of her was given to him at St. Jago, Cape Verds, about six months ago, by Dionisio Furtado, a Portuguese subject, and Owner of the vessel; that he first saw the vessel there and then, and believes she is American built; that he was present at the time of capture; that he does not know why the vessel was seized; that she was under Portuguese colours at the time, and had no others on board, except an old American flag; that the vessel has never been called by any other name than "*Veloz*," to witness's knowledge; that she is about 180 tons burthen, and had a crew of 19 officers and mariners, exclusive of witness, all Portuguese, except the First Mate and four or five mariners, who were Spaniards, but all were hired and shipped by witness in Havana about four months ago; that neither he nor any other of the officers or mariners had any interest in the vessel or her cargo, but he was Master on board; that there were three or four passengers, of whom three were Spanish seamen belonging to some vessel, unknown to witness, which was condemned by this Court, and were embarked a little to the north of Whydah to work their passage to Havana, and whose names witness does not know; that the fourth passenger was also a Spanish seafaring person, named Juan Baptista Cortina, who embarked in the vessel at Havana for a passage to Princes' Island; that none of the said passengers had any interest or authority on board; that the present voyage commenced, and was to have ended, at Havana, which was the last clearing port, and whence the vessel proceeded towards the Coast of Africa, calling at Lagos, Quittah, Grand Bassa, Grand Sestos, and Gallinas, for the purpose of purchasing rice, of which a large quantity was procured from the natives, with the intention of taking it to the Cape Verds for sale, and proceeding thence to Princes' Island to dispose of the remainder of the cargo; that the capturing vessel was first seen off the Gallinas about six days ago; that capture took place there and then; that there was no chase; that the detained vessel was steering into the Gallinas at the time; that the vessel's papers were for Princes' Island, but she was prevented by bad weather from going there; that it was witness's intention to go there from the Cape Verds; that Antonio Dionisio Furtado is the Owner of the vessel; that the same person is sole Owner of the cargo; that witness was its Lader and Consignee; that witness was instructed by Furtado to purchase the cargo, and to dispose of it on his (Furtado's) account; that on her last voyage the vessel went in ballast from Cape Verds to Havana; that the vessel was under the sole management of witness, with regard to her trade; that bulk was broken at Lagos; that the hatches are not fitted with open gratings; that the combings of the hatchways were formerly bored, but the holes have been always plugged up since witness joined the vessel; that he believes there are some iron bars on board which are fit for securing the said hatches, but they have never been used for that purpose; that there is a loose lower deck laid fore and aft, but not intended to be used as a slave-deck; that there are 14 leaguers, 16 pipes, and 20 quarter-casks, capable of containing altogether about 60 pipes of water; that witness had these casks for the purpose of holding palm oil, but, at the time of capture, they were filled with fresh water; that there is a large iron boiler on board intended for boiling palm oil; that there is a large quantity of rice on board which was intended to be sold at the Cape Verds.

The Spanish Chief Mate, Manuel Cuadrado, was also examined on the standing interrogatories, but he pretended ignorance on almost every point with respect to which he was questioned.

It is needless to direct attention to the numerous falsehoods which abound in the Master's evidence, except as they may be taken for a fair specimen of the reckless perjury committed by almost every witness who comes before the Court. The American Consul, in his Certificate attached to paper No. 3, declares that the present Portuguese Master, Ribeiro, was appointed to the command of the "*Veloz*" at Havana, in June last, in the place of the former Master, Manoel de Brito Lima, by Rodriguez, the authorized agent of Furtado. The Master, on the contrary, swears that he was appointed by Furtado himself at the Cape de Verd Islands.

Again, Ribeiro swears that the vessel has never been called by any other name than "*Veloz*," although the Bill of Sale, under which the vessel claimed a Portuguese character, declares that she was some time since the Spanish schooner "*Segunda Manuelita*."

Then with respect to the Spanish Officer of the "*Veloz*," who, though not mentioned in the Matricula, embarked at Havana with Passports, as passengers going to St. Thomas', and were parties to the private engagement No. 7, Ribeiro deposes that Cortina, the acknowledged Master of the vessel, was a seafaring person going to Princes' Island; and that the others were Spanish seamen, who had joined the "*Veloz*" on this coast, and were working their passage to Havana.

There are also many other false and absurd statements, which were evidently made by Ribeiro in complete ignorance that the real facts had been disclosed by the papers which were on board the vessel nominally under his command, and which happilly fell into our hands.

The Report of the Surveyors of the Court, with regard to the equipment of the "*Veloz*" for the Slave Trade, informed us that the hatches were fitted for the reception of slaves, having holes bored in the combings for iron bars, and that the deck was supplied with two scuttles abreast the foremast and mainmast, for the purposes of giving air to the slaves; that a slave-deck was completely laid fore and aft; that there were 7000 gallons of water on board, besides leaguers capable of containing altogether about 11,000 gallons; also 20 buckets and a large quantity of mess-tins and wooden spoons; and that the coppers were large enough to cook for 400 persons.

Soon after the publication of the above evidence, the Monition issued on the 23d ultimo, was returned into the Registry, with the Marshal's Certificate of its having been duly served; but the Captor's Proctor hesitated for some time about petitioning for a day of trial, as it was understood that a claim

would be made for the restoration of the detained vessel; and when the Court at last met to dispose of the case, the Portuguese Master stated in person that he had been unable from various causes to obtain professional assistance to defend his vessel. The decision of the Court was accordingly postponed at his request, and again afterwards, on the petition of the Queen's Advocate, who was retained by the Claimant immediately on the arrival of the learned gentlemen in the Colony.

Little more, however, was done by the Claimant, than filing the claim in the usual form for the detained vessel and her cargo; for the case would not admit of any substantial, or indeed of even a plausible defence. The judgment of the Court was pronounced on the 24th inst.; and Spanish ownership having been expressly established in connection with illegal slave equipment, the "*Veloz*" and her cargo were condemned as good and lawful prize.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, November* 30, 1838.

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## No. 19.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, January* 20, 1839.

MY LORD, (*Received July* 16.)

WE have the honour to enclose to your Lordship our report of the case of the schooner "*Ontario*," Gregorio Martinez, Acting Master, captured under Spanish colours on the 18th ultimo, by Her Majesty's sloop "Pelican," B. Popham, Esq., commanding, with 219 slaves on board, who had been shipped on the 14th ultimo, in the River Nun, and were bound to Havana.

Until within a fortnight of the embarkation of her slaves, the "*Ontario*" had professed to bear an American character; but on the 1st ultimo a Bill of Sale was executed by the alleged American Owner to the late Master, José Maria Mendez, who had previously acted as Captain, and had shipped the Spanish crew of the vessel at Havana. We believe the American papers to have been altogether colourable, and merely intended to protect the "*Ontario*" on her outward voyage. This purpose having been answered, the American flag was repudiated at the moment it became unsafe any longer to sail under it; and the Spanish flag was assumed, which, though it allowed of visitation and search, would not, like the American, expose the crew to execution as pirates, if they had chanced to have fallen in with an American cruizer.

The "*Ontario*" having been captured under Spanish colours, and bound to the same Spanish port where the voyage commenced, with a cargo of slaves on board, had rendered herself liable to condemnation under the Slave Trade Treaty with Spain. As soon, therefore, as the case was closed, a sentence was pronounced, confiscating the detained vessel, and emancipating the 200 survivors of the slaves who had been found in the detained vessel by the Captor.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

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## Enclosure in No. 19.

*Report of the Case of the Schooner* "Ontario," *Gregorio Martinez, Acting Master.*

THIS vessel may be said to have been found without any ship's papers at all. Until within a few days of her capture with 220 slaves on board, she professed to be an American vessel. But on the eve of the embarkation of a cargo which, if found on board of her whilst sailing under the flag of the United States, by an American cruizer on the coast, would have exposed the Captain and crew to summary punishment as pirates, a Bill of Sale was executed by Eleazer Huntington, the late apparent American Captain and Owner, to a Spaniard of the name of José Maria Mendez. This Bill of Sale was signed and sealed in the River Nun, on the 1st ultimo, in the presence of Jozé Cardoza, the Captain, and Cayetano Gonzales, a passenger on board the schooner "*Magdalena*," reported in our last despatch.

Immediately after the transfer had taken place, the "*Ontario*," without changing her name, or procuring a Register or Passport of any description, assumed the Spanish flag, and took on board a cargo of slaves for the Island of Cuba. The fact that she was sailing under Spanish colours, and professed to bear a Spanish national character at the time of capture, had, notwithstanding the absence of any documents to confirm the pretensions of the "*Ontario*," given to the Captor the right to visit, search, and afterwards to detain, the guilty vessel, when he found that she had actually on board a full cargo of slaves, with which she was bound to a Spanish port.

As none of the American papers belonging to the "*Ontario*," when she carried the American flag, were given up to Mendez, when the vessel became his property, there is reason to believe that those American papers will again be made use of by the late Owner, Huntington, in order to protect in the same manner some other Spanish vessel on future voyages to this coast; and that the mock ceremony of

a transfer will again be gone through, at the moment when, by the embarkation of a cargo of slaves, the continuing to sail under the American flag will be attended with difficulty and danger.

No. 2 is headed "List of persons composing the crew of the schooner '*Ontario*,' of Baltimore, whereof is Master, Eleazer Huntington, bound for the Island of San Tomé." It is dated at Havana, the 20th of June, 1838, and is signed by Eleazer Huntington. A certificate is added under the hand and seal of the American Consul at Havana, that Huntington had sworn to the correctness of the names of the crew, "with the places of their birth and residence, so far as he can ascertain the same." On turning to the list we find that, out of the eight men who navigated this American vessel, there are said to be three Spaniards, five Portuguese; and *not one* is even pretended to be a citizen of the United States.

No. 3 is the Log-book in Spanish, for the four first days of the present voyage.

On the 9th instant the "*Ontario*" arrived in this harbour, with 200 slaves on board, and was immediately visited by the Marshal and Surgeon to the Courts. The slaves were landed on the same day; and the prosecution of the vessel proceeded in the usual manner.

The Captor's declaration is to the following effect: "I, Brunswick Popham, Esq., Captain of Her Britannic Majesty's sloop 'Pelican,' hereby declare, that on the 18th day of December, 1838, I detained the schooner named '*Ontario*' sailing under Spanish colours, and commanded by José Hemens, who declared her to be bound from the River Nun to Havana, and having on board 220 slaves, said to have been taken on board in the River Nun, on the 4th day of December, 1838."

The Acting Master, Gregorio Martinez, when examined on the standing interrogatories, deposed "that he was born at Cadiz, has lived 10 years at Havana, is a subject of Spain, and has never served any other State; that he took charge of the detained vessel on the 28th of December, in consequence of the successive deaths of the Master before capture, and of the Mate since; that he first saw the vessel at Havana nine months since, and she is American built; that he was present at the time of capture, which took place because there were slaves on board; that the vessel sailed under Spanish colours, and had no others; that the vessel is called '*Ontario*,' and witness has never heard of her bearing any other name; that there were 10 Officers and mariners exclusive of witness, all Spaniards, who were hired and shipped by the late Master at Havana seven months ago; that the last clearing port was Havana, where the voyage began, and was to have ended; that from Havana the vessel came direct to the River Nun for slaves; that the sole Owner of the vessel was José Maria Mendez, who was also the late Master, and is a resident of Havana; that the late Master was the sole Lader, Owner, and Consignee of the cargo; and the vessel, with respect to her employment in trade, was under his sole management."

From this evidence it would appear that the American papers which the "*Ontario*" carried on the outward voyage, and the Bill of Sale executed in the River Nun on the 18th ultimo, were entirely colourable, and that the vessel was actually Spanish, and the property of Mendez, when she left Havana in June, 1838, being so regarded by the crew whom Mendez shipped at that place.

Another witness was produced by the Captor's Proctor, but his evidence only served to corroborate that of the Acting Master.

The case being closed, a Court was summoned for the 17th current, on which day the Monition was returnable by the Marshal. The judgment of the Court was, that the schooner "*Ontario*" be condemned as good and lawful prize; and that the survivors of the slaves captured on board of her, 200 in number, be emancipated, 19 having died subsequently to capture, and 219 having been on board at the moment of detention.

*Sierra Leone, January* 20, 1839.

(Signed) H. W. MACAULAY.
R. DOHERTY.

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No. 20.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, April* 5, 1839.
(*Received July* 16.)

My Lord,

We have had the honour to receive your Lordship's Despatch of the 16th of February last, transmitting to us the reports from Havana of the arrivals at, and the departures from that port, of vessels concerned in the Slave Trade, during the months of October and November in last year.

Of the vessels named in the Havana Commissioners' List, we are enabled to report as follows:—

The American schooners "*Florida*," "*Hazard*," and "*Jago*," which cleared out from Havana in the months of October and November last, have all been before us; having been detained by Her Majesty's cruizers for being illegally equipped for the Slave Trade; but, as in the case of the "*Mary Anne Cassard*," the Court declined admitting these vessels into the British and Spanish Court.

The Portuguese schooner "*Sin Ygual*," we have reason to know, left Lagos some time since with a cargo of slaves on board.

The schooner "*Amalia*," which left Havana on the 23rd of October last for the river Bonny, under Portuguese colours, was seized by Her Majesty's brigantine "*Dolphin*," as a vessel having a Spanish character, and being illegally equipped; on which grounds she was condemned here on the 8th of February last.

On similar grounds, the brig "*Maria Theresa*," which left Cuba in November last, was condemned in the British and Spanish Court on the 5th ultimo.

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

No. 21.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, April* 15, 1839.

(*Received July* 16.)

MY LORD,

WE have the honour to acknowledge your Lordship's Despatch of the 23d of February, 1830, covering the copy of a report of the arrivals of slave-vessels at Havana, and of the departures of slavers from the same port, during the month of December, 1838.

Of these vessels the Portuguese schooner "*Serea*" is the only one which has yet come before us, and she was condemned a few days since

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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No. 22.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, April* 15, 1839.

(*Received July* 16.)

MY LORD,

WE yesterday had the honour to receive your Lordship's Despatch, under date the 23d of February, 1839, transmitting to us a copy of a Despatch, and of its Enclosures, which had been addressed to your Lordship by Her Majesty's Commissioners at Havana, relative to the Slave Trade of Cuba, during the year 1838.

The statements which we have lately made as to the disappearance of the Spanish flag on this coast, and the gradual substitution of the flag of America for that of Portugal, are completely borne out by the Report of the Havana Commissioners, although many of the vessels, which still carry Spanish colours and papers, and enter inwards and outwards at Havana, as Spanish vessels, show different colours and a different pass, when fallen in with by Her Majesty's cruizers.

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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No. 23.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, May* 17, 1839.

(*Received July* 16.)

MY LORD,

WE have had the honour to receive your Lordship's Despatch, dated the 10th of April, 1839, transmitting, for our information, a copy of a Despatch from Her Majesty's Commissioners at Havana, reporting the number of slave-vessels which arrived at and departed from that port, during the month of January, 1839.

Of these the American schooner "*Rebecca*" is the only one which has yet come before us. She was condemned here in the early part of last month, but her national character was changed on this coast previous to capture.

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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No. 24.

*Viscount Palmerston to Her Majesty's Commissioners, Sierra Leone.*

GENTLEMEN, *Foreign Office, July* 17, 1839.

I HEREWITH send to you, for your information, copies of three 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 February, March, and April, 1839.

I am, &c.

*Her Majesty's Commissioners,* (Signed) PALMERSTON.
*&c. &c. &c.*

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Enclosures in No. 24.

1 *H. Ms. Commissioners to Viscount Palmerston, Havana, March* 20, 1839. (See Class A. 1838-9, (further Series) No. 49, page 121.)
2. ,, ,, *April* 15, 1839. (See Class A. 1838-9, No. 50, page 122.)
3. ,, ,, *May* 30, 1839. (See Class A. 1839-40, No. 84, page 120.)

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No. 25.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, January* 31, 1839.

MY LORD, (*Received July* 25.)

WE have the honour to enclose an abstract of the papers of the schooner "*Florida,*" David Bell Williamson, Master, which vessel was presented to us for admission into the British and Spanish Mixed Court of Justice, on the 26th instant, by Lieutenant Henry Worsley Hill, of Her Majesty's brig "Saracen." We declined to accede to the Captor's application in this respect, on the ground that all the papers of the detained schooner set forth that she was an American vessel.

The reasons for the course which we have thought it our duty to pursue with regard to such seizures, have been so fully stated in our Despatch of the 30th of November, 1838, that it will be needless now to repeat them; and incompetent as we feel ourselves to deal with cases of this description, we are proportionally anxious that measures should be taken in the proper quarters to rectify the scandalous and increasing abuse of the flag of the United States.

From the enclosed Abstract hastily made of the "*Florida's*" papers, before they were returned to the Captor, on his petition being rejected, it will be seen that George Elvear of Baltimore took out an American register for his schooner "*Florida,*" in June 1838, and immediately despatched her to Havana for sale, under the charge of the Captain, Matthew Kelly, who was appointed the agent of the Owner with a Power of Substitution. Kelly appointed Don Juan M. Manzanedo, of the firm of Manzanedo and Abrisqueta, his substitute; and within three months and a half from the date of the American Register, a Bill of Sale of the "*Florida*" was executed by Manzanedo to D. B. Williamson, the present Master.

Such are the representations of the ship's papers. Unfortunately, however, for the credit of the Bill of Sale, another paper was discovered, showing that Williamson, instead of being the Owner, was to receive from the well known Slave Trading firm of Manzanedo and Abrisqueta (who, if not themselves the Owners of the "*Florida,*" were at any rate the agents of the Owners) a small monthly stipend for assisting, by his name and presence, in concealing a Spanish Slave Trade adventure under an American cover. The pay of this man was only to continue until the vessel should be ready to receive her return cargo, when owing, we presume, to an intention to change the flag to Portuguese or Spanish, his services would be no longer of use; but even then he was to be allowed his passage back to Havana free of expense. The equipment of the "*Florida*" for the Slave Trade was complete; and the Captor would thus have possessed ample means of convicting his prize of being an essentially Spanish vessel engaged in the illicit traffic, had he been permitted to take advantage of the information acquired by his unauthorized search.

The Declaration of Lieutenant Hill states, that he boarded the "*Florida*" on the

13th instant, in the River Gallinas, in his boat, Her Majesty's brig "Saracen" being at anchor off the bar. No colours were hoisted at the time, and Williamson was on board another vessel lying close by; but, on being hailed, he immediately returned to his own schooner, declaring himself Master, and that it was an American vessel.

Two days afterwards, Captain Williamson applied to Lieutenant Hill for protection against his own crew, who were all Spaniards, and had threatened his life. He is then represented to have stated, that he would not venture again on board the "*Florida*," which he would abandon altogether if he could only procure payment of his wages on the outward voyage from the agent of the vessel at the Gallinas, through Lieutenant Hill's interference. He further acknowledged that, so far as the Bill of Sale related to himself, it was false, and that he had no claim whatever to the character of Owner; and he attempted to clear himself of being a party to the fraud, by declaring that he had not been aware of the existence of this false document until some time after he left Havana. We have little doubt that the American Register and Muster-roll are as fictitious as the paper, the falsehood of which is admitted; they are, however, recognised by American authorities as true and valid, entitling the vessel which carries them to all the privileges of an American character; and, in our view of the matter, the fact of such a recognition is sufficient to protect from search and detention an apparent American vessel, so long as America persists in refusing to our cruizers the right of visitation.

The tenderness with which the independence of the Flag of the United States has been treated, under so much provocation, will, we trust, have its proper effect. Of the actual existence of the evils which were anticipated from America's determined denial of the privilege of search, no doubt can now be entertained; and it is to be hoped that some remedial measures will at any rate be adopted by herself, to check and punish the abuse, which has clearly resulted from her obstinate retention of a right, which other nations, less jealous and exclusive, have consented, under certain circumstances, and for a well-defined and humane object, to waive, without any injury to their national honour.

We will here only recommend one measure, to which America can offer no reasonable objection. It is, that a force of small brigs, brigantines, or schooners of war should be sent on this coast by the American Government, each of which should cruize and visit the Slave Trading rivers and stations, in company with one of our own vessels. Cruizing singly would have comparatively little effect, as the same vessel which would show American colours and papers to a British Officer, might show Portuguese or Spanish colours and papers to an American Officer. The crews of such vessels are always composed of Spaniards, with the exception of one American, who, in the presence of the British cruizer, would figure as the American Captain; and, before the cruizer of his own nation, would declare himself a passenger, and would probably produce a passenger's passport from Havana. Cruizing in couples, on the contrary, would remove the possibility of such evasion. If the American Flag and Pass were assumed by a slaver, she would be taken charge of by the one; and if she declared herself, or if she could be proved to be, Spanish, Portuguese, or Brazilian, she would be a prize to the other man of war. At present, however, the coast swarms with vessels, apparently American; and a rich harvest of prizes would follow the immediate arrival of a squadron of American cruizers, armed with authority to capture on the ground of equipment.

The zeal and alacrity with which the United States Consul at Havana assists such illegal adventures as the present, were, as usual, conspicuous on this occasion. He recognised, as a valid document, a Register which had apparently been cancelled, and of which only the left half was produced to him; and he acknowledged Williamson as Owner of the "*Florida*," and the purchaser of that vessel, although no Power of Attorney or Power of Substitution, was forthcoming to prove the right which either Kelly, the alleged Agent, or Manzanedo, the alleged Substitute and seller, had received from Elvear, the original Owner named in the mutilated Register, to dispose of the property in question; nor does it seem to have excited any doubt in the unsuspicious mind of Mr. J. A. Smith, that a vessel fully equipped for the Slave Trade, and bound for the most notorious slave-mart on the Coast of Africa, should be cleared out from Havana by one of the most extensive slave merchants of Cuba, with a crew of which the Captain of the Flag was the only person who professed to be an American citizen. A striking contrast is here presented, between the sensitiveness of the Government of the United States,

with regard to the honour of the American Flag, and the hardihood of the accredited Agents, who recklessly invite its prostitution by every pirate and smuggler who can afford to pay the fees of the Consular Office.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

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## Enclosure in No. 25.

*Abstract of the Papers of the Schooner* "Florida," *David Bell Williamson, Master.*

No. 1. Part of an American Register, which has been cut diagonally, from the left corner at the top, to the right corner at the bottom. Only the left side is produced, which, however, contains the endorsement, "Permanent Register, No. 50, schooner '*Florida*,' of Baltimore, 19th of June, 1838. Tons 83 $\frac{40}{95}$." Beyond this little information can be obtained, as the absence of the right half of the document prevents our ascertaining its contents.

No. 2. A Bill of Sale, by which Don Juan M. Manzanedo, a merchant of Havana, in virtue of a Power of Substitution granted by Matthew Kelly, Attorney of George Elvear, of Baltimore, sole Owner of the schooner "*Florida*," transfers all right and title in the said vessel to David Bell Williamson, for the sum of 6,200 dollars. To this document is attached a certificate from the American Vice-Consul, Mr. Smith, on the 4th of October, 1838, that Manzanedo had appeared before him, and acknowledged the transfer as his act and deed. A second certificate by the same functionary on the same day declares, "that David Bell Williamson has taken the oath required by law, and is at present Master of the schooner "*Florida*," in place of Matthew Kelly, the late Master."

No. 3. The Muster-roll of the crew, signed by the Master, D. B. Williamson, and certified by the American Vice-Consul.

No. 4 is the Custom-house clearance from Havana, dated on the 9th of October, 1838, stating that the American schooner "*Florida*" was bound to Cape Verds and Gallinas.

No. 5. There is another paper, dated two days before the Bill of Sale was executed, which proves the latter document to be fictitious. It is a formal agreement between Messieurs Manzanedo and Abrisqueta, who have lately been so deeply engaged in the Havana Slave Trade, and the Master, Williamson; and stipulates that the latter, although the ostensible Owner, shall receive 70 dollars a-month during the outward voyage, and until the "*Florida*" be ready to take on board her return cargo, when his services shall cease; and that a passage back to Havana shall be found for him, free of expense, in the same vessel.

*Sierra Leone, January* 31, 1839.

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## No. 26.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, January* 31, 1839.

(*Received July* 25.)

My Lord,

We have the honour to enclose to your Lordship herewith an Abstract of the papers found on board the schooner "*Hazard*," Russell Barker, Master, which was fallen in with on the 4th instant, in 5° 43′ North latitude, sailing under American colours, by Her Majesty's brigantine "Forester," Lieutenant Colin Yorke Campbell commanding, and detained on the ground that she was equipped for the Slave Trade, and that there were "reasons for supposing her to be a Spanish vessel."

On the 29th instant an attempt was made to bring the "*Hazard*" before the British and Spanish Mixed Court of Justice; but the fact of the vessel having been taken whilst sailing under the Flag and Pass of the United States, a fact, which is necessarily stated in the preliminary declaration of the Captor, rendered it improper, in our opinion, to sanction the prosecution of the vessel in any of the Courts of Mixed Commission.

The "*Hazard*" received an American Register at Baltimore, on the 11th of May, 1838, and on *the following day* she was despatched to Havana for sale. On the 19th of September, Don Francisco Montero, a merchant at Havana, who has since accompanied the vessel in the ostensible character of Supercargo, received full powers to dispose of the vessel, when, where, and how he pleased. There is little doubt that Montero had in fact become the Owner of the property over which he possessed such absolute control, and that the Power of Attorney under which that control was exercised was a mere blind. Barker, the American, was also, it appears, only "Captain of the Flag," the real Master who cleared out the vessel from Havana, and whose name was endorsed on the Clearance as Captain, being Don Benito Sandes, who is described in the Muster-roll as First Mate.

Although cleared out for St. Thomas', the destination of the "*Hazard*" was the slaving port of Lagos, as she carried from Havana letters for various persons at that place; and the fittings of the vessel sufficiently demonstrated the illegal objects of the voyage.

The American Captain died on his passage to this port; and the "*Hazard*" was thus left to navigate the seas, without having on board one citizen of the nation to which she claimed to belong. Her crew were all foreigners; a Spanish merchant exercised over her all the rights of Ownership; and she received her outward cargo and her Slave Trading equipment in a Spanish port, to which, according to the declaration of the late Master, she intends to return, when her business on the coast is completed. There is nothing to connect her with America, but her Baltimore Register, and the recognition of her American character by Mr. Vice-Consul Smith; nor could she ever have been intended to be employed in the commerce of America; for on the day after the American Register was obtained, she sailed for Havana, with a Power of Attorney on board to sell her forthwith. Under these circumstances, all that the Captor required to procure the condemnation of the "*Hazard*" as a Spanish vessel engaged in the Slave Trade was the right to avail himself of discoveries produced by his unlawful visitation and search.

In reporting the cases of the "*Mary Anne Cassard*" and "*Florida,*" we remarked that their Registers appeared to have been cancelled, being cut through diagonally, and only one-half of each being produced. The "*Hazard,*" on the contrary, was supplied with an entire document. This difference gives an appearance of probability to our conjecture respecting the invalidity of Registers so mutilated. The fact may be easily ascertained; and as the mode of cancelling American Registers must be well known to Messieurs Trist and Smith, owing to the numerous transfers of American vessels which have taken place in Havana, something more than mere *connivance* in fraud may thus be brought home to gentlemen, who already possess so many other claims on the gratitude of their slaving associates.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY

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

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## Enclosure in No. 26.

*Abstract of the Papers found on board the Schooner* "Hazard," *Russell Barker, Master.*

No. 1. A Permanent American Register, No. 40, dated and signed at Baltimore on the 11th of May, 1838, setting forth that James Frazier, of Baltimore, in the State of Maryland, had taken the required oath, and was sole owner of the schooner "*Hazard,*" of Baltimore, built during the year 1838, and measuring 120$\frac{5}{95}$ tons, and that Edwin Bailey was the Master of the vessel.

An endorsement by Mr. J. A. Smith, the American Vice-Consul at Havana, on the 24th of September, 1838, states that Russell Barker was Master on that date, and had taken the proper oath as such.

No. 2. On the day after the American Register was granted, a Power of Attorney was prepared by John Gill, a Notary Public of Baltimore, by which the Owner, James Frazier, authorizes the Captain, Edwin Bailey, to sell the "*Hazard,*" or to appoint a substitute for that purpose.

No. 3. Annexed to the last paper is a Power of Substitution, executed at Havana by Bailey, on the 19th of September, 1838, which empowers "Don Francisco Montero, of Havana, and Supercargo of the '*Hazard,*' to dispose of the schooner at his own discretion." The witness to the execution of this deed, was Mr. Smith, the Vice-Consul, who afterwards in his official capacity attested its correctness.

No. 4 is a Muster-roll of the crew, certified in like manner by the American Vice-Consul, on the 11th of October, 1838. Montero, the Supercargo entrusted with the disposal of the vessel, is not mentioned at all; but Russell Barker is named as Master, and Benito Sandes, and William Pons, as First and Second Mates; the one being called a Portuguese, and the other a Frenchman.

No. 5. The clearance from Havana, shows the following endorsement on the sealed envelope: "The American schooner '*Hazard,*' *Captain Don Benito Sandes*, bound from Havana to St. Thomas'. Dispatched the 12th of October, 1838." In the Enclosure also, although Barker is there styled the Captain, Don Benito Sandes is again named as the shipper of all those articles of slaving equipment, slave-deck, water-casks, &c., the shipment of which is in these documents usually assigned to the Master.

Nos. 6 to 10, are five private letters, of which one is addressed to Geronimo Villar, Captain of the brigantine "*Ligeiro,*" at Onim; another to Don Francisco Gallardo, Mate of the same vessel, but here called by her Spanish name of "*Galgo;*" and a third to Don Matthias Baptista de Carvalho, who it will be recollected was the consignee at Onim of the "*Ligeiro,*" reported in our Dispatch of

this date, marked Spain. The two former gentlemen, being at Sierra Leone, received their letters much earlier than they would otherwise have done. The two other letters are addressed to Don Antonio de la Pena, and Don Estevao del Castillo. The name of the former of these persons is well known to us, in connection with the Slave Trade.

Nos. 11 to 14. Four Log-books were found on board relating to the present and former voyages, made by the persons who kept them. They are all written in Spanish or Portuguese.

*Sierra Leone, January* 31, 1839.

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No. 27.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, February* 12, 1839.

(*Received July* 25.)

My Lord,

We have the honour to enclose an Abstract of the Papers found on board the brig "*Eagle*," Joshua W. Littig, Master, detained on the 14th ultimo, under American colours, whilst at anchor in Lagos Roads, by Her Majesty's sloop "Lily," John Reeve, Esq. Commander. Previous to this detention the "*Eagle*" had been three times visited in the same place by Her Majesty's ships "Pelican," "Pylades," and "Hazard."

The Captor states that the brig had on board a crew of 22 men and six passengers, all Spaniards except the Master; and that he detained her for being engaged in the Spanish Slave Trade.

The attempt, the fourth of the same kind made within the last three months, to bring this vessel into the British and Spanish Mixed Court of Justice, was frustrated by Her Majesty's Commissioners, who considered Captain Reeve's acknowledgement, that the "*Eagle*" was captured under the Flag and Pass of the United States, decisive as to the non-admissibility of the case, into any of the Courts over which they are appointed to preside.

The "*Eagle*" obtained an American Register at Baltimore, on the 1st of December, 1837, and *on the same day* her Owners took measures to effect a sale of her. Being built and intended for the Slave Trade, she was at once dispatched to Havana, where she was soon after disposed of. Who became the real Owner it is difficult to say, but the ostensible Owner was the present Master, Joshua W. Littig, to whom every assistance in clearing his vessel for the coast was rendered by the Consul and Vice-Consul of the United States of Havana.

On the 9th of May, 1838, the "*Eagle*" was cleared out at Havana, with a regular slave equipment for the Island of *St. Thomas*', although Mr. Consul Trist, in a Certificate of the following day, declares that she was bound to *Whydah;* and the Log shows that her real destination was *Lagos*.

The crew shipped at Havana, with the sanction of the American Consul, were all Spaniards, and agreed to serve under the American Littig, "*or whoever should go for Master,*" on a voyage to Whydah, "*or wherever the Master may direct.*" Accordingly, having reached this Coast, and been loaded at Lagos, they proceeded to Brazil, and entered the port of Bahia on the 18th of September, 1838, after having landed (as there is every reason to believe) a cargo of slaves somewhere in the immediate neighbourhood.

Mr. George R. Foster, the American Vice-Consul at Bahia, seems to be a worthy coadjutor of his brother functionaries at Havana. He disregarded the absence of any Clearance or authority which would justify the "*Eagle's*" appearance at Bahia; as if it were allowable for a vessel to wander over the world, from one quarter of the globe to another, in defiance of her Papers; he overlooked the complete slaving equipment which she carried, and the Spanish crew by which she was navigated; indeed he added 12 Spanish seamen to her Muster-roll, and then dispatched her for the coast of Africa, ballasted with Slave Leaguers, and with a cargo of tobacco worth 20,000 dollars, shipped by the oldest slave-dealer in Brazil, and consigned to the order of an Havana merchant at Lagos. The nature of the cargo with which the "*Eagle*" entered inwards at Bahia in September 1838, may be ascertained by our own Consul. If she was reported "in ballast," no doubt can exist as to the illegality of her voyage, which must have been known to Mr. Foster.

In addition to the 12 Spanish seamen added to the former Spanish crew at Bahia, six other Spaniards were there shipped, furnished with Passports as passengers bound "to the Coast of Africa." These persons were, however, in like manner, seamen, and were still on board the "Eagle," when detained by Her

Majesty's sloop "Lily," two months after their arrival on this Coast. A crew of 27 Spaniards and one American, on board a vessel so furnished, both from its composition and its numbers, sufficiently showed the real character of the expedition in which they were engaged.

From the papers numbered 24 to 26, relating to the American brig "*Teazer*," we discover that Mr. Joshua W. Littig is no novice in the art of making the American flag subservient to the slaving adventures of Spanish and Brazilian merchants.

We have been more particular in detailing the facts of these American cases, from a belief that they would be made the subject of representations to the American Government. Although the flag of the United States has been so extensively employed in the Slave Trade, that it is now met with in every slave haunt on the Coast, it is only lately that such has been the case. The immediate causes which have led the slave-dealers to invoke its assistance were, the expressed determination of America "not to be a party to any convention on the subject of the Slave Trade;" secondly, the concession of an Equipment Article by Spain; and thirdly, the practical adoption of the principle, that (in cases where the right of visitation and search exists) the national character of a vessel may be fixed by the residence of her merchant-owner, and by the course of trade in which she is engaged, in opposition to the presumption arising from her flag and register.

Three years ago the abuse, which now so universally prevails as to be a matter of every day occurrence, was only a subject of anxiety and apprehension. In a Despatch which we had the honour to address to your Lordship on the 2d of January, 1836, speaking of the various means which in our opinion would be used to escape from the operation of the new Spanish Treaty, the Commissioners remarked: "It seems *probable* that the flag of the United States may be made use of for the same purpose, particularly by those vessels intending to trade north of the Line." And again, in the same Despatch: "American vessels *will*, we have no doubt, be employed in assisting slave adventures by conveying to the Coast, without fear of detention, all the articles necessary for the outfit of a slave vessel, on her return voyage, and which, if found on board one of the vessels for whose use they are intended, would at once lead to her condemnation."

On the very same day when the above Despatch was written at Sierra Leone, the Commissioners at Havana (Class A. 1835, p. 206) wrote to your Lordship as follows: "The only visible effect of the reported new Treaty is an increased rate of premium, out and home, with an augmented price of negroes. Whether this low estimate of the efficacy of the new Treaty be owing to *a hope* that they will be able to avoid its effects by means of the Americans, we know not."

The same Commissioners, so lately as the 25th of October, 1836, expressed the "astonishment and regret with which they ascertained that the '*Anaconda*' and '*Viper*' had cleared out and sailed from Havana for the Cape Verd Islands under the American flag. These two vessels arrived in the Havana fitted in every particular for the Slave Trade, and took on board a cargo which would at once have condemned as a slaver any vessel belonging to the nations that are parties to the Equipment Article." The disgraceful frequency with which similar expeditions have been since prepared and dispatched from Havana must have served to diminish the "*astonishment*," however much it may have added to the "regret" of our brother Commissioners. Since then, the unfavourable anticipations which our experience had taught us, on both sides of the Atlantic, to form, have been too fully realized.

With such evidence before them, as the records of this Commission alone have supplied, it would be worse than dishonesty in the Government of the United States to affect to doubt or disbelieve that Spanish and Brazilian Slave Trade is carried on to an immense extent under the protection of the American flag. But the unavoidable admission of this incontestible fact places America in a peculiar position. She must either acknowledge herself unfaithful to her "obligations to the interests of the world," by having failed to employ the means she possesses for preventing the flagrant enormities which are extensively practised under her implied sanction, or she must acknowledge that even "a faithful exertion of her own means of detecting and punishing those American citizens who violate her laws" is inefficient for the purpose; and that a combination of Baltimore ship-builders, outcast American sailors, and her own consular agents, is more than a match for the whole powers of her Government.

It is not only the obscure and desperate individuals, who generally act as "Cap-

tains of the Flag" to the nominal American vessels which carry on the Slave Trade on this Coast, but the accredited agents of the Government of the United States at Havana and elsewhere, who have been denounced over and over again, but without effect, as "aiders and abettors" of the Slave Trade. In the last printed accounts from Havana that we have seen, Her Majesty's Commissioners there state (Class A, 1837, p. 110): "The American Consul continues to decline receiving any communication respecting American citizens reputed to be engaged in the Slave Trade;" and looking more losely than we do at such a state of things, it is not to be wondered at that the same gentlemen should express their "fear that Mr. Trist is acting in pursuance of the instructions of his Government."—(Class A, 1836, p. 212).

The ground on which, according to the statement of the Honourable John Forsyth, (Class B, 1834, p. 81,) "the opinion had been definitely formed not to make the United States a party to any Convention on the subject of the Slave Trade," was the "belief" that America possessed within itself, unassisted by the co-operation of any other Power, the means of detecting and punishing those American citizens who violate its laws" with respect to the Slave Trade. This "belief," as might have been confidently predicted by any one acquainted with the subject, has been proved erroneous by the ample experience of the last three years; and justice and humanity alike require that America should at once acknowledge her error, and oppose some remedy to the dreadful mischiefs which she has occasioned. If it was true in 1834, and we have no doubt that it was true then, and is much more so now, that "the abolition of the Slave Trade is an object in which the whole people of the United States feel a deep solicitude," how will they bear to hear, as hear they will, that under their flag, at this present moment, the Slave Trade of the whole world finds protection; that their home Government tacitly acquiesces in the monstrous wrong; while the representatives of their commercial interests in foreign countries openly and avowedly lend the whole influence of their official situations to encourage and extend the evil. It would be a libel on the moral and religious feeling of the American people to suppose that they could hear of such things without shame and indignation. "The discussion of the subject," which in 1834 Mr. Forsyth so anxiously deprecated, will then be revived, but under very different circumstances; it will not be confined to the office of the Foreign Secretary at Washington, and it will meet the Government loaded with guilt and disgrace from which it was then free.

The courtesy and respect with which we still treat the flag of the United States, notwithstanding the degrading purposes it is serving, whenever it appears before us, will, we trust, meet with your Lordship's approbation. We have elsewhere stated at length our reasons for having pursued such a course; but ignorant as we are at present of the weight which your Lordship will attach to those reasons, it is a consolation to know that our opinion respecting the inviolability of the American flag, under present circumstances, is fully reciprocated by the Commissioners at Havana, who, on the 17th of October, 1836, write to the American Consul at that port, with reference to some vessels proceeding to the coast of Africa on a slaving enterprise: "The protection which these schooners will receive from the American colours, both as regards their fitting and cargo, *will effectually secure them against capture by Her Majesty's cruizers.*"

A similar though somewhat modified opinion was expressed by your Lordship in a Despatch addressed to Sir Charles Vaughan, on the 7th of July, 1834, when your Lordship intimated that it would require "a special Treaty" to prevent the flag of the United States "being assumed by the dealers in the human race, as a protection for their nefarious traffic." Class B, 1834, p. 87.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

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Enclosure in No. 27.

*Abstract of the Papers found on board the brig* "Eagle," *Joshua W. Littig, Master.*

1. A Bill of Sale, showing that a permanent American Register, No. 118, was granted at Baltimore on the 1st of December, 1837, to the brig "*Eagle,*" of 205 tons, and which had been built at Balti-

more during the same year. The original Owners are declared to have been William G. Harrison and Walter Price, both resident at Baltimore.

On the same day that the above-named Owners obtained an American Register for the "*Eagle*," they executed a Power of Attorney in favour of Thomas T. Wingate, the Master, by which that person was empowered to sell the vessel, and to grant a proper transfer to the purchaser.

Acting on this Power of Attorney, Wingate sold the "*Eagle*" at Havana, on the 10th of March, 1838, to the present Owner and Master, Joshua W. Littig; and the completion of the transfer was witnessed by Mr. J. A. Smith, the American Vice-Consul. To give authenticity to Littig's title, the Power of Attorney from the original Owner to Wingate, and the Bill of Sale from Wingate to Littig, were both verified by Mr. N. P. Trist, the American Consul, under his hand and seal of office. He also certified, "that the original Register was deposited at the American Consulate, to be sent to the Collector of Customs at Baltimore." But it is remarkable that, while the Bill of Sale is attested by the American Consul on the 10th of March, 1838, the Power of Attorney, in virtue of which alone the Bill of Sale could have been executed, was not attested by the same party until the 10th of May following.

No. 2. The heading of this paper is as follows: "It is agreed between the Master, seamen, and mariners of the American brig '*Eagle*,' of Baltimore, whereof J. W. Littig is at present Master, *or whoever shall go for Master*, now bound from the port of Havana to *Whydah*, a port on the Coast of Africa, or *wherever the Master may direct*, not exceeding 10 months' run." The names of Littig and nine Spaniards are appended to the agreement, which is dated on the 5th of May, 1838, and to which Mr. Trist's Certificate is added on the 10th of the same month.

At Bahia, on the 13th of October last, 12 more men were entered on the list, increasing the crew to more than double its former number; and of these 12 there is only one name which appears to belong to an American citizen; but it is impossible to pronounce positively, as the usual practice of mentioning the birth-places was not followed. A Certificate from Mr. George R. Foster, American Vice-Consul *pro tempore*, dated at Bahia on the 15th of October, 1838, and affixed to the original Muster-roll taken out at Havana, states that the crew of the "*Eagle*" consisted of 22 men, all told.

No. 3. On the 9th of May, 1838, the "*Eagle*" was cleared out by the Custom-house at Havana for the Island of *St. Thomas*, with a regular slave-trading cargo and equipment, shipped by Don J. Morales.

No. 4. The Log-book in English shows that, on the 14th of May, 1838, the "*Eagle*" left Havana for the Coast of Africa, reaching the Cape Verds on the 14th of June, and then running south. She was off Cape Palmas on the 28th of June, and anchored off Cape St. Paul's on the 1st of July, arrived in Lagos roads on the 5th, and there commenced discharging her cargo on the 7th of July. Here there is a break in the Log until the 30th of August, on which day the Sea-log states the "*Eagle*" "got under weigh for Bahia;" and then nothing material is noticed until the 18th of September, when the vessel arrived at her destined port in Brazil.

No. 5 is a Certificate from Mr. George R. Foster, American Vice-Consul at Bahia, that the "*Eagle*," which had arrived shortly before from the Coast of Africa, was about to sail again for the same quarter. This we presume to be a notice to the Bahia Custom-house; it is dated on the 15th of September, 1838.

No. 6. Another Certificate from Mr. Foster, on the same day, states that he had given back to Captain Littig the Bill of Sale which had been left in his hands.

No. 7. A List of the crew of the "*Eagle*," independent of, and additional to, the Paper No. 2, but an exact copy of it, certified by Mr. Foster, and dated as the two last papers.

No. 8. A Bill for Ship's Stores, supplied by Messrs. Wilson and Brothers to the brig "*Eagle*," dated Bahia, 16th of October, 1838.

No. 9 is an Invoice of Tobacco, amounting to 20,000 dollars, shipped by the well-known Joaquim José Duarte Silva, on account of Don Joaquim Andreo, of Havana, on board the American brig "*Eagle*," bound to *Lagos*.

Nos. 10 to 15 are Passports for six Spaniards, making a passage to the Coast of Africa from Bahia, dated on the 17th of October, 1838.

No. 16. On the 19th of October, 1838, Mr. Foster furnished Captain Littig with a Certificate that he had been forced to receive on board the "*Eagle*" five African convicts, and to give bond that they should be landed on the Coast of Africa, before the authorities would allow of the departure of the vessel.

No. 17 is a Bill, without date, for the services rendered by the American Vice-Consul at Bahia, in the following words:—

*Brig* "Eagle," *Captain J. W. Littig.*

*To Consulate, Dr.*

| | Dollars. |
|---|---|
| Deposit and delivery of vessel's papers . . . . | 4 |
| Certificate attached to shipping articles . . . . | 2 |
| Two Certificates to clear vessel out . . . . . | 4 |
| Recording the Bill of Sale . . . . . | 2 |
| | 12 |

Received payment for George R. Foster, Vice-Consul,
(Signed) CHARLES GREAVES.

No. 18 is a Bill for Anchorage during 32 days.

Nos. 19 and 20 are a Fort-pass and Custom-house Clearance, dated at Bahia on the 19th of October, 1838.

(*Continuation of Log-book, No.* 4.)

On the 20th of October, 1838, begins the Sea-log, written in English, of a voyage from "Bahia to the Coast of Africa." The "*Eagle*" came to anchor in Elmina Roads on the 13th of November, 1838, and, after purchasing beans and corn on the coast, she pursued her route to Lagos, where she arrived about the 26th. On the 28th and 29th of the same month she was boarded by Her Majesty's sloop "Pelican," and on the 9th of December by Her Majesty's sloop "Pylades," but was detained by neither. The "*Dido*," belonging to Pedro Martinez and Company, is mentioned as having sailed from Lagos on the 23d of December. The "*Eagle*" was a third time boarded, in the middle of the

night, by an Officer from Her Majesty's brigantine "Buzzard;" but was released on the following morning by the Commander of that cruizer. A long and circumstantial account of this affair is given by Littig, and signed by three of the persons on board. The Log continues from this time to the 13th ultimo. Capture took place on the following day.

No. 21 is an imperfect Log-book for part of the month of November, written in Spanish.

No. 22 is an Agreement, dated on the 23d of December, 1838, between Captain Littig and Izidoro Miguel Braga, for the freight of some articles to be shipped on board the "*Eagle*" at Lagos, but their place of destination is not mentioned.

No. 23 relates to the brig "*Dous Amigos*," condemned in the British and Spanish Mixed Court of Justice on the 28th January, 1839, and reported in our Despatch, marked Spain, of the 31st of that month. The paper in question is the List of Crew of the American brig "*Two Friends*," John B. Cormer, Master, bound to Havana from New York, the List being dated at the latter place on the 21st of January, 1837. It is endorsed by Mr. Woodbridge Odlin, the American Consul, at Bahia, on the 29th of April, 1837, who states that the "*Two Friends*" had shortly before been sold in that port. In the voyage from Havana to Bahia it would appear that Cormer acted as "Captain of the Flag," Careira being the real Master of the vessel. Our statement of the character originally borne by the "*Dous Amigos*" is thus completely confirmed.

The next three papers relate to the American brig "*Teazer*," mentioned in a Despatch of Her Majesty's Commissioners at Havana, dated the 31st of August, 1837, (Class A, 1837, p. 130,) as having cleared out for this Coast on the 21st of that month. In that case, as in the present, Joshua W. Littig appeared as Owner and Master, and so continued until it became necessary to change the colours of the "*Teazer*" to Spanish or Portuguese on the eve of the shipment of a return cargo of slaves, when both he, and such portion of the crew as were Americans, were discharged from further service.

The *first* paper, No. 24, is an American Bill of Sale for the "*Teazer*" of Baltimore, transferred to J. W. Littig by Robert A. Taylor on the 18th of July, 1837; but the place where the deed was executed is not mentioned.

The *second* paper, No. 25, is the Muster-roll of crew, consisting of 18 persons, shipped in the American schooner "*Teazer*," Joshua W. Littig, Master, bound to Lagos and Princes' Island, and it is certified by Mr. Vice-Consul Smith at Havana on the 22d of August, 1837.

The *third* paper, No. 26, contains on one sheet the Receipts of Royal Pond, John Moore, John Wilson, John Shields, and Joseph Bramwell, for their wages for two months and twenty-six days of service on board the American brig "*Teazer*," Captain Littig. The document is dated at Princes' Island, on the 19th of November, 1837, when these five American seamen were *apparently* paid off, on the vessel being prepared for her human cargo. It is most probably a colourable paper, intended for use in the event of the "*Eagle*," under her new name and colours, being boarded on her homeward voyage, and by no means necessarily implies that Littig and the other Americans actually left the vessel at Princes' Island in November; but only that, from that time, they wished to have some ground for claiming to be considered as passengers on all necessary occasions.

Nos. 27 to 40 are 14 unimportant papers.

*Sierra Leone, February* 12, 1839.

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## No. 28.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, February* 12, 1839.

(*Received July* 25.)

MY LORD,

WITH reference to our Despatch marked Separate of the 31st ultimo, on the subject of the detention of the American schooner "*Florida*," David Bell Williamson, Master, we have now the pleasure to inform your Lordship that the object of Lieutenant Hill, the Captor, has been fully accomplished by the total destruction of that vessel.

The assertion of the ship's papers that Williamson was the Owner of the "*Florida*," coupled with the anxiety of that person to obtain the amount due to him for his services on board, and then to free himself from all further connexion with the vessel, induced Mr. Macaulay to suggest to Lieutenant Hill that Williamson's object might be obtained if, as the acknowledged Owner of the "*Florida*," he would direct her to be treated in all respects as a condemned Spanish vessel, and to be sold at public auction.

The suggestion was approved by Lieutenant Hill, and was immediately acted upon by Williamson, who had previously removed from the protection of Her Majesty's brig "Saracen" to that of an American merchant-vessel lying in the harbour. Accordingly, without the intervention of Lieutenant Hill, who sailed on a cruise, or of Her Majesty's Commissioners, who had no communication whatever with Williamson, but with the assistance of the mercantile agent employed by Williamson for the purpose, the "*Florida*" was dismantled, her stores, spars, sails, and cargo were landed, and she was then conveyed to Destruction Bay, where the hull was beached and cut into four parts. The whole was soon after sold by public auction, and the proceeds handed over to Williamson, who declared his intention of paying himself therefrom in the first instance, and of handing over the balance to the real Owner of the vessel whenever he might chance to meet with him.

While the process of dismantling and cutting up the "*Florida*" was going on,

the rage and astonishment of the Spanish officers belonging to her may be imagined. Application was made by them to the principal lawyer of the place for advice and assistance, and a large sum of money was offered to him if he would save this new and beautiful vessel from destruction. They declared that she was owned by merchants of Havana, and that Williamson was only a seaman on board. But all was in vain. The papers under which the " "*Florida*" sailed, verified and attested as they were by the American Vice-Consul at Havana, proclaimed Williamson to be " the true, lawful, and sole Owner." He followed only his own inclinations with respect to the disposal of his own property, and having realized the sum which its sale, in detached portions, produced, he sailed on the following morning for New York, in the American brig which had for some time previous afforded him shelter and protection from the vengeance of his late messmates.

We have, &c.

H. W. MACAULAY.
R. DOHERTY.

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

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No. 29.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, February* 12, 1839.

MY LORD, (*Received July* 25.)

WE have the honour to enclose herewith our Report of the case of the schooner "*Izabel,*" José Lopes Condes, Master, captured under Portuguese colours, on the 3d of December, 1838, by Her Majesty's brig " Bonetta," Lieutenant John Luke Richard Stohl commanding, in 0° 14′ 49″ south latitude, and 0° 42′ 54″ east longitude, and detained as a Spanish vessel illegally equipped for the Slave Trade.

The " *Izabel*" left Havana in the month of December, 1837, as the American schooner "*Hyperion*" of New Orleans, although, as we are informed by the Havana Commissioners, she had previously been purchased by an Havana merchant named Pedro Manegat, (Class A, 1837, p. 128). At the island of St. Thomas the Portuguese authorities, in direct violation of Portuguese law, granted a Portuguese Register on the 25th of March, 1838, to the " *Hyperion,*" declaring her to be the property of a Portuguese subject named José Rodrigues Pitta, and then cleared her out for the slaving ports to the southward of the line, in the hope that her fraudulent Portuguese flag would there protect her from capture.

An American " Captain of the Flag," by name William A. Hickling, and the present Portuguese " Captain of the Flag," José Lopes Condes, both accompanied the " *Hyperion*" from Havana; but the former left the vessel at St. Thomas', when she assumed the name of " *Izabel,*" and the latter thereupon ostensibly succeeded to the command. It is, however, shown by the papers that the real Master of the vessel and the one who directed the expedition, was Don Geronimo Pons Yribera, a merchant of Havana.

To prove the Captor's allegations against the " *Izabel,*" it was not necessary to go beyond the depositions of the witnesses who were concerned in perpetrating the fraud. They distinctly admitted that the voyage began, and was to have ended, at Havana; that Don Pedro Manegat, a merchant of Havana, was the Owner of the outward cargo, and that the crew were shipped at the same port. The Captain had not seen the Bill of Sale said to have been executed at St. Thomas', and would not swear that " the transfer was truly made;" at the same time the name by which the " *Izabel*" was designated, in several of the letters to the Havana which were found on board at the time of capture, was " Manegat's Schooner."

The Spanish ownership of the vessel was not more clear than that the detained vessel was fully equipped for the Slave Trade. A sentence of condemnation was accordingly pronounced on the 8th current, in the British and Spanish Mixed Court of Justice.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

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## Enclosure in No. 29.

*Report of the Case of the Schooner,* "Izabel," *Jozé Lopes Condes, Master.*

THIS vessel was supplied with a Portuguese Passport, which is dated at St. Thomas', on the 25th of March, 1838, and was granted by Leandro Jozé da Costa, the Military Governor of that island. The Owner is therein declared to be Major Jozé Rodrigues Pitta; and the Master, Jozé Lopes Condes; both Portuguese subjects. St. Paul de Loando and the River Gaboon are named as the destination of the vessel. There is no endorsement.

2. The Matricula, containing the names of 11 persons, is dated two days before the Register was obtained.

3. Is a Custom-house Clearance at St. Thomas'; and what is remarkable, its date, like that of the last paper, is two days earlier than that of the Portuguese Passport or Register.

4. A Fort Pass, without date.

5. A Log-book, beginning on the 26th of March, 1838, at which time the vessel was lying at St. Thomas', and continued occasionally to the 3rd of December, 1838, on which day capture took place.

6. A book of nautical calculations, from the 11th of February to the 27th of March, 1838. On the former date, the vessel was in the latitude and longitude of Cape Verd; and on the latter date was at St. Thomas', where she appears to have arrived on the 6th of March.

7. Is a "List of provisions received on board the schooner, '*Izabel*,' for use on the return voyage to Havana."

8 to 56. Are a number of loose documents and papers, only important in showing that the real Captain of the vessel was a Spaniard, named Geronimo Pons Yribera; that the First Mate, named Jozé Antonio Alvarez, was also a Spaniard; that Jozé Lopes Condes was merely Captain of the Flag; and that the real owner of the vessel was Don Pedro Manegat, of Havana.

From these papers we likewise learn the extreme activity of the Slave Trade to the southward of the Line, the following Havana vessels being mentioned as loading in the neighbourhood of Cape Lopez, at the same time as the "*Izabel*:"—Brigs "*Negrito*," "*Vigilante*," "*Andaluz*."

On the 3rd of December, 1838, the "*Izabel*" was detained by Her Majesty's brig, "Bonetta," Lieutenant John Luke Richard Stoll commanding, and arrived at Sierra Leone on the 7th ultimo.

Proceedings were commenced, on the following day, in the British and Spanish Mixed Court of Justice; the Captor's Declaration and Affidavit of Seizure, together with the ship's papers, were received and filed; the usual Monition was published; a Commission was issued to the Surveyors of the Court, directing them to examine and report upon the fittings of the vessel; and the witnesses in preparatory were summoned to attend at the Registry, to be examined on the standing interrogatories.

The Captor's Declaration is as follows:—"I, John Luke Richard Stoll, Lieutenant and Commander of Her Britannic Majesty's brigantine, "Bonetta," hereby declare that, on the 3rd of December, 1838, lying in or about latitude 14′ 49″ south, longitude 42′ 54″ east, I detained the Spanish schooner, named the "*Izabel*," sailing under Portuguese colours, said to be commanded by Jozé Lopes Condes, who declared her to be bound from the River Gaboon to Havana, with a crew consisting of two Mates, seven men, one boy, and eight passengers, whose names, as declared by them respectively, are inserted in a list at foot hereof, for not having a Portuguese Register or the necessary papers, also as being the property of Pedro Manegat, merchant, residing in Calle el Sol, Havana, and a native of Barcelona, in Spain, and commanded by Geronimo Pons Yribera, residing at the Havana, a Spaniard by birth, but who is left at Cape Lopez, in charge of the slaves. The schooner was formerly the American schooner '*Hyperion*,' of New Orleans, bought at Havana by Pedro Manegat, who placed a Spanish Captain and officers and a Portuguese crew on board, to bring her to St. Thomas, still under the American Flag, with her former Captain, William A. Hickling, as nominal Captain. She being therefore, to all intents and purposes, Spanish property, and having no pretence to the Portuguese character which she has assumed, and being equipped for the Slave Trade, comes under the Tenth Article of the Spanish Slave Treaty, dated on the 28th of June, 1835.

In confirmation of the statements in the Captor's declaration, we find it reported by the Havana Commissioners on the 31st of July, 1837 (A. 1837, p. 128), that Manegat had been the purchaser of the "*Hyperion*," and a formal paper under the hand of William A. Hickling, Master of the schooner "*Hyperion*," and dated at St. Thomas' on the 11th of March, 1838, shows that Manegat's purchase was there on that date; and in several of the letters to Havana which were on board the "*Izabel*" at the time of capture, that vessel is called "Manegat's schooner."

The Captain of the Flag, José Lopes Condes, deposed "that he was born at Lisbon, has lived 10 years at Havana, is a subject of Portugal, and has never been a subject of any other state; that he was appointed to the command of the detained vessel by Jozé Rodrigues Pitta in March last, at St. Thomas', where Pitta, who is a Portuguese subject, resides; that he first saw the vessel at Havana in December last; that she is American built; that he was present at the capture which took place, because the vessel was suspected of Slave Trading; that she sailed under Portuguese colours, and there were no others on board; that the vessel is called the '*Izabel*,' but previous to the present voyage she was called the '*Hyperion*' of New Orleans; that she is between 120 and 130 tons burthen; that he was a passenger on board from Havana to St. Thomas', and has been Master since; that there were eight passengers on board going to Havana in quest of employment; that the voyage began and was to have ended at Havana; that the last clearing port was St. Thomas, after leaving which the vessel touched at Cape Lopez, Cabinda, Annabona; that at Cape Lopez the remaining portion of the Havana cargo was landed, and the Supercargo was left there with it, to barter it with the natives for palm oil and ivory; that a Bill of Sale, which he never saw, and which is now at St. Thomas', was made there in March last by William Hickling, an American, who was then Master of the vessel, and as such had brought her from Havana; that the Supercargo, Geronimo Pons, was one of the witnesses; that he does not know the price, nor if it was paid, nor if the transfer was truly made; that he will not swear to that; that Geronimo Pons was the sole lader and consignee of the cargo, of which the principal owner was Don Pedro Manegat, both of whom are Spaniards, and reside and carry on business at Havana; that Pons had an interest in the cargo, but to what extent is unknown to witness; that the vessel with respect to her trade was under the management of the Supercargo only; that bulk was broken at St. Thomas' and Cape Lopez; that there were spare planks on board, numbered and fitted to the vessel for a slave deck, but no part of a slave deck is laid."

Juan Bantista Pla, the Cook of the detained vessel, deposed "that the last clearing port was St. Thomas', where the voyage began, to end at Havana; that the vessel touched at Cape Lopez for slaves, and bought 118, who were left on shore there."

Jozé Colon, the Cabin Boy, deposed "that the Master, José Lopes Condes, lives at Havana, but witness does not know where he was born; that Condes took possession of the vessel at St. Thomas'; that an American Master had previously brought her from Havana, where witness first saw the vessel, in the month of November 1837; that the vessel was built in America; that the vessel is called the '*Izabel*,' but before arriving at St. Thomas', she was called the '*Hyperion*;' that there were three passengers, Geronimo Pons, Jozé Alvarez, and Jozé Giral, all Spaniards, and taken on board at Havana for a passage to St. Thomas'; that the voyage began, and was to end at Havana; that from Havana the vessel went direct to St. Thomas', where part of the cargo was discharged; that she thence proceeded to Annabona for provisions, and returned to St. Thomas' for Portuguese colours and papers, having had American ones previously; that the vessel then went to Cape Lopez for slaves, where witness went on shore with the Master for five months, and during this time the vessel went out on short trips for provisions and water."

The Surveyors of the Court reported that they found on board the "*Izabel*" hatches with open gratings of wood; one temporary bulk-head, between the main-mast and the bulk-head of the cabin, where the female slaves are generally placed; plank numbered and fitted for laying a slave deck, measuring 495 feet, with beams and cleats; 33 water casks, capable of containing 13,500 gallons of water, a cabouse fitted to receive three small boilers, or one large one at pleasure; six bushels of beans; and eight bags of farina.

The above evidence having been published, and the Monition, issued on the 8th, having been returned into the Registry on the 15th ultimo, no further proceedings were taken in the case until the 8th instant, the Registrar being required, as explained in former Despatches, to devote his attention in the mean time to other matters of paramount importance.

When the Court met for the adjudication of the case, a decision was pronounced, condemning the "*Izabel*" as good and lawful prize to the Crowns of Great Britain and Spain, on the grounds that Spanish ownership and course of trade, together with illegal equipment for the transport of a cargo of slaves, had been clearly established, even by the evidence of the witnesses whose interest it was to protect their vessel from confiscation.

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

*Sierra Leone, February 12th*, 1839.

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## No. 30.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, February* 12, 1839.
(*Received July* 25.)

My Lord,

We have the honour to transmit to your Lordship, enclosed, our Report of the case of the schooner "*Amalia*," Bernardo Jozé Alves, Master, captured under Portuguese colours off Cape Sierra Leone, on the 27th of December, 1838, by Her Majesty's Brigantine "Dolphin," Lieutenant Edward Holland commanding.

The investigation which then took place brought to light the real character of the transaction. The vessel was owned by Messrs. Blanco and Carvalho at Havana, was regularly fitted for the Slave Trade, and was to return to the same Spanish port at which her voyage began.

On these grounds a sentence of condemnation on the detained vessel, and her cargo was pronounced on the 8th current.

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

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

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## Enclosure in No. 30.

*Report of the case of the Schooner* "Amalia," *Bernardo Jos Alves, Master.*

The following papers were found on board this vessel;—

No. 1. A Portuguese Passport or Register, exceedingly rough in its appearance, granted by Doctor Antonio Carlos Continho, Governor General of the Province of Cape Verd and Coast of Guinea, dated at St. Jago on the 19th of July, 1837. It states that the schooner "*Amalia*," of 74 tons, owned by Joao Antonio Martins, and commanded by Bernardo Jozé Alves, both Portuguese subjects, was authorized to make a voyage to the Islands of Princes and St. Thomas. The only endorsement on the paper shows a visa at Pasa on the 28th of December, 1837, on which day, it is said, the vessel pursued her voyage from that port to Bahia.

No. 2. Without any record of the proceedings of the "*Amalia*" in the intermediate period, we find her at Havana on the 27th of October 1838, on which day a Muster-roll of the crew shipped at that place to navigate her to St. Thomas, was certified as correct by Mr. J. A. Smith, the American Vice-Consul.

No. 3. On the 29th of October the "*Amalia*" was cleared out at the Custom House at Havana with a full slaving equipment, said to have been shipped by the Captain; and with five chests of cigars and 300 doubloons, said to be shipped by Don Federico Alvarez. It was principally from the

letters of this last named person, which were found on board the detained vessel, that her real ownership was discovered.

Nos. 4, 5. Two logs kept in Spanish, from which it appears that the "*Amalia*" left Havana on the 31st of October last, and the sea-log begins on the 1st of November. She passed through the Cape Verd Islands on the 14th of December, and then went South until she arrived off the Gallinas, where she was captured on the 22nd of the same month.

No. 6 is a letter addressed to Don Mariano Diaz at the Gallinas from Messrs. Blanco and Carvalho of Havana, the principal of which firm, Pedro Blanco, resides at present at the Gallinas. It is dated at Havana on the 17th of October, 1838, and is the duplicate of a letter of which the original is said to have been transmitted by the well known "*Sin Ygual.*" The following is an extract:—

"By the mail which arrived on the 12th current from Matanzas, Don Juan Cabada has at last remitted to us, without any document, the 945 dollars, 2 reals, the nett proceeds, according to the account which he before furnished, of the ten slaves which at the freight of 50 per cent., you consigned to him by Don Joaquim Andrecain's schooner; and we have therefore credited you with the said sum."

"According to the account which we this day send to the principal partner of this your house, residing at that point, about the business of the schooner '*Nueva Amable Salomé*,' the six slaves which you embarked in her, at a freight of 40 per cent., have produced in your favour 675 dollars, 34 cents, which sum, minus our charge for recovering it, we have credited in your account, and you may, if you think fit, draw for it, advising us as usual.

"Your affectionate servants,

"B. and C."

Nos. 7, 8, and 9.—There are three other letters of great length, dated on the 29th of August, and on the 28th and 30th of October, addressed by Federico Alvarez, a merchant of Havana, and the shipper of the cigars and doubloons mentioned in the Custom House Clearance of the cargo, to Pablo Alvarez, his brother, the Agent at Gallinas of the Slave Trading house of Messrs. Onatibia and Company, of Havana, for whom he was under engagement to ship three cargoes of slaves. From these letters, curious as they are in many respects, we shall give only a few extracts, for the purpose of showing that the real Owners of the "*Amalia*" are Messrs. Blanco and Carvalho, of Havana; that Slaving Agency on the Coast is now become a regular system; that unusual distrust, jealousy, and bad faith, prevail among the Havana Slave Traders; that the Havana Government receives half a doubloon for each slave landed in their neighbourhood; and that the adoption of American and Portuguese colours by Havana merchants is now the usual practice.

"*Havana, August 29th*, 1839.

"My Esteemed Brother,

"You cannot imagine what trouble it has cost me in going and coming to obtain a passage for the bearer of this, Don Francisco Roquez, which I have at last succeeded in getting by paying the sum of 80 dollars. Don Lino Carvalho forgets that our vessels have always been ready to receive on board not only the passengers, but the provisions and other trifling things which that house may have wished to send off, and that we have never exacted from him either freight or passage-money; and the return I experience is, that I have been deceived like a child during five or six days, and at the last hour they have agreed to my request for the aforesaid sum. The Captain says it is Don Lino's fault, and Don Lino says it is the Captain's; but my opinion is, that there was as little desire to serve in one as in the other; therefore I enjoin you to bear this in mind, and if it should happen that the said Captain should require your services, make him pay for them well as a just reprisal for his bad conduct. As for Don Lino, leave him to me.

I warmly recommend to you the bearer, Don Francisco Roquez, as a person for whom I have the greatest friendship, and who is worthy of a better fortune. This young man possesses all my confidence, and you may safely trust him, in full security that you will not repent it, though you communicate to him the most secret affairs of your heart. Francisco takes with him a sheet of observations, in order that in his presence you may avail yourself of them as you think fit.

"Your ever affectionate brother,

"(Signed) Federico Alvarez Simisel."

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Extracts from a paper headed, "Memoranda of what my brother should bear in mind to facilitate the clearness and quick dispatch of the affairs committed to his care, while he remains Factor of Onatibia and Company."

"3rd. He will note in the proper book the number of slaves, mulecones, or muleques, which he may receive and remit by the ship 'So and So,' as also the number of slaves of whatever class, mulecones and muleques, which may have died since received, mentioning in the book the day on which they died. He will also communicate to the outfitter in a distinct manner anything extraordinary that may occur, in order that at no period they may have any claim upon him, and that he may be enabled to give in the accounts of all that he may have received, distributed, been paid for, or not paid for; specifying in the book the names of the persons who have paid, and of those who are still debtors, as also the slaves which have been shipped, mentioning the vessel, the classes, and those that have died in the barracoon.

"5th. Let him not trust those who are not good payers; and remember always that, according to the contract, all the negroes beyond 300, who may not have been paid for at the expiration of the three years, are to be paid for by him; and let him calculate exactly, so that the number do not exceed the 300, according to the amount of merchandise distributed, which is 3,000 packages, or 100 negroes for each 1,000 packages.

"8th. That he note in the proper book the number of bars (the African standard of value) which he may expend for the maintenance of negroes, as also those which he may pay for expenses of embarkation, disembarkation, King's duties, barracoons, huts, &c.

"9th. That he fail not to write to the outfitters, and to me, by every vessel that leaves Gallinas; but when he has occasion to write anything confidential to me, let him ascertain whether the vessel be bound for Havana, Trinidad, or Cuba; as the letters that go to the two last places are all either lost or

opened, and let him in all cases write to me under two covers, the outer one addressed to Don Ygnacio Badia, and the second to me. At any rate let him use the greatest possible care, availing himself as seldom as possible of Don Pedro Blanco, though, indeed, they are all cut out with the same scissors. He will understand me.

"11th. That he take particular care not to injure either himself, or the outfitters, by permitting any person under him to transact private business, or by allowing other goods to be placed in his stores, for everything is known here; and he should recollect that every one acts upon the principle that each white man is the enemy of the other, and all endeavour to benefit themselves by injuring others.

"12th. That in accounting for the proceeds of the first, second, and third shipments, which he has to manage as director, he do so with great care, mentioning the expenses incurred in each, the nett number of slaves which each has produced, and which he has remitted, stating the number that have died in the barracoon, and the amount of merchandise expended for their maintenance, in provisions and duties, in embarking and disembarking, duties to the King, &c.; so that on embarking the third shipment he may be able to send the said accounts to Onatibia and Company, in order that they may give me their approval, and the business may be cancelled; so that he may remain possessed of the barracoon, and the rest of the things, &c., &c., without any body having it in his power to tell him at any time that he bought it by changing the merchandise of the first, second, and third shipment; for he ought to know that people always think ill of others, and that it is best to get to windward of them, for fear of anything happening at the expiration of the three years."

"On the 20th of August 1838, the schooner '*Dolphin*' sailed, and Onatibia went to Matanzas, telling me that in about 10 or 15 days he would freight and load a brig for you with the best merchandize. He did not keep his word, and all August passed, and almost all September, without anything being done. However, when we heard of the arrival of Arteta on the 28th of September, they were again full of pride. At last the negroes arrived at the warehouse, when, instead of three or four persons only presenting themselves as interested in the business, although they had so often said that it belonged to three or four persons only, there appeared 14 or 15; for these boasters had sold more than the value of the undertaking, and with most consummate effrontery dared to make 24 lots, saying that the enterprise was of 23,700 and odd dollars. You may imagine how Aranzabe, Lasquibar, and I looked, we, who had disbursed the money from the beginning, and now found ourselves cheated by receiving seven negroes and a half per share, when we all thought that we should get 10 at the least. But this is not the worst, for we have to pay the return expenses, which amount to nearly 150 dollars per share, *without counting the half doubloon per slave, which is paid to the Government;* so that, if this be not robbing with a vengeance, I do not know what it can be. But this is not all, for they wanted to keep the vessel, by means of an intrigue, for 1,000 and odd dollars, but I and some other persons interested, came in before she was knocked down, and bid her up to 4,010, otherwise the return expenses would have been double. Ealo wanted to show off at the auction, and had her knocked down to him, and now he is going about trying to sell her, and cannot find anybody who will give him what she cost him, for the patent is worse than the false ones; for, as you know, it was of a '*Brigantine Schooner*,' and Egusquiza, in obliterating the word 'Brigantine,' scratched too much, and made a large blot, so that at any Portuguese port that she may go to, she will be confiscated."

"My plan is this:—Write to me immediately, under two covers (the outer one addressed to Don Ygnacio Badia,) and tell me if you wish me to send you a schooner, of the burthen of 400, under American colours, and another of the false Portuguese; for you know that when there are negroes aboard, all are false, and that in all cases the vessel is lost if taken; and send me a note of the rum, tobacco, cloth, &c. &c., which I am to send you, reckoning what you have there to complete the cargo, for the less that is laid out here, the more secret will be the affair, as I shall not be obliged to borrow, or at least not much, and so much greater will be the gain, if we succeed. Speak clearly and fully, as Francisco is on his way to you, who is a good hand at writing, as you see, and whether he write in his own name or yours, think well upon the affair, and let me know what I can do. The said Francisco takes to you 200 doubloons, but I must inform you that I have registered at the Custom House 300, in order to enable you at any time to make it appear that any property that you may have there, whether slaves, houses, boats, &c., has been purchased with your money; so tell everybody that Francisco has brought you 300 doubloons.

(Signed) "FEDERICO."

"P. S. Give me immediate advice in a separate letter, mentioning only that subject, and saying that you have received the 300 doubloons which I sent to you by Don Francisco Roquez, passenger, arrived at Gallinas, on board the Portuguese Schooner '*Amalia*,' Captain Don Bernardo José Alves. I told you before, that there are only 200 taken to you by Francisco."

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The following Extract is from another letter, from the same to the same, dated at Havana, October 30th 1838, five o'clock P. M.

"It is highly important to your honour and interest, that you should immediately write to me a letter which, amongst other things (not private) shall state that you have received from the hands of Don Francisco Roquez, passenger, arrived in the Schooner '*Amalia*,' the 500 doubloons of Mexican coinage, which I sent you by that gentleman, as well as the other sum of 100 Spanish doubloons which I sent to you by Captain Arteta, of the '*Nuestra Senora del Buen Viage*,' all of which you will enter in the account current.

"This I mention, in order that, when you have finished with Onatibia and Company, neither they nor any other villains, or chicaners, may be able to make any accusation against you for being possessed of negroes, whatever may be their number, or merchandize, or canoes, or anything else that you may have; and thus both you and I will be able to shut the mouths of evil disposed people, by showing that there were sent to you, and that you received 600 doubloons belonging to you. You may imagine what my intention is in this; and if you do not, Francisco will tell you.

"Yours,

(Signed) "FEDERICO."

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With these papers on board, the "*Amalia*" was fallen in with and detained by Mr. William Rowlatt, who was at the time acting as Prize-master on board another vessel which he was conducting to Sierra Leone. The seizure was in every respect similar to that of the "*Donna Barbara*" in 1829, and was highly irregular, the seizor having no authority to search or detain any vessels whatsoever. When the "*Amalia*" arrived off Sierra Leone, and the facts of her detention were reported to Lieutenant Holland, commanding Her Majesty's brigantine "Dolphin," who was lying in harbour at the time, that Officer immediately boarded, and took possession of the vessel which had been wrongfully detained in the first instance by one of his own Officers.

Had the "*Amalia*" been prosecuted under her original unlawful detention, or had there been room to suppose that any collusion, arrangement, or understanding existed between the first unauthorized Captor, and the authorized Officer who subsequently took possession of the vessel and prosecuted her, she must have been restored with damages. But collusion, or the suspicion of it, being negatived by the circumstances attending the first seizure, the case came clearly within the rule laid down in the judgment pronounced on the "*Feliz*," (as reported in our Despatch, marked Portugal, of the 15th of August, 1838,) and we consented to examine the second seizure on its own merits, leaving the Claimant to seek reparation from the first Captor for the wrong which he had undoubtedly sustained at his hands.

On the 29th of December, the "*Amalia*" was regularly admitted into the British and Spanish Court, on the petition of the Captor's Proctor; the Captor's Declaration and Affidavit of seizure, together with the ship's papers, were received and filed; a Monition against all interested parties was addressed to the Marshal for publication; the witnesses in preparatory were summoned to give their attendance on the Registrar; and a Commission for the inspection of the fittings and equipment of the detained vessel was directed to the Surveyors of the Court. In these proceedings, no notice was taken of the first seizure of the "*Amalia*" by Mr. Rowlatt, on the 22d of December, but only of her subsequent seizure by Lieutenant Holland on the 27th of that month.

The "Captain of the Flag," Bernardo Jozé Alves, deposed, "that he was born at Lisbon, has lived about 20 years at Havana, where he married, and where his wife and family reside; that he was appointed to the command by José Antonio Martins, a Portuguese subject residing at Bonavista, in the Cape Verd Islands, about a year and a half ago; that he was present at the capture, but does not know why it took place; that the vessel sailed under Portuguese colours, and there were no others on board; that there were on board 22 Officers and mariners, exclusive of witness, part Spaniards and part Portuguese, but all hired and shipped by witness at Havana two months ago; that the voyage began and was to have ended at Havana; that there was one passenger on board, not a seaman, named Francisco Roquez; that there are 60 or 70 spare planks numbered and fitted to the vessel, and intended for a deck for the use of his crew when sick; that there are casks and staves on board, capable of receiving 52 pipes of water, and intended chiefly to receive palm oil; that there are about 70 bags full of rice, for the use of the crew, it being an article of food to which they are very partial, and it being probable that the vessel would be out upwards of a year."

The other witnesses examined pretended complete ignorance with regard to the objects of the voyage.

The Report of the Surveyors stated that they found plank numbered and fitted for a slave-deck, and beams for receiving it, the plank measuring 760 superficial feet; upwards of 4,000 gallons of water in leaguers, and 14 leaguers capable of holding 5,600 gallons; 37 tin mess-pans and 25 tin cups; a regular slave cabouse, fitted to receive four small boilers, or a larger boiler at pleasure; and four tons of rice in leaguers.

Two Affidavits were then filed by Lieutenant Holland and his senior Mate, stating that they had found in the chest of the passenger Francisco Roquez, 200 doubloons; also 91 doubloons in the chests of the Master and Mate; and 44 doubloons concealed on the person of the Cook,—all of which had been handed over to the custody of the Marshal. The 200 doubloons found in the possession of Francisco Roquez is the money which was entrusted to him by Federico Alvares at Havana, and which is so frequently alluded to in the letters of that person.

Publication of the above evidence was decreed on the 2nd ultimo, and the Monition was returned into the Registry on the 5th following.

A claim, supported by Affidavit, was then filed for part of the money found in the detained vessel, and several examinations respecting it were taken; but the decision respecting the specie found on board the "*Dos Amigos*" (a copy of which accompanied our Report of that vessel in our Despatch, marked Spain, of the 31st ultimo) was conclusive on the point, that the fate of this description of property must be involved in that of the vessel in which it is embarked.

It was not until the 5th current that the proceedings on both sides were closed; and on the joint petition of the Proctors for a day of trial, the 8th current was named for that purpose. On that day the Court condemned the "*Amalia*" as good and lawful prize, on the ground that she was the property of Havana merchants, and illegally equipped for Slave Trade.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, February* 12, 1839.

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## No. 31.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, February* 14, 1839.

(*Received July* 25.)

My Lord,

We have the honour to enclose our report of the case of the schooner "*Victoria*," Alexandre Proença, Master, which was captured under Portuguese colours, on the 24th of December last off Princes' Island, by Her Majesty's brigantine "Lynx," Lieutenant Henry Broadhead commanding, and condemned in the British and Spanish Mixed Court of Justice, on the 11th current, as a Spanish vessel fully equipped for the Slave Trade.

The Captain, Proença, was formerly taken in the schooner "*Florida,*" condemned by us on the 21st of November, 1837, for having a cargo of slaves on board, and in both cases Spanish interests were discovered under the Portuguese cover, and a Spanish course of trade was clearly established.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

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## Enclosure in No. 31.

*Report of the Case of the Schooner* "Victoria," *Alexandre Proença, Master.*

THE Master of this vessel, Alexandre Proença, was before us in the month of November, 1837, as Captain of the schooner "*Florida,*" which was captured in the West Indies full of slaves, and bound to Havana, and the condemnation of which was reported in our Despatch marked Portugal, of the 30th of November, 1837.

1. At the time Proença joined the "*Victoria*" at Havana, she was provided with a Portuguese Passport or Register, which had apparently been granted at Port Antonio by the Provisional Government General of St. Thomas' and Princes', on the 23rd of April, 1838, and which states that João Jacintho de Freitas, of the Cape Verd Islands, was the Owner, and Martinho Antonio, Master, and that the vessel was bound to the Cape Verds and the Continent. An endorsement on the Passport was made at St. Thomas' four days later.

Instead of proceeding to the Cape de Verds, she is found at Matanzas three months afterwards, having (there is no doubt) embarked on the Coast of Africa, and landed in some part of Cuba a cargo of slaves in the short intervening period.

2. On the 7th of August, 1838, the "*Victoria*" obtained a clearance from Matanzas, for her slave equipment bound to St. Thomas'.

3. And on the 13th of the same month she obtained another clearance at Havana for the general trade cargo which was shipped at the latter place.

4. The Matricula, although dated at Havana on the 6th of August, 1838, the day before the "*Victoria*" received her clearance from Matanzas, is headed "List of crew of the Portuguese schooner '*Victoria,*' bound from the port of Matanzas to the Island of St. Thomas;" and on the same day Mr. Trist, the American Consul, certified that the present Master had been appointed to the command of the vessel in the place of Martinho Antonio, the former Master, by Don José Ferran, a merchant of Havana, and the empowered Agent of the Owner, João Jacintho de Freitas; also that Proença, the Captain, had personally appeared, and declared the correctness of his Muster-roll. It is remarkable that the port of Matanzas is not mentioned once by the witnesses, who distinctly swear that the crew were all shipped at Havana, and that the voyage began at that place. The Custom-house at Matanzas seems only to have been resorted to, for the purpose of obtaining a clearance for the Slave Equipment, shipped by Messrs. Francisco Morell and Company of that place.

The "*Victoria*" was fallen in with on the 24th of December last off Princes' Island by Her Majesty's brigantine "Lynx," Lieutenant Henry Broadhead commanding, who detained the vessel, and depatched her to Sierra Leone, on the ground that she was in fact a Spanish vessel trading in slaves. The prosecution of the case began on the 25th ultimo, in the ordinary form. The ship's papers, the Captor's Declaration, and the Prize-master's Affidavit of seizure were received and filed, a Monition was issued, the witnesses in preparatory were summoned, and the Surveyors of the Court were directed to examine and report upon the fittings of the vessel.

The Master, Alexandre Proença, deposed, in reply to the Standing Interrogatories, "That he was born at Lisbon, where he has generally lived since, is a subject of Portugal, is married, and his wife and family reside at Lisbon; that he appointed himself to the command of the detained vessel, of which he received possession at Havana in July last, from João Jacintho de Freitas, a subject of Portugal; that he was present at the time of capture, but does not know why it took place; that there were on board 16 Officers and mariners exclusive of witness, seven of them Spaniards, one a Frenchman, and the rest Portuguese, all hired and shipped by himself at Havana in August last; that witness himself is sole Owner of the vessel and cargo; that the voyage began at Havana, to end at Bahia or Lisbon, according to the nature of the cargo which witness should be able to ship on the coast; that the vessel went to Princes, and discharged all her cargo there, and then touched for live stock and provisions at Quittah, Porto Seguro, and Popol; that no Bill of Sale was made; that the price of the vessel was 6,000 dollars, which was paid, and was a fair equivalent; that witness himself was the sole Lader, Owner, and Consignee of the cargo; that all the papers on board were entirely true and fair; that no papers have been destroyed, concealed, or made away with; nor are there any writings relating to the vessel in any other country; that the combings of the hatches are bored, but the holes are plugged up with wood and painted over; that there are 11 leaguers and 10 casks on board, capable of receiving 40 pipes of water; that the leaguers and casks are cargo, and were entered in the Manifest as such, and were to have been sold at Princes' and St. Thomas'; that there were on board 80 bags of Indian corn, of which 20 are in flour, also 120 bags of beans, which were intended to be sold at Angola, where there was a famine."

When Proença appeared before us in November, 1837, as the Master of the "*Florida,*" he adopted exactly the same line of assertion as on the present occasion. In opposition to all the ship's papers, he swore that he was sole Owner both of the "*Florida*" and her cargo of slaves. So now, he sets aside the Register under which the "*Victoria*" was navigated; he declares that he purchased the vessel at Havana in July last from Freitas, her former Owner, but that no Bill of Sale was made; and he falsifies the Certificate of the American Consul, which states that he (Proença) took command of the vessel only in the month of August, not as Owner, but as appointed by Ferran, a merchant of Havana, who appeared before Mr. Trist for that purpose.

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But supposing for a moment that Proença's assertions are true, and the ship's papers are set aside as fraudulent, none can be substituted for them, and her "course of trade" would still be our only guide to the real national character of the vessel. In this view, the "*Victoria*" must be deemed a Spanish vessel; all her proceedings point to Havana, where, it is pretended, she was purchased, where her voyage commenced, and where her crew and cargo were shipped.

The Report of the Surveyors was conclusive as to the fact of equipment. They stated that they found the combings of the hatches bored to receive iron bars; cleats nailed all round the ship's side to receive a second deck; 28 leaguers and casks capable of containing 7,080 gallons of water; 287 wooden spoons; a cabouse fitted to receive three small boilers, or a large one at pleasure; 200 bags, containing each about two bushels, of beans, Indian corn, and farina, and about 2,000 yams.

The evidence for the prosecution having been published, and the Monition returned, the 11th current was fixed for the adjudication of the case, on which day it was declared, that a Spanish character had been sufficiently impressed upon the schooner "*Victoria*" to bring her within the application of the Slave Trade Treaty with Spain, which she had violated by her illegal equipment. A sentence of condemnation was accordingly pronounced upon the "*Victoria*" and her cargo.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, 14th February*, 1839.

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No. 32.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August* 3, 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 the arrivals of slave-vessels at the Havana, and of the departure of slave-vessels from that port, during the month of May last.

I am, &c.
(Signed) PALMERSTON.

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

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Enclosure in No. 32.

*H. M.'s Commissioners to Viscount Palmerston; Havana, June* 24, 1839.

(See No. 87, page 122.)

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No. 33.

*Her Majesty's Commissioners to Viscount Palmerston*

*Sierra Leone, January* 31, 1839.
(*Received August* 9.)

MY LORD,

WE have the honour to enclose to your Lordship our Report of the case of the brigantine "*Ligeiro*," Miguel Antonio Master, captured under Portuguese colours by Her Majesty's brigantine "Dolphin," Lieutenant Edward Holland commanding, whilst at anchor in Lagos Roads, on the 16th of November, 1838.

Although the "*Ligeiro*" carried a Portuguese flag and a Cape Verd passport, and although she was nominally owned by Thimotio Cardozo de Mello, and had shipped a Portuguese subject, who figured as the Master on all necessary occasions; the vessel was universally known and spoken of as the Spanish brigantine "*Galgo*," owned by the slave-trading firm of Manzanedo and Abrisqueta, of Havana, and commanded by a well-known Spanish Captain called Geronimo Villar.

These facts having been established, in connexion with an illegal equipment for the Slave Trade, the prosecution of the "*Ligeiro*" in the British and Spanish Mixed Court of Justice was followed by her condemnation, which was pronounced in due form on the 28th instant.

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

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

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## Enclosure in No. 33.

*Report of the Case of the Brigantine* "Ligeiro," *Miguel Antonio, Master.*

AMONGST the numerous papers found on board this vessel were the following:

No. 1. A Bill of Sale, dated at Villa da Praia St. Jago, on the 16th January, 1837, the day previous to that on which the Portuguese decree, prohibiting such transfers, came into operation. This document conveys all right and property in the Spanish schooner "*Galgo*" from Don João Baptista, the former Owner, to Thimotio Cardozo de Mello, who gives the name of "*Ligeiro*" to his new purchase. The person originally mentioned in the Bill of Sale as purchaser was Francisco Cardozo de Mello; but the Christian name "*Thimotio*" was substituted, as in all the Bills of Sale which have lately come before us, for that of "*Francisco*," the former word being written over the latter, which has not even been erased. The reason of the alteration we believe to be, that the Portuguese Government has seriously threatened Francisco Cardozo de Mello with prosecution, if his name should continue to appear so extensively as it formerly did in connexion with Slave Trade adventures.

No. 2. On the following day, if we are to believe the representations of the ship's papers, a passport was obtained from the Governor-General at Porto Praia for the "*Ligeiro*" as a Portuguese vessel. Here also the name of *Thimotio* Cardozo de Mello is substituted for that of his relative *Francisco*, as owner of the vessel. The only endorsement on this paper was made by José Miguel Fernandez, the Portuguese Consul at Havana, on the 18th of September, 1837, when the "*Ligeiro*" left that port bound to St. Thomas and the River Congo. Many other voyages have, of course, been made in the two years which have elapsed since the passport was dated, but of them no notice whatever has been taken.

No. 3. We next hear of the "*Ligeiro*" or "*Galgo*," (for by the latter name she was universally known and spoken of on this coast as well as at Havana,) when she was preparing in August last for a voyage from Cuba to the River Lagos. On the 11th of that month she cleared out from Havana for Bahia *by way of Lagos*, carrying with her, amongst other things, "six hogsheads of water by way of ballast, six empty hogsheads for containing the gunpowder that may leak out of the barrels, six other hogsheads in shakes, also 18 casks in shakes, all which vessels are intended to be filled with palm oil, *or other liquids*, on the return voyage; two boilers for clarifying the said oils, and 1,500 feet of plank for building huts ashore."

No. 4 is the muster-roll of crew, certified by the American Consul at Havana, on the 11th August, 1838. It is strange that Mr. Trist, who states in words at length that the crew consisted of "twenty-seven men all told," should not have perceived that a small vessel like the "*Ligeiro*" could only require such a numerous ship's company for the purpose of engaging either in Slave Trade or piracy. Had she been a lawful trader one-fourth of the number shipped would have been amply sufficient. In this list Miguel Antonio, a Portuguese, is still named as the Master.

No. 5. The real Master of the vessel and the sole director of the expedition was, however, Don Geronimo Villar, a Spaniard of pleasing address and manners, who took out a passport as a passenger bound to Lagos and Bahia, on the same day that the "*Ligeiro*" cleared out for those places.

No. 6 is an Invoice of the packages, marks, and numbers of the Cargo shipped at Havana and bound to Lagos, and includes a sum of "9,680 hard Spanish Dollars." This Invoice is addressed not to the nominal Portuguese Captain, but to the Spanish Passenger just named, and proves that the Havana mercantile house of Manzanedo and Abrisqueta, so well known in this trade, were owners both of the vessel and her lading.

These facts are still more clearly shown by the following letters of introduction, addressed by persons in Havana to persons resident at Lagos and Bahia, in favour of Don Geronimo Villar.

No. 7.

Señor André Pinto da Silveira, or, in his absence, Luiz Antonio de Passos,
Bahia.

FRIEND AND SIR, *Havana, August* 4, 1838.

MESSRS. Manzanedo and Abrisqueta, my particular friends, will dispatch in about 10 days *their* brigantine to Onim, and from that port to your's, consigned to you. Her Captain is our friend Don Geronimo Villar, who was formerly in the "*Manuelita;*" therefore I request that you will in every thing assist with your usual activity the good result of their undertaking; as also that you will, as soon as you receive this, buy tobacco enough for 3,000 rolls, not, however, preparing it till the aforesaid brigantine arrives. I wish you your health, and remain your friend and obliged humble servant,

(Signed) JERONIMO BAPTISTA DE CARVALLO.

No. 8.

Señor Luiz Pacheco da Silva,
Onim.

MY FRIEND AND SIR, *Havana, August* 10, 1838.

THE brigantine "*Galgo*," Captain Villar, who was formerly Captain of the schooner "*Manuelita*," is about to sail for your place. She goes to transact her own business, and her owner is my intimate friend, on which account I beg of you to do all you can to oblige him, and I shall duly appreciate it.

Command your friend and obedient servant,
(Signed) JOAQUIM JOZE PEREIRA D'ABREO.

No. 9.

Señor Manoel Francisco Lopez,
Bahia.

FRIEND AND SIR, *Havana, August* 10, 1838.

THE bearer of this is Señor Captain Villar, Captain of the brig "*Galgo*," which proceeds to Onim, and thence to your port. The Owner is my intimate friend, and I, therefore, recommend him to you, in the hope that you will aid him as much as may be in your power. Being already obliged to you, I remain, with esteem and consideration,

Your affectionate friend and faithful servant,
(Signed) JOAQUIM JOZE PEREIRA D'ABREO.

No. 10.

Señor Andre Pinto da Silveira,
Bahia.

FRIEND AND SIR, *Havana, August* 10, 1838.

THE bearer of this is Señor Captain Villar, who was Captain of the "*Manuelita,*" and is well known to you. He goes to Onim in the brigantine "*Galgo,*" and thence to your port. The Owner is my intimate friend, and I, therefore, recommend him to you, in order that you may do for him anything in your power, and I already consider myself obliged to you.

I remain, with esteem, &c.
(Signed) JOAQUIM JOZE PEREIRA D'ABREO.

No. 11.

Señor Eustaquio Joaquim de Silva Porto,
Onim.

FRIEND AND SIR, *Havana, August* 12, 1838.

THE bearer of this is my friend, Señor Captain Don Geronimo Villar, who goes to your port to take in a cargo. Reckoning on our friendship, I have recommended him to you, in order that you may aid him, with the frankness for which you are so distinguished, in obtaining a speedy and happy result from this cargo, his Owners being my friends and those of our Joaquim José Pereira d'Abreo. I have nothing more to ask from you, and remain, &c.
(Signed) JERONIMO BAPTISTA DE CARVALLO.

No. 12.

Señor Captain Jozé dos Santos Ferreira,
Onim.

FRIEND AND SIR, *Havana, August* 12, 1838.

THE bearer of this is my friend, Señor Captain Don Geronimo Villar, who is going to your port to make a cargo; and I have to beg of you, for the first time, to assist him in every thing as much as it may be in your power, towards the speedy obtaining the said cargo, this being a chance expedition, which cannot in any degree affect the factories there. The same gentleman is, I believe, going on to Bahia, to visit our friend Señor Andre Pinto da Silveira, &c., and any favour that you may show the said Villar I shall consider as shown to me, notwithstanding the fine qualities of that gentleman. You will find me here always ready to serve you in any way that you may wish.

I remain, &c.
(Signed) JERONIMO BAPTISTA DE CARVALLO.

Nos. 13 and 14 are the Log-books of the present voyage, from which it appears that the "*Ligeiro*" left Havana on the 12th of August, and reached Cape Palmas on the 29th of the following month. From this time until the 18th of October she slowly pursued her course to the southward, calling at different places; and on the latter date anchored at Lagos, where she remained until her capture.

No. 15 is an Account or Memorandum relative to that portion of the 9,860 dollars which was expended previous to the "*Ligeiro*" being detained.

The Captor, Lieutenant Holland, Commander of Her Majesty's schooner "Dolphin," accompanied his prize to Sierra Leone. She arrived on the 20th ultimo; but four days elapsed before the vessel was brought into Court. She was then prosecuted as a Spanish vessel violating the Equipment Article of the Spanish Treaty of 1835. The affidavit of seizure, authenticating the ship's papers, was, with the papers themselves, received and filed; the Captor's Declaration was lodged in the Registry; the usual Monition went forth; the Surveyors of the Court were ordered to inspect and report upon the fittings of the detained vessel; and the witnesses in preparatory produced by the Captor attended to be examined on the Standing Interrogatories.

The Captor's Declaration is as follows:—"I, Edward Holland, Lieutenant and Commander of Her Britannic Majesty's brigantine 'Dolphin,' do hereby declare that, on this 16th day of November, 1838, being in Lagos Roads, I detained the Spanish brigantine, named the '*Ligeiro,*' sailing under Portuguese colours, commanded by Miguel Antonio, who declared her to be bound from Havana to Lagos and Bahia, with a crew consisting of 27 men, whose names are inserted in a list at the back hereof. I further declare, that I detained the said brigantine for being Spanish property, and being fitted for the traffic in slaves, contrary to the Treaty between Great Britain and Spain, signed at Madrid on the 28th day of June, 1835."

The alleged Master, Miguel Antonio, deposed, in reply to the Standing Interrogatories, "that he was born at Lisbon, has lived during the last eight years at Havana, Brazil, and other places, is a subject of Portugal, and has never been subject of any other State; that he appointed himself to the command of the detained vessel at Villa da Praia in December, 1836; that he first saw the vessel there and then, and thinks she is American built; that he was present at the time of capture, but does not know why it took place; that the vessel sailed under Portuguese colours, and had no others on board; that there were 26 officers and mariners, exclusive of witness, half of them Spaniards and half Portuguese, all hired and shipped by witness at Havana in August last; that none of the officers or mariners, except witness, had any interest in the vessel or her lading; that he himself had none in the latter; that he was Master on board; that there was one passenger, a Spaniard, who was taken on board at Havana in August last, to go to Lagos with the cargo, which was his property, and thence to Bahia; that the voyage began at Havana, which was the last clearing port, and was to have ended at Bahia; that witness is himself sole Owner of the vessel."

The Chief Mate, Francisco Gallardo, deposed "that he has known the Master, Miguel Antonio, upwards of four months; believes he was born in Portugal, but he generally resides in Havana; that the passenger, Geronimo Villar, is sole Owner of the cargo, as he has often heard from his own mouth; that Villar has lived for the last twelve or fourteen years, perhaps more, at Havana, where his wife and family reside."

José Destalaso, one of the seamen of the detained vessel, deposed, "that the voyage began and was to have ended at Havana; that the Owner of the vessel was one Manzanedo, a merchant of Havana, whom witness knows to be Owner, because he came on board as such and paid the crew."

The Report of the Surveyors relative to the equipment of the "*Ligeiro*" stated that they "found on board of her three slave calls, nineteen dozen wooden spoons, eleven bags of Indian corn, three bags of peas, two bags of beans, and three bags of American rice; that there were ten more water casks than would be sufficient for the consumption of the crew required to navigate the vessel; that the cabouse was the same as on board all vessels prepared for carrying slaves, being fitted with four small boilers, each capable of containing ten gallons, and being capable of receiving larger boilers at pleasure, and being otherwise unlike a cabouse used on board merchant vessels."

Publication of the Captor's case having been decreed, and the Monition having been returned into Court on the 13th ultimo, a claim in the usual form was filed for the restoration of the "*Ligeiro*" and her cargo. Two Affidavits were annexed in support of the claim, one made by Miguel Antonio the Master, who swore that he was sole Owner of the vessel; the other made by Geronimo Villar the passenger, who swore that he was sole Owner of the cargo and money laden on board the "*Ligeiro*" at the time of her capture. No proof whatever was adduced by the claimants' Proctor to establish these unfounded assertions, and the Captor's Proctor declined to cross examine either of the claimants thereupon. Accordingly on the 19th instant both Proctors petitioned for a day of trial, which was fixed for the 26th instant, when the case was fully argued on behalf of the contending parties.

Had the Court entertained any doubt in the first instance with respect to its judgment, that doubt would have been completely removed by the line of defence adopted by the claimant. And had the allegations of the Captor, even if proved, been insufficient to lead to the condemnation of the "*Ligeiro;*" the establishment of the claimant's allegations could only have one effect, namely, the confiscation of the property which they were intended to protect. The claimant, Miguel Antonio, proposed to set aside as false the only papers by which the legality of the "*Ligeiro's*" voyage could have been substantiated. He declared the Passport and Bill of Sale dated at the Cape Verd Islands on the 16th and 17th of January, 1837, and which set forth that Thimotio Cardozo de Mello is the Owner of the vessel, to be untrue, inasmuch as himself (the claimant) was the sole Owner of the said vessel, which he, and not De Mello, purchased in the month of December, 1836.

The claimant, however, whilst he thus discredited the papers under which his vessel was navigated, substituted no other papers in their stead, and produced no documentary or other proof of the truth of his assertions. But taking his assertions as true, and the "*Ligeiro*" being deprived of every document which could prove nationality, the only means left to the Court of ascertaining the national character of the detained vessel was the course of trade in which she was engaged, and the evidence of the witnesses and private letters respecting the residence of her owner.

It is difficult to conceive how any advantage could be expected by the claimant to accrue to his cause by naming himself as the Owner in the place of De Mello. The latter is a Portuguese merchant resident at the Cape Verd Islands; the claimant a person who, by his own confession and that of his Mate, "had been generally resident at Havana for the last eight years."

The letters which have been quoted in the early part of the Report leave no doubt, that the representations of the ship's papers are as untrue as those made by the claimant. The real Owners of the vessel are therein shown to be Messrs. Manzanedo and Abrisqueta of Havana, who have of late come before us very frequently. But had no such letters been found, and no such proof been produced, the claimant's allegations would have fixed upon the "*Ligeiro*" a Spanish character.

The claimant seems also to have determined to remove the only ground on which it would be possible to decree the restoration of the cargo, namely, its being the property of De Mello or of some other Portuguese merchant, residing at the Cape Verds or elsewhere.

The claim of Geronimo Villar, the affidavit annexed to it, and the evidence of the witnesses, concurred in insisting that the said Villar is a Spaniard, a native of Carthagena in Old Spain, and a resident for the last fourteen years or more at Havana, where his wife and family are living at the present moment, and further, that he is "the true, lawful, and sole Owner of the cargo shipped at Havana, and of all the goods, wares, merchandise, and monies captured on board the *Ligeiro*."

We remarked that the Captor's Proctor declined examining the claimant's witnesses; but what could he have done in favour of his client which the claimant had not done for him? The claimant, in fact, removed every obstacle which might possibly have opposed the condemnation of the prize; he invalidated the papers which (so far as papers can do it) invested his vessel with a Portuguese character, and placed both ship and cargo within reach of the provisions and penalties of the Slave Trade Treaty with Spain. The tenth article of that Treaty had been undoubtedly violated, and the "*Ligeiro*" was accordingly condemned as a Spanish vessel equipped for the Slave Trade.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, January* 31, 1839.

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No. 34.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, January* 31, 1839.

(*Received August* 9.)

My Lord,

We have the honour to transmit to your Lordship, herewith, our Report of the case of the brig, "*Dous Amigos,*" Fernando Jozé Carreira, Master, captured under the Portuguese Flag, whilst lying in Lagos Roads, on the 16th of November last, by her Majesty's brigantine, "Dolphin," Lieutenant Edward Holland commanding, and condemned in the British and Spanish Mixed Court of Justice, on the 28th instant, as a Spanish vessel engaged in the Slave Trade, and fully equipped for that purpose.

At the moment of capture, the "*Dous Amigos*" was prepared for the immediate reception of a cargo of slaves; her slave provisions were on board; her water-casks, containing 15,000 gallons, were all filled with fresh water; and a complete slave-deck was laid fore and aft.

The history of this vessel, during the last two years, has in a great measure been discovered from her papers. She was formerly the American brig, "*Two Friends*," and left Havana under that name, and under the command of the present Captain, in March, 1837, bound to Bahia. She arrived at Bahia on the 18th of April, and on the 17th of the following month obtained a Portuguese Passport or Register from the Portuguese Consul-General resident in Brazil. Her name was then translated into that of "*Dous Amigos*." From Bahia, the brig cleared out for St. Miguel, one of the Azores, by way of the Coast of Africa; but Havana, and not St. Miguel, was her real destination. One successful slaving voyage to Cuba was thus made under the present Passport; and the "*Dous Amigos*" cleared out from Havana, on a second expedition, bound to Lagos, on the 5th of July, 1838.

The Owner of the brig is proved to have been a Spanish merchant, resident at Havana, named Joaquim Jozé Pereira d' Abreo, whom the Master, Carreira, admits to have been the Lader of the outward cargo. Carreira, also, though professing to be a Portuguese, is proved to be a native of Barcelona.

In no case that has yet come before us have Spanish ownership, Spanish course of trade, and illegal equipment been more clearly established. The usual assistance was rendered by the Portuguese Consuls at Rio and Bahia, and by the American Consul and Spanish Authorities at Havana, to forward the illegal objects of the voyage.

We beg leave to call your Lordship's attention to papers No. 12 and 13, showing that guns and gunpowder were purchased by the "*Dous Amigos*," very shortly before her capture, at the British settlement of Cape Coast. This is by no means a solitary instance of vessels, equipped for Slave Trade in every respect, being allowed to exhibit their guilty intentions within reach of British law, in our settlements to the southward of this Colony; and we can hardly complain, with reason, of the conduct of Spain in this respect, if we hesitate to require from our own authorities on this coast a strict search, with regard to the equipment of every foreign vessel which anchors in a British port. The "*Dous Amigos*," it will be observed, touched at Accra as well as at Cape Coast.

The only other point of interest in this case was the disposal of the money which was found in the possession of the Master, Mate, and Boatswain. The money was eventually condemned, in common with the vessel and cargo; and, for the grounds of this decision, we beg leave respectfully to refer your Lordship to the enclosed abstract of the judgment pronounced on the occasion.

We have, &c.,

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

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## First Enclosure in No. 34.

*Report of the Case of the Brig* "Dous Amigos," *Fernando Jozé Carreira, Master.*

At the time of her capture, this vessel was sailing under a Portuguese Passport, obtained from the Portuguese Consul-General for Brazil. It is dated at Rio de Janeiro, on the 17th of May, 1837, and permits the Portuguese brig, "*Dous Amigos*," to make a voyage from Bahia to the Azores. The Owner is said to be Jozé Antonio da Rocha; and the Master, Fernando Jozé Carreira, who has since retained the command of the vessel. With this paper she appears to have left Bahia on the 9th of August, 1837, bound to St. Miguel, one of the Azores, by way of the Islands of Princes and St. Thomas. Another endorsement, by the Dutch Governor of Elmina, on the 13th of November, 1837, shows that she was on the Coast of Africa at that time.

2. We next hear of the vessel at Havana, from which port she cleared out, under the same passport, on the 5th of July, 1838, for Lagos.

3. And on the same day, the American Consul, Mr. Trist, certified the correctness of her Muster-roll of crew, consisting of 23 persons.

4. Two days afterwards, the real Owner of the vessel addressed a Letter of Instructions to Carreira, of which the following is a translation:—

"*Havana, July* 7, 1838.

"Señor Don Fernando Jozé Carreira.

Sir,

"As you are on the point of undertaking the voyage to Onim (Lagos), with the Portuguese brig, '*Dous Amigos*,' under your command, I have thought fit to communicate to you the following precautions:—

"1. From the moment you are beyond the Moro, you will put yourself in the direction of the channel in order to clear it as soon as possible, and continue your voyage to Onim.

"2. As soon as you have arrived at Onim you will present yourself to Don Matias Baptista de Carvallo, or in his absence to Don Eustaquio Joaquim de Silva Porto, and will deliver to him the letters which you carry, as also the cargo consigned to him, taking the proper receipts; and with regard to unloading, you will arrange with the aforesaid gentleman, whose orders, during your stay on that Coast, you will observe with the greatest exactness.

"3. Don Matias Batista de Carvallo being the factor to whom the vessel is consigned, it is unnecessary to tell you that he is also the person who is to deliver to you your return cargo, with the corresponding provisions. You will adopt between you both whatever measures or arrangements may conduce to the success of the undertaking.

"4. In order to avoid as much as possible any meeting with English vessels, whether in going, during your stay on the Gold Coast, or on your return, which may prejudice the undertaking, I recommend to you the most effectual vigilance, and the adoption of those precautions which, even in the case of being examined, may be able to save you from any bad treatment or detention, which they may wish to attempt towards you.

"5. Being supplied with the necessary provisions, and having your return cargo aboard, you will immediately set sail, and endeavour to get away from the coast with the greatest rapidity, and make your voyage quickly; in order to avoid the penalties which, in contrary circumstances, the merchandise on board would have to suffer.

"6. The harmony which ought to exist amongst the Officers, and vigilance in the tops, are circumstances which I cannot omit to recommend most particularly, as upon them depends in a great degree the good result of the undertaking, on which account punctual attention to both particulars is of as much importance as the flying from every sail that may come in sight, although it may be necessary for that purpose to lose some way.

"7. Although I should wish not to fix upon any point for your passing through the islands on your return, leaving that particular entirely to your choice, it appears to me nevertheless that the passage between the Islands of St. Lucia and Martinique, or between this last and Dominica, offers the greatest security; so that, passing by one of those points, you will continue your voyage by the south of Jamaica, cruizing between the Caimans till you arrive at Cayo Piedra, and taking there a pilot you will follow to Guaminar or Massana, where you will consign yourself to Don José Miro y Pié, in order to deliver to him your cargo.

"8. All that I have mentioned having been effected, you will immediately dispatch to me a messenger, advising me of the number and classes of which your cargo is composed, in order that directions may be given for the measures which it may be necessary to take.

"9. If from any unforeseen accident you should be obliged to put into St. Jago de Cuba, Trinidad, or Matanzas, my correspondents are, at the first, Messieurs Precios Viada and Company; at the second, Messieurs Apertequia and Arrechea; and at the third, Don Juan de la Cavada. And finally recommending you to place the letters which you carry in a secure and private place, you will find noted at the foot the persons to whom you may deliver your cargo at the places stated:—Puerto Escondido, Don Felipe Comesana; Arcos de Canari, Don José Bolanos; Santa Cruz, Don Antonio Garcia Villalha; Jaruco, Don Domingo Buygas; Banes, Don Francisco Aquirre; Mariel, Don Antonio Villa; Cabanas, Don Juan Manuel Penillo; Bahia Honda, Don Juan Madraro; Coloma, Don Candido Pequeño; Guanimar and Masana, Don José Miro y Pié."

5. Although the above letter is without signature the handwriting is well known to us, and would have pointed out the notorious slave-trader, D'Abreo, as the owner, had that fact required confirmation. But we have positive proof on the point in the following receipt, given to Carreira before the vessel left Havana for Bahia, for the purpose of obtaining Portuguese papers.

I HAVE received from Señor Fernandez Carreira 2000 dollars, for a share in the brig "*Dous Amigos*" (which he is going to command), and in her cargo, of which I have made over to him one-fourth part; he pledging himself to receive whatever the proceeds may be. In witness whereof, I grant this receipt.

(Signed) JOAQUIM JOZE PEREIRA D'ABREO.

*Havana, March* 6, 1839.

6. It appears also that Captain Carreira was as little entitled to the possession of a Portuguese character as the Owner. Carreira is described in the Muster-roll as a native of Vianna in Portugal; but in his certificate of having passed the necessary examination in navigation and seamanship, he is described as a native of *Barcelona*.

7, 8, 9, 10. On the very same day (March 6, 1839) that D'Abreo, the present Owner of the vessel, transferred one-fourth share of the "*Dous Amigos*" and her cargo to the present Captain, the vessel left Havana as the *American* brig "*Two Friends*," and four Bills of Lading were on that day signed at Havana by Carreira, for four parcels of gold shipped in the vessel so designated, and bound to Bahia; and on the back of each Bill of Lading is a receipt by the consignee for its contents, dated at Bahia on the 18th of April, 1837. This was not many days before the Portuguese Passport was obtained from the Portuguese Consul-General at Rio; it would therefore appear that the representatives of Portugal in Brazil agree with the authorities of Portugal in other places, in considering as a dead letter the Decree of January, 1837, which regulates the assumption of the Portuguese flag.

11. That Havana was the intended port of return on the present voyage is clearly shown by the Owner's Letter of Instructions (No. 4). It might also have been gathered from the following Letter of Introduction delivered to Carreira by the Mate of the brig "*Liberal*," condemned here some time since, and reported in our Despatch of the 10th ultimo.

Señor Don Fernando Carreira,
Brig, "*Dous Amigos*."

*Adjudah, November* 8, 1838.

ESTEEMED SIR,

The bearer of this letter is Don Juan Bautista Fraginals, who was the Mate of the brig "*Liberal*," and as she has had the misfortune to be captured by the British man-of-war 'Lynx;" I

shall be obliged to you, in case he cannot get employed in any vessel at Onim (Lagos), if you will give him a passage in your vessel to Havana, for which favour, and for any others that you may think fit to grant to the said gentleman, I shall be duly grateful.

Your affectionate friend,

(Signed) ANTONIO SANMARTI.

12 and 13, are two Bills of Parcels written in English, and at the British settlement of Cape Coast, on the 8th and 9th October, 1838; the first for 113 Dane guns, and the second for 16 barrels of gunpowder, bought by Fernando J. Carreira, from J. Thomson. At the foot of each account is an order from Carreira to the Mate of the "*Dous Amigos*," to pay Mr. Thomson the amount of his claim in Mexican doubloons. It appears remarkable that a vessel so evidently engaged in the Slave Trade, and so fully equipped for the traffic, should be thus allowed to remain with impunity in a British Port.

14, 15 and 16, are Memorandas relating to a large amount of doubloons and dollars shipped at Havana; part of which was delivered to different merchants at Lagos, and the remainder was to be employed for the purposes of the voyage. Some portion of the latter had been expended previous to capture; but a considerable quantity was still on board the vessel, when she was detained, lying at anchor in Lagos Roads, on the 16th of November, 1838, by Her Majesty's brigantine "Dolphin," Lieutenant Edward Holland, commanding.

The Captor accompanied his prize to Sierra Leone, where she arrived on the 22d ultimo; but it was not until the 24th, that measures were taken to bring the vessel into the British and Spanish Court. On the latter day the Captor's Proctor petitioned, that the Declaration and the Affidavit of seizure, verifying the facts of capture, and the ship's papers, might be received; that a Monition might issue, and evidence be produced; and that a Commission of Inspection might be directed to the Surveyors, to examine and report upon the fittings of the vessel.

From the Affidavits of Lieutenant Holland, it appeared that he found in the trunk of the Master 341 doubloons, two half-joes, and 58 dollars, besides 34 doubloons concealed on the person of the Mate, and 101½ doubloons in the possession of the Boatswain, "which said money was thereupon taken, as forming part of the cargo of the said brig." A long argument subsequently took place with respect to this money, and it was made the subject of a separate judgment by the Court.

The witnesses in preparatory were examined on the Standing Interrogatories on the 28th ultimo. The Master, Fernando Jozé Carreira, deposed, "that he was born at Vianna, in Portugal, has had no regular residence on shore during the last 14 years, but before that time lived chiefly at Bahia; is a subject of Portugal, and has never been a subject of any other State; that he was appointed to the command of the detained vessel, and possession of her was given to him, at Bahia, in October, 1837, by one Jozé Antonio da Roxa, a subject of Portugal, residing at Lisbon; that witness was present at the capture of the vessel, but does not know on what account it took place; that the vessel sailed under Portuguese colours, but had on board also an American and a Spanish ensign, which witness found on board, but never used; that he has never heard of the vessel having been called any other name than "*Dous Amigos*;" that she was 150 tons burthen, and had 22 officers and mariners exclusive of witness; that neither he nor any other of the officers or mariners had any interest in the vessel or cargo; that the voyage began, and was to have ended at Havana, which was the last clearing port, and whence he sailed direct to Lagos, where he discharged his outward cargo, with the exception of a little rum; that witness then proceeded to Cape Coast, Anamaboe, Accra, and Porto Seguro, where he touched for fresh provisions, and returned to Lagos to wait the orders of the Consignee there; that he first saw the capturing ship while his vessel was at anchor at Lagos on the 15th of November, and capture took place at four o'clock in the afternoon of the following day; that witness expected at the time to be shortly ordered by the Consignee to sail for Madeira; that the Owner of the vessel was the same Antonio Jozé da Roxa, from whom he received possession; that there is a Bill of Sale for the vessel which he last saw in the Owner's possession at Bahia; that witness believes that the vessel, if restored, will belong to Roxa, and no other person; that the sole lader of the cargo, was a Portuguese merchant at Havana, named Joaquim Jozé Pereira d'Abreo; that he does not know who is the Owner of the cargo; that the Consignee at Lagos was a Portuguese merchant, resident there, named Matias Baptista de Carvallo; that 345 doubloons were taken from his chest at the time of capture, by the Commander of the capturing vessel; that no slave or slaves had been put or received on board during the present voyage, for the purpose of the traffic in slaves; that there are about 1000 feet of spare plank on board, from 16 to 18 feet long, and one and a-quarter inch thick, but not numbered or fitted to any part of the vessel; that a slave-deck is laid fore and aft; that there are on board 30 water casks, great and small, capable of receiving altogether about 80 pipes of water; that the vessel was thus supplied to enable her to carry water as ballast, because stone or sand ballast is procured with difficulty on the coast, and is at any rate a dirty sort of ballast for a ship."

The Mate, Antonio Pedro de Sequeira, deposed "that the voyage began at Havana, which was the last clearing port, and it was to have ended at Madeira; that the vessel touched at Lagos, where the greater part of her cargo was discharged; that she thence went to Cape Coast, Anamaboe, Accra, and Porto Seguro for provisions, that at the two first mentioned of those places, the Master bought beads, and at Cape Coast gunpowder, which he took in exchange for rum, and, as witness believes, from the English there; that 34 doubloons were taken from his writing desk, and some money from the Boatswain, by the Commander of the man-of-war; that a slave-deck is laid fore and aft."

The sworn Report of the Surveyors, stated that "they found a slave-deck, measuring 1040 feet, fitted, numbered, and laid; 14000 gallons more water filled, than would be necessary for the consumption of a crew required to navigate the vessel; 19 dozen wooden spoons; a cabouse similar to what is always found on board slave vessels, fitted to receive four small boilers, each capable of containing 13 gallons, or to receive larger boilers at pleasure; 13 cwt. of beans; 13 cwt. of rice; 10 cwt. of jerk beef; and about 14 cwt. of farina in bulk."

The above evidence in preparatory having been filed, publication was decreed on the 29th ultimo, and immediately afterwards a claim, supported by Affidavit, was presented to the Court by the Captain of the "*Dous Amigos*," praying the restoration of the vessel and her cargo, as being "the sole property of Jozé Antonio Roxa, of the City of Lisbon, in the Kingdom of Portugal." In his evidence the Captain had sworn, that he did not know who was the Owner of the cargo, but that D'Abreo, a Spanish merchant of Havana, was the shipper. Similar falsehood and incongruity appear in other parts of the evidence. Both Captain and Mate declare, that from Lagos the vessel was bound to Madeira, although the Letter of Instruction, No. 4, and the Letter of Introduction No. 11, show that Havana was

to have been the port of return. That 15,000 gallons of *fresh* water would be carried by way of ballast, is too absurd a supposition to require notice. Carreira swears further, that the command of the "*Dous Amigos*," was given to him at Bahia, by Roxa, in October, 1837, that he never knew the vessel to bear any other name than her present one, that he was himself a Portuguese subject born at Viauna, and that he had no interest in the vessel or cargo; whereas Paper No. 6, proves that he was a native of Barcelona; No. 5, that he had a fourth share in the present adventure; Nos. 7 to 10, that he was placed in command of the vessel so long ago as March, 1837, by D'Abreo, at Havana, and that she was at that time called by the similar name of "*Two Friends*;" and No. 4, that a merchant of Havana, and not Roxa of Lisbon or Bahia, was the real Owner of the brig.

The Monition issued on the 24th, was returned into the Registry on the 31st ultimo, with the certificate of the Marshal, that it had been duly served.

Repeated examinations and cross examinations were then had by the Proctors, with the object of proving on the one side that the money found on board the detained vessel was intended to have been employed in fulfilling the purposes of the voyage; and on the other side, that the whole, or at any rate a large portion of the specie in question, was the private property of the individuals in whose possession it was discovered, unconnected in any way with the adventure in which the "*Dous Amigos*" was engaged.

As this question involved the fate of large sums of money, not only in the present case, but in others before the Court at the same period, it was separately argued by the Proctors, and a judgment thereupon given by the Court, the substance of which will be seen in another enclosure.

On the 23d instant a joint petition from the Proctors of Captor and Claimant expressed a wish that a day of trial should be appointed. The 28th instant was accordingly fixed for that purpose, when a sentence of condemnation was passed on the detained vessel and her cargo, as Spanish property engaged in the Slave Trade. The reserved point with regard to the money, was also decided in favour of the Captors, on a subsequent day.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone*, 31*st January*, 1839.

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## Second Enclosure in No. 34.

*Judgment given on the Monies found on board the* "Dous Amigos."

THE numerous cases which have lately occurred, in which large sums of money have been found on board captured slave-vessels, have led us to consider attentively the course, which it would be just and proper to adopt, with regard to detained property of this description.

It appears to us to be in strict accordance with the spirit, and in no degree opposed to the letter of the Spanish Treaties of 1817 and 1835, to pronounce, that the conviction and condemnation of a vessel for illegal employment in the Slave Trade will work the confiscation of all the property found on board the guilty vessel at the moment of her detention.

It is not disputed that "goods, wares, and merchandize," everything that is comprehended under the denomination of "cargo," should be involved in the sentence of condemnation decreed against the slave-vessel in which those goods are embarked; and we consider it only reasonable that the same fate should await gold and silver coin, which, although it be not inserted in the Custom House Papers and Clearance, or mentioned in the ship's Manifest and Bills of Lading, and although it be not stowed under hatches, so that the outlay of a few dollars would be deemed as a "breaking bulk," may be employed in paying the expenses of the vessel, in purchasing goods on the coast, and in generally promoting the illegal objects of the voyage.

We require no other proof than that which is afforded by the papers lodged in the Registry of this Court during the last four months, to convince us, that a material alteration has lately taken place in the mode of carrying on the Cuba Slave Trade on this coast. Formerly the Captain or Supercargo of a slave-vessel landed his goods, opened trade with the natives, bartered his merchandize for slaves, who were thus collected more slowly, and established his stores and barracoons on shore. But now the trade is almost entirely in the hands of *resident* factors, who receive their supplies of goods from Cuba in *American* vessels with safety and certainty, and at a very moderate premium of insurance, or from English, American, and other transient merchant vessels; and whose residence and experience enable them to carry on an advantageous barter trade with the natives. One consequence of this state of things is, that the Slave Trader's coming on the coast, while they bring only a trifling cargo of goods, are provided with a large amount of money, generally doubloons, with which slaves are now readily obtained from the factors. Another consequence is, that if a vessel be taken, coming on the coast, or shortly after her arrival at one of the slaving stations, the doubloons intended to be employed in procuring a return cargo of slaves, are so easily removed or concealed, that, even if the vessel be condemned on the ground of her illegal equipment, the most valuable part of the adventure may be saved from confiscation. Where, however, no opportunity of removing the monies has been afforded, it is sometimes divided into different parcels, and placed in charge of the principal officers of the vessel; and when discovered, either upon their persons, or concealed in their writing desks or their chests, it is, as we have lately seen, claimed as the private property of the person in whose possession it has been found, no matter how unreasonably large the sum of money discovered may be.

In all cases it would be exceedingly difficult, and in most cases it would be impossible, to ascertain how much of the large sums of money found on board slave-vessels, belongs to the illegal adventure, and how much is the *bonâ fide* private property of the Captain and his officers. But, in our opinion, it will not be necessary to enter upon such a perplexing investigation; and all that we should require the Captor to establish, in order to procure the confiscation of property found on board a convicted slaver is, that such property was actually on board the condemned vessel at the moment of her detention. The declared illegality of the voyage in which the vessel has been captured, as it exposes the Captain, Officers, and crew, to the severe penalties attached to their crime by Spanish law, so does it stamp on all the property embarked in the same bottom, the contraband character of the adventure with which it is identified. And if parties will so far forget what is due to themselves, as to embark any portion of their property and their persons on board a professed smuggler, whether as Captain, Officers, seamen, or passengers, they must consent to pay the forfeit of their recklessness; they must not be surprised that we decline entering upon the hopeless task of deciding the exact degree in which each in-

dividual of a numerous crew is implicated in the guilty business; or the precise number of doubloons or dollars that each has advanced to the purposes of the voyage, or how much he intended to reserve for his private use; nor can it be considered contrary to reason and justice, that persons so situated should in some degree participate in the retributive consequences of a disgraceful violation of law, which they have at any rate sanctioned by their presence, even if they have not by other means assisted in its perpetration.

Our decision is, that all the monies of every description found on board the condemned vessel "*Dous Amigos*," be condemned as good and lawful prize to the Crowns of Great Britain and Spain.

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## No. 35.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, January* 31, 1839.

(*Received August* 9.)

My Lord,

Herewith we have the honour to transmit to your Lordship our report of the case of the brig "*Victoria*," Antonio José Alfonso, Master, captured under Portuguese colours on the 16th of November, 1838, at anchor in Lagos Roads, by Her Majesty's brigantine "Dolphin," Lieutenant Edward Holland commanding, and condemned on the 28th instant in the British and Spanish Mixed Court of justice as a Spanish vessel, illegally equipped for the Slave Trade.

The ostensible but pretended owner of the "*Victoria*" was the Portuguese merchant, Matheus da Silva Louro, who, the witnesses state, "was born and has resided all his life at Lisbon, where he is married, and where his family, Portuguese like himself, reside with him." This gentleman should be made to feel the consequences of thus lending his name to further a smuggling adventure.

It would also be desirable that the Government of the United States should discountenance the proceedings of their Agents at Havana, Mr. N. P. Trist and Mr. T. A. Smith, who openly assist in the dispatch of vessels, which, from their armament and force, they are perfectly well aware are intended to act either as slavers or pirates, or both.

We beg leave also to enclose, for your Lordship's information, a copy of the translations of some of the letters found on board the "*Victoria*."

We have, &c.,

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

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## First Enclosure in No. 35.

*Report of the case of the Brig* "Victoria," *Antonio José Alfonso, Master.*

This vessel sailed under a Portuguese Passport, obtained at Lisbon from the Conde de Lumiares, Secretary at War and Foreign Secretary, *ad interim*, and dated on the 31st of October, 1836. In this paper the Owner is said to be Matheus de Silva Louro, and the Master José Lopez Ferreira, both Portuguese subjects. The vessel is authorized to make a voyage from Lisbon to Cadiz, thence to Princes' Island and other ports in Africa, to return to Lisbon. No intention, however, existed, either on the first, the second, or the present voyage, of returning to Lisbon, Havana being the port where her real owners resided, and where her subsequent voyages began and ended. The Passport was visaed on the 18th of April, 1837, at Princes' Island, and was endorsed by Her Majesty's ship "Union," K. D., off Lagos on the 22d of May, 1837. She was met with again in the same place seven months afterwards, in December, 1837, by Her Majesty's brig "Saracen," Cuba having been visited in the meantime.

2. A second successful trip to the Island of Cuba was then made, as we find her, on the 30th of June, 1838, clearing out from Havana for the Island of St. Thomas. In her clearance, signed by Don Tomas Yurre, Contador of the Royal Customs, the water casks, slave boilers, and slave deck, are cleared out as articles employed in lawful traffic; and to the document is attached a certificate, under the hand and seal of Mr. Trist, the American Consul, that to these acts of Don Tomas de Yurre, "*full faith and credit are due.*"

3. Is the Muster-roll of the crew, to which two certificates of the American Consul Trist are attached; one setting forth that Don Tomas de la Peña, the Agent at the Havana, of the Owner Louro had appointed Don Antonio José Alfonso, the present Master, in place of José Lopez Ferreira, the Master named in the passport, and the other declaring that Alfonso had appeared and verified the Matricula. This document shows a very large armament, and a crew of 34 men, although the Master, it will be observed, subsequently stated that there were 37 persons on board, besides himself. Mr. Trist could not but have known that a small vessel, so manned, must be intended either for a slaver or a pirate.

From the papers found on board, it is discovered that the real Master of the vessel was a Spaniard, named Juan Batista de Zavala, who was generally addressed as the Captain of the brig "*Victoria*," and occasionally as the Captain of the brig "*Portento*;" for in this case, as in that of the "*Ligeiro*," alias "*Galgo*," the former Spanish name of the vessel was considered the true one. Zavala's name

does not appear in the Muster-roll, but it is admitted by the witnesses that he directed all the proceedings of the voyage.

This fact will more fully appear from the translated copies of some of the papers which accompany this Report, and which, if they do not convey any new information respecting the plans of slave dealers, serve to show the regularity and system with which the Slave Trade of Spain, under the flag of Portugal, is now pursued. We learn from them also that, as the voyage of the "*Victoria*" commenced at Havana, so it was to have ended at the same port; that the vessel was to carry slaves on the return voyage; that she had fetters and slave boilers on board, the latter of which she was directed to attach to a buoy and sink; and that the late captures of empty slavers sailing under Portuguese colours had filled the slave traders with doubt and dismay. Of the six vessels referred to in these papers as consigned to Don Emilio Martin, at Lagos, two (the "*Dolcinea*" and "*Liberal*") have been captured full of slaves; two (the "*Ligeiro*," alias "*Galgo*," and the "*Victoria*," alias "*Portento*,") have been condemned as Spanish vessels, illegally equipped; and the two others (the "*Josefina*" and "*Catalina*") have got away from the coast in safety with their human cargoes.

4. The Log-book states that the "*Victoria*" left Havana on the 1st of July, 1838, arrived at Gallinas on the 11th of August, and left it again on the 25th of the same month. She reached Lagos on the 4th of September, and, after discharging her cargo there, she cruized up and down the Coast for rice and provisions, returning to Lagos about the 10th of November. Capture took place on the 16th of that month.

The "*Victoria*" was accompanied to Sierra Leone by the capturing ship, Her Majesty's brigantine "Dolphin," commanded by Lieutenant Edward Holland; and on the 24th ultimo was presented to the British and Spanish Court, as a Spanish vessel violating the Tenth Article of the Treaty of June, 1835.

The Captor's Proctor petitioned, that the Declaration of the facts of capture, and the ship's papers, verified by Affidavit, might be received and filed; that a Monition against all interested parties might issue, and a Commission of Inspection be directed to the Surveyors of the Court; and that the witnesses in preparatory, might be examined on the standing interrogatories.

Antonio José Alfonso, the Captain of the flag, deposed, "that he was born at Oporto, where he has lived till within the last two years, during which he has had no fixed residence on shore; that he is a subject of Portugal, and never has been a subject of any other State; that he was appointed to the command of the detained vessel at Havana, in the month of June, 1838, by João Silva, a former Master, a Portuguese, whose residence is not known; that he was present at the capture, but does not know on what account it took place; that the vessel was sailing under Portuguese colours, and there were no others on board; that the vessel is called "*Victoria*," and he has never heard of her bearing any other name; that she is about 280 tons burthen; that there were 37 officers and mariners, exclusive of witness, 10 of whom were Spaniards, and the rest Portuguese; that neither he nor any of the officers or mariners had any interest in either the vessel or cargo; that he was Master on board; that there were no passengers; that Havana was the last clearing port, where the voyage began which was to end at Bahia: that the vessel touched, during the voyage, at Gallinas, where part of the cargo was discharged, and then went to Lagos, where the remainder of the cargo was landed; that capture took place on the 16th of November, whilst the "*Victoria*" was still at anchor at Lagos; that the papers of the vessel were for Princes' and the Coast of Africa; that the sole Owner of the vessel was a Portuguese merchant named Mathias de Souza Louro, who was born, and has resided all his life, at Lisbon, where he is married, and where his wife and family, Portuguese like himself, reside with him; that the sole Owner, Lader, and Consignee of the cargo is João Baptiste Zavala, a Biscayan, who is also Supercargo on board, and with whom rested the sole direction of the vessel with regard to her employment in trade."

The evidence of the other witness, Juan Alexandre Garay, is only worthy of mention for the contradiction which it contains to Alfonso's assertion that the "*Victoria*" was, at the time of capture, on the point of commencing a voyage to Bahia. Garay declares that Lisbon was the place to which she was destined. The two statements are equally false.

The Surveyors stated in their Report, that they found a slave-deck measuring 1,280 feet, fitted, laid, and numbered; water-casks capable of containing upwards of 20,000 gallons, all filled with fresh water; and a regular slaver's cabouse, fitted to receive four small boilers, each capable of containing 16 gallons of water.

The case for the prosecution being closed, publication of the evidence was decreed on the 27th ultimo; and the Monition issued on the 24th was returned into the Registry on the 31st ultimo, with the Certificate of the Marshal that it had been properly served.

It became necessary, however, to defer the adjudication for some time, to enable the Registrar to complete the yearly and quarterly returns and accounts, which were due on the day the Monition was returned, but which had not been completed in consequence of the mass of Court business which had constantly required his attention.

The case was finally disposed of on the 28th instant; and the proof of Spanish ownership and course of trade, in conjunction with equipment for the Slave Trade, being deemed conclusive, a sentence of condemnation was pronounced upon the "*Victoria*" and her cargo.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, January* 31, 1839.

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## Second Enclosure in No. 35.

*Copies of Translations of some of the Letters found on board the Brig* "Victoria," *addressed to Juan Batista de Zavala, the Spanish Captain and Supercargo of that Brig.*

THE seven following letters are from José H. Alvarez, the Agent at the Gallinas of the firm of Pedro Martinez and Co., of Havana.

No. 1.

*Dombocoro, August* 11, 1838.

SIR,

THE bearer of this is the krooman of this, your house; if anything be required you may, in full confidence, send him. You will inform me when you intend coming ashore, in order that I may send you the canoe, or you may come in your boat when you like.

Your most affectionate and faithful servant,

(Signed) JOSE H. ALVAREZ.

No. 2.

Señor Don Juan Bta. Zavala,
Captain of the Brig "*Portento.*"

SIR, *Gallinas, August* 12, 1838.

I RECEIVED your favour by the negro krooman, and have to inform you, that as soon as the canoes can go out the cargo which you bring, destined for this factory, shall be landed, in order that you may continue your voyage to your destination. The canoes have not been able to get out to-day, on account of the wind. I send you this small canoe in order that you may forward to me, if you please, the list of what you have to land here, with a view to my knowing what canoes it may be necessary for me to send by the first opportunity.

The bar is not bad, but the wind and current are very strong, so that they have not chosen to go out. You may come ashore to this, your house, when it may be agreeable to you.

I remain, &c. &c.
(Signed) JOSE H. ALVAREZ.

No. 3.

Señor Don Juan Bta. Zavala.

SIR,

I SEND you, for transporting goods, the canoe of this house. To-morrow, if the weather permit, you shall be unladen, and I will send you every thing you want.

Your most affectionate and humble servant,
(Signed) J. H. ALVAREZ.

No. 4.

Señor Don Juan Bta. Zavala.

SIR AND FRIEND, *Gallinas, August* 21, 1838.

I RECEIVED yours, dated 20th, at half-past seven in the evening, the canoe having been nearly lost, and the Master nearly drowned as he was coming ashore in her. You tell me to send all the boats, in order that you may finish your unloading in the same day. I will do all that I can to send them, but you should consider that whatever number of boats I send you cannot unload in one day. You know very well that the pipes are of immense size; and yesterday you sent me the two canoes with six pipes, which is all that they can carry. If they had been quarter-casks, each would have brought at least 10. Finally, if to-day you send pipes, we cannot complete the unloading. The vessel is very far out, and the canoes can scarcely make one trip. I send you in a canoe the crew of the launch, in order that, when the operation is concluded, you may send her with the anchor and the machine for lifting weights. This is a borrowed boat, and if you send her soon, before there is much wind, she may bring a load.

With regard to the receipt of the cargo which you ask me for, it is but just that I should send it, as it is the custom, and my duty. As soon as I receive the said cargo I will send a Kroo canoe with the letters and receipt.

I have received what you sent by the Carpenter, for which I thank you very much.

I remain, &c. &c.
(Signed) JOSE H. ALVAREZ.

No. 5.

Señor Don Juan Bta. Zavala.

SIR, *Gallinas, August* 22, 1838.

THE annexed letter was already written at day-break yesterday, when the weather was very bad from wind and current. Nevertheless, I had asked for Señor Don Pedro's canoe to assist mine in landing your cargo, as you wished; but it could not be done, on account of the place you are anchored in; for, besides being very far out, you are to leeward, so that Señor Don Pedro will not run the risk of losing his canoe and having his people drowned. You know that the canoes of this house are manned by people who do not belong to me, and they say that they will not go out while the brigantine is anchored so far out. The canoe manned by people of this house I can compel to go out, although the whole of them may be drowned. In consequence of this you will perceive the necessity of coming nearer the shore, and to windward, if you deliver your cargo in the Bay of Gallinas, and not at sea, as would appear to be your intention, from the situation of the brig.

Nothing further at present.

Your most affectionate, &c. &c.
(Signed) JOSE H. ALVAREZ.

No. 6.

Señor Don Juan Batista Zavala,
Captain of the Portuguese Brig "*Victoria.*"

SIR, *Gallinas, August* 24, 1838.

I SEND you three canoes and the launch, which you will send with a load and the anchor, for which I have sent the crew of the launch.

I forward to you the receipt, in order that if you land your cargo you may go away when you like. I also send you the letters to be delivered to Don Emilio Martin at Onim (Lagos). The drum-shaped pipe remains in my possession, on which account I put it in the receipt as delivered to me.

I send you 16 fowls, a kid, and 100 pair of fetters; also a package of ox-tripes. I should be obliged to you if you could send me some Havana fowls

I wish you a happy passage, and remain, &c. &c.

(Signed) JOSE H. ALVAREZ.

No. 7.

*Enclosure in the preceding.*

I HAVE received from D. J. Bta. Zavala, Captain of the brig "*Victoria*," 31 pipes of rum, and a drum containing a pipe and a half; and for his security I give him this present receipt at Gallinas, 24th August, 1838.

(Signed) JOSE H. ALVAREZ.

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The seven following letters are from Emilio Martin, the Agent at Onim (Lagos) of the firm of Pedro Martinez and Co. of Havana.

No. 8.

Señor Don Juan Bautista de Zavala,
Captain of the brig "*Victoria*," Franquia.

SIR, *Factory, September* 4, 1838.

I HAVE received your favour, and am glad that you arrived here happily. To-morrow, if the weather permit, you may land the gunpowder, and afterwards the muskets. In case you should have a launch or large boat, you will have the goodness to send it with a load.

When the bank permits, I shall be happy to see you ashore, to converse about your voyage here and to Ajuda.

I remain, &c.
(Signed) E. MARTIN.

No. 9.

Señor Don Juan Bata. Zavala,
Captain of the brig "*Victoria*."

SIR, *Shore, September* 6, 1838.

I RECEIVED yesterday your much esteemed letter, and have made myself acquainted with its contents.

Have the goodness to send me *the boiler* and *the fetters* which you have on board. *You should fasten the boiler to a buoy.*

If you wish to come ashore, I expect to be here to-morrow.

I send you 25 fowls, a bag of oranges, and two pigs. As the bank will not permit the powder to be landed to-day I will try to do it to-morrow.

If you cannot come ashore, let me know if the vessels which the English brig of war has taken were seized because their papers were out of order, or only from a drunken freak of the English Captain.

I remain, &c.
(Signed) E. MARTIN.

No. 10.

Señor Don Juan Zavala,
Franquia.

SIR, *Shore, September* 9, 1838.

IF you have brought any padlocks I shall be much obliged to you to spare me a few, for Don Emilio is much in want of them up there, and desired me to try to get some from you; they are for the "libambos" of the slaves which he is buying.

I remain, &c.
(Signed) MIGUEL CAPELLA BAUZA.

No. 11.

Señor Don J. B. De Zavala,
Captain of the brig "*Victoria*."

SIR, *Onim, September* 10, 1838.

I HAVE received your much esteemed letter, and have to inform you that the cooper of the "*Ligeira*" is occupied aboard his vessel, but I have spoken to a shore cooper, and in case he should consent to go aboard your vessel to assist the cooper, there will be so much gained.

I remain, &c.
(Signed) E. MARTIN.

No. 12.

Señor Don Juan Bautista Zavala,
Captain of the brig "*Victoria*."

SIR, *Factory, September* 15, 1838.

I SEND you a bullock, of which you will do me the favour to send half aboard the "*Josephina*."

I suppose that your unloading must be far advanced, and wish to know if you have still to put together many casks.

I wish you health, and remain,
(Signed) E. MARTIN.

No. 13.

Señor Don Juan Bautista Zavala,
Captain of the brig "*Victoria*."

SIR, *Shore, September* 24, 1838.

THE bank being very bad to-day is the reason that I have not been able to go on board.

As soon as the bank permits, will you have the goodness to send me the bags of cowries which you have aboard.

I think that in one day, when the bank is good, you will be able to land all the cowries. Let me

know when you can come ashore to receive the letters for Ajuda (Whydah), or whether you wish me to send them aboard, with some cloths for barter to windward. But in case you can come ashore, we shall be much better able to settle verbally about your voyage to Ajuda.

As in landing the cowries they are very liable to be stolen, I am in the habit of sending in every canoe that takes them one sailor, and I beg of you to have the goodness to observe the same precaution.

I remain, &c.
(Signed) E. MARTIN.

No. 14.

Señor Don Juan Bautista Zavala,
Captain of the brig "*Victoria.*"

SIR, *Shore, September* 30, 1838.

I SEND you five pieces of cloths, the barrel of tongues, and a coop of fowls. As soon as I have received your letter about the "*Catalina*" I will send you the letters for Ajuda.

I shall feel obliged, in case you can spare me any of the iron rings which I mentioned to you yesterday, to send them by the same canoe.

I remain, &c.
(Signed) E. MARTIN.

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Of the two following letters written at Whydah, one is from De Souza, *alias* "Char-Char," and the other from his clerk.

No. 15.

Señor Don Juan Bautista Zavala,
Brig *Victoria.*"

SIR AND FRIEND, *Ajuda, November* 9, 1838.

TOGETHER with this you will receive two letters from Don Francisco Feliz de Souza. The two boilers and two padlocks go in the canoe. I received your esteemed letter of 8th instant, and feel much regret at your indisposition depriving me of the pleasure of seeing you ashore. I hope your health will soon be re-established, and remain, &c.

(Signed) J. J. ZANGRONI.

No. 16.

Señor Don Juan Bautista Zavala,
Brig "*Portento.*"

SIR, *November* 10, 1838.

I HAVE before me your letter dated the 8th instant, and have read what you mention about the cargo, which it appears cannot be made up as the roads are so blocked that nobody can pass; it is therefore impossible for me to despatch you this present voyage. As, therefore, you must remain either at Onim or Cozo, the former port will be the best, and you may give part of the cargo you have aboard to Don Emilio, as you mention. I send two padlocks.

I remain, &c.
(Signed) FRANCISCO FELIZ DA SOUZA.

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The three following letters were written by Emilio Martin after the return of the brig to Lagos from Whydah.

No. 17.

Señor Don Juan B. Zavala,
Captain of the brig "*Victoria.*"

SIR *Onim, November* 12, 1838.

YOUR esteemed letter of yesterday has reached me, and I have received one from Señor Don Francisco Feliz da Souza, in which he says that he cannot send you off now, and I have taken my measures accordingly. I have also written to Havana that I will despatch you as soon as the "*Alexander,*" which I am daily expecting, arrives.

I regret very much your illness, and hope you may soon get better.

As to the account, which you say that you cannot send me now, I have to inform you that I only require it when you are despatched to Havana, in order that it may contain the expenses up to your sailing.

I regret very much the sad news of the taking of the "*Dulcinea*" and of the "*Liberal,*" and have taken good care of the "*Josephina,*" which sailed from hence on the 4th.

To-day you will send me the boilers with the canoe which takes this, and also the padlocks sent by Don Francisco.

I remain, &c.
(Signed) E. MARTIN.

No. 18.

Señor Don Bautista de Zavala,
Captain of the brig "*Victoria Franquia.*"

SIR, *Onim, November* 12, 1838.

THIS morning, when I wrote to you, I forgot to mention that it would be best, if you can do so, to distribute the crew of the "*Dulcinea*" among the different vessels, so that you may not have such a number of people aboard. At any rate do what you think is best.

(Signed) E. MARTIN.

No. 19.

Señor Don Juan Bautista Zavala,
Captain of the brig "*Victoria.*"

SIR, *Onim, November* 16, 1838.

As I have lent to the brig "*Galgo*" (Ligeiro) the boat which belongs to the "*Catalina,*" and as the said vessel sails to-morrow for Bahia, will you have the goodness to receive the boat aboard as soon as she is brought to you, and keep her for the service of your vessel in case you may require her; but if she be a hinderance to you send her ashore.

With regard to the prisoners which you said yesterday that you had aboard, you may do with them what you think best. If you wish to keep them, do so; or if you want to land them, let them be landed. In short, do with them whatever you may think most expedient.

If you have a good supply of writing ink, and can spare me a little, I shall be much obliged to you to do so.

I remain, &c.
E. MARTIN.

N.B. If you will come ashore to-morrow, I will be on the beach loading a vessel, and we will talk over what Don Francisco says in his letter. Adieu!

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No. 36.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August* 26, 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 the arrival of slave-vessels at the Havana, and of the departure of slave-vessels from that port, during the month of June last.

I am, &c.,
(Signed) PALMERSTON.

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

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Enclosure in No. 36.

*H. M. Commissioners to Viscount Palmerston; Havana, July* 15, 1839.
(See No. 92, page 127)

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No. 37.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August* 27, 1839.

I REFERRED to Her Majesty's Advocate-General your Despatch of the 20th of October, 1838, containing your Report of the case of the brig "*Diligente,*" detained under Portuguese colours, and furnished with Portuguese papers, but, under the circumstances which you detail, condemned in the Mixed British and Spanish Court of Justice, on a charge of being a Spanish vessel concerned in illegal Slave Trade.

The Queen's Advocate having taken this case into consideration, has reported that the view which you have taken of it is perfectly correct; and I have therefore to instruct you to pursue the same course, in any similar case which may come before you for adjudication.

I am, &c.
(Signed) PALMERSTON.

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

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No. 38.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August* 28, 1839.

I HAVE referred to Her Majesty's Advocate-General your Despatch of the 22nd December, 1838, containing a Report of the case of the schooner "*Sirse,*" adjudicated in the Mixed Commission Court at Sierra Leone, on a charge of having

been concerned in illegal Slave Trade; and I have now to state to you, for your information and guidance, that the Queen's Advocate has reported to me that he cannot concur in the opinion which you have expressed, that the course of trade in which the "*Sirse*" was engaged, namely, from the Havana to the Coast of Africa and back, was alone sufficient, independent of every other consideration, to bring that vessel within reach of the penalties of the Treaty with Spain on Slave Trade, in opposition to the character to be deduced, not only from the flag under which she was sailing, but also from the papers found on board at the time of capture, and the depositions of the witnesses examined.

I have also to state, that the authorities cited by you do not appear to the Queen's Advocate to be relevant to the case in question, inasmuch as they apply only to a state of war.

I am, &c.
(Signed) PALMERSTON.

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

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No. 39.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August* 31, 1839.

I HEREWITH transmit to you, for your information and guidance, the copy of a letter which, under my directions, has been addressed from this office to the Admiralty, containing the opinion of Her Majesty's Advocate-General upon the case of the "*Hazard*," a vessel met with by one of Her Majesty's cruizers, and detained on a charge of being concerned in Slave Trade, although bearing the flag of a State which has not conceded to Great Britain the right of search.

I am, &c.
(Signed) PALMERSTON.

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

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Enclosure in No. 39.

*Mr. Strangways to Secretary of the Admiralty.*

SIR, *Foreign Office, August* 29, 1839.

VISCOUNT Palmerston referred to Her Majesty's Advocate-General your letter of the 22nd April, 1839, containing a statement of proceedings in the case of the vessel, the "*Hazard*, detained under American colours, on suspicion of being concerned in Slave Trade; and I am directed by Lord Palmerston to acquaint you, for the information of the Lords Commissioners of the Admiralty, that the Queen's Advocate has reported upon this case, that the right of visit and search of foreign vessels upon the high seas does not exist in time of peace, unless conceded by Treaty; and that, consequently, Her Majesty's cruizers cannot be authorized to visit vessels which are, both in appearance and in fact, the property of American citizens.

The Queen's Advocate has added, that if there is proof that the flag and the papers of a vessel are false and fraudulent, and that she really belongs to a nation with which Great Britain has Slave Trade Treaties, conceding the right of search and condemnation, such vessel, although carrying an American or any other foreign flag, would be justly liable to be condemned by a Mixed Court of Commission, appointed jointly by Great Britain and the particular State to which the vessel may actually belong; but in case a vessel, belonging to a nation with which Great Britain has no such Treaty, should be seized by a cruizer, upon a suspicion which shall turn out to be unfounded, the Captor would in such case incur a serious responsibility.

The utmost caution should therefore be used in visiting or detaining vessels, under the flag of any country which has not conceded to Great Britain the right of search.

(Signed) W. F. STRANGWAYS.

*The Secretary of the Admiralty,*
*&c. &c. &c.*

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No. 40.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, September* 5, 1839.

I REFERRED to Her Majesty's Advocate-General your Despatch of the 30th of November, 1838, respecting the vessel "*Mary Anne Cassard*," detained

under American colours by Her Majesty's ship, "Brisk," upon a charge of having been concerned in Slave Trade; and I have now to state to you, for your information and future guidance, in cases similar to that of the "*Mary Anne Cassard,*" that the Queen's Advocate has reported, that the circumstances disclosed in the papers of that vessel sufficiently show, that the "*Mary Anne Cassard,*" at the time of her detention, was Spanish, and not American, property, and that the Commissioners would have been justified in condemning her, under the Treaty between Great Britain and Spain for the suppression of the Slave Trade.

I am, &c.

(Signed) PALMERSTON.

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

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No. 41.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, February* 14, 1839.

(*Received September* 30.)

My Lord,

We have the honour to enclose our Report of the case of the Spanish schooner, "*Merced,*" Jozé Urresti, Master, which was captured on the 10th ultimo, off Cape Mesurado, by Her Majesty's brigantine "Dolphin," Lieutenant Edward Holland commanding, and restored to her Master and Claimant on the 11th current.

The "*Merced*" was prosecuted on the ground of equipment; but the Court felt bound to pronounce that the Captor's allegations in this respect were not established.

It frequently happens that vessels which, on the outward voyage, carry a full slaving equipment, land all suspicious articles immediately on their arrival on the coast, and do not reembark them until on the eve of departure. And we beg leave respectfully to suggest to your Lordship the propriety of urging on the Spanish Government the concession of an article, similar in form and principle to that which was added to the old Spanish Treaty, that if there shall be clear and undeniable proof that any of the articles of slaving equipment, mentioned in the Tenth Article of the Spanish Treaty, have been on board a vessel on the particular voyage in which she is detained, even though such articles may have been landed, thrown overboard, or otherwise removed, previous to capture, then and in such case the vessel shall be liable to condemnation.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

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Enclosure in No. 41.

*Report of the Case of the Spanish Schooner* "Merced," *José Urresti, Master.*

The ship's papers in this case having been given up to the Master and Claimant on the restoration of the vessel, we can only describe the contents of those papers from the abstract which was made of them previous to the adjudication taking place.

No. 1 is a Royal Commercial Passport, No. 143, dated the 20th of April, 1836, and signed by Juan A. Mendizabal. No use was made of it until the 28th of August, 1838, when it was issued at Porto Rico to the schooner "*Merced,*" of 50 tons, commanded by José Urresti, a native of Bilbao, and was to last for 18 months. It is remarkable that in this, as well as in other Spanish Passports, where a warning against any engagement in slave-trading is endorsed, the only Treaty referred to is that of the 23d of September, 1817.

No. 2. On the same day the official Muster-roll was granted, stating that the vessel was bound to the Cape Verds and the Coast of Africa, with a crew of 17 men all told.

No. 3. A Mediterranean parchment indented Pass of the same date.

No. 4 is a common Custom-house Clearance, dated on the 31st of August, 1838.

Nos. 5, 6, 7, are three Logs in Spanish, showing that the voyage from Porto Rico commenced on the 4th of September, 1838. The last entries are made on the 29th of October last, although the vessel was not detained until the 10th ultimo.

The "*Merced*" arrived in the harbour on the 22d ultimo, and a prosecution against her was immediately commenced, on the ground that she was fitted and equipped for the Slave Trade. The affidavit of seizure and the Captor's declaration having been received and filed, a Monition against all interested

parties was published, a Commission was issued to the surveyors of the court to inspect and report upon the equipment, and the witnesses were examined on the standing interrogatories.

The Master having been absent from the vessel at the time of her capture, the Mate, Domingo Barasorda, deposed "that the Master's name is José Urresti; that witness has known him from a boy; that the said Master was born at Bilbao in Spain, and has generally lived there; that Urresti appointed himself to the command of the vessel at Porto Rico, in August last; that the vessel was built at Baltimore; that witness was present at the seizure of the vessel, but does not know why it took place; that the vessel sailed under Spanish colours, and there were no others on board; that the past voyage began and was to end at Porto Rico, which was also the last clearing port; that the vessel touched for palm oil, ivory, and other articles of trade at Young Sestos, Garraway, Grand Sestos, Grand Currow, and other places; that the Master landed at Young Sestos in the first instance, and has not returned on board since; that the capturing ship was first seen two leagues to the southward of Cape Mesurado on the 10th of January; that the route marked out in the ship's papers was the Cape Verd Islands and the Coast; that witness does not know why she did not call at the Cape Verds; that the Master was the sole Owner of the vessel, and witness was present when he bought her; that there was a Bill of Sale made in August last to Urresti by the former Master, an American, whose name witness does not recollect; that the Master was also the sole Owner, Lader, and Consignee of the cargo; that no slave has been put or received on board during the present voyage; that there is no article of equipment for Slave Trade on board."

The Second Mate, Manuel Arana, confirmed the evidence of his brother Officer in every particular to which he was able to speak.

On the above examinations being published, a petition was presented by the Queen's Advocate on behalf of the Master and Owner, José Urresti, who had in the mean time arrived at Sierra Leone, that the vessel and cargo might be restored with damages, and a claim was thereupon filed in the usual form.

The Captain was then examined on the standing interrogatories, but the only points on which he contradicted the evidence of his Mate was with respect to the time when, and the person from whom, the vessel was purchased. Urresti deposed "that he received possession of the '*Merced*' and took possession of her at Porto Rico, about two years ago, from Fernando Fernandes, a subject of Spain residing there, at which time a Bill of Sale was made in his favour by the said Fernando Fernandes."

The Monition issued on the 22nd was returned on the 30th ultimo, with the Certificate of the Marshal of its having been duly served.

The sending in of the Surveyors' Report led to repeated examinations with regard to the equipment of the vessel, as it appeared that in the first instance the Surveyors had estimated too highly the capacity of the boilers. The following is a summary of the final Report. The hatches of the "*Merced*" are close, as on board merchant-vessels. The only bulkheads are those forming the cabin and forecastle. There is no spare plank or slave deck, but the sides of the ship exhibited an appearance as if cleats for receiving a slave-deck had formerly been nailed on. There are no slave irons on board. There are 50 gallons of water on board, and water-casks capable of containing altogether 1000 gallons of liquid. Four mess-tins were found. The cabouse is fitted with three boilers, two capable of holding four gallons each, and the third five gallons, but one of the said boilers would be sufficient for a crew not exceeding eight persons. There are also on board two bushels of rice.

Upon these facts the case was sent to trial on the 11th current, and the Court felt bound to pronounce, that the Captor had not established his allegations against the detained vessel, and that the equipment on board of her was not sufficient to lead to her condemnation under the Tenth Article of the Spanish Treaty. It was accordingly decreed, that the schooner "*Merced*" should be restored to her Master, and that the Registrar should ascertain and report upon the costs, damages, and expenses, due to the Claimant for the illegal detention of his vessel.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, February* 14, 1839.

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## No. 42.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, March* 14, 1839.

(*Received September* 30.)

My Lord,

We have the honour to enclose herewith our Report of the case of the brigantine "*Maria Thereza*," Jozé Moreira Sampaio, Master, seized as Spanish property employed in the Slave Trade, by Her Majesty's sloop "Lily," on the 26th of January last, in latitude 5° 46′ north, and longitude 0° 10′ east.

The detained vessel arrived here on the 21st ultimo, and on the following day proceedings were instituted against her in the British and Spanish Court; the result of which was that, though she was found sailing under the Portuguese flag, and with a Portuguese Register, she was proved to have been employed in Spanish trade, for the benefit of residents of the Island of Cuba, and under the direction of a Spanish Supercargo; circumstances which gave her a Spanish character; and her illegal equipment having been clearly established, the condemnation of vessel and cargo was pronounced on the 5th instant.

The Consignees of this vessel, at Lagos, were Matias Batista de Carvalho, and Eustaquio Joaquim de Silva Porto, who have acted in a like capacity to many other slave-vessels.

The "*Maria Thereza*" has been very successful in the Slave Trade, previous

to the present voyage, having made four trips to Havana, in addition to having been twice at Bahia.

In our Report on the case of the schooner "*Amalia*," contained in our Despatch of the 12th ultimo, we noticed the remark of Don Federico Alvarez, a merchant of Havana, that the Government of Havana receives half a doubloon for every slave landed in its neighbourhood. The Account Sales of a parcel of slaves sold by Messrs. Pedro Martinez and Company (a copy of which will be found in the enclosed Report), fully confirms this information, as Martinez and Company therein charge their correspondent with half a doubloon on each slave, under the head of "Duty on Entrance."

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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## Enclosure in No. 42.

*Report of the Case of the Brigantine* "Maria Theresa," *Jozé Moreira Sampaio, Master, seized under Portuguese Calours.*

THE following papers were found on board the "*Maria Theresa*" at the time of, and subsequent to her seizure:—

1. Passport for the vessel from the Junta of Government of Princes' Island, dated the 7th of November, 1834, for a voyage to Cuba, with leave to touch on the African Coast, and to visit Bahia; the Owner at that time being Pedro José Netto, and the Master João Perreira. Netto's agent, a resident merchant of Havana, named Abreo, sold the vessel there, on the 23rd of April, 1836, to Antonio Carvalho, said to belong to Oporto.

The endorsements upon the Passport show that the "*Maria Theresa*" was at Bahia in June, and again in September, 1835, at Havana in April, 1836, at Lagos in January, 1837, and at Havana in July, 1837. Of her last visit to and departure from Havana in November, 1838, no notice appears on this document.

2. Matricula, in which the vessel appears to be bound from Havana to Princes' Island with 21 seamen, and but one Officer, the Master. It has been officially authenticated by the American Vice-Consul at Havana, Mr. J. A. Smith, under date of the 20th of November, 1838.

3. Clearance from the Custom-house at Havana, bearing a similar date, of the cargo shipped there, and with which the vessel is stated to be bound to Lagos.

4. Log-book for the whole of the present voyage. In the opening remarks, it is stated the vessel was bound to Princes' viâ Lagos; towards which latter place she proceeded direct on leaving Havana. The log is written in Spanish, and the longitude kept by the meridian of Cadiz.

5. A Letter of Instructions, dated Havana, the 28th of April, 1838, and addressed to Miguel Antonio Uriarte, as the Master of the "*Maria Theresa*," for a voyage to Onim (Lagos), whither he is to proceed direct, and deliver the cargo of the vessel over to Matias Batista de Carvalho, or Eustaquio Joaquim da Silva Porto, who live there, and who will furnish him with his return cargo. "The point at which the vessel is to pass through the Islands (West Indies) on her return, is left entirely at Uriarte's option." The Owner then names the places where Uriarte may, according to his convenience, land the return cargo, and the persons at each place to whom he may address himself for that purpose. The list is as under: Trinidad de Cuba, Apertequia and Arrecha; St. Jago de Cuba, Precios Viada and Co.; Matanzas, Juan de la Cabada; Puerto Escondido, Felipe Comesana; Arcos de Canara, José Bolanos; Santa Cruz, Antonio Garcia Villalta; Jarua, Domingo Buigas; Bares, Franciseo Aguirre; Mariel, Antonio Villa; Cabañas, Juan M. Martinez Pinillos; Bahia-honda, Juan Madrazo; Colonna, Candido Pequeña; Mafana or Guanimar, Jozé Miroz Pié.

In conclusion, the Owner tells Uriarte, that he is to take "most particular care to place in some hidden part of the vessel the letters and other papers, whose contents may injure him, or show the object of his voyage."

These instructions were for the last voyage, but being equally applicable to the present, had not been renewed.

6. A bundle of 10 Certificates and personal Passports, five of which are for José Ramon Ybarra, and three for Miguel Antonio Uriarte, both Pilots by profession, and on board the vessel as passengers.

Besides the papers described, there were 14 private letters, and many loose papers from which, in connexion with the foregoing, it appeared, that the previous two voyages in which this vessel was engaged were between the Island of Cuba and Lagos; that the present ostensible Master, Sampaio, acted in the same capacity during the last voyage, when Miguel Antonio Uriarte was also on board, and must have been, as in this instance, in the character of a passenger; and that the present voyage out was to Lagos, not very far from which port she was detained, and whence she was again destined for Cuba.

Every part of the correspondence and papers indicated that the vessel and cargo belonged to residents of Havana, or other places in the Island of Cuba, and that the vessel had been for some time past, and was still employed in the illicit trade of that island.

From one of the letters on board, addressed to the passenger Jozé Ramon Ybarra, dated Havana, the 6th of July, 1837, we have extracted the following account of the sale of nine slaves, shipped by that person when on this Coast, in the year 1837, for the Cuba markets.

"Account of sale, expenses, and net proceeds of four slaves, belonging to the undermentioned persons, being the balance of nine embarked at Onim (Lagos), after deducting one who died during voyage, and four due to the brig "*Hercules*," (alias "*Mina*,") for freight at 50 per cent:—

"To Señores Torres and Rodriguez.

| | | Dollars. |
|---|---|---|
| 1837.—June 6th, four slaves at 272 dollars | | 1,088 |

*Expenses.*

| | Dollars. | |
|---|---|---|
| Duty on entrance at 8½ dollars each slave | 34 | |
| Conveyance at 2 dollars | 8 | |
| Three days' maintenance at 2 reals | 3 | |
| On entering the Barracoons at 4 reals | 2 | |
| For four boatings | 5 | |
| Commission of receipt and sale, at 5 per cent. | 54 . 40 | |
| | | 106 . 40 |
| Net proceeds | | 981 . 60 |

*Shareholders.*

| | |
|---|---|
| To Don Jozé Ramon Ybarra, for half credit | 490 . 80 |
| To Miguel Banza, for half credit | 490 . 80 |
| | 981 . 60 |

Errors and omissions excepted.

*Havana, July* 6, 1837. (Signed) PEDRO MARTINEZ and Co.

The "*Maria Theresa*" arrived in this Colony on the 21st of February, and was immediately reported to us by the Marshal to the Mixed Courts. On the following day, the Proctor for the Captor opened the prosecution by bringing in an affidavit of seizure, with the ship's papers and Seizor's declaration; and asking for the issuing of the usual Monition, and the examination of the witnesses in the case, which were accordingly ordered.

The Seizor's declaration stated, that Commander John Reeve, of her Majesty's sloop "Lily," being, on the 26th of January, 1839, in 5° 46′ north latitude, and 0° 10′ east longitude, detained the brigantine "*Maria Theresa*," sailing under Portuguese colours, commanded by José Moreira Sampaio, who declared her to be from Havana, and bound to Princes' Island. The Seizor further declared, that the Master's statement, the Muster-roll, and the Clearance did not agree, as the vessel in one of the documents is described as going to Lagos, and in the other, to Princes' Island. That she has every appearance of being Spanish property; and he detained her on the ground of being equipped for the Slave Trade.

With the object of supporting the Seizor's declaration as to the illegal outfit of this vessel, a Commission of Survey was asked for and ordered.

On the 23d ultimo the Registrar examined the Master of the vessel upon the standing interrogatories, who deposed that "he was born at Oporto, where he has lived since. Is a subject of Portugal, and has never been a subject of any other State. Is not married. He was appointed to the command by Joaquim Jozé Pereira de Abreo, a Portuguese living at Havana, from whom also he received possession in the month of November last. First saw the vessel there and then. Does not know where she was built. He was present at the capture. Does not know for what reason it took place. The vessel sailed under Portuguese colours, besides which there was an American flag on board. The vessel is called the '*Maria Theresa*;' has never heard of her bearing any other name. She is 182 tons burthen. There were 23 Officers and mariners, exclusive of witness; two-thirds of them Portuguese and Brazilian, and the remainder Spaniards, all hired and shipped by witness at Havana in November last. Neither he nor any of the Officers or mariners had any interest in vessel or lading. Was Master on board. There were four passengers, named Miguel Uriarte, Joze Neda, Jozé and Manoel, whose surname, as he thinks, is Charbarria, all four Spaniards by birth; and the first two seamen by profession, Uriarte having been Master, and Neda Mate of vessels. Does not know the profession of the two others. They were all taken on board at Havana, when the vessel sailed from thence in November, and were destined to Princes'; witness does not know on what business. None of them had any interest or authority in or over the vessel or cargo. The last clearing port was Havana, where the voyage began; to end where the Owner at Princes' should appoint. The vessel had not touched any where. The capturing ship was first seen off Cape St. Paul, in the Bight of Benin, and within sight of land, at eight o'clock in the morning of the 25th or 26th ultimo. Capture took place within an hour and a half, without chase. The vessel was steering for Princes' at the time. The course was not altered, nor any additional sail made. The destination by the papers was Princes', to which place the course was at all times directed. There are no guns mounted, but there were eight cutlasses, 20 muskets, and a keg of ammunition on board, for defence against pirates. No resistance was made to capture; nor were there any instructions for resisting or avoiding capture, or for concealing or destroying the vessel's papers. Antonio Carvalho, a Portuguese, unmarried, now residing at Princes' and formerly in Portugal, was the sole Owner of the vessel, as witness was informed at Havana by de Abreo, from whom he received possession. He knows nothing of a Bill of Sale, price, or transfer of the vessel. Verily believes she will belong, if restored, to Carvalho, and to no other person. Joaquim Jozé Pereira de Abreo, from whom he received command and possession, was the sole Lader of the vessel, which he thinks must belong to him or to the Owner of the vessel, or perhaps to both. He knows nothing of the lading of the last voyage. The present cargo consists of rum, jerk beef, and rice. After capture, the vessel came direct to Sierra Leone. All the Passports and other papers were and are entirely true and fair. None of the papers were destroyed, concealed, or made away with. There are no writings relating to vessel or cargo in any other country. There was no Charter-party. He does not know whether ship or goods were insured or otherwise. The vessel was under his own management with respect to her employment in trade. Bulk was not broken before or since capture. No slave has been put or received on board during the present voyage, for the purpose of the traffic in slaves.

In reply to the standing special interrogatories as to equipment, the Master deposed that "the hatches are fitted with open wooden gratings, which he found on board when he took possession, the vessel having been formerly in the Slave Trade. The combings of the hatchways have been bored,

but the holes are now plugged up. There are no iron bars on board. There are two bulk-heads, those of the cabin and forecastle. There are no spare planks on board. There is a second deck, measured and fitted for laying fore and aft, though not at present in place. It was to be used for the stowage of palm oil and other cargo. There are no shackles, bolts, or handcuffs. There are water casks capable of receiving in all 80 pipes, and all now filled with fresh water used in the mean time as ballast, but the greater portion of it destined to give place to palm oil, for which the casks were originally intended. They were temporarily filled with fresh, rather than salt water as being less likely to spoil them, for carrying the oil. There were no tanks, staves, or other means of carrying water. There were two or three mess-tins for use of the crew. There are four small iron boilers. There is as much rice loose on board as might fill 30 bags, no flour, and no Indian corn."

Antonio Artino, one of the seamen of the detained vessel, by his evidence confirmed to some extent that of the Master; but generally professed ignorance of the affairs of the vessel, having joined very shortly before her sailing from Havana.

The Report of the Surveyors appointed to examine the fittings of this vessel showed that she was equipped with more bulk-heads than were requisite for her as a merchant-vessel, as well as supplied with a larger quantity of water and rice than was proper for a lawful voyage; that part of a slave-deck was laid; and a sufficient quantity of marked and numbered planks were on board to complete the same.

Publication passed in the case on the 25th ultimo, and on the 1st instant the Monition, issued on the 22nd ultimo, was returned into Court by the Marshal, certified to have been duly served, with which proceeding the prosecution was closed.

On the 5th instant the British and Spanish Mixed Court of Justice met for the adjudication of the "*Maria Thereza.*" The sale of the vessel at Havana, in April 1836, and the fact of her having sailed under instructions written in that city in last April, plainly indicated that a resident there was the proprietor of the vessel; whilst the papers found on board of her, and the evidence received in the case, proved that the previous two voyages of this vessel were, like the present one, between Cuba and Lagos; that the cargo shipped at Havana was Spanish, and on account of merchants of Cuba; and that the Spaniard, Uriarte, who appeared in the character of a passenger, was in reality the director of the voyage. These circumstances the Court considered gave the "*Maria Theresa*" essentially a Spanish character; and as the illegal equipment of the vessel was proved, as well by the admissions of the witnesses, as by the report of the Surveyors, the brigantine and cargo were accordingly condemned.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

*Sierra Leone, March* 14, 1839.

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## No. 43.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, March* 16, 1839.

MY LORD, (*Received September* 30.)

HEREWITH we have the honour to hand to your Lordship our Report of the case of the brig "*Matilde,*" Mariano Sgitcovich, Master, seized under Portuguese colours on the 22d of January last, off the River Gaboon, by Her Majesty's schooner "Fair Rosamond," Lieutenant William Brown Oliver commanding, on the ground of her being Spanish property and equipped for the Slave Trade.

The detained vessel came into this harbour on the 27th ultimo, and her prosecution in the British and Spanish Mixed Court for illegal equipment was immediately commenced; and on the 5th instant, at a sitting of this Court, the vessel and cargo were condemned as good prize, the Seizor having fully made out his case.

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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## Enclosure in No. 43.

*Report of the Case of the Brig* "Matilde," *Mariano Sgitcovich, Master.*

THE papers with which this vessel was furnished are as follows:—

1. Register, describing her as of American build, owned by Antonio de Mello, and commanded by Miguel de Silva, was granted by the Governor of the Cape Verde Islands on the 3d of January, 1837. The destination of the vessel is not stated, and nothing is known of her proceedings until the 4th of August, 1838, when the Certificate was obtained at Havana of Mr. N. P. Trist, the American Consul to her Matricula (2), which describes the vessel as bound to Angola and Cape Lopez, with three Officers and 23 men.

To this document is attached another Certificate of the American Consul of the same date, stating that the Agent of the Owner of the vessel, José Vinent, a merchant of Havana, had placed Mariano Sgitcovich as Master on board, in the room of her original Master, Miguel de Silva.

3. Clearance from the Custom-house of Havana for the cargo embarked there by the Master. This paper is dated August 6th, 1838, and declares the vessel bound only to Cape Lopez. There are 36 casks of water cleared as ballast. It is also stated that 45 of the casks on board are intended to hold

palm oil and other liquids in the return voyage; that the boilers are to be used for clarifying the palm oil, and the 3,600 feet of boards for erecting a hut on shore to keep the oil in as collected. The grounds of this explanation of the intended appropriation of part of the cargo of a Portuguese vessel are not assigned; but the inference is, that the property is really Spanish, and that the parties concerned had in view, when clearing the vessel, the effect of the operation of the Equipment Article of the Treaty between Great Britain and Spain.

4. Log-book for the present voyage from Havana to Cape Lopez, and afterwards to 5° South latitude, commencing August 8th, 1838, and terminating January 3d, 1839.

5. Another Log-book commenced on the 8th and ended on the 31st August, 1838, by Juan Ferrer, who appears in the Muster-roll as a common sailor.

6. A third Log-book of Juan Gomilla, from May, 1837, to the close of 1838, during the first part of which time he commanded the Spanish brigantine "*Prospero Gabriel*," in a voyage to Cuxhaven from Havana, and latterly he was First Mate of the "*Matilde*;" in the Muster-roll of which his name is entered as João Gomilla, instead of Juan, to induce a belief of his being a Portuguese.

In addition to the three Log-books above alluded to, there were three others found on board, one of which was for the Spanish brig "*San Cristobal*," Juan Cardona, Master, and one for the Spanish schooner "*Especulaçion*," Francisco Vinent, Master, which appeared to have no connexion with this vessel. The third Log seemed to have reference to the "*Matilde's*" present voyage, but was imperfect.

There were also found a great many letters, personal passports, and 10 other papers, some of which were not discovered until after the examination of the Master by the Court here.

From these papers it appeared that Francisco Vinent y Vives, who has been above-mentioned as late Master of the "*Especulaçion*," was Master of the Spanish brig "*Andaluz*," which left Havana for Gaboon in August last, and had an interest in this voyage of the "*Matilde*" of 3,500 dollars, which share was in the hands of Rosendo Fernandez and Company of Havana.

Ramon Pinto and Manuel Munoz, of Havana, on the 5th August, 1838, signed an agreement, as Owners of the "*Matilde*," to give the Master, Sgitcovich, a gratification of two dollars for each slave he should land in any of the ports of the Island of Cuba.

There was a letter, dated the following day, directly at variance with this agreement, and which had evidently been written for the purpose of misleading any of the cruizers which might examine her papers. This letter was addressed to the Master of the "*Matilde*" by José Vinent, of Havana, and directed him to sell the cargo at Angola or Cape Lopez, with one-half of the produce of which he was to purchase palm oil; and the other moiety of the proceeds he was to hand over either to José M. Vasconcelles, of Angola, or to Mr. T. Stocker, at Cape Lopez. The shipment of the articles of slaving equipment is then mentioned, and their uses pointed out in nearly the same terms as have been mentioned in the vessel's Clearance. The Master of the "*Matilde*" is by birth an Austrian, and at the present moment a Spanish subject, having a certificate of domiciliation for five years, dated at Havana, May 20th, 1837.

On the 27th ultimo the detained vessel arrived in this harbour, and on the following day her prosecution was commenced in the usual form, in the British and Spanish Mixed Court.

The Seizor's declaration set forth, that Her Majesty's schooner "Fair Rosamond," being off the River Gaboon on January 22d, 1839, detained the brig "*Matilde*," sailing under Portuguese colours, the Master of which vessel declared her to be bound from Havana to Cape Lopez, and thence to Havana, and that she was owned by José Vinent, a resident merchant of that city; the Seizor considering her to be Spanish property, and seeing that she was fitted for the Slave Trade, detained and sent her here for adjudication.

A second declaration of the Seizor on the following day stated, that one of the vessel's papers had been discovered subsequent to her detention, and that the Master had during the night thrown overboard some papers, which the tide had carried away, and the darkness of the night prevented their being followed.

The Master of the detained vessel was examined by the Registrar on the 1st instant, and deposed as follows to the standing interrogatories: that "he was born at Ragusa, in the Austrian dominions; has no fixed place of abode; is a subject of Austria, and has never been subject of any other State; is not married; he was appointed to the command by one José Vinent, a Portuguese living at Havana, from whom also he received possession there in August last; first saw the vessel there and then; does not know where she was built; he was present at the capture; does not know why it took place; the vessel sailed under Portuguese colours, and had besides a Tuscan flag and a red ensign on board; the vessel is called the '*Matildé*;' never heard of her bearing any other name; thinks she must be of 200 tons burthen; there were 32 Officers and mariners, exclusive of witness,—18 of them Portuguese, 12 Spaniards, and two Italians,—all hired and shipped by witness at Havana when the vassel sailed from it; neither he nor any of the Officers or mariners had any interest in vessel or lading; was Master on board; there were two passengers, Bernabe Malamuerte, a Portuguese, and Pedro, whose surname he does not recollect, a Spaniard, both of them merchants, taken on board on sailing from Havana, and destined, Malamuerte for Angola, and Pedro for Cape Lopez, witness does not know on what business; neither of them had any concern or authority in or over vessel or cargo; the last clearing port was Havana, where the voyage began and was to end; sailed for provisions to Wappin or Wappon, on the Grain Coast, and thence to Cape Lopez, where he discharged part of his cargo, consigned to an American at that place named Stoker, and where he proceeded to purchase palm oil and ivory; he ran, however, in the mean time, to water at the river Gaboon, and returning to Cape Lopez, left it a second time for Cabinda, where he discharged more cargo, and purchased on his own account a few dry goods; the capturing ship was first seen off Punta Clara, River Gaboon, at two o'clock in the afternoon, upwards of a month ago; capture took place at seven that evening, in the river itself; was steering for it at that time; the course was not altered, nor any additional sail made; the vessel was destined by her papers for the Coast generally, and in particular for Cape Lopez and Angola; her return to Havana would have depended on the cargo she might have been able to procure, for witness was authorized to carry her to Brazil, or elsewhere in preference, should he find it advisable to do so; four guns, 18-pounders, are mounted on board, and there were 24 cutlasses, as many muskets, and a pair of pistols, and with these ammunition, which belonged to the cargo, was to be used if necessary; the vessel was so armed for defence against pirates, who are sometimes troublesome in these seas; no resistance was made to capture, nor were there any instructions for resisting or avoiding capture, or for destroying or concealing the vessel's papers; the sole Owner of the vessel, so far as witness knows, was the same José Vinent from whom he received command and possession;

knows it from that circumstance; his wife, a Portuguese like himself, resides with him at Havana; they formerly lived at Lisbon; knows nothing of Bill of Sale, price, or transfer of the vessel; verily believe, if restored, she will belong to Vinent, and to no other person; the Owner of the vessel was also sole Lader, Owner, and Consignee of the cargo; verily believes it will belong, if restored, to him only; believes it because he received the entire charge from him; he knows nothing of the lading of the last voyage; the present cargo consists of dry goods, tobacco, aguardiente, knives, cutlasses, muskets, and gunpowder; after capture the vessel was brought direct to Sierra Leone; all the passports and other papers were and are entirely true and fair; none of the papers were destroyed, concealed, or made away with; there were no writings relating to vessel or cargo in any other country; there was no Charter-party; he does not know whether vessel or goods were insured or otherwise; the vessel, with respect to her employment in trade, was under his management; corresponds with the Owner only; bulk was broken at Cape Lopez and Cabinda, previous to capture, and nowhere since."

To the standing special interrogatories, the Master replied, that "no slave had been put or received on board for the purpose of the traffic in slaves during the present voyage; the hatches are not fitted with open gratings; the combings of the hatchways are not bored or otherwise fitted to receive iron bolts or bars, none of which are on board; there are two bulk-heads, those of the cabin and forecastle; there are no spare planks; there is a fourth part of a second deck laid, which he found when he took possession, with dry goods stowed on it; there are no shackles, bolts, or handcuffs; there are water-casks for 110 pipes, containing at present six pipes of fresh water, and intended, with the exception of the number required for the quantity of water necessary for the crew, to receive palm oil; there are no tanks or staves; there are eight or ten large mess-tubs, intended to be used in filling the casks with the palm oil; there are four copper boilers, capable of containing four, six, and eight gallons, and intended for cooking for the crew; there are four bags of rice, four of beans, and five or six of flour, for the use of the crew; no Indian corn."

José Romero, one of the seamen of the detained vessel, swore that he knew nothing respecting the ownership of either vessel or cargo, or the character of her papers; that the voyage commenced and was to end at Havana; that the number of loose planks on board, he thought, were for a slave-deck; that the vessel's hold was laid with water-casks fore and aft; and that the whole crew were Spaniards.

The sworn report of the Surveyors of the Court as to the "*Matilde's*" equipment was received on the 2nd instant, and proved that there was a complete slave-deck on board; a suitable number of water-casks and messing utensils for her as a slave-vessel, and a cabouse adapted for the reception of a slave-boiler, as well as a large quantity of negro food.

With this report the evidence in the case terminated, and publication was granted.

On the 8th instant the Court met for the trial of this case, when, considering that the ownership of the vessel and cargo rested in Ramon Pinto and Manuel Munoz, residents of Havana, whose agreement with the Master of the vessel to deliver a return cargo of slaves in the Island of Cuba has been described in the early part of this Report, she was declared entitled to a Spanish character. The "*Matilde's*" equipment having been proved illegal, the Court accordingly condemned her under the 10th Article of the Treaty between Great Britain and Spain of 28th June, 1835.

H. W. MACAULAY.
WALTER W. LEWIS.

*Sierra Leone, March* 16*th*, 1839.

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## No. 44.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, March* 20, 1839.

(*Received September* 30.)

My Lord,

We have the honour herewith to forward to your Lordship our Report of the case of the brig "*Tejo,*" seized under Portuguese colours in the River Gaboon, on the 31st of January last, by Her Majesty's schooner "Fair Rosamond," on the ground of her being really Spanish, and equipped for the slave traffic.

The detained vessel arrived here on the 10th instant, and was prosecuted in the British and Spanish Mixed Court, where a sentence of confiscation of vessel and cargo was yesterday recorded, the captor having fully established all his allegations.

We have, &c.

(Signed) W. H. MACAULAY.
WALTER W. LEWIS.

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

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## Enclosure in No. 44.

*Report of the Case of the Brig* "Tejo," *Antonio Joaquim Brito, Master.*

The "*Tejo*" sailed under the Portuguese flag, and with a Register and Muster-Roll obtained from the Government of Princes' Island.

The Register, which was issued by Captain José Fortunato, as Governor of Princes' Island, on the 2nd of January, 1839, describes this vessel as being owned by a no less notorious character than Francisco Felis de Souza (of Whydah), and commanded by Antonio Joaquim Brito; and the Muster-roll showed her crew to be in number 26, and her destination on leaving Princes' to be Mantanzas, by way of the ports on the Coast of Africa.

Among the many papers found on board of the "*Tejo*" was a Custom-house Clearance from Matanzas, dated in March, 1838, showing her to have embarked there 50 pipes of rum for delivery at Angola.

The Log-book of the vessel shows, that after leaving Matanzas with the cargo above alluded to, she proceeded to Danish St. Thomas', where she remained some time, and then went direct to Cape Lopez, between which and the Gaboon she was occupied, no doubt, in arranging for a return cargo of slaves, until the month of December last, when she proceeded to St. Thomas', and ultimately to Princes' Island, where the official papers under which she sailed, as above stated, were procured.

The correspondence found was all from Porto Rico, dated in April, 1838, and related chiefly to the brig "*União*," which it appeared had been despatched to the Gallinas for a cargo of slaves, and respecting the safe return of which vessel there was the greatest anxiety evinced, owing to the increased number and activity of the British cruizers in the West Indies, particularly in the neighbourhood of Porto Rico. There were no less than three letters to the Master of the "*União*," two of which were put under covers addressed to Teodoro Canot and Tomas Buron Rodriguez, of Gallinas, and the third was transmitted to the care of Cristoval Arragon of New Sestos.

The "*Tejo*" arrived here on the 10th instant, and was proceeded against as Spanish property equipped for the Slave Trade on the following day, in the British and Spanish Mixed Court.

A Petition was presented for the filing of the papers seized in this vessel, for the issuing of the usual Monition, and for the examination of the two witnesses produced. The Seizor's declaration was also received, and is to the following effect:—

Lieutenant Oliver, Commander of Her Majesty's schooner "Fair Rosamond," on the 31st of Januury last, went into the Gaboon, and there detained the brig "*Tejo*," under Portuguese colours, and commanded by Antonio Joaquim Brito, who represented her to be on a voyage from Matanzas to the Gaboon and back to that port, to carry a cargo of 400 slaves, 116 of whom only were at that time collected. The Master further stated, that De Souza, the Owner, was a resident of Matanzas. The Seizor was therefore induced to detain her as Spanish property fitted for the slave traffic. From the Seizor's declaration it also appeared that, on the Master of the detained vessel learning the presence of a man-of-war off the mouth of the Gaboon, he had landed the sails and rudder of his vessel, in which state she was found when seized.

The Master of the vessel, on his examination by the Registrar, on the 12th instant, deposed that "he was born at Bonavista, where he has since lived; is a subject of Portugal, and has never been subject of any other State; is married, and his wife and family reside at Bonavista; he was appointed to the command by Domingo Valdes, a Spaniard, residing at Matanzas, from whom also he received possession there on the 22nd of March last; first saw the vessel there three months before; she is Portuguese or Brazilian built; he was present at the capture; does not know for what reason it took place; the vessel sailed under Portuguese colours, and there was besides an old Spanish flag on board; the vessel is called the '*Tejo*;' previous to the time when witness first knew her she was called the '*Fortuna*;' she is of 200 tons burthen; there were 27 Officers and mariners, exclusive of witness, eight of them Portuguese, and the remainder Spaniards, all hired and shipped by witness at Matanzas, a year ago, when he took possession; neither he nor any of the Officers or mariners had any interest in vessel or cargo; was Master on board; there were no passengers; the voyage began and was to end at Matanzas; the last clearing port was St. Antonio, Princes' Island; the vessel called first at St. Thomas', West Indies, for an addition to her cargo; she then proceeded to the Coast, making Cape Lopez, where witness delayed two days to give rest to his people, and had communication with the shore by means of two canoes; she then went to the River Gaboon, and discharged all her cargo; she then made a trip in search of provisions, and touched successively at Corisco, Annabona, Cama, Cape Lopez, and Gaboon a second time, and at St. Thomas' and Princes', and finally returned a third time to the River Gaboon, and was taken; the capturing ship was first seen while the detained vessel was at anchor there, at half-past one o'clock in the morning of the 28th or 29th of January last; capture took place immediately; the vessel would have there shipped a cargo, and returned direct to Matanzas; her destination, by the papers, had been Danish St. Thomas', St. Paul de Loando, and Matanzas; found that he could prosecute his trade advantageously without proceeding to St. Paul de Loando, and in such a case had been verbally authorized to act according to his discretion; there are two guns (eight-pounders) mounted on board, and there were eight cutlasses, eight muskets, and a tin box containing ammunition; the vessel was thus armed for defence against piratical canoes; no resistance was made to capture, nor were there any instructions for resisting capture, or for concealing or destroying the vessel's papers; he does not know who is the sole Owner of the vessel; heard, at Matanzas, there were two Owners, one living there, and the other at Havana; he knows nothing of Bill of Sale, price, or transfer of the vessel; Domingo Valdes, from whom he received command and possession, was sole Lader, and, as he told witness, part Owner of the cargo; thinks the two Owners of the vessel must have owned the remainder of it; he knows nothing of the last voyage; the cargo on the present consisted of aguardiente, tobacco, dry goods, muskets and gunpowder; the vessel, subsequent to capture, was brought direct to Sierra Leone; all the Passports and other papers were and are entirely true and fair; none of the papers were destroyed, concealed, or made away with; the vessel's papers having become much worn, he obtained an entire new set at Princes', and left the old ones in custody of the Government there; he does not know whether there was a Charter-party or not; he does not know if the vessel or goods be insured; with respect to her employment in trade, she has been under the management of Domingo Valdes, who came in her to the Coast as Supercargo, and is now at the Gaboon; bulk was broken on the voyage at Gaboon only; no slave has been put or received on board during the present voyage, for the purpose of the Traffic in Slaves."

To the standing special interrogatories respecting the equipment of the vessel, the same witness stated, that "the hatches are not fitted with open gratings; the combings of the hatchways have been pierced to receive iron bars but the holes are now filled; no iron bars are on board; there are two bulk-heads, those of the cabin and forecastle; there are no spare planks; there was no slave-deck; there were no shackles, bolts, or handcuffs; there are leaguers and casks on board, capable, as nearly as witness can conjecture, of containing 40 pipes of water; they are partly filled with fresh and salt water; there are no staves or tanks, and the casks were intended to receive palm oil; there were five or six mess-tins for the use of the crew; there were four iron boilers (he cannot state of what size) for the use of the crew; there was rice and flour for the use of the crew, but he cannot specify the quantity of either; there was no Indian corn."

The Boatswain of the detained vessel, Pedro Garcia, by his testimony, so far as it applied to the vessel or her voyage, confirmed the evidence of the Master. Garcia, however, denied all knowledge whatever of the brig's papers, of the existence of a Charter-party, of the Owner of either vessel or cargo, and whether they were insured.

Publication of the case was granted on the 12th instant; and on the same day also a commission of survey and inspection of the equipment of the detained vessel was issued, on the petition of the Seizor's Proctor.

The sworn Report of Survey was received on the 16th instant, by which it appeared, that the hatchway coamings of this vessel were bored for hatch-bars, but the holes were temporarily closed. There were three bulkheads in the brig, which are more than requisite for such a vessel, if engaged in lawful commerce. Slave-deck beams were found fore and aft, and the slave-deck partly laid. There were 2,500 gallons of fresh water on board, and leaguers and other casks capable altogether of holding 6,800 gallons. There were five boilers, of the content of 21 gallons; a cabouse fitted to receive a large boiler; in addition to an unnecessary quantity of slave-provisions, consisting of yams, farinha, and beans.

This closed the case for the Seizor; and the 19th instant was appointed for the trial of this vessel; on which day the Monition, issued on the 11th instant, was duly returned into Court.

Upon the question of the ownership of this vessel, the Court considered the papers and evidence unsatisfactory, as the only witness who allowed he had any knowledge at all respecting this point was the Master, who swore that he believed there were two Owners, one of whom resided at Matanzas, and the other at Havana. In opposition to this statement is the fact that, only a few weeks back, he had procured a new Register for the vessel at Princes', in which he had caused the name of the notorious De Souza to be inserted as Owner.

It was however clear, from the evidence and official papers, that this vessel sailed from Matanzas to this Coast with the intention of returning to that port, where she was originally fitted out by persons exercising all the rights and authority of Owners, and where she embarked a Spanish Supercargo, in charge of the merchandize shipped there; circumstances which the Court considered affixed a Spanish character upon the vessel and her cargo for the present voyage, and in consequence rendered her liable to the laws and engagements of Spain, as far as they might affect her. And it having been established that this vessel was provided with nearly all the prohibited articles of equipment named in the Treaty with Spain, a sentence of condemnation of the vessel and cargo was in consequence pronounced.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

*Sierra Leone, March* 20, 1839.

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No. 45.

*Her Majesty's Commissioners to Mr. Backhouse.*

*Sierra Leone, July* 1, 1839.
(*Received September* 30.)

SIR,

IN pursuance of the 75th clause of an Act passed in the fifth year of the reign of His late Majesty King George the Fourth, 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 cases of Spanish vessels, adjudicated in the British and Spanish Mixed Court of Justice during the past half-year.

We have, &c.,
(Signed) H. W. MACAULAY,
WALTER W. LEWIS.

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

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## Enclosure in No. 45.

RETURN of SPANISH VESSELS, adjudicated by the British and Spanish Mixed Court of Justice, established at Sierra Leone, betwixt the 1st day of January and the 30th day of June, 1839.

| 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; whether any part remains unsold, and in whose hands the proceeds remain. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Latitude. | Longitude. | | | | | | | | |
| Ontario . . . | Jozé Hemens . . . | 1838 18 Dec. | 0° 55′ N. | 4° 6′ E. | Schooner and 219 slaves. | Brunswick Popham, Esq., H.B.M. sloop "Pelican." | 1839 17 January | 219 | 19 | 200[a] | 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. |
| Ligeiro . . . | Miguel Antonio . . | 16 Nov. | Lagos | Roads. | Brigantine, cargo, and monies. | Edward Holland, Esq., H.B.M. brigantine "Dolphin." | 28 ,, | .. | .. | .. | Ditto . . . | Ditto, with the monies seized. |
| Victoria . . . | Antonio Jozé Alfonso. | 16 ,, | Ditto. | | Brig and cargo . | Ditto . . . . . | 28 ,, | .. | .. | .. | Ditto . . . | Ditto. |
| Dous Amigos . | Fernando Jozé Carreira | 16 ,, | Ditto. | | Brig, cargo, and monies. | Ditto . . . . . | 28 ,, | .. | .. | .. | Ditto . . . | Ditto, with the monies seized. |
| Amalia . . . | Bernardo Jozé Alvez . | 27 Dec. | 8° 30′ N. | 13° 35′ W. | Schooner, cargo, and monies. | Ditto . . . . . | 8 February | .. | .. | .. | Ditto . . . | Ditto. ditto. |
| Izabel . . . | Jozé Lopez Condes . | 3 ,, | 0° 14′ 49″ S | 0° 42′ 54″ E. | Schooner and cargo. | John Luke Richard Stoll, Esq., H.B.M. brigantine "Bonetta." | 8 ,, | .. | .. | .. | Ditto . . . | Ditto. |
| Victoria . . . | Alexander Proença . | 24 ,, | 2° 43′ N. | 4° 0′ W. | Ditto . . . . | Henry Broadhead, Esq., H.B.M. brigantine "Lynx." | 13 ,, | .. | .. | .. | Ditto . . . | Ditto. |
| Merced . . . | Jozé Urresty . . . | 1839 10 Jan. | 6° 8′ N. | 10° 53′ W. | Ditto . . . . | Edward Holland, Esq., H.B.M. brigantine "Dolphin." | 13 ,, | .. | .. | .. | Restitution . . | Schooner and cargo delivered up to the Master. |
| Maria Thereza . | Jozé Mora. Sampaio . | 26 ,, | 5° 46′ N. | 0° 10′ 35″ E. | Brigantine and cargo. | John Reeve, Esq., H.B.M. sloop "Lily." | 5 March | .. | .. | .. | 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. |
| Matilde . . . | Mariano Sgitcovich . | 22 ,, | 0° 28′ N. | 9° 19′ E. | Brig and cargo . | W. Brown Oliver, Esq., H.B.M. schooner "Fair Rosamond." | 8 ,, | .. | .. | .. | Ditto . . . | Ditto. |
| Tejo . . . . | Antonio Joaquim Brito | 31 ,, | River | Gaboon. | Brig, cargo and monies. | Ditto . . . . . | 19 ,, | .. | .. | .. | Ditto . . . | Ditto, with the monies seized. |
| Serea . . . . | Manoel de Silva . . | 12 March | 5° 13′ N. | 9° 22′ W. | Schooner and cargo. | Colin Yorke Campbell, Esq., H.B.M. brigantine, "Forester." | 1 April | .. | .. | .. | Ditto . . . | Ditto. |
| Braganza . . | Manoel de Nascimento Moura. | 9 Feb. | 5° 53′ N. | 0° 57′ E. | Brig, cargo, and monies. | Henry F. Seagram, Esq., H.B.M. brigantine, "Termagant." | 1 ,, | .. | .. | .. | Ditto . . . | Ditto, with the monies seized. |
| Rebecca . . . | Domingo Artala . . | 22 March | Off the | Gallinas. | Schooner and cargo. | Colin Yorke Campbell, Esq., H.B.M. brigantine "Forester." | 6 ,, | .. | .. | .. | Ditto . . . | Ditto. |
| Constanza . . | Francisco Jozé Diaz . | 16 May | 7° 10′ N. | 12° 20′ W. | Ditto . . . . | The Right Hon. Lord Francis J. Russell. H.B.M. sloop "Harlequin." | 29 May | .. | .. | .. | Ditto . . . | Ditto. |
| Si . . . . . | Gasper Roig . . . | 27 ,, | 6° 50′ N. | 11° 50′ W. | Felucca and 360 slaves. | Henry James Matson, Esq., H.B.M. brig "Water Witch." | 5 June | 360 | 2 | 358[b] | Ditto . . . | Ditto. |
| Raynha dos Anjos | Jozé Gomez Bandeira. | 10 ,, | 0° 38′ S. | 9° 2′ E. | Schooner and cargo. | Francis Godolphin Bond, Esq., H.B.M. brigantine "Forester." | 15 ,, | .. | .. | .. | Ditto . . . | Schooner and stores in charge of the acting commissioner of appraisement and sale, the same being ordered to be sold at public auction, and the proceeds paid into the registry 21 days from the date of condemnation. |
| Vigilante. . . | Francisco Jozé de Souza. | 23 ,, | River | Congo. | Brig and cargo . | William Tucker, Esq., H.B.M., sloop "Wolverene." | 25 ,, | .. | .. | .. | Ditto . . . | Ditto. |

[a] One boy died after emancipation, but previous to his description having been taken to be registered.
[b] One man and two boys died after emancipation, but previous to their descriptions having been taken to be registered.

N.B. A schooner called the "*Carolina*," P. F. de Costa, late Master, was seized on the 22d day of May of this year, in Mayumba Bay, Coast of Loango, by Her Britannic Majesty's brigantine "*Forester*," Lieut. Francis Godolphin Bond commanding; and was brought into this Court on the 15th of June, but in consequence of a failure of evidence, the proceedings in the case were allowed to be withdrawn on the 21st of the same month, on the petition of the Proctor for the Captors.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

*Sierra Leone, 1st July, 1839.*
(Signed) J. MILLER, *Acting Registrar.*

No. 46.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, October* 11, 1839.

I HEREWITH transmit, for your information, an Extract from a Despatch from Her Majesty's Commissioners at the Havana, containing information as to the slave-vessels which have arrived at, or sailed from that port, during the month of July last.

I am, &c.,
(Signed) PALMERSTON.

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

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Enclosure in No. 46.

*Her Majesty's Commissioners to Viscount Palmerston; Havana, August* 22, 1839.
(See No. 100, page 132.)

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No. 47.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, April* 8, 1839.
(*Received October* 31.)

MY LORD,

ON the 11th ultimo Her Majesty's brigantine "Forester," commanded by Lieutenant Colin Yorke Campbell, seized the schooner "*Serea*," Manoel da Silva, Master, sailing under Portuguese colours, in latitude 5° 13′ north, and longitude 9° 22′ west, on the ground of her being Spanish property unlawfully equipped; and sent her to this port for adjudication.

The "*Serea*" arrived here on the 20th ultimo.

On the 1st instant this vessel was tried before the British and Spanish Mixed Court here, and a sentence of condemnation passed upon her.

Our Report of this case we have now the honour to lay before your Lordship.

A Portuguese flag and pass, obtained at the Cape Verd Islands, covered this vessel in her attempt to evade the Equipment Article of the Treaty between Great Britain and Spain; but her owners were plainly proved to be resident in Cuba.

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

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

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Enclosure in No. 47.

*Report of the Case of the Schooner* "Serea," *Manoel da Silva, Master.*

THE "*Serea*" sailed under a Portuguese Passport, obtained on the 7th of January, 1837, at the Cape Verd Islands, which stated that she had been built in America, and that she was owned and commanded by Nicolau da Silva Vieira. By the endorsements upon this document it appears, that the vessel was at Matanzas in the May following her visit to the Cape Verde Islands; and in August of last year she was boarded by one of Her Majesty's cruizers at Gallinas, whence she must have proceeded direct to Cuba, as she cleared out from Havana very early in the ensuing December, ostensibly for a voyage to the Cape Verds, but really for her former resort, the Gallinas, to which place, according to her log-book, she at once proceeded, and near to which she was captured, when trading along the Coast to procure provisions for her destined cargo of slaves.

The Matricula of this vessel, dated at Havana, December 6, 1838, was authenticated, as usual, by the American Consul's Certificate. Attached thereto was another Certificate from the same functionary expressing that Francisco Riera, the Agent of the Owner of the vessel, had appointed the present Master, Manoel da Silva, to command her in the room of Nicolau da Silva Vieira, her former Captain, who was also described in the papers as being the Owner of the vessel. This change of Masters having taken place at Havana, to which port Vieira, the alleged Owner, had conducted the vessel from Gallinas, he must have been on the spot at the time. The interference of an Agent, therefore, on his behalf appears to have been uncalled for, and justifies the suspicion that this Vieira had no interest, whatever in the detained vessel beyond that of being Captain for the Portuguese flag.

The cargo with which the "*Serea*" left Havana was well assorted for the Slave Trade, consisting of nine bales of merchandize, a large quantity of spirits, iron bars, tobacco, arms, and ammunition.

She arrived in this harbour on the 20th ultimo, and was presented to the British and Spanish Mixed

Court on the following day, for prosecution on a charge of being a Spanish vessel illegally equipped.

The customary Monition was accordingly issued, after the filing of all the papers in the case which were duly authenticated; and the taking of evidence was directed to be proceeded with.

The Declaration of Lieutenant Colin Yorke Campbell, of Her Majesty's brigantine "Forester," stated, that the schooner "*Serea*," sailing under Portuguese colours, and commanded by Manoel da Silva, had been detained by him on the 11th ultimo, in 5° 13′ north latitude, and 9° 22′ west longitude, in consequence of her unlawful equipment.

On the 23d ultimo the Registrar examined the Master on the standing and special interrogatories used in all equipment cases. The Master deposed that "he was born on the Coast of Portugal, and has lived there since; is a subject of Portugal, and has never been a subject of any other state; is not married; he appointed himself to the command, and took possession at Havana, in January last; first saw the vessel there on the 21st of that month; she was built in America; he was present at the capture; does not know why it took place; the vessel sailed under Portuguese colours, and there was besides an American flag, which witness found on purchasing the vessel; the vessel is called the '*Serea*;' never heard of her bearing any other name; she is of 58 tons burthen; there were 17 Officers and mariners, exclusive of witness, all Portuguese, shipped by witness at Havana in January; himself excepted, none of the Officers or mariners had any interest in vessel or lading; is himself sole Owner of both; was Master on board; there was one passenger, named João Coelho, an Italian by birth, but witness does not know of what profession, who was taken on board at Havana to proceed to the Cape Verds, witness does not know on what business; he had no concern or authority in or over vessel or cargo; the last clearing port was Havana, where the voyage began, to end at the Cape Verdes; touched at Garraway and at Cavally River, near Cape Palmas, and at both places bought rice and fire-wood; he first saw the capturing ship off Languin, at seven o'clock in the morning of the 12th or 13th of the last month; was standing at the time for the coast; the man-of-war fired a gun without showing her colours, which inducing him to believe that she was a pirate, which he had heard was on the coast, he altered his course, and made all sail; capture took place at noon; the destination by the papers was the Cape Verdes, which he could not make, being carried down towards the coast by contrary winds; there were no guns mounted on board, but there are 10 or 12 cutlasses, 8 or 10 muskets, and a small keg of ammunition, for defence against canoes and boats; no resistance was made to capture, nor were there any instructions for resisting or avoiding capture, or for concealing or destroying the vessel's papers; he himself is sole Owner of the vessel; a Bill of Sale was made in his favour by Jozé Morias (Mauri) on the 21st January, in Havana, and in presence of four witnesses—Antonio Joaquim, Miguel Antonio, Jozé Samedo, and Joaquim Jozé da Souza; last saw it on the 28th of that month; the price was 4,500 dollars; it was paid, and was a fair equivalent; the transfer was truly made; there was no private agreement for the returrn of the vessel to the former owner; there was no cargo to lade or own; he knows nothing of the cargo of the last voyage; on the present the vessel came out in ballast; after capture she was brought direct to Sierra Leone; all the Passports were and are entirely true and fair; none of the papers were destroyed, concealed, or made away with; there are no writings relating to vessel or cargo in any other country; there was no charter-party; the vessel is not insured; with respect to her employment in trade she was under witness's direction; no slave had been put or received on board during the voyage for purposes of the traffic in slaves; all the muskets and a piece of canvas were taken out of the vessel at the time of capture." Upon the question of equipment, the Master swore that "the hatches are not fitted with open gratings; the coamings of the hatchways are not fitted to receive iron bolts or bars, none of which are on board; there is one bulkhead, that of the cabin; there is no second deck laid; there are no shackles, bolts, or handcuffs; there are casks capable of receiving 20 pipes of water, which are all now full of fresh water, in order to ballast the vessel, and for use of the crew; the majority of them were intended to receive ultimately aguadiente, which was to be purchased at the Cape Verdes; there were two iron boilers, measuring four gallons each, for use of the crew; there were 40 or 50 bags of rice, and one or two of beans, for the use of the crew; no flour or Indian corn."

Ignacio Tito, an African, and Cook on board of the detained vessel, gave evidence much at variance with that of the Master. Tito swore that the Officers and mariners were all Spaniards, with the exception of one Portuguese and himself. Respecting the passenger referred to in the Master's evidence, Tito stated that he did not know his name, but that he was a Spanish seaman, and exercised "as much authority as the Master on board;" that when the vessel left the Gallinas to trade along the Coast, water was embarked as well as rice and firewood; that the voyage began, and was to have ended at Havana; and the Owner of the vessel was Manoel Tito, a Biscayan, residing with his wife and family at Matanzas, where Tito was universally spoken of as Owner of the '*Serea*.'" He first saw the detained vessel in November last at Matanzas. On being further questioned by the Court respecting the Owner of the vessel, the Cook deposed, that "he first knew Manoel Tito, the Owner of the '*Serea*,' 12 months ago at Matanzas; he had never been connected with him is any other way than as Cook to the schooner, in which capacity he was hired by Tito."

Publication was granted in the case on the 25th ultimo, and on the following day the Proctor for the Captor asked for a Commission of Survey of the equipment of the detained vessel; the sworn Report under which Commission was filed on the 28th, and showed that there were 2000 gallons of fresh water, and an extraordinary number of water-casks on board, the same being equal to holding about 3,800 gallons; the cabouse fitted to receive a large or small boiler, and a large quantity of provisions, consisting of 22 bags of rice, of about two bushels each, besides a quantity stowed loose, two bags of peas, and one of beans.

The Monition, issued on the 21st, was returned into Court, certified to have been duly served, on the 28th ultimo, on which day also the Affidavit of the Prize Offier was filed in explanation of the charge preferred by the Master of the detained vessel of some ship's stores having been removed by the Captors to the capturing ship at the time of detention. The arms so taken from the "*Serea*" the Seizor removed for the greater security of his prize, giving a receipt for the same to the Prize Officer; and the canvas alluded to was declared to have been removed by the Supercargo of the detained vessel himself.

On the 1st instant the Court assembled for the adjudication of this vessel.

In giving judgment in this case the Court remarked, that little if any faith could be placed in the evidence given by the Master, who had adopted the extraordinary course of contradicting the vessel's

Register on the subject of ownership, by swearing that he had bought her at Havana at a time when the Log-book showed that he was within eight days' sail only of the Gallinas. The clearance of the vessel from Havanna was also directly contradicted by him; and the route of the vessel in crossiug the Atlantic, as described by him, was disproved by the Log, which showed plainly that no attempt whatever had been made to proceed to the Cape Verd Islands.

The evidence of the African Cook appeared to have been given in a more straightforward manner, and seemed entitled to some credit. His assertion that Manoel Tito of Matanzas was the Owner of the vessel, and that he was well known there as such, receives some support from the fact that she has twice been to that port since obtaining her Pass at the Cape Verdes; and on the last occasion the Cook was shipped by Tito himself. The residence of the Owner at Matanzas would fairly account also for the employment of an agent at Havana when the vessel was fitting out there in December last, and explain the circumstances stated in the official papers of the ostensible Owner being at Havana, and employing an agent to transfer from his own hands his own vessel to a new Master.

The evidence in the case had established, that the ownership of the vessel rested in a resident of Cuba, at which island she embarked her cargo, and shipped a Spanish crew for a voyage to this Coast under the direction of a Spanish Supercargo, and that the return cargo was destined for Havana, facts which the Court considered gave the vessel essentially a Spanish character.

The illegal equipment of the "*Serea*," according to the terms of the tenth Article of the Treaty between Great Britain and Spain, of June 28th, 1835, being beyond question, and no reasonable explanation of the same having been tendered, the "*Serea*" and her cargo were pronounced good prize.

*Sierra Leone, April* 8, 1839. (Signed) H. W. MACAULAY.

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No. 48.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, November* 15*th*, 1839.

WITH reference to my Despatch of the 25th of September last, containing information for your guidance in cases similar to that of the "*Mary Ann Cassard*," I transmit for your information copy of a Despatch which I have addressed to Her Majesty's Commissioners at the Havana, stating that instructions had been given to the Officer in charge of three vessels, the "*Eagle*," "*Clara*," and "*Wyoming*," which had been taken under like circumstances of suspicion as the "*Mary Ann Cassard*," authorizing him to bring the cases of those vessels before the Mixed Commission established at the Havana.

I am, &c.

(Signed) PALMERSTON.

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

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Enclosure in No. 48.

*Viscount Palmerston to Her Majesty's Commisisoners at the Havana;*
*Foreign Office, November* 15*th*, 1839.

(See No. 104, page 133.)

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No. 49.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, March* 14, 1839.

MY LORD, (*Received December* 16.)

WE have the honour to transmit to your Lordship enclosed our Report of the second part of the case of the Spanish schooner, "*Merced*," José Urresti, Master, which was restored to the said Master on the 13th ultimo; when it was further decreed that the Registrar should assess the amount of costs, damages, and expenses, due to the claimant for the illegal detention of his vessel.

The Registrar's Report was presented on the 27th ultimo, and the amount of his assessment, £85 15*s.*, was unconditionally awarded to the Claimant by the Court. A copy of this Report we have also the honour to inclose.

On the 9th current the usual certificates of award and the ship's papers were handed over to the Claimant, receipts being taken for the same.

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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## First Enclosure in No. 49.

*Report of the Second Part of the Case of the Spanish Schooner* "Merced," *Jozé Urresti, Master.*

In our Report of the first part of the case of this vessel, transmitted in our Despatch, marked Spain, of the 14th of February 1839, we communicated the reasons which led the Court to pronounce a sentence of restoration, and to direct the registrar to assess the amount of costs, damages, and expenses due to the claimant for the unauthorized detention of his vessel.

On the 20th ultimo the Claimant's proctor brought in his Schedule of damages, attested by the Affidavit of the Master Jozé Urresti, and the Registrar immediately proceeded to investigate the same, carefully considering the objections of the Captor's Proctor, and awarding what he judged to be an adequate compensation for the injury sustained, in accordance with Treaty, and the former practice of the Court.

It will be seen by the accompanying Report from the Registrar, that the sum claimed was reduced from considerably above £500 to the comparatively small amount of £85 15*s*. The Registrar's assessment was confirmed by the Court; and a certificate in triplicate in the usual form was granted to the Claimant on the 9th current, for the sum which was thus absolutely awarded.

A receipt, signed by the Claimant and his Proctor, was then given to the Registrar, both for the triplicate certificates of the award and for the ship's papers. But before the latter were handed over, an abstract of their contents was made, and an endorsement was placed on the back of the Passport, stating the circumstances connected with the seizure and restoration of the vessel.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

*Sierra Leone, March* 14*th*, 1839.

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## Second Enclosure in No. 49.

*Registrar's Report.*

*Spanish Schooner,* "Merced," *Jozé Urresti, Master.*

To the trusty and well-beloved Henry William Macaulay, Esquire, Her Britannic Majesty's Judge, and Walter William Lewis, Esquire, Her Britannic Majesty's Arbitrator, acting in the absence of either the Judge or Arbitrator on the part of Her Catholic Majesty the Queen of Spain.

Whereas, by your Decree of the 13th day of February, 1839, you pronounced the said vessel and cargo to be restored to the Claimant, for the use of the owners and proprietors thereof; and referred it to your Registrar to ascertain the amount of the costs of suit, and such special damages and expenses only as have arisen by the detention of the said vessel by Her Britannic Majesty's Brigantine "Dolphin," with directions that he should report the same to you. Now, I do most humbly report, that having received an account of the same brought in on behalf of the Claimant, and having taken it, together with what was urged by the Proctors on both sides, into consideration, I am of opinion that the Claimant is entitled to the several sums mentioned in the Schedule hereunto annexed.

All which is humbly submitted by

(Signed) J. MILLER, Acting Registrar.

*Sierra Leone,* 27*th February,* 1839.

*In the Case of the Spanish Schooner* "Merced," *Jozé Urresti, Master.*

*Here follows a Schedule of Costs, Damages, and Expenses,*

Amounting to the sum of eighty-five pounds fifteen shillings.

(Signed) J. MILLER, *Acting Registrar.*

*Sierra Leone,* 27*th February,* 1839.

These are to certify that the foregoing is a true and exact copy of my Report of costs and damages in the case of the Spanish schooner, "*Merced,*" whereof Jozé Urresti was Master.

In faith and testimony whereof I have hereunto set my hand and affixed the seal of the Mixed Commissioners at Freetown, in the colony of Sierra Leone, this thirteenth day of March, in the year of our Lord one thousand eight hundred and thirty-nine.

(L.S.) J. MILLER, *Acting Registrar.*

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## No. 50.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, April* 8, 1839.
(*Received December* 16.)

My Lord,

We have the honour of laying before your Lordship herewith our Report of the case of the brig "*Braganza,*" Manoel do Nascimento Moura Master, seized under Portuguese colours by Her Majesty's brigantine "Termagant," on the 9th of February last, in latitude 5° 53′ north, and longitude 0° 57′ east, on the ground of her being Spanish property equipped for the Slave Trade.

The detained vessel reached this port on the 20th ultimo. Her prosecution before the British and Spanish Mixed Court commenced the following day, and the Captor

having satisfactorily established his allegations, the "*Braganza*" was pronounced by the Court to be a good prize.

This vessel was owned by Juan Menendez of Corunna, and appears to have been registered at Havana, between which ports she traded for some time, when it was determined to effect an ostensible change in her nationality, previous to sending her to this Coast for the traffic in slaves. With this object her Owner appointed an agent by Power of Attorney, and sent him in the brig to Lisbon to procure the desired Portuguese character for her. At Lisbon a nominal sale was effected, and the Spanish brig "*Vigilante*" was transformed into the Portuguese brig "*Braganza,*" owned by Antonio Jozé de Oliveira Chambica, an outfitter of ships in that city. The Bill of Sale was executed on the 5th of last November, and on the day following the authorities of Lisbon registered the vessel "as a Portuguese merchant-vessel," in conformity, as is stated in the Certificate of registry, with the Decree of the 17th December, 1836, and, as such, she was cleared out thence for Bordeaux.

On leaving Lisbon the brig returned, as might have been expected, to Corunna, where her real Owner fitted her out for this coast, upon which she was captured before she reached her destined port, Lagos.

We have thought it our duty to transmit with the Report of this case copies of the papers connected with the sale and naturalization of this vessel at Lisbon, under the sanction of the Intendant of Marine in that city, and which has taken place in open violation of the Portuguese Decree of the 16th of January, 1837.

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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## First Enclosure in No. 50.

*Report of the Case of the Brig* "Braganza," *Manoel de Nascimento Moura, Master.*

THE "*Braganza*" at the time of her detention was found sailing under a Portuguese Register obtained at Lisbon on the 6th of November, 1838, which described the brig to be of Spanish build, and as having been sold the day previous by the agent of her former Spanish Owner, who resided at Corunna, to Antonio Jozé de Oliveira Chambica of Lisbon, and that the purchaser of the said vessel having performed all that was required by law, the brig had been registered in conformity with the terms of the Portuguese Decree of the 17th of December, 1836. The Register also stated, that on the transfer of this vessel from the Spanish to the Portuguese Flag, her name was changed from "*Vigilante*" to "*Braganza.*"

The Bill of Sale on this occasion bears date in the city of Lisbon on the 5th of November, 1838, and appears to have been executed in the presence of the Notary Public, Thomas Isidoro da Silva Freire, and other witnesses. The seller of the vessel is therein described to have been Mariano Vilarinho, the deputed agent of her owner, João Menendez of Corunna, and the purchaser as Antonio Jozé d'Oliveira Chambica, outfitter of ships, living at No. 13 Wharf Sodre, in Lisbon. The consideration money on this occasion is stated to have been five contos, 780 milreis, and to have been duly paid.

A more full description of the two documents will be unnecessary here, as we consider it our duty to transmit copies of them with this Report.

The Muster-roll of the vessel consisted of two parts, the first being a list of crew, of 14 persons, embarked at Lisbon for a voyage to Bordeaux on the 10th of November, 1838, and the second part being a list of 22 other persons added to the original crew on the 31st of December last, at Corunna, to which port the brig had proceeded on the plea of stress of weather. In this latter document the destination of the "*Braganza*" was stated to be from Corunna to St. Thomas' (on the equator), calling "at Lagos and Havana."

In a general Passport for 14 of the seamen embarked at Corunna, as well as in the official endorsement made there on the Passport of the Supercargo, Maqueda, the ultimate destination of the vessel was stated to be Havana.

When the "*Braganza*" left Lisbon for Bordeaux, she cleared out in ballast, but evidently had no intention of proceeding to that city, as her Log-book shows that she made a direct and quick voyage back to Corunna with favourable winds and clear weather. There is an entry in the Log-book, however, that the brig put into Corunna through stress of weather, which was evidently intended to form the foundation of an excuse for her returning to the residence of her real Spanish Owner, where she was to be fitted out for the voyage in which she has been detained.

From Corunna the brig had three Custom-house clearances, bearing dates in December last, for the large cargo embarked there by the Supercargo Maqueda, and which was consigned chiefly to himself. The cargo was intended for delivery on this Coast, as St. Thomas' and Princes' only were named in the clearances.

Among the official papers of the brig were found all the customary Receipts for port dues, a Bill of Health, &c., as well as personal Passports for all who were received on board at Corunna.

The Supercargo's Passport describes him as a Spanish seaman.

There are four Log-books found on board the detained vessel, all written in Spanish, from which it appeared, that she had made two voyages from Havana to Corunna between April and September of

last year. On the 21st of October following she sailed from Corunna to Lisbon, where the transfer of the vessel previously described was effected, and thence returned to Corunna, where having embarked additional hands and a full cargo, she sailed thence direct for Lagos, not far from which place she was captured.

The other papers found on board consisted of unimportant private letters, and the agreement for the voyage between the Master and Maqueda, the latter of whom is described as the Director and Supercargo of the brig. The Master's wages were to have been 24 Spanish dollars per month, provided the vessel did not go to Africa; but, in the event of her proceeding to that Coast, they were to be raised to 50 dollars.

On the 20th of March, the "*Braganza*" came into this port; and on the following day the papers of this vessel, together with the Declaration of the capturing Officer, were brought into the British and Spanish Mixed Court, when the Affidavit of the Prize Officer having been received, the usual Monition was issued, and the examinations in preparatory ordered to be proceeded with.

Lieutenant Seagram, of Her Majesty's brigantine "Termagant," stated in his declaration that, being in 5° 53′ north latitude, and 0° 57′ east longitude, on the 9th of February, 1839, he had detained the brig "*Braganza*," then sailing under Portuguese colours, and in a voyage, as her Master declared, from Corunna to Princes' and St. Thomas' Islands, and Havana, on the ground of her being Spanish property, and equipped for the Slave Trade.

On the 23rd ultimo, the Registrar examined the Master of this vessel, who deposed, in reply to the standing interrogatories, that "he was born at San Martinho, in Portugal, and has lived there since; is a subject of Portugal, and has never been subject of any other State; is not married; he was appointed to the command by Antonio Jozé de Oliveira Chambica, a subject of Portugal, residing at Lisbon, from whom also he received possession there in November last; first saw the vessel there a year ago; she is Spanish built; he was present at the capture; does not know why it took place; the vessel sailed under Portuguese colours, and there were besides an English and a French flag on board, intended for display on holydays; the vessel is called the '*Braganza;*' previous to her purchase by her present Owner, she bore the name of '*Vigilante;*' she is of 288 tons burthen; there are 31 or 32 Officers and mariners, exclusive of witness, half of them Spaniards and half Portuguese, hired and shipped by witness, partly at Lisbon and partly at Corunna, in November and December last; neither he nor any of the Officers or mariners had any interest in vessel or lading; was Master on board; there was one passenger, Juan Maqueda, a seaman, not a Portuguese, and speaking Spanish, so far as witness could judge, with the fluency of a native, but, as he also spoke English, witness will not swear that he is a Spaniard; he was taken on board at Lisbon, in November, to proceed to Bordeaux; witness does not know on what business, but the vessel being forced to change her route, and to go into Corunna, he agreed to make the voyage to St. Thomas', on which she then proceeded; he had no concern in or over the vessel or cargo; the voyage began at Lisbon, to end at Havana; the last clearing port was Corunna, where the vessel was obliged to put in, in consequence of springing a leak off Cape Trafalgar, when on her way to Bordeaux; from Corunna she was proceeding to Lagos for palm-oil, when she was taken off Little Popoe; the capturing ship was first seen off Little Popoe, at four o'clock in the evening of the 8th of February; capture took place, without chace, at sunset; the vessel was steering for Lagos at the time; the destination, by the papers, was Lagos, St. Thomas', and Havana, and the course was at all times directed for the first of those places; there are two small guns mounted on board (does not know their calibre), and there were 12 cutlasses, 19 muskets, four or five pistols, and 10 pounds of ammunition; the vessel was so armed for defence against boats and some Spanish vessels which have got a bad name on the Coast; no resistance was made to capture, nor had witness any instructions for resisting or avoiding capture, or for concealing or destroying the vessel's papers; the Owner of the vessel was the same Antonio Jozé de Oliveira Chambica from whom he received command and possession; he is a Portuguese by birth, residing, as witness has already stated, at Lisbon; there was a Bill of Sale, by a Spaniard, in favour of the present owner, made at Lisbon; witness does not know when, nor in the presence of what witnesses; last saw it in November; does not know the price; believes the transfer to have been truly made, and that the vessel, if restored, will belong to Chambica, and to no other person; knows of no private agreement; he himself is Lader and Consignee of the cargo, which is owned by the Owner of the vessel; knows it, because he purchased it on his account; he knows nothing of the last voyage; the present cargo, shipped at Corunna, consists of aguardiente; the vessel, after capture, was brought direct to Sierra Leone; all the passports and other papers were and are entirely true and fair; none of the papers were destroyed, concealed, or made away with; there are no writings relating to vessel or cargo in any other country; there was no Charter-party; he does not know whether the vessel or goods be insured or otherwise; with respect to her employment in trade, the vessel was under the management of witness; no slave has been put or received on board during the voyage, for the purpose of the traffic in slaves."

To the special interrogatories respecting the equipment of the vessel, the Master stated that "the hatches are not fitted with open gratings; the coamings of the hatchways are not bored, nor fitted to receive iron bars, none of which are on board; there are two bulk-heads, those of the cabin and forecastle; there are a good many spare planks, 12 and 18 feet long, and 1½ and 2 inches thick, intended for the construction of a temporary house at Lagos, while witness should be on shore there for the purposes of his trade; no part of a second deck is laid; there were no shackles, bolts, or handcuffs; there are casks and staves on board for 50 or 60 pipes of water, and intended to receive palm-oil; does not know how much water was on board at the time of capture; he does not know how many mess-tins there were; takes no account of such matters; there are four or five iron boilers, two of them large, for the clarifying of palm-oil, and the others for the use of the crew; there were 18 bags of rice (or thereabouts), two of beans, and a barrel of flour, for the use of the crew; no Indian corn."

Juan (B.) Maqueda, the Supercargo of this vessel, was the other witness produced by the Captor, and was examined on the same day as the Master. To the standing interrogatories he gave replies which served to confirm the statements made by the Master as to the ownership of the vessel, the necessity of putting into Corunna on the alleged voyage to Bordeaux from Lisbon, up to which time he stated he was Supercargo on board. With respect to the cargo shipped at Corunna, and the place where the present voyage was to end, he professed entire ignorance. As regarded his own position on board, he represented that he was a passenger, and destined for the Island of St. Thomas in search of employment.

In reply to the interrogatories concerning the equipment of the vessel, he gave evidence which confirmed that of the Master, thereby proving the brig to be illegally equipped as regarded the materials

for forming a second deck. and having more water-casks, boilers, rice, and beans, than were requisite for her as a merchant-vessel.

Publication passed on the 25th ultimo, and on the following day an Affidavit of the Prize-master was brought in, accounting for 517 doubloons which had been discovered by him and the prize-crew concealed in various parts of the vessel and in the trunk of the Master, and which money was ordered to be paid into Court to abide the decision of the case.

The Monition, issued on the 21st, was returned into Court duly certified on the 28th ultimo, and the 1st instant was named for the trial of the case.

From the official papers of the vessel, and the testimony of the witnesses, the Court considered it had been proved, that the "*Braganza*" when seized had essentially a Spanish character. She had cleared from Corunna for Havana, *viâ* the Coast of Africa, with a cargo of Spanish goods, under the direction of a Spanish Supercargo, and she was chiefly manned by Spanish sailors shipped at Corunna, at which place the *bonâ fide* Owner of the vessel lived. The claim to ownership set up on behalf of Chambica of Lisbon was set aside by the Court, and the Bill of Sale was held to be only one of those nominal Spanish transfers so frequent of late, for securing the flag of Portugal as a protection against the equipment Article of the Treaty with Spain of June, 1835.

The illegal outfit of the "*Braganza*" having been admitted by the Master, and his evidence being confirmed by that of the Supercargo, a sentence of condemnation was passed upon the vessel and cargo.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

*Sierra Leone, April* 8, 1839.

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## Second Enclosure in No. 50.

*Copy of some of the Translations in the Case of the Brig* "Braganza," *Manoel de Nascimento Moura, Master.*

### No. 1.

POWER of Attorney from Don Juan Menendez, merchant of Corunna, and owner of the Spanish brig "*Vigilante*," to Don Mariano Vilarinho, to sell the said brig.

[Royal Arms.]

In the city of Corunna, on the 18th day of the month of October, 1838, before me, Secretary Notary of the kingdom of Spain, and Principal of War and Marine in this city and its province, and in the presence of the witnesses who will be mentioned, there appeared personally Don Juan Menendez, an inhabitant and merchant of the said place, who declared that he is the Owner and proprietor of the brig "*Vigilante*," registered at Havana, and also of her rigging, sails, anchors, and other appurtenances for her use, without any exception; and as it is agreeable to his interest to proceed immediately to sell her, and in order to do so to advantage, as it may not be easy to find a purchaser, he gives and confers all his power especial, general, and in the manner agreeable to and required by law, with an express clause of substitution, to and upon Don Mariano Vilarinho, also an inhabitant of this fortress, for the purpose of his proceeding to effect the sale above mentioned, in whatever ports may appear to him most fit and advantageous, whether Spanish or foreign, granting in favour of the purchaser or purchasers the proper instruments and other necessary documents, receiving the sums for which she may be sold in the manner which may appear to him best and most advantageous, giving receipts and acquittances. He agrees and authorises him to agree that, after the said transfer, the new Owner of the vessel shall take full possession of her, for which purpose he hereby cites and summons him, and in that case he renounces and gives up all right of property which may interfere with him, and finally that his Attorney Vilarinho may do in the business whatever his constituent might do if he were present, for the power required for that purpose is that which he now confers upon him, ample and without limitation, with all its incidents, annexations, and connections, as also to appear in justice before the proper authorities, if necessary, in consequence of the conveyance; and he will approve, and does hereby now approve, whatever he may now do by virtue of this; and such act shall remain good and valid, and no objection shall be made thereto: to all which he pledges his person and goods, and to accomplish surely and faithfully the said sale, otherwise he renders himself liable to damages. Moreover he confers this power upon him with all its conditions, obligations, powers, and authorities, which are necessary and requisite to render it valid, and those of approval and free and general administration, relevation, authority, submission to judgment, and remuneration of claims at law. To this effect he declared and signed, the witnesses being Francisco Constenta, Don Simon Rey, and Don Domingo Farvada, inhabitants of this town, which I, the Notary, certify, as also that I am acquainted with them.

Before me, Bento Maria Lores. A true copy of the original, which, written on official paper, remains in my office, and to which I refer. In witness whereof I give the present, which I sign and subscribe on this one sheet of stamped paper, at the instance of Señor Menendez, at Corunna, on the day of its date.

[Public Seal.]
(Signed) BENTO MARIA LORES.

*Legalization.*

THE Notaries of Her Majesty, of the number and college of this city, who hereunto affix our signatures and subscriptions, certify and attest, that Don Bento Maria Lores, by whom the preceding Copy of Power is given and signed, is also a Notary of this college of Her Majesty, and of War and Marine, of this city and its province, faithful, legal, and of entire confidence, and worthy of trust; and in order that it may so appear, we give at his instance the present, sealed by the said college in the garrison of Corunna, on the 18th of October, 1838.

Public signatures,

BARTOLOMEO OLLOA VARELA.
JUAN BAUTISTA SANCHEZ.
CLAUDIO FRANCISCO VASQUEZ.

[Seal of the College.]

This copy is agreeable to the original, with which I have compared it. I, the above-mentioned Thomas Isidoro da Silva Fereira, Notary Public of Official Papers in this city of Lisbon, wrote this instrument, and signed it and the copy with my public signature.

(Signed) THOMAS ISIDORO DA SILVA FEREIRA.

I, Don Tomas de Comyn, of the Council of Her Catholic Majesty, Her Secretary, Knight Commander of the Royal American Order of Isabella the Catholic, and Consul-General of Spain at Lisbon, and for the other dominions of Her Most Faithful Majesty, do certify that Señor Tomas Isodoro da Silva Freire, by whom the preceding document is signed and subscribed, is a Notary Public in this Court, and as such is entitled to entire confidence and credit in all his writings, in a court of law or out of it; and in order that the same may be shown wherever it may be necessary, I give this present document, signed by my hand and sealed with the official seal.

(Signed) The Consul-General, TOMAS DE COMYN.

*Lisbon, November* 10, 1838.

No. 2.

*Bill of Sale, from Don Mariano Vilarinho of Corunna, to Don Antonio Jozé d'Oliveira Chambica of Lisbon, of the Spanish brig* "Vigilante."

Know all who may see this instrument of sale, acquittance, and obligation, that in the year of the birth of our Lord Jesus Christ, one thousand eight hundred and thirty-eight, on the fifth day of the month of November, in this city of Lisbon, at my office, there appeared present, that is to say: on one side, Don Mariano Vilarinho, of the city of Corunna, in the name, and as sufficient Attorney, of Don João Menendez, of the same city of Corunna, by virtue of an Instrument of Attorney which he presented to me, and which remains in my archives to be copied on the copies of this writing; and on the other side Antonio Jozé d'Oliveira Chambica, Outfitter of Ships, residing on the wharf of Sodre, number 13, Frequeria dos Martyres, whom I certify to be the persons stated. And by Don Mariano Vilarinho it was declared, in my presence, and in that of the undermentioned witnesses, that his said constituent, Don João Menendez, is the Owner, by a good and legitimate title, of the brig called "*Vigilante*," *Spanish*, and now riding at anchor in the port of this city of Lisbon, of the burden of 288 Portuguese tons by rough admeasurement, and that he has agreed and contracted to sell her, and in effect does now by this present writing, and in the best form of law, sell, give up, and convey, now and for ever, in pure and permanent sale, to him, Antonio Jozé d'Oliveira Chambica, the aforesaid *Spanish* brig "*Vigilante*," which, from this day forward, becomes Portuguese, and takes the name of "*Bragança*," with all her appurtenances, tackle, and rigging, as enumerated in their respective Inventory, for the price and sum of 5 contos 780 milreis, which the buyer, Antonio Jozé d'Oliveira Chambica, now, in my presence, and in that of the said witnesses, gave and delivered to the said Don Mariano Vilarinho, Attorney of the seller, Don João Menendez, who counted, received, and accepted as right the above-mentioned sum of 5 contos 780 milreis, in metallic money, current in this kingdom, without error or mistake, which as Notary I certify; as also that he declared, that in the name of the said seller, his constituent, he gave a full and general acquittance to the buyer of the said sum and price, which was completely paid to him, and that he would make no further claim on that account, under pain of the law. He further declared that he dispossessed the seller, his constituent, of all right, share, property, or possession, which he had in the said brig, her rigging, tackle, and appurtenances, inasmuch as he ceded and transferred it, with every thing belonging to it, to the buyer, who may now, or whenever he may think fit, take possession of her, and dispose of her as his own, by virtue of this writing and sale, by which she becomes his from this day henceforth, and that, whether he shall take possession or not, she is given and transferred to him; and moreover that the said seller, his constituent, obliges himself in all his goods in general, present and future, to make this sale good, secure, and peaceable at all times; and warranting the brig to be free from any burthen or incumbrance, guaranteeing and defending the purchaser from all debts or actions which, respecting this sale, or on account of the brig, might hereafter arise, taking all upon himself as the author and defendant, and making himself responsible for all actions at law. And by the said Antonio Jozé d'Oliveira Chambica it was declared that he accepted this writing and sale, in the form in which it was, and in order to authenticate it produced the Despatch of the Custom-house, which is of the following tenor:—

Great Custom-house of Lisbon; Board of Consolidated Duties, the sixth of November, one thousand eight hundred and thirty-eight; Antonio Jozé de Oliveira Chambica clears the *Spanish* brig "*Vigilante*," which has become Portuguese, and has taken the name of "*Braganza*," for which he has paid the competent duties for 288 tons burthen, rough measurement, as appears from the Letter of Clearance, number 6,840; which brig he bought from Mariano Vilarinho, as Attorney of João Menendez of Corunna, for the sum of 5 contos 780 milreis, for which purchase he is to pay no more. The Secretary, Antonio Marcelino Fernandes de Oliveira. Antonio de Souza Pinto de Magaliaoes, Secretary of the Great Table, President of that of Consolidated Duties. Nothing further is contained in the above Despatch, which remains in my power, and is deposited in my archives, and to which I have referred. In witness of the truth they executed the instrument in these terms, in presence of the witnesses, Paulo Francisco de Carvalho, and Carlos Gaudencio de Castro, residing at my office, who signed this document with the parties, after it had been read to them by me, Thomas Isidoro da Silva Freire, Notary, who wrote it. Mariano Vilarinho, Antonio José d'Oliveira Chambica, Paulo Francisco de Carvalho, Carlos Gaudencio de Castro.

No. 3.

Certificate of the Registry at Lisbon, of the Spanish brig "*Vigilante*," as the Portuguese brig "*Braganza*."

There being no inconvenience in it.

(Signed) FONTES, Intendant ad interim.

*Lisbon, November* 6, 1838.

MOST ILLUSTRIOUS SENHOR,

ANTONIO Jozé d' Oliveira Chambica states, that he requires to be furnished with a Certificate of the tenor of the Act of Registry of the Portuguese brig, "*Braganza.*"

May it please your Lordship to give directions to that effect.

E. R. M.

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In the 89th folio of the book which, at this Intendancy of the Marine at Lisbon, serves as a Register of Portuguese merchant vessels, in conformity with what is ordained in the Decree of the 17th of December of the year 1836, there appears an entry of the following tenor:—

Brig "*Bragança,*" of the burthen of 288 tons; that is to say, width, 21 feet; "salto" at the middle, 9; "salto" abaft, 13; length, 81 feet; "salto" of the middle, 13; "salto" abaft, 5½; depth, 9½ feet; "salto of the middle, 1¾; "salto" abaft, 3½; Owner, Antonio Jozé d' Oliveira Chambica, residing at Lisbon; Spanish build. The said brig "*Vigilante,*" now called "*Bragança,*" was sold by Don Mariano Vilarinho, as Attorney of Don João Menendez, residing at Corunna, to the above-mentioned Antonio Jozé d' Oliveira Chambica, as is shown by the Deed of Purchase which he exhibited, dated the 5th of November, of the current year 1838, by which it also appears that he has performed all that is required by law. And nothing further is contained in the said Registry to which I refer; and, in order that it may so appear, I have granted the present Certificate, sealed with the seal of this Intendency of Marine of Lisbon, 6th of November, 1838.

(L. S.)

*Intendencia de Marina de Lisboa.* (Signed) JOAO BATISTA DA SILVA.

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## No. 51.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, April* 10, 1839.

(*Received December* 16.)

MY LORD,

ON the 22nd ultimo, Her Majesty's brigantine "Forester," Lieutenant Campbell Commander, visited the Gallinas, where she found the schooner "*Rebecca,*" without any official papers on board, and under no national flag. The Mate of the "*Rebecca,*" Nicolas Echevarria, was in charge of her, and represented to the Seizor that the Master of the schooner, whom he described as Domingo Artata, had carried on shore with him the papers of the vessel, which he said were Portuguese. The Mate further stated that the schooner had come from Havana to Gallinas, under the command of George Watson, an American (who was then on board), and that she was owned by a resident of Havana. Lieutenant Campbell, under all the circumstances, considered it to be his duty to detain the "*Rebecca,*" as Spanish property illegally equipped, and to send her to this port for trial. She arrived here on the 27th ultimo, and proceedings were immediately instituted against her, on the above charge, in the British and Spanish Mixed Court of Justice.

Our Report of this case we have now the honour of transmitting to your Lordship.

Although no ship's papers were found on board the "*Rebecca,*" the private documents, in connexion with the evidence of the witnesses, furnish a complete illustration of the mode in which the American flag is at present employed to facilitate the Cuba Slave Trade.

The American Owner of the "*Rebecca,*" after having disposed of her to an Havana slave-merchant, allowed the former American papers and Master still to remain on board the vessel (no longer his property) on the outward voyage to the Coast of Africa, and until her return cargo of slaves should be ready for shipment, when the nominal American Master of the vessel was to transmit to the former American Owner the American Register, cut across the middle, by two separate conveyances, so that the Owner might cancel his bonds at the custom-house.

The flag of America, which the "*Rebecca*" had no right to bear, was thus used by the Spanish slave-merchant to protect the outward voyage of a vessel which would otherwise have been liable to seizure and condemnation, under the Spanish Treaty, on the ground of equipment; and the nominal American Master (the willing agent of the fraud), employed to give a specious colour to the transaction, was plainly told by his former American employer, that he must no longer look to him for a remuneration for his services, but either to Ealo, the Owner at Havana, or Alvarez, the Consignee at the Gallinas.

This the American (Watson) seems to have been quite willing to do; and in a letter, copy of which was found in his Log-book, he informs a correspondent that, on a former trip of the same nature, he had realized a clear profit of 880 dollars, including his wages and the net proceeds of three slaves, who were reserved for

him out of the homeward cargo. On the present voyage, the amount of Watson's wages does not appear; but a passage from Gallinas back to Havana, on board the "*Rebecca*," was to be found for him, and he was to receive one slave out of the cargo as his perquisite.

It will be observed, from paper No. 6, that the merchants of Havana rely with confidence on the protection which will be afforded to a very considerable extent by the American flag, in carrying on an illicit Slave Trade.

We have, &c.

(Signed) H. W. MACAULAY,
WALTER W. LEWIS.

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

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## Enclosure in No. 51.

*Report of the Case of the Schooner* "Rebecca," *Domingo Artata, Master.*

At the time of the detention of this vessel at the Gallinas, she had no flag flying, and was unprovided with official papers of any kind, which could afford her a national character.

The following documents, found on board of the schooner when she was seized, showed that she had cleared out from Havana for Gallinas in January last as an American vessel, under the command of George Watson, an American citizen, and that on reaching her destination she was to be delivered by Watson to Pablo Alvarez of the Gallinas, who was to ship a cargo of slaves, with which the schooner was to return to Havana, bringing the American Master as a passenger.

1. A clearance from Havana, dated the 25th of January, 1839, stating that the American schooner "*Rebecca*," Captain Watson, was bound to the Gallinas with a cargo of spirits, rice, arms, ammunition, and some bales of merchandize shipped by José de Ealo.

2. A letter to George Watson from the late American Owner of the vessel, F. Neill. It is dated Havana, January 21st, 1838, and is to the following effect: "You will proceed with the schooner '*Rebecca*,' under your command, direct from here to Gallinas, and on your arrival there deliver her up to Don Pablo Alvarez of the said place, agreeably to an arrangement I have made here with Don José Ealo, looking to either of them for any demand you may have for your services, as well as the crew and Officers. You will, upon your arrival at Gallinas, after delivery of the schooner '*Rebecca*' aforesaid, send her Register in two different vessels to me at Baltimore, cutting it in the middle, in order that I may cancel my bonds in the Custom House."

(Signed) "F. NEILL."

3. Instructions for Señor Don Domingo Artata, dated Havana, 21st January, 1839, from Silvestre Yriarte and Tomas de Trigoyen. The following is an extract: "On your arrival at Gallinas you will place yourself under the orders of Don Pablo Alvarez, and observe those which he may give you with the greatest exactness. You will both take care that the American schooner '*Rebecca*' keeps her flag till the moment of putting the cargo on board. You will bring in the vessel citizen Watson, with a slave which he has our permission to bring with him. When loaded, you will steer directly to this island." Then follow general directions concerning the different points in the Island of Cuba, where he might possibly have to land the slaves.

4. A Receipt given by the Spanish Mate, Echevarria, to the American Master, Watson, for the vessel, in the following words:—

*March* 20, 1839, *Schooner* "*Rebecca*," *Gallinas.*

"I hereby acknowledge that I this day took charge of the schooner '*Rebecca*,' lately under your command, in the name of Don Pablo Alvarez.

(Signed) "NICOLAS ECHEVARRIA."

5. A parcel of six Log-books of the voyage of the American schooner "*Rebecca*" from Havana to the Gallinas. Of these, there is one in English, and five in Spanish. Only two of the Logs contain a complete account of the voyage. One of these two has apparently been kept by the Spanish Master, Domingo Artata, as, in addition to the late voyage to Gallinas, it contains the history of a previous voyage there, and back to Cuba, which he had made on account of Pablo Alvarez, to whom he was again consigned. The Log-book written in English, apparently by George Watson, is very imperfectly kept until the "*Rebecca*" was anchored at the Gallinas, when Watson seems to have considered it necessary to be more particular; and he accordingly entered the hours at which the shore canoes came off to him, and the several articles they each carried away from the vessel. On the 19th of March he notes the disembarkation of "all the irons and other small packages with them." There is a copy of a letter in this book in English, dated Havana, May 25th, 1837, stating the writer to have made a successful voyage with 503 negroes; that his wages amounted to 280 dollars, besides three slaves; and that his clear profit by the trip was 880 dollars.

6. Two letters under the same date of January 22nd, 1839, to Juan Batalla of Gallinas from Tomas de Trigoyen, Juan Suris, and Racon and Company at Havana. In these letters it is notified to Batalla that his correspondents will despatch to him from Havana a vessel to carry from 300 to 350 slaves, as soon as it can be purchased. "The only difficulty (they say) which has hitherto delayed the carrying our intentions into effect has been that of the flag, arising from the scarcity of American vessels of the class and burthen which we require, for all other impediments are easily surmounted. As vessels of the description required are constantly arriving; and as amongst several that are expected it will not be difficult to find one that suits us, you may reckon with all certainty on one sailing for your place about the 25th of February."

It is suggested that Batalla may with safety increase his trade to 1,500 slaves annually; and he is recommended to put himself in communication with Pablo Alvarez of Gallinas in order to accomplish that object.

There were many other papers found on board, which appeared to be of not much importance.

The detained vessel reached this port on the 27th ultimo, and was duly reported by the Marshal to the Courts. On the following day, proceedings were instituted against her in the British and Spanish Mixed Court, on the charge of her being a Spanish vessel illegally equipped. The papers (not ship's papers) seized having been authenticated by the Affidavit of the Captor, and his declaration being sworn to, the said papers were filed, and the usual Monition was issued.

The declaration of Lieutenant Colin Yorke Campbell, Commander of Her Majesty's brigantine "Forester," stated that, being off the Gallinas on the 22nd of March ultimo, he detained the schooner "*Rebecca*," having no colours flying, but with a Portuguese ensign on board. The schooner was in custody of Nicolas Echevarria, her First Mate, who declared her to have come from Havana to Gallinas, during which voyage she was commanded by George Watson, an American. The said George Watson then stated, that he had formally given up the said vessel to Echevarria on his arrival at Gallinas, agreeably to his orders from F. Neill, the late Owner. The Mate Echevarria further stated that the vessel was owned by José Ealo of Havana, and that the Portuguese papers belonging to the vessel had been conveyed on shore on the day previous by the Master of the schooner, Domingo Artata, which statement respecting the carrying away of the papers was confirmed by George Watson, who now described himself as a passenger on board. Lieutenant Campbell considering the "*Rebecca*" to be Spanish property, detained her for being illegally equipped.

On the 30th ultimo, the Mate, Echevarria, and the passenger, George Watson, were produced by the Captor as witnesses in the case, and examined on the standing interrogatories.

Echevarria deposed, "that the name of the Master is Domingo Artata; has known him during one year; he was born in the province of Biscay, in Spain, where he generally resides; he is married, and his wife resides there also; the Master was appointed to the command by one Ealo, a Spaniard, residing in Havana, from whom also he received possession at that place three months ago; first saw the vessel there and then; does not know where she was built; he was present at the capture; does not know on what pretence it took place; the vessel sailed under Portuguese colours, and there were no others on board; the vessel is called the '*Rebecca*;' has never heard of her bearing any other name; she is of 142 tons burthen; there were 12 Officers and mariners, exclusive of the Master, all Spaniards, shipped by the Master at Havana; witness does not know at what precise period, as he found them on board when he himself joined the vessel there, three months ago; neither he nor any of the Officers or mariners had any interest in the vessel or her lading; was Mate on board; there was one passenger named Watson, an American by birth, and a seaman by profession; he was taken on board when the vessel left Havana, in order to proceed to Gallinas, witness does not know on what business; he had no concern or authority in or over the vessel or cargo; the voyage began and was to end at Havana, which was the last clearing port; the vessel touched at Gallinas to discharge her cargo, which was done with the exception of a small part of it; the capturing ship was first seen while the detained vessel was at anchor at the Gallinas, at two o'clock in the evening of the 22nd of the month present; capture took place within an hour; the destination by the papers was Gallinas and Havana, and the course had been at all times directed to the former place; there are no guns mounted on board; there were six cutlasses and two pistols, but no ammunition, save what was contained in the cargo; no resistance was made to capture, nor were there any instructions for resisting or avoiding capture, or for destroying or concealing the vessel's papers; Ealo, from whom the Master received command and possession, was the sole Owner of the vessel; knows it because he cleared out and transacted all the business of the vessel; does not know if he be married, nor how long he has resided in Havana; he knows nothing of a Bill of Sale, price, or transfer of the vessel; the Owner of the vessel was also sole Lader, Owner, and Consignee of the cargo; he knows nothing of the lading of the last voyage; the cargo brought out on the present was tobacco, aguardiente, dry goods, cutlasses, muskets, and ammunition; the vessel after capture was brought direct to Sierra Leone; he knows nothing of the truth and fairness of the Passports and other papers; he does not know that any of the papers were destroyed, concealed, or made away with; he knows nothing of any writings relating to vessel or cargo in any other country; he knows nothing of any Charter-party; he does not know whether or not the cargo be insured; the vessel, with respect to her employment in trade, was under the direction of one Alvarez, of Gallinas; bulk was broken at Gallinas only; no slave has been put or received on board, for the purpose of the traffic in slaves, during the present voyage."

To the special interrogatories respecting the equipment of this vessel, the Mate swore in reply, that "the hatches are not fitted with open gratings; the combings of the hatchways are not pierced, or otherwise fitted to receive iron bolts or bars, none of which are on board; there are two bulk-heads, those of the cabin and forecastle; there are spare planks, fitted and numbered, so as form a complete slave-deck fore and aft; there is no part of a slave-deck laid at present; there were 18 or 20 pairs of shackles, to be used against the crew in the event of mutiny or disobedience, but no bolts or handcuffs; there are leaguers and casks on board, capable of receiving 80 pipes of water in all, and containing two pipes of fresh water at the time of capture; there are no tanks or staves; the vessel was supplied with the means of carrying so much water, because it was required for the use of the crew; there were four mess-kids for the use of the crew; there were three or four iron boilers for the use of the crew; there are two leaguers capable of containing a puncheon each, which are filled with rice for the use of the crew; there is no flour and no Indian corn.

The evidence of George Watson, lately the American Master of the vessel, was to the effect that he was born in America; Ealo, of Havana, appointed him to be Master of the schooner about two months ago, and not Domingo Artata, as the Mate had stated; he gave possession of the vessel to the Mate, Echevarria, on the 20th ultimo, a statement which the Mate's receipt, found with other papers on board, confirmed; the cause of capture was want of colours and papers for the schooner; previous to detention the vessel sailed under the American flag; she had Portuguese colours, and none other on board; the crew were all Spanish, and shipped at Havana by the Owner; he had orders from the American Owner, F. Neill, for destroying the vessel's papers and his instructions, on delivering over the vessel to Pablo Alvarez at Gallinas, according to his directions; he sent away the American Register to Havana on the 20th ultimo, having first divided it into two parts, according to the late American Owner's instructions; the other papers he burnt; the last voyage of this vessel was with flour from Baltimore, at which time he was Mate on board; he believes there were not any Passports or other papers found on board the vessel, and none were to his knowledge delivered out of the vessel or carried away.

The evidence of Watson respecting the illegal equipment of the vessel was nearly a repetition of that given by the Mate on that subject, and served to establish that portion of the Captor's allegations against the schooner.

Publication passed in the cause on the 30th ultimo, and the Monition, issued on the 28th, was returned and filed on the 6th instant, on which day the Court met for the adjudication of the vessel.

The Court, in giving judgment, remarked upon the absence of every official paper which might have enabled the "*Rebecca*" to claim some national character, her former American ship's papers having been destroyed two days prior to the seizure of the vessel, and no other ship's papers having been substituted for them. It became, therefore, necessary to have recourse to the parol and documentary evidence given in the case, to decide what national character the vessel was entitled to bear. This evidence clearly proved that the "*Rebecca*" was owned by merchants resident at Cuba; that her American flag had only been worn to conceal the Spanish ownership on the outward voyage, as she had ceased to be an American vessel before the voyage commenced; that her return cargo was to consist of slaves, who were to be delivered at the same Spanish settlement where she was fitted out, on the account of Spanish merchants. No doubt could therefore exist that, as a Spanish vessel, the "*Rebecca*" was liable to the penalties of the Spanish Treaty, if a violation of it could be established against her; and illegal equipment having been admitted by the witnesses, the ship and cargo were condemned.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

*Sierra Leone, April* 10, 1839.

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No. 52.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, September* 26, 1839.

MY LORD, (*Received December* 16.)

WE had the honour yesterday to receive your Lordship's Despatch, dated the 17th of July, 1839, transmitting copies of three Despatches from Her Majesty's Commissioners at Havana, containing Reports of the arrivals of slave-vessels at Havana, and of the departure of slave-vessels from that port, during the months of February, March, and April, 1839.

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

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

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No. 53.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, September* 26, 1839.

MY LORD, (*Received December* 16.)

WE have had the honour to receive your Lordship's Despatch, dated the 3rd ultimo, transmitting copy of a Report from Her Majesty's Commissioners at Havana, of the slave-vessels which had arrived at and departed from that port during the month of May last.

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

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

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No. 54.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, December* 28, 1839.

I REFERRED to Her Majesty's Advocate-General your Despatch of the 14th February, 1839, enclosing a Report of the case of the Spanish schooner "*Merced,*" captured by Her Majesty's brigantine "Dolphin," on suspicion of being concerned in Slave Trade, but restored to her Master by sentence of the Mixed Court of Commission at Sierra Leone.

I have now to acquaint you that the Queen's Advocate has reported, that the Mixed Commission Court could not, under the circumstances, have properly done otherwise than decree the release of the vessel.

I have further to acquaint you, that I have instructed Her Majesty's Chargé d'Affaires at Madrid to propose to the Spanish Government the additional stipulation which you recommend, on the subject of articles of equipment for Slave Trade, in order that slave-traders may no longer escape condemnation by evading the Treaty in the manner you describe.

I am, &c.
(Signed) PALMERSTON.

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

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# SIERRA LEONE. (*Portugal.*)

No. 55.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, December* 31, 1838.

(*Received June* 12, 1839.)

My Lord,

We have the honour to transmit, enclosed to your Lordship, an abstract of the proceedings in the British and Portuguese Court of Mixed Commission, during the past year.

During that period, 19 vessels were adjudicated; 18 having been condemned, and one restored.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

Enclosure in No. 55.

*Abstract of the Proceedings in the British and Portuguese Court of Mixed Commission, during the Year* 1838.

1. The Portuguese schooner, "*Princéza Africana,*" Juan Bufo, acting Master, received her sailing papers from the Portuguese Authorities of the Cape Verd Islands, in May, 1837. The Passport only mentions Pernambuco as the port of destination; the Clearance, however, contains the addition of the "ports along the Coast of Africa."

The outward cargo was landed, and the slaves were purchased and embarked, in the River Sherbro, where the "*Princéza Africana,*" laden with 222 slaves, was captured by Her Majesty's brig "Curlew," on the 26th of December, 1837.

The Seizor, Lieutenant Norcott, accompanied his prize to Sierra Leone, and prosecuted her to condemnation; the Court pronouncing the confiscation of the "*Princéza Africana,*" and granting freedom to the 222 slaves found on board, none having died after capture.

2. The Portuguese brigantine, "*Deixa Falar,*" João Anastacio Baker, Master, commenced her outward voyage from Bahia in June, 1837, bound, according to the ship's papers, to Oporto and Gibraltar; but such was not, nor was it ever intended to be, the real route of the voyage. The Master deposed that "the vessel proceeded direct to Lagos;" and at this notorious slave-mart he bought and shipped the 225 slaves who formed the "*Deixa Falar's*" cargo at the time of her capture by Her Majesty's sloop "Scout." The detention took place within 30 miles from Lagos, on the 20th of November, 1837, at the very outset of the return voyage to Bahia.

On the arrival of the "*Deixa Falar*" at Sierra Leone, Captain Craigie's Proctor instituted the customary prosecution, which terminated, on the 10th of January, 1838, with the condemnation of the detained vessel as good prize, and the emancipation of the 186 surviving slaves.

3. The ship's papers of the Portuguese brig "*Gratidão,*" João Fernando Bouvier, Master, obtained at Princes' Island, on a voyage previous to that of detention, present so much contradictory matter in their contents, that it would have been difficult to have ascertained, from this source alone, the actual destination of the vessel on the outward voyage. In the course of the prosecution, however, it was distinctly proved that the "*Gratidão*" had embarked 454 slaves at Lagos, to which slaving depot she had come direct from Bahia; that the Provisional Government of Princes' Island provided her with the necessary papers in March, 1836; and that Her Majesty's sloop "Scout," Commander R. Craigie, succeeded in capturing her, laden with a human cargo, at the mouth of the Bonny, on the 23rd of November, 1837. Such evidence having resulted from the prosecution, the British and Portuguese Court of Mixed Commission, on the 19th of January, 1838, confiscated the "*Gratidão,*" and restored to freedom 380 slaves, the survivors of the original cargo.

4. The Portuguese brig "*Camoēs,*" Antonio Gomes da Silva, Master, proceeded from the port of Bahia direct to the River Benin, in the month of March, 1837; and, by the month of September following, had landed almost the whole of the outward cargo. In this situation, with little or no merchandize on board, with her sails unbent, and her rigging unrove, she was seized by Her Majesty's schooner "Fair Rosamond," first on the 23rd, and again on the 28th of September, 1837.

The first capture was effected under circumstances which had no reference to her prosecution before this Court. Another Portuguese vessel, named the "*Veloz,*" whilst at anchor in the River Benin, within a short distance from the "*Camoēs,*" had resisted the right of search, which the boats of Her

Majesty's schooner "Fair Rosamond" attempted to enforce. In consequence of this unjustifiable act, the man-of-war entered the river, fired upon both vessels; on the "*Veloz*" for offering resistance, and on the "*Camoēs*" for harbouring some of her crew; and finally detained both.

In the period which intervened between the 23rd and 28th of September, an officer of the man-of-war daily visited the "*Camoēs*." In addition to which, the Consignee of the vessel, one Juan Batista Tizer (or Cézar), a merchant of Benin, was confined as a prisoner on board the "Fair Rosamond" for some days, under the pretence of having been implicated in the piratical act committed by the crew of the "*Veloz*," and was then removed on board the "*Camoēs*." Here he was compelled to write a letter to the Chief of a neighbouring town, directing the slaves of the "*Veloz*" to be sent on board the "*Camoēs*." During the whole of the night previous to capture, an officer and boat's crew of the "Fair Rosamond" remained with Tizer. The application to the native Chief proved successful; and the slaves of the "*Veloz*," with the knowledge, connivance, and assistance of the Captor, Lieutenant W. B. Oliver, were embarked on board the "*Camoēs*."

This embarkation was followed by the formal re-seizure of the vessel. On the 10th of November, 1837, the "*Camoēs*" arrived at Sierra Leone. The proceedings of the Captor and Claimant were unusually lengthy, and did not terminate until the 22nd of January, 1838. On that day the Court pronounced their decision on the case, restoring the detained vessel on the ground that the slaves brought here were not "shipped for the express purpose of the traffic," but at the instigation of the Captor, and with a view to their emancipation by this Court. At the same time, the survivors of the 138 slaves, brought to Sierra Leone in the "*Camoēs*," were handed over to the local authorities; for, the Claimant having denied that they were his property, the Court possessed no jurisdiction over them.

On the 7th of February, 1838, the Registrar submitted his Report of the costs, damages, and expenses, due to the Claimant for the illegal detention of his vessel; and thereupon an absolute and unconditional award of £1,734. 14*s*. was decreed against the Captor.

5. The brigantine "*Arrogante*," Augusto Cézar Medina, Master, assumed her Portuguese name and nationality, and procured the requisite sailing papers, at the Cape de Verd Islands. Here the vessel arrived, under the Spanish flag, in December, 1836, and went through the usual forms of a fraudulent transfer.

On the 17th of September, 1837, the "*Arrogante*" cleared out from St. Jago. Unusual rapidity marked all the movements of this vessel. Within six months of her leaving the Cape de Verds, the cargo of slaves had been shipped at the Gallinas, the middle passage performed, the vessel captured by Her Majesty's sloop "Snake" off Jamaica, the slaves landed in that island, the Atlantic a second time crossed, and the prize finally adjudicated and condemned at Sierra Leone. Such celerity not only forms one of the most prominent features of this case, but tends strongly to prove the increased activity of the slave-traders in their adventures on this Coast.

On the 5th of March, 1838, the case of the "*Arrogante*" was finally disposed of by the condemnation of the vessel and the emancipation of the survivors of the 332 slaves left at Jamaica.

6. The Portuguese schooner "*Isabelita*," Antonio Jozé de Assumpção, Master, like many other Spanish slave-vessels, availed herself of the bribery and corruption of the Government of the Cape de Verds to cloak her real nationality. The Passports and other papers were purchased at those islands in April, 1837, the flags changed, and a nominal Portuguese Master placed in command; whilst the real Owner, Pedro Passadillo, remained on board to superintend the adventure. Thus prepared, the "*Isabelita*," notwithstanding the declaration in the Passport, that she was bound to Maranham, took a direct course to the River Sherbro, where she anchored on the 30th of the same month.

The contents of the Log-book lead us to suppose that one successful voyage had been made to Brazil, between April, 1837, and the following October; at any rate, the "*Isabelita*" left Gallinas in the latter month, full of slaves, on her return to Havana.

When off the Island of St. Domingo, on the 5th of December, 1837, Her Majesty's sloop "Sappho" descried the slaver, and succeeded in capturing her. The Captor, Commander Thomas Fraser, sent the prize to Jamaica, where the slaves were obliged to be landed, and where the vessel was left on account of her unseaworthiness.

The Prize-officer and witnesses arrived here in the "*Arrogante*," a prize to Her Majesty's brig "Snake," on the 25th of February, 1838. Two days afterwards the prosecution commenced, and closed on the 6th of March 1838. On that day the Court decreed the condemnation of the "*Isabelita*," and the freedom of the survivors of the 158 negroes left in the charge of the Collector of Customs at Jamaica.

7. So long ago as December, 1835, the Passport of the Portuguese brig "*Felicidades*," Manoel Francisco Cardozo, Master, was granted by the Governor of the Cape Verds. This fact shows the "*Felicidades*" to have been one of the first to adopt the now general subterfuge of resorting to a fictitious transfer and a nominal flag, in order to evade the Tenth Article of the last Spanish Treaty. The employment of the vessel, from December, 1835, to October, 1837, remains hidden in mystery. At the last-mentioned period, however, we find her at Havana, procuring a Muster-roll from the Portuguese Consul, and an official Manifest of the cargo.

The "*Felicidades*," sailed direct from Havana to Old Calabar, sold the outward cargo, and shipped from 400 to 500 negroes on the 5th of March, 1838. The return voyage had scarcely commenced, when Her Majesty's sloop "Scout" arrested the vessel in her guilty progress, within three days after the embarkation of the slaves.

The detained vessel arrived at Sierra Leone on the 6th of April, 1838, and was brought into Court on the following day. With such facts before it the Court adjudged the forfeiture of the "*Felicidades*," and at the same time restored to freedom the surviving slaves, 408 in number.

8. The Portuguese brig "*Veloz*," Joaquim Antonio Coelho, late Master, received her Passport at Pernambuco on the 29th of April, 1837, and a few days afterwards sailed for the Coast of Africa. A large mass of private documents was found concealed in the vessel, from which much interesting and valuable information respecting the formation of a slave-trading company at Pernambuco and the establishment of a slave factory in the River Benin was obtained.

The "*Veloz*" anchored in the River Benin on the 6th of June, 1837. Between the months of June and September the vessel discharged the outward cargo, and purchased with it 228 slaves. On the 18th of September, 1837, the return voyage commenced, but the "*Veloz*" had scarcely cleared the entrance of the Benin River when Her Majesty's schooner "Fair Rosamond" descried her, and gave chase. The slaver immediately altered her course, re-entered the river, and succeeded in landing her

slaves; and the boat despatched to search the chase met with so strong and successful a resistance, that it became necessary to retire after the loss of one seaman. Upon this the "Fair Rosamond" blockaded the river, until the tides allowed her to enter. As soon as this was practicable she anchored alongside the "*Veloz*," off the town of Bobim, fired into her, and immediately seized her for committing the piratical act of forcibly resisting the right of search, and killing one of Her Majesty's subjects.

Upon this charge Lieutenant Oliver had first determined to prosecute the "*Veloz*" in the Vice-Admiralty Court. Nor did he alter his original intention until his arrival at Sierra Leone on the 23rd of April, 1838. In the mean time the prize had been carried to the Islands of Princes', St. Thomas', and Ascension, and finally came to Sierra Leone.

On the 26th of April, 1838, a prosecution was instituted against the "*Veloz*" in the British and Portuguese Court of Mixed Commission, for having violated the First Additional Convention of 1817, in having had slaves on board during the voyage in which she was detained. No claim was made, and the guilty parties themselves admitted the facts charged against the "*Veloz*." The Court therefore decreed the condemnation of the vessel as good and lawful prize to the crowns of Great Britain and Portugal.

9. The Portuguese schooner "*Dous Irmaos*," Jozé Rosecuta, Master, obtained her Register or Passport at Lisbon as far back as February, 1836. Since then the vessel made no less than three successful voyages to the Coast of Africa from the port of Havana.

On the 23rd of December, 1837, the "*Dous Irmaos*" again sailed from Havana, and closed the outward voyage by anchoring in the River Bonny. The Owner, Louis Monteiro, a Spaniard, accompanied the vessel in the character of Supercargo, and directed the concerns of the voyage. He succeeded in shipping a cargo of slaves, and commenced the return voyage to Havana on the 1st of April, 1838, but on the following day the vessel was captured by Her Majesty's schooner "Forester," Lieutenant Francis Seymour Nott commanding, with 305 slaves on board.

On the 11th of May, 1838, the prize arrived here, and on the 19th of the same month the "*Dous Irmaos*" was condemned, and the surviving slaves, 241 in number, emancipated.

10. The Portuguese schooner "*Prova*," Francisco Jozé Dias, Master, adds another to the list of those fictitious cases in which property, really Spanish, is cloaked under the Portuguese flag. A Portuguese, the well-known Louis Antonio Pereira de Mello, assumed the title of Owner, whilst the *bonâ fide* proprietor, a Spaniard, pretended to be only the Consignee at Havana.

The "*Prova*" left Havana in July, 1837, but stress of weather compelled her to go into Charleston in the United States, where the vessel, equipped as she was for the Slave Trade, nevertheless remained nearly four months unmolested by the American Government. After the necessary repairs the voyage was continued direct to Calabar, and in four months' time the homeward cargo of slaves was procured.

On the 3rd of June, 1838, the boats of Her Majesty's sloop "Pylades" seized the "*Prova*," with 225 slaves on board, on the very day of their embarkation.

The customary prosecution then took place, and terminated on the 2nd of July, 1838, by the Court decreeing the condemnation of the vessel, and the freedom of the 194 slaves still living.

11. The Portuguese brig "*Diligente*," João Baptista Simoni, Master, like the "*Prova*," (No. 10,) repaired to the Cape de Verds to effect a nominal change of nationality. In both cases a Portuguese Master assumed the command, the real Spanish Owner of the vessel and director of the voyage still remaining on board; and the Lader and Consignee of the slaves, in both instances, proved to be the Spanish Owner.

The "*Diligente*" took her departure from Havana in September, 1837. Lagos was the port of destination; and here the Spanish passenger, or rather Supercargo, bought and shipped 520 slaves. With this wretched cargo the "*Diligente*" had nearly effected the object of her voyage, but was fortunately fallen in with and detained by Her Majesty's sloop "Pearl," Lord Clarence E. Paget commanding, on the 24th of April, 1838, off the Island of Cuba.

From the scarcity of provisions and the debilitated state of the negroes, the Captor considered himself justified in landing the slaves at Nassau, and the vessel was left at Bermuda on account of her unseaworthiness.

The necessary papers and witnesses arrived in this colony in June, 1838. The "*Diligente*" was then libelled in the customary form, and the proceedings in prosecution brought to a close on the 10th of August, 1838, when the Court declared the detained vessel a good prize, and emancipated the survivors of the 475 slaves landed at Nassau, and who had been left under the charge of the Collector of Customs at that port.

12. The Portuguese brig "*Camoens*" Felix Cosmé Madail, Master, sailed under a Passport granted by the Portuguese Minister Plenipotentiary at Rio de Janeiro on the 11th of July, 1836, and she cleared out from Havana on her present voyage in the month of September, 1837.

From Havana the "*Camoens*" steered straight to Lagos, shipped upwards of 500 negroes, and eluded the vigilance of the cruisers on the African Coast. The object of her voyage was on the eve of completion, when Her Majesty's sloop "Sappho," Commander Thomas Fraser, fell in with the slaves on the 30th of April, 1838. The Captor then sent his prize to Nassau, New Providence, where the Collector of Customs received 569 slaves into his charge, the generality having suffered so much from illness as to be incapable of performing a second voyage.

The "*Camoens*" next went to Bermuda, and thence came to Sierra Leone.

The prosecution commenced on the 10th of July, 1838, the day of the vessel's arrival. Some delay occurred in the adjudication of the vessel, owing to the illness of Her Majesty's Commissary-Judge. But on the 4th of August, 1838, the "*Camoens*" was declared a good prize, and the survivors of the 569 slaves landed at Nassau were liberated.

13. This was another case of false nationality, the Portuguese flag covering Spanish interests. The Portuguese brigantine "*Paquete Feliz*" sailed from Havana in January, 1838, under Spanish colours, as the "*Ceres*," with a Clearance for the Cape de Verds; and at these islands she procured a Portuguese Bill of Sale and a Passport on the 21st of March, 1838. A new Portuguese Master (the Spanish Captain having become Supercargo) then took the command, and thus rendered the fraudulent transaction complete.

The official destination to Maranham was forgotten, and the vessel, under the direction of the Supercargo, sailed direct to the Bonny, where he bought and embarked a cargo of slaves. But at the very entrance of the Bonny the vessel's homeward course was arrested by Her Majesty's schooner "Fair Rosamond," under the command of Lieutenant W B. Oliver. Capture took place on the 13th of July, 1838.

Immediately on the arrival of the "*Paquete Feliz*" in this harbour the prosecution commenced, and was closed on the 6th of August, 1838. On that day the Court met for trial, and pronounced a sentence of confiscation on the detained vessel, and declared the emancipation of the 187 slaves, the survivors of those originally captured.

14. Only two papers, the Passport and Muster-roll, both obtained at the Cape de Verds, were found on board the Portuguese schooner "*Feliz*," Miguel Avalha, Master. This case affords another instance of a fraudulent change of flag and papers at the above-mentioned islands, rendered so notorious during the last three years for these illegal transactions. No difficulty arose in finding a Portuguese Master; and once at sea the "*Feliz*," which had cleared for Maranham, sailed direct to Gallinas, where the Spanish Supercargo shipped 342 slaves.

The voyage had been nearly completed, when Her Majesty's Post-office packet "Flamer," although unprovided with instructions to make seizures, fell in with and detained the "*Feliz*," on the 3d of February, 1838, between Jamaica and St. Domingo. The prize was then brought to anchor off the east end of the island of Jamaica; and on the following day the "Flamer" had communication with Her Majesty's ship "Madagascar," Commodore Sir John Strutt Peyton, commanding. After having learned the particulars of capture, the Commodore took upon himself the responsibility of withdrawing the "*Feliz*" from the possession of the first unauthorized captor, and of making a second seizure of the vessel for himself, the "Madagascar" being duly authorized and empowered to search and detain Portuguese slave vessels. On the 4th of February accordingly, the boats of Her Majesty's ship "Madagascar" seized the "*Feliz*." The slaves, 324 in number, were landed in Jamaica on the 9th following, and placed in the custody of the Collector of Customs, not only on account of the provisions of the detained vessel having been exhausted, but from the general debility and disease prevalent amongst the negroes.

The prize, under the charge of an Officer and crew, left Jamaica on the 18th of April, 1838. She did not, however, reach this place, having been unfortunately lost off Fort St. Louis, Senegal. The Prize-officer and two of the witnesses arrived here, viâ Goree and St. Mary's; but the most important witness, the Master of the vessel, absconded at Goree. The vessel was libelled and prosecuted in the customary form; but no claimant could come forward on account of the absence of Avalha, the Master. For this reason the Court suspended its judgment until the 16th of July, 1838, (a period of two months,) in accordance with the First Article of the Regulations, having some hopes of the arrival of the Master by way of the Gambia. The illness of Her Majesty's Commissary Judge caused a further delay of some days in disposing of the case.

On the 8th of August, 1838, the question of the legality or illegality of the second seizure of the "*Feliz*," by Commodore Peyton, was subjected to a close examination, and all its bearings were fully discussed by the Court, who declared that Commodore Sir John S. Peyton had exercised a sound discretion in assuming the responsibility of a second seizure, and condemned the "*Feliz*" as good and lawful prize. A decree of emancipation was at the same time recorded in favour of the survivors of the 324 slaves landed at Jamaica.

15. The case of the Portuguese schooner "*Ingemane*," A. J. de Faria, Master, presents another instance of fraudulent transfer; and the fictitious character of the vessel, acknowledged as it was by the witnesses themselves, did not admit of a doubt.

The detained vessel left Havana in February, 1837, with a Spanish name and character; but changed both at the Cape de Verds, and repaired at once to the Rio Nunez. Successful here in the illicit object of her voyage, the slaver's guilty career only met with an interruption on the very eve of completion, when Her Majesty's sloop "Comus" captured her off Cuba, with upwards of 80 slaves on board, on the 12th of September, 1837. The prize was carried in the first instance to Havana, when she was surveyed by competent persons, and pronounced to be unfit to make a voyage to Sierra Leone. She was then taken in tow by the "Comus," with the intention of carrying her to Nassau, in New Providence, and landing her slaves there. But as the Prize-Master, Mr. Francis Freeling, and the Master and Boatswain of the detained vessel, who were selected as witnesses, left Havana for England on the same day that the "Comus" and her prize left Havana for Nassau; this Court, when the case came before it in the month of April last, was without any evidence to show what had become of the detained vessel and her slaves, or whether they ever reached Nassau or any other place.

In consequence of the want of any documentary or other proof upon these essential points, the Court declined to pronounce a final decree condemning the vessel and emancipating the slaves, until the deficiency was supplied.

After a lapse of seven months, the requisite evidence was obtained; and on the 10th ultimo the Court condemned the "*Ingemane*" as good and lawful prize, she being at the time in the custody of the Controller of Customs at Nassau, and emancipated the survivors of the 79 slaves, who had been handed over to the Governor of Bahamas, on the 9th of October, 1837.

16. The Portuguese schooner "Prova," Lourenço Viademonte, Master, sailed with Cape de Verd papers. On this particular voyage the vessel cleared out from Havana, and was on her return thither, laden with a cargo of 328 slaves, when captured by the "Termagant," off Princes' Island, on the 28th of October, 1838.

On the 16th of November the Marshal reported the arrival of the prize, and soon afterwards the prosecution commenced. The sentence of the Court was, that the "*Prova*" had been captured sailing under a Portuguese flag and pass north of the line, with a cargo of slaves on board, and that she was therefore liable to condemnation. The surviving 295 negroes, at the same time, received the benefits of emancipation.

17. So long ago as December, 1836, the schooner "*Dolcinea*," obtained a Portuguese register from the Provisional Government of Princes' and St. Thomas', since which time two successful trips have been made. Spanish nationality might easily have been fixed on the detained vessel; but as she was captured to the north of the equator, with 253 slaves, by Her Majesty's sloop "Pelican," on the 31st of October, 1838, the captor prosecuted his prize in her professed Portuguese character. The proceedings had in this case closed on the 3d of December, 1838; the vessel being confiscated, and the surviving 249 slaves declared free.

18. The brig "*Liberal*," Francisco Gonsalves, Master, was taken, laden with 591 slaves, off Whydah, by Her Majesty's schooner "Lynx," on the 1st of November, 1838. All the papers, Spanish and Portuguese, show the real Spanish character of the detained vessel. The routes of the different voyages, made three years previous to capture, show that Havana, the Cape de Verds, and Princes,

were visited on different occasions—the Portuguese ports for the purpose of procuring fictitious documents.

After the usual proceedings, the "*Liberal*" was decreed to be a lawful prize, and the survivors of her slaves were emancipated, on the 7th of December, 1838.

19. This is another Spanish-Portuguese vessel; but the transactions connected with the fraudulent transfer of the brig "*Emprendedor*" took place at Cadiz, under the direction of the Portuguese Consul, who evinced on this occasion his usual readiness to prostitute his office for the protection of slave-trading adventures. The papers furnished to the vessel are replete with false dates and false attestations, and were all prepared under the superintendence of Mr. Machado.

The "*Emprendedor*" left Cadiz on the 25th of October, 1838, and within the short space of 33 days was captured off the river Gallinas, by Her Majesty's brigantine "Buzzard," after having shipped 467 negroes, and commenced her return voyage.

The prize arrived at Sierra Leone on the 3d of December, and was duly prosecuted in the British and Portuguese Court of Mixed Commission. On the 11th following the Court pronounced a sentence of condemnation on the "*Emprendedor*," and decreed the emancipation of the surviving 458 slaves.

(Signed) W. H. MACAULAY.
R. DOHERTY.

*Sierra Leone, December* 31, 1838.

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No. 56.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, January* 14, 1839,
(*Received June* 12.)

My Lord,

We have the honour to enclose our Report of the case of the schooner "*Violante*," Jozé Marcolino, Master, captured on the 28th ultimo by Her Majesty's brig "Brisk," Lieutenant Arthur Kellett, Commanding, 20 miles south of the river Sherbro, with 191 slaves on board, who had been embarked in that river on the previous day.

The "*Violante*" was sailing under the Portuguese flag at the moment of capture, and was prosecuted and condemned as a Portuguese vessel. The assumption of a Portuguese character was, however, marked by great irregularities; and the whole case furnishes a very correct illustration of the mode in which the American Consuls in Cuba, and the Portuguese authorities on this coast, combine to render our late Spanish Treaty inoperative and useless.

The "*Violante*" was very lately before us as the American schooner "*Mary Anne Cassard*," reported in our Despatch of the 30th of November, 1838; and it must be a gratifying circumstance to the zealous officer who made the first capture, that he has now been enabled successfully to prosecute his former prize, although she was as little entitled to the possession of a Portuguese character, at the time of her second detention, as she was to be considered a *bonâ fide* American vessel, when she was first fallen in with.

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

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

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Enclosure in No. 56.

*Report of the Case of the Schooner* "Violante," *Jozé Marcolino, Master.*

The only paper found on board this vessel at the time of her seizure was a Passport, granted by Honorio Pereira Baretto, the Governor of Bissao, which is dated at that place on the 20th of October, 1838, and authorises a voyage to the Cape de Verd Islands.

The "*Violante*" was lately before us as the American schooner "*Mary Anne Cassard*," whose case was fully reported in our Despatch of the 30th of November last; and from her complete state of preparation at that time for the reception of a cargo of slaves, we confidently expected the change of flag which has since taken place, for the purpose of carrying into effect the evident object of the voyage.

On a reference to the Report of the "*Mary Anne Cassard*," it will be seen that she was captured on the 27th of October off Cape Sierra Leone, sailing under the American flag, on a voyage from Bissao to Sherbro. But as her Portuguese Register is dated at Bissao seven days previously, it must have been on board at the moment of detention; although it was not intended to be used until it became dangerous to sail any longer with an American character. It is certainly very extraordinary that when the American schooner "*Mary Anne Cassard*" became the Portuguese schooner "*Violante*" at Bissao, the authorities at that place should not have required the delivery of all the papers belonging to her in her American character. But we are now prepared for any degree of connivance

and treachery from Spanish and Portuguese functionaries, whose disgraceful acts are at least tolerated, if they be not expressly approved, by the Governments which have bound themselves to punish such violations of law and treaty.

The "*Mary Anne Cassard*," alias "*Violante*," left Sierra Leone on the 26th of November under American colours, and on the 28th of the following month she was captured under Portuguese colours, with a full cargo of slaves on board, by Her Majesty's brig "Brisk," about 20 miles to the southward of the Sherbro, in which river she had embarked her slaves on the previous day. She arrived in this harbour on the 2nd instant, and as soon as the vessel had been visited by the Marshal, and the slaves by the Surgeon, the slaves were all landed, the sickly being conveyed to the hospital at Kissy, and the others remaining in the liberated African yard in Freetown. Generally speaking, the slaves were very healthy, having only been on board ship a few days.

The usual proceedings were then adopted by the captor in prosecution of the case, which closed with the return of the Monition into the Registry on the 10th instant; on which day the "*Violante*" was condemned as good and lawful prize to the Crowns of Great Britain and Portugal, and the whole of her slaves, 191 in number, were emancipated, none having died in the interval which succeeded the capture of the vessel.

The witnesses in preparatory produced by the Captor's Proctor were, the nominal Portuguese Master, and Juan Barba, the real Owner and Supercargo, who was also examined when the vessel was before us two months ago.

The Master, Jozé Marcolino, deposed "that he was born at a small seaport town near Lisbon, but has no fixed place of abode, is a subject of Portugal, and has never served any other state; that he was appointed to the command of the detained vessel at Bissao; that he was present at the capture of the vessel for being engaged in contraband traffic; that the vessel is called the "*Violante*," has heard that she was formerly called the "*Mary Anne Cassard*," but does not know when she bore that name; that there were 13 Officers and mariners all hired and shipped before he joined the vessel at Matanzas, and all Spaniards; that there was one passenger, by name Juan Barba, a Spanish seaman, who was taken on board in the Sherbro for a passage to the Cape de Verd Islands in quest of employment; that the said Juan Barba had no interest or authority over the vessel or her cargo; that the capturing ship was first seen eight leagues to the southward of the Sherbro at 10 o'clock in the morning, and capture took place after an hour's chace; that the vessel was steering at the time for the Cape de Verds, which was the course marked out in the ship's papers; that she did not steer direct for the Cape de Verds after leaving Bissao, in consequence of verbal orders, received from the owner at the moment of sailing, to go to the Sherbro to buy slaves there; that the sole owner of the vessel is Antonio Eziquiel de Carvalho, who resides with his wife and family, Portuguese like himself, at Bissao; that he knows nothing of a Bill of Sale, or of the price or transfer of the vessel; that at Bissao the vessel cleared out in ballast; that the sole owner and lader of the slaves shipped at the Sherbro was Fillipe de Gracia, a Portuguese residing and carrying on business in that river; that he knows nothing of any former voyage; that the passports and other papers were and are all entirely true and fair."

Juan Barba, on the same day, deposed generally to the same effect as the Master; but the testimony of both is so full of falsehood, that it is almost useless to quote it, except for the purpose of pointing out its incorrectness. Barba, however, swears that the voyage was to end at Matanzas, not at the Cape de Verds; that a Bill of Sale was made to the present Owner by the late Master, John Bacon; and that, with the exception of the Master, Marcolino, all the crew were Spaniards.

The falsehood of many of the above statements is immediately seen on reference to the papers and evidence filed in the case of the "*Mary Anne Cassard*." But it may be as well to remark that, if the date of the Passport granted at Bissao be correct, it was granted more than a month previous to the "*Violante*" quitting this harbour under the American flag, and with all her original American papers on board. Again, if the depositions of the witnesses be correct, that the transfer took place and the present Master was appointed in the month of December, the Passport must have been antedated at least two months. In the one case, the Portuguese Authorities are chargeable with having allowed an American vessel, which had apparently assumed a Portuguese character, to retain all the documents under which she could claim still to be considered American; in the other case, they are clearly convicted of having manufactured a fraudulent document; and, in either case, Portuguese law was directly violated by the recognition of the transfer of a foreign vessel to a Portuguese Owner, in the month of October, 1838, and in authorizing that vessel to navigate the seas under a Portuguese flag, when every Officer and seaman on board, with the exception of the Captain, is admitted to have been a Spaniard.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, January* 14, 1839.

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## No. 57.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, January* 14, 1839.
(*Received June* 12.)

MY LORD,

HEREWITH we have the honour to enclose our Report of the case of the Portuguese schooner "*Gertrudes*," Joao Antonio Foro, Master, captured by Her Majesty's brigantine "Bonetta," Lieutenant John Luke Richard Stoll commanding, on the 28th ultimo, with a full cargo of slaves on board, which had been shipped in the River Sherbro, two days before.

The arrival of the "*Gertrudes*" in this harbour was reported on the 2nd instant, and on the following day a prosecution against her commenced. The fact of illegal Slave Trade north of the Line having been established, a sentence of condemnation

on the vessel, and of emancipation to the 168 slaves found on board of her, was pronounced on the 10th instant.

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

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

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## Enclosure in No. 57.

*Report of the Case of the Schooner,* "Gertrudes," *Joao Antonio Foro, Master.*

THE following ship's papers were in this case produced:—

1. A Passport from Honorio Pereira Baretto, Governor of Bissao, dated the 16th of May, 1837, and declaring that the Portuguese schooner "*Gertrudes,*" commanded by Captain Juan Antonio Foro, and owned by Mathias de Brito, was authorized to make a voyage to the Cape de Verd Islands. She is described as of 35 tons burthen, and armed with 10 muskets and 10 cutlasses.

2. A Muster-roll of crew, consisting of 14 persons, of the same date as the last paper, countersigned by Delfim Jozé dos Santos, the Government Secretary at Bissao. These two documents are evidently false; there is no endorsement upon the Passport; and the crew are represented as having been on board during a period of 18 months previous to capture, and were then on their passage to the Island of Porto Rico, from the Coast. The papers, moreover, only authorize a voyage from Bissao to the Cape de Verd Islands.

3, 4, 5. Are three documents, dated at the Danish Island of St. Thomas', on the 23rd of February, 1838, consisting of a Port-clearance; a Bill of Lading, in French, for a cargo of goods shipped by Monsieur J. F. Dubourg, and consigned to the order of M. de Brito, the Owner, in the River Sherbro; and thirdly, a Receipt for the amount of the disbursements of the "*Gertrudes,*" at St. Thomas', from the same French merchant. These papers, if not altogether false, must relate to the transactions of a previous voyage.

6. The Log-book of the voyage from the River Sherbro, commencing on the 26th ultimo, was cut short by the capture of the vessel, two days afterwards, by Her Majesty's brigantine "Bonetta," Lieutenant John Luke Richard Stoll commanding, with 168 slaves on board.

The "*Gertrudes*" arrived in this port on the 2nd instant, and on the following day was brought into Court; the Marshal, in the mean time, having reported the facts of capture, as detailed by the Prize-master; and the Surgeon having inspected the slaves, and given them his medical assistance. The slaves were at once landed, such as required hospital treatment being conveyed to the village of Kissey.

The ship's papers, with the Captor's Declaration and the Affidavit of seizure, having been received and filed, the usual Monition was issued for publication to the Marshal, and the witnesses in preparatory were ordered for examination on the standing interrogatories.

The nominal and pretended Master, Joao Antonio Foro, who was unable to write his name, deposed "that he was born at Lisbon, has no fixed place of abode, is a subject of Portugal, and has never served any other State; that he was appointed to the command of the "*Gertrudes,*" about nine months ago, by Don Mathias de Brito, a Portuguese subject, residing at Bissao; that he first saw the vessel at Bissao a year ago; that he was present at the capture of the vessel, which took place because there were slaves on board; that there were on board 13 Officers and mariners, exclusive of witness, two of them Spaniards, two Portuguese, and the rest of them creoles of Curaçoa, six of them hired at St. Thomas', in the West Indies, nine months ago, the others in the River Sherbro, in September and October last; that the last clearing port was St. Thomas' aforesaid, where the voyage began; that the voyage was to end at Porto Rico, and the only place the vessel touched at was the River Sherbro, for slaves; that Don Mathias de Brito is sole Owner of the vessel, so far as witness knows; that he believes that Don Raphael Veles, of Porto Rico, is Consignee and Owner of the cargo of slaves."

The examination of the Boatswain, Bernardino Calafé, elicited nothing, as he pretended complete ignorance of every point connected with the vessel's proceedings.

It will be observed that the Master contradicts the statements in his ship's papers. Enough, however, was established against the "*Gertrudes,*" when the fact was admitted that she was captured with a full cargo of slaves on board. Accordingly, on the day when the Monition was returned into the Registry, a sentence of condemnation was passed upon the detained vessel; and the slaves captured on board of her, none of whom had subsequently died, were, to the number of 168, decreed to be emancipated.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, January* 14, 1839.

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## No. 58.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, November* 26, 1838.
(*Received June* 17, 1839.)

MY LORD,

WE have the honour herewith to enclose to your Lordship our Report of the case of the schooner "*Prova,*" Lourenço Viadomonte, Master, captured on the 9th ultimo, in 2° 15′ north latitude, and 7° 36′ east longitude, by Her Majesty's brigantine "Termagant," Lieutenant Woodford John Williams commanding, with

326 slaves on board, who had been embarked some days previously in the River Nun.

On the 17th instant the "*Prova*," which had arrived at Sierra Leone on the evening before, was brought into the British and Portuguese Court; and the fact of her detention whilst carrying slaves north of the line having been clearly established, the vessel and cargo were condemned on the 26th instant, and the survivors of the slaves were emancipated.

Had it been necessary to the success of the Captor's prosecution that he should affix a Spanish character on the detained vessel, the evidence of the Master himself would have supplied abundant grounds for bringing the vessel before the British and Spanish Mixed Court of Justice. The Master deposed, that he was sole Owner of the vessel; that his residence had been fixed at Havana for the last six years; and that the return voyage was to end at the Spanish Port where the outward voyage commenced, and where the cargo of merchandize was shipped. The "*Prova*" was, however, accepted both by the Captor and the Court in the character which she asserted to belong to her, although the validity of the ship's papers is disproved by the very parties who claimed their protection.

The Portuguese Register, granted in December, 1835, states that the Owner of the "*Prova*" is a Portuguese subject, named Luis Pereira de Mello; and as the Register bears no endorsement, and no Bill of Sale is exhibited, it would have been at once supposed that the ownership remained the same, had not that fact been directly avowed by Messrs. Font, Ricart, and Company, who appeared before the American Consul at Havana on the 7th of May last, and declared that they were the agents of the Owner Mello, and that, being duly empowered by him, they had appointed Viadomonte to the command of the "*Prova.*" In opposition, however, to this statement of Messrs. Font, Ricart, and Company, of whom Mr. Trist certifies that they were "respectable merchants," Viadomonte himself, the Master so appointed, swears that he, and not Mello, is Owner, and that he became Owner the month before these respectable merchants made their appearance at the American Consulate. Both these statements cannot be true, and the probability is that neither of them is so. Again, Viadomonte declares the vessel to be of Portuguese build, whilst the Passport states that she was built in America.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*The Right Hon. Viscount Palmerston, GC.B.*
*&c. &c. &c.*

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## Enclosure in No. 58.

*Report of the Case of the Portuguese Schooner* "Prova," *Lourenço Viadomonte, Master.*

THE following papers were found on board this vessel at the time of her capture.

1. A Portuguese Register, dated at Villa de Praia, St. Jago, in the Cape Verd Islands, on the 29th of December, 1835, granted to the schooner "*Prova*" belonging to Luis Pereira de Mello. No use seems to have been made of this Passport during the last three years, at least there is not a single endorsement upon it.

2. Is the Clearance from Havana for St. Thomas, dated the 5th of May, 1838.

3. The usual Certificate, stating that the articles of slaving equipment are shipped for legitimate purposes is, as usual, attested at the American Consulate by J. A. Smith, Vice-Consul.

4. Two days afterwards, namely, on the 7th of May, 1838, two other Certificates are attached to the Matricula by N. P. Trist, American Consul; the one setting forth "that Font, Ricard, and Company, respectable merchants of Havana" had appeared, and, as agents of Luis Pereira de Mello, the Owner of the "*Prova*" had appointed Lourenço Viadomonte, Master; the other Certificate merely states that the crew of this small schooner consisted of 22 men, all told.

On the evening of the 16th instant, the "*Prova*" arrived in this harbour, under the charge of Mr. Andrew Robert Dunlap, Mate of Her Majesty's brigantine "Termagant," Lieutenant Woodford John Williams commanding, with 295 slaves on board. Her arrival was duly reported by the Marshal to the Court, and on the same day the schoner was visited by the Surgeon, who stated that he had separated and marked in the usual manner 26 cases for hospital treatment, viz. 20 cases of dysentery, four of ulcers, and two of yaws; that the rest of the slaves were more than ordinarily clean and healthy-looking, but that the size of the vessel was far too small for their adequate accommodation, and it would be desireable to land them as soon as possible.

This recommendation was acted upon immediately; the sickly slaves being landed at the hospital at Kissy, and the healthy at the liberated African yard in Freetown.

On the 7th instant, the Captor's Declaration, and the Prize-Master's Affidavit, verifying the facts of capture and the authenticity of the papers found in the detained vessel, were filed, the papers were received into the registry, the Monition went forth, and the witnesses produced by the Captor's Proctor were examined on the standing interrogatories.

The Captor's Declaration is to the following effect: "I Woodford I. Williams, Lieutenant and

Commander of Her Britannic Majesty's brigantine "Termagant," hereby declare that, on this 9th day of October, 1838, being in or about latitude 2° 15′ north, longitude 7° 36′ east, I detained the ship or vessel named the "*Prova*," sailing under Portuguese colours, unarmed, commanded by Lourenço Viadomonte, who declared her to be bound from the River St. Nicholas to Havana, with a crew consisting of 17 men and one boy, and having on board 328 slaves, said to have been taken on board at the River St. Nicolas on the 30th day of September, 1838:—

| | Healthy. | Sickly. |
|---|---|---|
| Men | 171 | 5 |
| Women | 33 | 0 |
| Boys | 77 | 3 |
| Girls | 38 | 1 |
| | 319 | 9 |

The Master, Lourenço Viadomonte, deposed, "that he was born at Lisbon, has lived six years at Havana, is a subject of Portugal, and has never served any other state; that he appointed himself to the command of the detained vessel, being sole Owner of her, and took possession of her in April last at Havana, at which time and place he first saw the vessel; that the vessel is Portugese built; that he was present when the vessel was seized for having slaves on board; that she sailed under Portuguese colours, and had no others; that the vessel is called "*Prova;*" is about 74 tons burthen, and had a crew of 19 officers and seamen, exclusive of witness, part Spaniards and part Portuguese, all hired and shipped by witness at Havana in May last; that he was Master on board, and there were no passengers; that the last clearing port was Havana, where the voyage began, and where it was to have ended; that the capturing ship was first seen on the 9th of October, near to Princes' Island; that the chase began at one o'clock P.M., and continued until eight in the evening; that the detained vessel was at the time steering for Cuba, but altered her course on seeing the man-of-war, and made all the additional sail she could; that there is no Owner besides himself; that there is a Bill of Sale for the vessel which he last saw at Havana, and which was made there in April last; that the price was 350 dollars, paid in cash; that he is also sole Lader, Owner, and Consignee of the cargo; that the cargo from Havana, on the present voyage, consisted of rum, powder, tobacco, dry goods, and muskets, all of which was disposed of in the River Nun for slaves, 332 of whom were embarked there; that four males died before capture, and about 33 of both sexes had died since; that the vessel was brought direct to Sierra Leone."

The Spanish Mate of the vessel, Gaspar Hernandez, deposed to the same effect as the Master.

To account for the deaths which have occurred amongst the slaves, the Prize-master made Affidavit that, notwithstanding every care and attention on the part of himself and his prize-crew, 30 of the slaves had died between the 16th ultimo and the 12th instant, and that one other slave had fallen overboard and been drowned.

The Captor's case being now complete, publication of the evidence was prayed, and the Monition issued on the 17th being returnable on the 24th instant, the Court assembled on that day to dispose of the case. The sentence of the Court was, that the "*Prova*" had been captured whilst sailing under a Portuguese flag and pass north of the line, with a cargo of slaves on board, and that she was therefore liable to condemnation. It was further decreed that there were on board the "*Prova*" at the moment of capture, 326 slaves, of whom 31 had died previously to the arrival of the vessel in this harbour, and none subsequently; and that the surviving 295 slaves should be emancipated from slavery.

It will be observed that both the Captor's Declaration and the evidence of the Portuguese Captain state the number of slaves on board at the time of capture as 328. It has, however, always been the practice of the Court to take the Prize-master's Affidavit of the deaths amongst the slaves, extracted from his Log, as conclusive evidence on the point to which it refers. In this case the Prize-master puts down the deaths at 31, the Portuguese Captain at 33, but the former statement being preferred, the number pronounced to have been on board at the time of capture is two less than would otherwise have been mentioned in the Decree.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, November* 26, 1838.

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No. 59.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, December* 5, 1838.

(*Received June* 17, 1839.)

My Lord,

We have the honour to forward enclosed our Report of the case of the Portuguese schooner "*Dolcinea*," captured on the 31st October by Her Majesty's sloop "Pelican," Brunswick Popham, Esq., Commander, in latitude 4° 16′ North, longitude 3° 44′ East, with 253 slaves on board, who had been embarked at Lagos four days previously, and were then on their way to the Island of Cuba.

In this, as in every other Portuguese case which has lately come before us, it would not have been difficult, even from the evidence of the offending parties, to show that the illegal adventure, in prosecuting which capture and condemnation took place, was essentially Spanish.

The Portuguese Master denies altogether the truth of the representations contained in his Register and Matricula, the only two papers which he produced to the Captor, although the aid of the American Consul was, as usual, called in to support the credit of those fraudulent documents. In opposition to these papers

and to the American Consul's Certificate, which state that a Portuguese subject, named Francisco Caldas, is the Owner of the "*Dolcinea*," and that the Agent of Caldas at the Havana, Jozé Mazorra, appointed the present Master to the command of the vessel, the Master himself declares, that he was appointed Captain by the notorious Joaquim Jozé Duarte Silva, of Bahia, but who has lately settled at Havana, and who is the sole Owner of the detained vessel, and also of the greater part of her outward cargo.

It is, however, only fair to both parties to state, that we attach no credit to either statement.

The fact of the "*Dolcinea's*" capture to the north of the line, with a cargo of slaves on board, having been fully proved, a sentence of condemnation was pronounced against the vessel and cargo on the 3d instant, and the survivors of the slaves were at the same time emancipated.

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

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

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## Enclosure in No. 59.

*Report of the Case of the Portuguese Schooner* "Dolcinea," *Joze da Luz Carvalho, Master.*

THIS vessel was furnished with a Portuguese Passport from the Provisional Government of the Islands of Princes and St. Thomas, dated at St. Antonio, Princes Island, on the 28th of October, 1836, authorising her to proceed on a voyage of lawful commerce to the Havana, by way of the Coast of Africa. The Owner of the vessel, who was Master also, is said to have been Francisco Elesbao Correa Caldas.

Three weeks after this time an endorsement was made on the Passport to the following effect:—"Boarded by His Majesty's brig 'Charybdis,' November 21st, 1836, lying at Lagos. (Signed) E. B. Power, Mate." The "*Dolcinea*," however, succeeded, both on this and a subsequent voyage, in escaping Her Majesty's cruizers on this Coast and on the West India Station, and safely landed a cargo of slaves on the Island of Cuba.

The next endorsement on the Register is made by Fernandez, the Portuguese Consul at Havana, on the 20th of April, 1837, on occasion of the "*Dolcinea*" clearing out again for the Coast of Africa, under the command of a new Captain, named Fernando Reis Peres.

The only other paper of which the Captor could obtain possession was a Matricula, dated at Havana on the 23d of May last, and to which two Certificates of Mr. Trist, the American Consul, are attached: the one declaring the appointment of the present Master by Don Jozé Mazorra, a merchant of Havana, the empowered agent of Caldas, the Portuguese Owner named in the Register; and the other declaring that the schooner carried a crew of 16 men.

We have no doubt that the "*Dolcinea*" cleared out from Havana in May last under another name, and as a Spanish vessel. No clearance from the Havana Custom-house was produced; and neither of the papers which we have noticed, and in which alone the "*Dolcinea*" is mentioned as a Portuguese vessel, was submitted in any way to the Spanish Authorities.

It is impossible not to believe that this fact was well known to the American Consul who attested the Matricula of the vessel. The Matricula, besides, does not contain the name of a single officer, because the Spanish Captain and Mates embarked, no doubt, according to the general custom, with Passports as passengers bound to the same destination as the vessel.

It would appear that Mr. Trist and his subordinate, Mr. Smith, are willing enough to be deceived on these occasions; otherwise the prudent and easy course might be followed of requiring the production of the clearance from the Custom-house at the Havana, before they grant their official seal and signature to verify Muster-rolls of crews, the falsehood of which is evident on the face of them.

The "*Dolcinea*" having been captured with slaves on board north of the line, and her condemnation being, therefore, certain, whether as a Portuguese or Spanish vessel, it was deemed advisable by the Captor's Proctor to prosecute her under that character which she professed to bear. Accordingly, on the arrival of the "*Dolcinea*" in this harbour, she was brought into the British and Portuguese Court of Mixed Commission.

The Marshal reported that only four of the slaves had died on their passage to this port; and the Surgeon stated their general appearance to be healthy, although several of the number required hospital treatment for dysentery and wounds. No time was lost in landing the unfortunate creatures, and we are happy to say that none subsequently died, during the time that they were under the superintendence of the Court.

On the 26th ultimo the Captor's Declaration, and the Affidavit of Mr. William Rolland, Mate of the capturing ship and Prize Master, verifying the ship's papers, were received and filed; a Monition was published by the Marshal, citing all interested parties; and the witnesses in preparatory were examined on the standing interrogatories.

The Captor's Declaration of capture is to the following effect:—"I, Brunswick Popham, Commander of Her Britannic Majesty's sloop 'Pelican,' hereby declare that, on this 31st day of October, 1838, being in or about latitude 4° 16′ North, longitude 3° 44′ East, I detained the schooner, named '*Dolcinea*,' sailing under Portuguese colours, commanded by Jozé da Luz Carvallo, who declared her to be bound from Lagos to Havana, and having on board 253 slaves, said to have been taken on board at Lagos on the 27th of October, 1838."

Amongst the passengers on board the "*Dolcinea*" appears the name of Eduardo Roberto, who commanded the schooner "*Constituição*," the condemnation of which we reported in our Despatch of the 20th of October, 1838.

CLASS A.

The Master, Jozé da Luz Carvallo, deposed "that he was born at Lisbon, has lived a year and a half at Havana, is a subject of Portugal, is married, and his wife and family reside with him at Havana; that he was appointed to the command of the detained vessel, and possession of her was given to him, by Joaquim Jozé Duarte Silva, a Portuguese resident at Havana; that he first saw the vessel there about seven months ago; that she is Mexican built; that he was present when the vessel was seized for having slaves on board; that she sailed under Portuguese colours, and had no other; that all the crew were hired and shipped six months and a half ago at Havana by Duarte Silva; that the last clearing port was Havana, where the voyage began, and where it was to have ended, and whence he came direct to Lagos for a cargo of slaves, and, having obtained it, he was returning direct to Havana at the time of capture; that he was captured on the 31st of last month, after a chace of 32 hours; that the owner of the vessel was Joaquim Duarte Silva, who has lived eight or nine months at Havana but previously resided at Bahia; that he saw the said Duarte Silva buy her; that the price of the vessel was 6,000 dollars or 7,000 dollars, which was paid, but witness knows nothing of any Bill of Sale; that the Owner of the vessel was the Lader and principal Owner of the cargo, part of which was, however, owned by other merchants."

The second witness, who was a seaman of the detained vessel, pretended ignorance on almost every point involved in the standing interrogatories; and, in other respects, his evidence is of small importance.

The Captor's case having closed with an affidavit from the Prize Master, accounting for the four deaths which had occurred on board the "*Dolcinea*" on her passage to this port, publication of the evidence in preparatory was decreed, and the Monition being returnable into the Registry on the 3d instant, the Court assembled on that day, and condemned the schooner "*Dolcinea*," as good and lawful prize, to the crowns of Great Britain and Portugal.

It was further decreed that there were on board the said vessel, at the time of her capture by Her Majesty's sloop "Pelican," Brunswick Popham, Esq., Commander, 253 slaves, of whom four had died previously to the arrival of the vessel in this harbour, and none subsequently; and that the survivors, 249 in number, should be emancipated from slavery.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, December 5th*, 1838.

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## No. 60.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, December 10th*, 1838.

(*Received June* 17, 1839.)

My Lord,

We have the honour to acquaint your Lordship, that Her Majesty's brigantine "Lynx," Lieutenant Henry Broadhead, commanding, captured the Portuguese brig "*Liberal*," Francisco Gonsalves, Master, on the 1st ultimo, off Whydah, with 591 slaves on board, who had been embarked on the previous day.

The "*Liberal*" arrived here on the 29th ultimo, and was brought before the British and Portuguese Court of Mixed Commission on the following day. The Monition issued in the case was returned on the 7th instant, on which day the detained vessel and her cargo were condemned, and the survivors of the slaves found on board, amounting to 583 persons, were emancipated from slavery.

Our Report of the case referred to we have now the honour to enclose, for your Lordship's information.

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

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

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## Enclosure in No. 60.

*Report of the Case of the Portuguese Brig* "Liberal," *Francisco Gonsalves, Master.*

If we take the papers found on board this vessel in their order of date they will be numbered as follows.

No. 1. A Certificate in the usual form, from the Receiver of Customs at Porto Praya, in the Cape Verd Islands, of the payment of the required duties by the Portuguese brig "*Liberal*."

This document is dated on the 27th of October, 1836.

No. 2. A certificate from the Custom-house at Havana, dated on the 16th of June 1837, as to the shipment of certain goods on board the Portuguese brig "*Liberal*," Captain Don Francisco Gonsalves, bound to the Island of Princes.

No. 3 is an official Matricula, dated at Princes' Island on the 18th of November 1837, and containing 26 names.

No. 4. A Fortpass from the authorities of the same island, dated on the 20th of the same month.

No. 5. The Portuguese Register, under which the vessel was sailing prior to her leaving Havana for the Coast in June, 1837, is not now forthcoming, and appears to have been exchanged for a new Register, which she received from the Provincial Government of Princes Island, on the 21st of November 1837, and which declares the vessel to be owned by Joze Duarte Florin, of the Cape Verd

Islands, to be commanded by her present Master, to carry a crew of 26 men, and to be bound to Havana, by way of ports on the coast of Africa. This Passport shows no endorsement.

It is remarkable that the Matricula was granted three days, and the Fortpass one day, before the Register was obtained. A great degree of suspicion also rests on the representations of the ship's papers. They set forth that on the 27th of October, 1836, the "*Liberal*" was at the Cape Verd Islands; that she cleared out from Havana for Princes as a Portuguese vessel in June, 1837, and that she procured a new Portuguese Register at that island in November of the same year. Supposing the papers to be true, it is difficult to imagine what the object could have been of obtainining a new Register at Princes in the place of the Register obtained at Jago, the port where the professed owner resided; how it happens that the present Register bears a later date than the Fortpass, by which the vessel was authorized to sail from Princes Island: how the vessel was occupied during the long interval between her clearing out from Havana in June 1837, and her arrival at Princes Island in the following November; and what the vessel has been doing on the Coast from November, 1837, until November, 1838, when she was captured off Whydah with slaves on board. These circumstances impress upon us the conviction, that the ship's papers produced to the Captor are the papers of a former voyage of this vessel, even if they at all belong to her.

No. 6 is a Passport from Francisco d'Alva Brandâo, Secretary of Government at Princes Island, for three Portuguese sailors belonging to the "*Felicidades*," prize to Her Majesty's brigantine "Bonetta," and who were to be conveyed to the Coast on board the "*Liberal.*" It is dated on the 23rd of November, 1837.

Thus furnished with papers, the latest of which bore date a year before capture, the "*Liberal*" was taken possession of, loaded with slaves bound to Havana, by Her Majesty's brigantine "Lynx," on the 1st ultimo, the day after the human cargo had been taken on board at Whydah. The vessel was well armed, and strongly manned, but no resistance was made to capture.

She arrived at Sierra Leone on the evening of the 29th ultimo, and was immediately visited by the Marshal and Surgeon to the Courts. The former reported the facts of her seizure, and the latter made a rather favourable statement respecting the general health of the slaves, although many were in a state to require hospital treatment.

On the following day the ship's papers were brought into Court by Mr. Fergusson Slade, the Prize-master, and Mate of the capturing ship, and verified by his affidavit; the Captor's Declaration was received; the Monition was issued; the witnesses were summoned to attend at the Registry; and the slaves were landed and disposed of on shore, pending the adjudication of the vessel. The Master, Francisco Gonsalves, deposed, "that he was born at Braga in Portugal, has lived five years at the Rio Grande, Brazil, is a subject of Portugal, and has never served any other state; that he was appointed to the command of the detained vessel 16 months ago at Havana, by Don Antonio São Martin, a Spaniard, residing and carrying on business there; that he first saw the vessel at Bahia four years ago, and she was built in North America; that he was present at the capture of the vessel for having slaves on board; that the vessel sailed under Portuguese colours, and had no others; that the vessel is called "*Liberal*," and has never, witness believes, borne any other name; that she is 150 tons burthen, and had a crew of 25 Officers and mariners, exclusive of witness, half Spaniards, and half Portuguese, but all hired and shipped at Havana by witness 16 months ago; that the voyage began and was to have ended at Havana; that the owner of the vessel is one Jozé Duarte Florin, a Portuguese, residing with his wife at Villa da Praia, Cape Verds; that witness believes Florin to be Owner, because he was so informed by the consignee at Havana, Don Antonio São Martin; that Martin was the sole Lader of the outward cargo; which consisted of 60 puncheons of rum, and 25,000 dollars in gold; that the present cargo consists of slaves, of whom 587 were taken on board at Whydah, and were to have been delivered at Havana."

In the evidence of Jayme Canellas, the boatswain of the "*Liberal*" there is nothing deserving of notice.

An Affidavit from Mr. Slade, the Prize-master, was then filed, to show that eight slaves had died between the 2nd and 25th of November, inclusive. This very trifling loss amongst nearly 600 slaves reflects the greatest credit on Mr. Slade's humanity and attention.

The Captor's case being closed, publication was granted; and the Monition being returnable on the 7th instant, the Court on that day decreed the condemnation of the "*Liberal*" as good and lawful prize, and emancipated the survivors of her slaves, 583 in number, eight having died between capture and adjudication, and 591 slaves having been on board the "*Liberal*" at the moment of detention.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, December 10th*, 1838.

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## No. 61.

### *Her Majesty's Commissoners to Viscount Palmerston.*

*Sierra Leone, December* 15, 1838.

(*Received June* 17, 1839.)

MY LORD,

WE have the honour to enclose our Report of the case of the Portuguese brig "*Emprendedor*," Francisco G. Veiga, Master, captured on the 27th ultimo off the Gallinas, with 467 slaves on board, by Her Majesty's brigantine "Buzzard," Lieutenant Charles Fitzgerald commanding, and condemned on the 11th instant, as good and lawful prize.

The "*Emprendedor*" bore the same name, and was commanded by the same Captain, when she was confessedly a Spanish vessel, owned by Don Jozé Abarzuza, of Havana. We have fully noticed in our report the extraordinary circumstances connected with her change of flag, and the grossly profligate manner in

which Machado, the Portuguese Consul-General at Cadiz, manufactured in his own office the false documents, on which the "*Emprendedor*" founded her claim to be considered as a Portuguese vessel.

We beg leave respectfully to suggest to your Lordship the propriety of obtaining, through Her Majesty's Consul at Cadiz, the positive documentary proofs which will establish the guilt of this man, whom former disclosures of a like nature seem in no degree to have affected.

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

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

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## Enclosure in No. 61.

*Report of the Case of the Portuguese Brig* "Emprendedor," *Francisco G. Veiga, Master.*

THE Log-book of the "*Emprendedor*" shows that she sailed from Cadiz on the 25th of October last, and arrived at the Gallinas, without anything extraordinary having happened, on the 17th ultimo. Within 10 days from that time, and 33 days after leaving Cadiz, the vessel was captured with nearly 500 slaves on board; and as this case furnishes another proof of the shameless and disgusting manner in which the Portuguese Consul-General at Cadiz prostitutes his office to protect Slave Trade adventures, by solemnly making false attestations, and by affixing false dates to documents prepared by himself, we shall make no apology for giving literal translations of the papers which have occasioned these remarks; in the hope that the Portuguese Government may at length be induced to notice conduct by which their own good faith and credit are impeached.

### No. 1.

*The Bill of Sale.*

(Translation.) (Royal Arms.)

Consulate-General of Portugal at Cadiz.

Writing of Sale made by Don Jozé Abarzuza, of the brig "*Emprendedor*," to Don Gabriel Lopez, as sufficient Attorney of Francisco Cardozo de Mello, of Cape Verds.

IN the year of the birth of our Lord Jesus Christ one thousand eight hundred and thirty-seven, on the fifth day of the month of January of the said year, there appeared in this Consulate-General of the Portuguese Nation, as seller, Don Jozé Abarzuza, Merchant, of Havana, Owner of the Spanish brigantine called "*Emprendedor*," of Spanish construction, and of the burthen of 129 tons, 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 Rafael Salgado de Piña, a public Notary of this place, from Don Francisco Cardozo de Mello, a Portuguese subject of the Island of Santiago, town of Praia, in the Cape Verds; and in the presence of the witnesses summoned for that purpose, the said Don Jozé Abarzuza declared, that he sold the above-mentioned brigantine and armament, according to the Inventory, for the sum of 3,600 Spanish dollars, to the before-mentioned Don Gabriel Lopez, from whom he acknowledges to have received the said sum, and that he is paid and satisfied; for which he renounces and gives up, from to-day for ever, his right and property in the said brigantine "*Emprendedor*," with all her rigging, sails, boats, oars, and all that belongs to her, to the aforesaid Francisco Cardozo de Mello, whom henceforth he constitutes absolute Owner; the said seller binding himself, notwithstanding any claim there may be to the before-mentioned brigantine. In the same manner the above-mentioned Don Gabriel Lopez declared, that he assented to all the contents of this writing, accepting the ownership of the brigantine "*Emprendedor*" for his constituent, Francisco Cardozo de Mello, to whom it lawfully belongs, and declares that she is going to sail under the Portuguese flag, which belongs to her, with the same name of "*Emprendedor*;" and both contracting parties being agreed, signed with me this public Instrument, as also the witnesses, all of whom I know to be the persons they represent themselves. And in order that it may so appear, I deliver the present document, original, sealed with the Royal Consular Seal, and having been registered.

Seller, as Attorney of Don Jozé Abarzuza,
(Signed) FRANCISCO G. VEIGA.
Buyer, as Attorney of Don F. C. de Mello,
(Signed) GABRIEL LOPEZ.

Witnesses,
(Signed) FRANCISCO P. SANCHEZ.
MANUEL LOPEZ CALDENORO.
RAMON M. DE SOUZA MACHADO.

(L.S.) THE CONSUL GENERAL.

Registered,
(Signed) M. DE SOUZA MACHADO.

### No. 2.

*Provisional Passport.*

(Translation.) (Royal Arms.)

I, MANOEL DE SOUZA MACHADO, Consul-General of the Portuguese Nation in the Kingdom of Spain and the Canary Islands, residing in this garrison of Cadiz, for Her Most Faithful Majesty the

Senhora Donna Maria the Second, whom God preserve, &c. &c. &c., make known that the Portuguese brig "*Emprendedor*," of the burden of 120 tons, a little more or less, of which is Captain Francisco G. Veiga, and Owner, Francisco Cardozo de Mello, of the Portuguese Nation, settled at the Cape Verds, (in Santiago, Villa da Praia,) makes a voyage to the Island of St. Thomas, to obtain from the authorities of Her Most Faithful Majesty there the necessary documents to enable her freely to navigate, no foreigner having any share in the said brig. And as, in her voyage, she may be met with by the Chiefs and Officers of the ships and other vessels of the kingdoms, princes, republics, potentates, friends and allies of the Crown of Portugal, we request that they will not impede her in the prosecution of her voyage, in the certainty that to those recommended by their own princes shall be given 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, seventh of January, one thousand eight hundred and thirty-seven.

N.B. The brig has the following arms, which were on board when she was bought:—2 carronades of 12, 18 muskets, 18 sabres, 6 pistols, with their proper appurtenances and ammunition.

(L.S.) (Signed) M. DE SOUZA MACHADO.
Registered.

No. 3.

*Abstract of Muster-Roll.*

(Translation.) (Royal Arms.)

Consulate-General of the Portuguese Nation, Cadiz, 7th of January, 1837.

List of the Crew of the brig "*Emprendedor*," Owner, Francisco Cardozo de Mello, bound to the Island of St. Thomas.

[Here follow the names of Francisco G. Veiga, and the crew, consisting of 33 persons, receiving altogether the monthly pay of 325 dollars.]

The above crew was enrolled and registered in this Consulate, according to order; the above-mentioned Captain being bound to account for the said individuals, or to declare to the competent authorities the alterations which may occur.

(L.S.) Registered.

Certifying the contents hereof, I sign in continuation; and in order that it may so appear whenever it may be requisite, I give the present document, sealed with the Royal Seal of this Consulate.

(Signed) FRANCISCO VEIGA.
The Consul-General.
(Signed) MANOEL DE SOUZA MACHADO.

No. 4.

*Certificate as to the Cargo Shipped at Cadiz.*

(Translation.) (Royal Arms.)

Consulate-General of Portugal, Cadiz, 24th of October, 1838.

I certify that the brig named "*Emprendedor*," Captain Francisco G. Veiga, carries to the Island of St. Thomas, touching at Gallinas, the contents of the annexed Bill of Lading, the Shipper of which, Don Gabriel Lopez, declared that they belonged to Don Francisco Cardozo de Mello, a Portuguese subject, Merchant at the Cape Verds; and that they are intended for lawful commerce.

And in order that it may so appear where it may be necessary, I give the present document, sealed with the Royal Consular Seal.

Registered. (L.S.) The Consul-General.
(Signed) MANOEL DE SOUZA MACHADO.

*Bill of Lading annexed to the above Certificate.*

(Translation.)

I, Don Francisco G. Veiga, residing at , Master of the brig, which God preserve, called "*Emprendedor*," now riding at anchor in this port, in order, by good fortune, to follow her present voyage to Gallinas, acknowledge to have received, and have loaded within the said vessel, under the deck, of you, Don Gabriel Lopez, the following goods:—6,000 pillared dollars; 150 English muskets; 20 hogsheads of leaf tobacco; 500 padlocks; 500 knives; 1 case of imitation coral; 500 small looking glasses; 33 water-casks, to be filled with palm oil, containing 90 "botas;" 500 parcels of string beads; 600 baize shirts; 150 barrels of gunpowder; 150 pieces of check; 200 pieces of scarlet handkerchiefs; 150 Nicanies; 150 Negapatams; 100 pieces of silk handkerchiefs; 150 pieces of blue baft; 200 pieces of Madras handkerchiefs; 200 pieces of Romall handkerchiefs; 200 pieces of coloured handkerchiefs; 50 pieces of cotton coloured; 300 bars of iron; all dry and well conditioned, and which I promise and oblige myself, should God take me safely with the said vessel to the aforesaid port, to deliver for you, and in your name, to the order of Don Francisco Cardozo de Mello, Santiago, Porto Praia, paying me as freight (without paying freight, as the vessel belongs to him,) and average accustomed; and for the fulfilling which I engage my person, goods, vessel, freight, rigging, and what remains of them. In witness whereof, I have given you three Bills of Lading, of the same tenor, signed with my name, by me, or by my Clerk, of which one being accomplished, the others to stand void.—Done at Cadiz, the 24th of October, 1838.

N.B. Where Gallinas is mentioned, is meant St. Thomas, touching at Gallinas.

(Signed) FRANCISCO G. VEIGA.

No. 5.

*List of the Ship's Papers.*

(Translation.)

DOCUMENTS of navigation belonging to the Portuguese brig "*Emprendedor*," Captain Don Fran cisco Gonzales Veiga, and which are as follows:—

1st. Provisional Passport, given by the Portuguese Consul, in which are mentioned the arms.

2nd. The Roll of all the individuals of the crew of the vessel.

3. Writing of ownership, showing that this vessel belongs to Don Francisco Cardozo de Mello, residing at Santiago de Praia.

4th. Bill of Lading of the Cargo of this vessel, legalized by the same Portuguese Consul.

We have before had to observe with respect to ostensibly Portuguese vessels which have left Cadiz under the same circumstances as the "*Emprendedor*," that they produce no Clearances from the Spanish Custom-house, nor any documents whatever from any Spanish authorities in which the Portuguese character of the vessel is recognized. Where this has happened with vessels sailing from and belonging to Havana, but which have been captured under the Portuguese flag, we have been enabled generally to discover that such vessels sail with two sets of papers, and have received their Clearances as Spanish vessels sailing with Spanish Registers; these Registers and Clearances being made use of when Havana or any other port of Cuba is re-entered in ballast after the disembarkation of the slave negroes. In such cases, a Bill of Sale and Portuguese Register, and a Matricula, signed by the Portuguese Consul or his representative, are the only papers produced to the boarding officers of Her Majesty's cruisers. Such documents are not in any way submitted for the signature or approval of the Spanish Custom-house, and are unaccompanied by any Clearance or Receipt for duties from the officers of Spanish revenue. A Clearance of some description being requisite for every vessel whether Portuguese or not, that carries a cargo of goods from a Spanish port, the non-production of a document of that nature necessarily gives rise to the suspicion, which has generally proved well founded, that the vessel which declaims the possession of such an essential paper, has cleared out with a name and character which she is anxious to conceal.

After what we have seen of the conduct of Machado, the Portuguese Consul at Cadiz, it is not unreasonable to suspect that he would feel no great difficulty in imitating the course pursued in this respect by his brother Consul at Havana; and that at the moment when he was disgracefully exerting himself to clothe the "*Emprendedor*" with a false Portuguese character, she was actually being cleared out, under the same or some other name, by the Spanish Custom-house as a Spanish vessel. We know that a Clearance, or some authority to leave the port, must have been obtained; nor can it be pretended that it has been mislaid, for in paper No. 5, which is drawn up in the same handwriting as the Bill of Lading attached to the Portuguese Consul's Certificate No. 4, and which professes to give, for the Captain's guidance, a list of all the sailing papers (*los documentos de navigacion*), no other document is mentioned than those of which we have given translations above. Her Majesty's Consul at Cadiz could with ease ascertain the circumstances connected with the despatch of the "*Emprendedor*" from that port about the 24th of October last.

But whether our suspicions with regard to the national character of the "*Emprendedor*" be well founded or otherwise, there can be no doubt that the dates affixed to the Bill of Sale, provisional Passport, and Muster-roll, all prepared in the Portuguese Consul's office, are false; and that these documents are antedated about 22 months. In order to escape from the imputation of having sanctioned the sale of a Spanish vessel to a Portuguese subject, and of having afterwards invested that vessel with a Portuguese character, in the month of October, 1838, in direct violation of the Portuguese law, Mr. Consul-general Machado formally declares, that the Spanish brig "*Emprendedor*" had been sold, the Portuguese Register granted, and a crew of 33 persons shipped at Cadiz in January, 1837, a few days before the date of the Decree which forbade such transactions; "and, in order that it might so appear where it might be necessary, he gave the present documents sealed with the royal consular seal." The provisional Passport was only to serve the "*Emprendedor*" until she should arrive at St. Thomas from Cadiz, and obtain a permanent Register at the former place; and the Portuguese Consul certifies that the vessel did not sail for her destination until the last week in October, 1838. The Consul's attestations, taken together, are therefore tantamount to a declaration that the "*Emprendedor*" lay in Cadiz harbour perfectly idle for a period of 23 months, with a crew on board during the whole time of 33 persons, eating, drinking, sleeping, and receiving wages, but doing nothing. The wages alone for these services would have amounted to the sum of 7,475 dollars. The absurdity of this statement of Machado is too gross to require further notice; but our conviction of its falsehood rests upon still better grounds. Francisco G. Veiga, the Master of the "*Emprendedor*," when examined by the Registrar on the 5th instant, 41 days after leaving Cadiz, deposed, "that he was appointed to the command of the detained vessel at Cadiz by Don Gabriel Lopez, a Spaniard residing at that port, about a month and a half ago, and that he received possession of the said vessel there and then; that there were 32 Officers and mariners on board, exclusive of witness, two of them Portuguese, and the rest Spaniards, all hired and shipped by witness at Cadiz a month and a half ago." In like manner Juan Nunoz, the Mate, whom Machado declares to have joined the "*Emprendedor*" early in January, 1837, swore on the same day that the whole of the crew were "hired and shipped by the Master a month and a half ago."

It is required by Portuguese law that at least two-thirds of the crew of a Portuguese vessel should be native Portuguese. In order therefore to save appearances, the Portuguese Consul, in the Matricula which issued from his office, has written some Portuguese birth-place opposite the name of almost every individual in the crew's list, although the Master swears that the whole of the crew, with the exception of two, were Spaniards; and the Mate, Nunoz, deposes that there were not more than three or four Portuguese amongst the ship's company.

It is equally clear that the date of the Portuguese Register, which purports to have been granted on the same day as the Muster-roll, is false. The Register could not bear a date antecedent to that of the Bill of Sale; and the Bill of Sale, which is stated by the Portuguese Consul to have been drawn up by himself on the 5th of January, 1837, and in consequence of which he, two days afterwards, issued a provisional Register to the new Owner named as the purchaser in the Bill of Sale, is declared by the Master, on his oath, not to have been executed until the month of October, 1838. We should have

concluded the fact to be so, even if it had been expressly sworn to by the Master; for it is not to be supposed that a valuable vessel would take out a Pass to carry her to the Island of St. Thomas, and then lie rotting in the port of Cadiz for nearly two years, with the Pass on board of her unused.

It is worthy of note that, whilst the provisional Passport authorizes a voyage to St. Thomas alone, the Bill of Sale (No. 4), which is legalized by the Portuguese Consul, mentions only the Gallinas as the destination of the vessel, and the place where the outward cargo is to be delivered. This inconsistency was considered to be sufficiently corrected by inserting, as a note, at the foot of the Bill of Lading, the absurd explanation, that, "where the word Gallinas is mentioned, is meant the Island of St. Thomas, touching at Gallinas."

We are also informed by Machado in the Bill of Sale (No. 1), that this vessel, then the Spanish brig "*Emprendedor*," was riding out at anchor in the Bay of Cadiz on the 5th of January, 1837. A reference to the Cadiz Custom-house list of that time may serve to show the falsehood of this assertion. We believe that the brig did not arrive at Cadiz until 20 months later.

On the 3rd instant the "*Emprendedor*" arrived in this harbour accompanied by her Captor, Lieutenant Charles Fitzgerald, commanding Her Majesty's brigantine "Buzzard," and with 467 slaves on board, who had been embarked on the 27th ultimo in the River Gallinas. Although only six days had elapsed since the unfortunate slaves were consigned to their floating prison, they were found in a dreadful state of emaciation and disease; and when the Surgeon accompanied the Marshal on board the vessel, he marked out 116 cases for immediate hospital treatment. The cause of this sickness and suffering amongst the slaves is, the numerous captures which have lately been made in this neighbourhood of empty vessels, for which cargoes of slaves were prepared at the Gallinas. The barracoons there have in consequence become overloaded, and the immense expense of keeping and feeding for so long a time such large numbers of negroes, has induced the proprietors of the unfortunate beings to limit them almost to a starvation allowance of food; and this, added to their close confinement, and their being heavily ironed, has produced extensive mortality amongst them. Thus the extraordinary success which has latterly attended the efforts of Her Majesty's cruisers on this part of the station, while it has occasioned great loss to the slave-dealers, has in an equal degree added to the miseries of their unhappy victims. The "*Emprendedor*" was no sooner brought into Court than the whole of the slaves were landed, the sickly being conveyed to the hospital, and the others being received into the liberated African yard in Freetown.

On the same day the papers referred to in the early part of this Report were brought into Court, verified by the Affidavit of the Prize-master. The Captor's Declaration was filed, the Monition was issued, and evidence was produced and taken.

Francisco G. Veiga, the Master, deposed that he was born at Camenha in Portugal; has lived three years at Havana; is a subject of Portugal, and has never served any other state; that he was appointed to the command of the detained vessel at Cadiz by Don Gabriel Lopez, a Spaniard residing at that port, about a month and a half ago, and received possession of the vessel there and then; that she is Spanish built; that he was present at the capture of the vessel, which took place because she had slaves on board; that she sailed under Portuguese colours and had no others; that she is of 129 tons burthen, and had 32 Officers and mariners on board, exclusive of witness, two of them Portuguese and the rest Spaniards, all hired and shipped by witness at Cadiz a month and a half ago; that neither he nor any of the Officers and mariners had any interest in the ship or cargo; that he was Master on board; that there were ten passengers, seamen by profession, and apparently Spaniards, whose names are not known to witness, and who embarked at Gallinas for the first Spanish port where the vessel might touch; that the last clearing port was Cadiz, where the voyage began, and it was to end at Havana or Porto Rico; that he touched at Gallinas for slaves; that he first saw the capturing ship about 10 leagues from the Gallinas, during the night of the 23rd ultimo, and capture took place immediately; that the papers of the vessel destined her to St. Thomas's, but having called at Gallinas, and found a cargo there, it was unnecessary for him to proceed further; that he was informed by Gabriel Lopez at Cadiz, that the Owner of the vessel was Francisco Cardozo de Mello, a Portuguese residing with his wife and family at Villa da Praia, Cape Verds; that there was a Bill of Sale made two months ago at Cadiz, where witness saw it; that he does not know in whose presence it was made, nor what was the price of the vessel, nor whether the purchase money was paid; that the vessel was bought by Lopez for Cardozo de Mello; that Lopez was the Lader of the outward cargo, and witness the Consignee; that the slaves were shipped on account of Cardozo; that all the papers found on board were and are all true and fair; that there are no writings relating to the vessel or her cargo other than those produced.

The deposition of the Mate, Juan Nunoz, the only other witness examined, contains nothing worthy of notice.

The Prize-master's Affidavit respecting the deaths which had occurred amongst the slaves having been received, and publication having been granted, a Court was held on the 11th instant, when the Monition was returned into the registry by the Marshal. The sentence pronounced was, that the Portuguese brig *Emprendedor*," Francisco Gonzalez Veiga, Master, be condemned, her hull, tackle apparel and furniture, and the goods, wares, and merchandize laden on board, as good and lawful prize to the crowns of Great Britain and Portugal, having been captured by Her Majesty's brigantine "Buzzard," Lieutenant Charles Fitzgerald commanding, with 467 slaves on board, of whom two died between the capture and arrival of the vessel in this harbour, and nine subsequently. Two infants were born during the interval, and it was then further declared that the survivors of the slaves landed in this Colony, 458 in number, be emancipated from slavery.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, December*, 11, 1838.

No. 62.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, January* 20, 1839.

(*Received July* 16.)

My Lord,

We have the honour to hand to your Lordship inclosed our Report of the case of the schooner "*Magdalena*," Jozé Cardozo, Acting Master, captured under Portuguese colours, 0° 54′ North of the Line, on the 17th ultimo, with 320 slaves on board, by Her Majesty's sloop "Pelican," Captain Brunswick Popham commanding, and condemned in the British and Portuguese Court of Mixed Commission on the 17th instant, at which time also the emancipation of 302 slaves, the survivors of the 320 who were on board the condemned vessel at the moment of her detention, was decreed.

The "*Magdalena*" professed to be Portuguese, in consequence of a Cape Verd's transfer and Passport, granted in direct opposition to the Portuguese Commercial Decree of the 17th of January, 1837; and although the Bill of Sale states expressly, that the vessel was under Spanish colours at the time of her nominal transfer, and the Passport declares that she was built in America. But these documents, illegal as they are, if true, were merely a cloak for the Spanish ownership, which continued, except in name, as before; and under such circumstances it is not to be wondered at that the "*Magdalena's*" connexion with the Cape Verds, the residence of her pretended Portuguese owner, ceased altogether, when the object was attained for which alone those islands had been visited in the first instance.

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

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

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Enclosure in No. 62.

*Report of the Case of the Schooner* "Magdalena," *Jozé Cardozo, Acting Master.*

The following is a summary of the papers found on board this vessel:

1. A Bill of Sale which purports to have been executed at Villa da Praia, St. Jago, in the Cape Verd Islands, on the 5th of June, 1837, with complete disregard of the law of the 17th of January of the same year, which prohibits such transfers. The names of the parties attached to the deed are sufficient proof to us that it is a fraudulent document. It is drawn by the Notary, Antonio Jozé da Silva Macedo, witnessed by Antonio Dionizio Furtado, and Ignacio Carlos de Fonçeca; and the nominal purchaser is Thimotio Cardozo de Mello. The seller is said to have been Don Jaimes Pol or Sol; and the vessel is described to have been formerly the Spanish schooner "*Madeleñita.*"

2. On the strength of the Bill of Sale, Joaquim Pereira Marinho, the Portuguese Governor-general of the Cape Verd Islands, granted, on the 7th of June, 1837, two days after the transfer was executed, a Passport which, without saying anything of the Spanish character which the "*Madeleñita*" had previously borne, merely mentions that she was of American construction; but in either case the Governor-general acted in opposition to the law of his own country, in adopting such a vessel into the Portuguese Commercial Marine. The Passport further mentions that the "*Magdalena*" was owned by Thimotio Cardozo de Mello, commanded by Antonio de Mello Artiaga, and bound to Bahia. The only endorsement upon this document is a visa at St. Thomas' on the 10th of August, 1837.

3. is the official Matricula dated on the same day as the Passport, and in which Artiaga is named as the Captain, and Sebastião Fernandes as first Officer. The name of the present Master does not appear in the list. An endorsement made at Santiago de Cuba on the 28th of March, 1838, by the Portuguese Consul at that place, states that an entirely new crew, with the exception of the Master, was there and then shipped. The present Acting Master is named as first officer, and a passenger was embarked who is called Don Cayetano Gonzalez. On the 21st of the following month, April, another endorsement shows that the "*Magdalena*" was at the Island of St. Thomas, in the West Indies, on that date.

4, 5, 6, 7, 8 are five Custom-house cockets for different parcels of goods shipped at Santiago de Cuba on board the "*Magdalena*," from the 21st to the 28th of March, 1838, on account of the passenger Don Cayetano Gonzalez.

9. is the Spanish clearance for the vessel bound from Santiago de Cuba to St. Thomas' on this coast, by way of St. Thomas' in the West Indies, dated on the 29th of March, 1838.

10. A clearance from the Island of St. Thomas in the West Indies on the 21st of April, 1838.

11. The logbook, which is kept in Spanish, begins on the 30th of March, when the vessel left Cuba, and is continued regularly up to the 12th of June, at which time she was off Cape Mount in this neighbourhood. Here she remained until the 1st of July, on which day she recommenced her voyage, steering to the southward, and after a few days came to anchor in the river Bras. From this time until the 14th ultimo, the "*Magdalena*" was collecting her slaves; and on the latter date the log records "the course from the Rio Bras to the Island of Cuba." On the 17th of the same month the vessel was happily fallen in with by Her Majesty's sloop "Pelican," Captain Brunswick Popham commanding, with 320 slaves on board, and was immediately dispatched to this place for adjudication.

On the 10th instant the Marshal reported the arrival of the prize in this harbour, with the Master, Carpenter, and Cook as witnesses, and 308 slaves on board, 12 having died on the passage up: 76 of the slaves were then conveyed to Kissy for hospital treatment, at the recommendation of the surgeon to the courts, and the remainder were lodged in the liberated African yard in Freetown.

The prosecution of the detained vessel was conducted in the usual manner, and terminated on the 17th instant, when the return of the Monition into the Registry enabled the Court to decree the condemnation of the "*Magdalena*," and the emancipation of 302 slaves, the survivors of the 320 who were on board at the moment of detention.

There is little material in the evidence of the Acting Master and Carpenter of the "*Magdalena*" (the witnesses examined for the prosecution), to add to the effect of the simple circumstance, that the vessel was discovered north of the line, sailing under a Portuguese flag and Pass, and carrying a full cargo of slaves to the Island of Cuba. In compliance with custom, however, we proceed to give a summary of the evidence.

Jozé Cardozo, the acting Master, deposed "that he is a subject of Portugal, and has never served any other State; that he took command of the detained vessel on the death of the late Master, Artiaga, in the river Nun or Bras, three months ago; that he first saw the vessel six years ago at Havana, and he believes she is of American build; that he was present when the vessel was captured for having slaves on board; that the vessel sailed under Portuguese colours, and had no others; that there was a crew of 27 Officers and mariners, exclusive of the late Master, of whom two-thirds were Spaniards, and the rest Portuguese, all hired and shipped at St. Jago de Cuba, in March last, by witness and the late Master; that there were two passengers on board, one a Spaniard, named Cayetano Gonzalez, and the other an American, whose name is Eleazer Huntington, lately Captain and Owner of the captured schooner '*Ontario*;' that the voyage began at St. Jago de Cuba, and was to end somewhere on the coast of that island; that the capturing ship was first seen in 0° 54′ North latitude, on the morning of the 17th ultimo; that the late Master was owner of the vessel; that there was a Bill of Sale in favour of a Portuguese residing at Villa da Praia, but the Master was, nevertheless, the true Owner, by virtue of a private agreement; that the late Master was also the owner of the cargo of slaves shipped in the river Bras."

The Carpenter, Jozé Miguel Garcia, confirmed the evidence of the former witness, with regard to the course and destination of the vessel.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, January* 20, 1839.

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No. 63.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August* 25, 1839.

I REFERRED to Her Majesty's Advocate General your Despatch of the 15th August, 1838, containing a Report of the case of the Portuguese schooner "*Feliz*," detained and condemned on a charge of having been concerned in illegal Slave Trade.

I drew the attention of the Queen's Advocate to the circumstances attending the original detention of that vessel, and I requested his opinion upon the case.

The Queen's Advocate is of opinion, that the original detention of the "*Feliz*" by Her Majesty's steam-vessel the "Flamer," was illegal, because the Commander of the "Flamer" had not in his possession the Instructions required by the Treaty to justify the capture; but that the second detention of the "*Feliz*" was legal, because the Commander of the "Madagascar," who detained her, was furnished with the requisite Instructions, and was not acting in concert or collusion with the Commander of the "Flamer;" and, on these grounds, the Queen's Advocate is of opinion, that the Commissioners acted correctly by deciding the second capture of the "*Feliz*" to be just, and, inasmuch as the "*Feliz*" was concerned in illegal Slave Trade, by pronouncing sentence of condemnation upon her accordingly.

I am, &c.
(Signed) PALMERSTON.

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

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No. 64.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, February* 14, 1839.
(*Received September* 30.)

MY LORD,

WE have the honour to enclose our Report of the case of the Portuguese schooner "*Aurelia Feliz*," Manoel de Jesus Silva, Master, captured by Her Majesty's brig "Brisk," Lieutenant Arthur Kellett, commanding, off the British Island of Bulama, on the 9th of December, 1838, and restored to the Master and

claimant on the 11th current, the captor having failed in proving his allegations against the detained vessel.

The fact on which the prosecution of the "*Aurelia Feliz*" was founded, was, that a slave boy of the name of Domingo, the property of the master, was on board that vessel when fallen in with by Lieutenant Kellett. But as it was clearly proved that Domingo was not shipped "for purposes of the traffic," and that he was acting as cabin boy on board, and was entered as such in the Muster-roll, the case was fully provided for by the first Article of the Instructions, which declares that "negro servants or sailors cannot be deemed a sufficient cause for detention;" and by the sixth Article, which classes such persons as Domingo amongst "negro sailors," "provided they belong *as slaves* to subjects of the Crown of Portugal."

On these grounds the capture of the "*Aurelia Feliz*" was deemed to be unjustifiable and improper; the vessel was restored to the Master; and the Registrar was directed to assess the damages due to the claimant, as a compensation for the losses which he had sustained.

The Registrar's Report in this matter will form the subject of a separate Dispatch.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

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## Enclosure in No. 64.

*Report of the case of the Portuguese Schooner* "Aurelia Feliz," *Manoel de Jesus Silva, Master.*

THIS vessel having been restored by a decree of the British and Portuguese Court of Mixed Commission, the ship's papers were given up to the Claimant. They consisted merely of a Passport and a Muster-roll; the former granted by Honorio Pereira Baretto, the Governor of Bissao, and dated at that place on the 3rd of December, 1838, stating Aurelia Correia to be Owner, and Manoel de Jesus Silva, Master; the burthen to be 75 tons, and the destination Cape Palmas.

Within one week from the time when her Passport was obtained, the "*Aurelia Feliz*" was detained by Her Majesty's brig "Brisk," Lieutenant Arthur Kellett commanding, off the British Island of Bulama. Six days afterwards she arrived at Sierra Leone. The vessel's appearance was delayed, owing to the Captor, who had released upwards of 200 slaves from slavery at Bulama, making use of his prize as a transport to convey the liberated people to this Colony.

On the 17th of December, a prosecution against the detained vessel was commenced, on the general ground that she had been "engaged in the Slave Trade;" and, in compliance with the Proctor's petition, the Captor's Declaration and Affidavit of seizure, with the ship's papers, were received and filed, the Monition issued, and the witnesses were summoned.

The Captor's Declaration states that, at the time of seizure, the "*Aurelia Feliz*" was bound from the Rio Nunez to Bulama, and back to the Rio Nunez, and that she was seized for "having had slaves on board during the present voyage."

The Master, Manoel de Jesus Silva, deposed "that he was born at Maranham, Brazil, has lived eight or nine years at Bissao, is a subject of Portugal, and has never been a subject of any other State; that he was appointed to the command by a woman, named Aurelia Correia, a Portuguese subject, resident, during the last three years, at the Island of Bulama; that he was present at the capture, but does not know why it took place; that the vessel is Spanish built; that she is called '*Aurelia Feliz*,' but when witness first knew her she was called '*Maria Segunda*;' that there were 15 Officers and mariners on board, exclusive of witness, Africans by birth, but Portuguese by allegiance, all hired and shipped by Aurelia Correia, at Bissao and Bulama; that Aurelia Correia is a native of the Bissagos Islands; that the Owner of the vessel is also sole Owner of the cargo, which was consigned to Mr. Proctor, an English merchant in the Rio Nunez, who has since died; that the lading of the vessel, both on the last and present voyage, was salt; that no slave has been put or received on board, for the purpose of the traffic in slaves, during the present voyage."

The Cook, Crispin Goree, deposed "that the Master and last witness was appointed to the command of the detained vessel by Kyetan, from whom he received possession at Bulama; that Kyetan, who resides and carries on business at Bulama, was Lader and sole Owner of the cargo; that no slave has been put or received on board during the present voyage."

On the publication of this evidence, a claim was filed by the Captain of the "*Aurelia Feliz*," for the detained vessel and her cargo, as the sole property of Donna Aurelia Correia, a native of the Islands of Bissagos.

The Monition issued on the 18th was returned by the Marshal on the 25th of December; but it was not until the 19th ultimo that the Captor's Proctor was able to secure the attendance of some witnesses whom he considered material, and who had to be brought from some of the most distant villages in the Colony.

In the mean time, the Claimant's Proctor examined Mr. Charles Heddle and Mr. Richard Lloyd, two respectable merchants trading on this Coast. Mr. Heddle deposed "that he knew the vessel before the Court; that she has lately been employed in carrying salt from Bissao to the Rio Nunez; that he understood that Kyetan was the Owner; that he has never known her to carry slaves, or heard of her doing so, nor does he think that she has ever been employed in the Slave Trade." Mr. Lloyd also deposed "that he has known the '*Aurelia Feliz*' as a regular trader, eight or nine months ago; that she was employed in the coasting trade between Bissao, Bulama, and Rio Nunez; that he under-

stood the Owner to be a woman, called Aurelia, who has been living in a state of concubinage with Kyetan for many years past; that he does not think the vessel was ever engaged in the Slave Trade."

Five of the native sailors of the vessel were then examined by the Captor, with the object of showing that a boy, of the name of Domingo, was a slave, and that he had been purchased by the Master, Silva. These facts were unreservedly admitted by all the witnesses, who however stated at the same time that Domingo was Silva's domestic slave, and acted as Cabin-boy on board the vessel; which, indeed, appears to have been the case, as his name and office are inserted in the Muster-roll.

Upon this evidence the parties went to trial on the 11th instant. Although the papers filed were very voluminous, it appeared to the Commissioners that the only question for their consideration was, whether the presence of the slave-boy, Domingo, on board the "*Aurelia Feliz*" was sufficient to warrant her condemnation. It was thought unnecessary to enter upon the questions, whether the Island of Bulama be British or Portuguese territory, or whether we can presume the possibility of any person existing in a state of slavery whilst under the nominal protection of British law; for, taking the facts to be exactly as the Captor represented them, the seizure of the "*Aurelia Feliz*" was altogether unauthorized.

Without referring to several less positive passages in the Treaty, to show that the finding persons in the situation of the slave-boy, Domingo, on board a Portuguese vessel, would not justify her detention, we find in Article 1, of the Instructions for the Naval Commanders, that "ships, on board of which no slaves shall be found, *intended for purposes of traffic*, shall not be detained on any account or pretence whatever. Negro servants or sailors that may be found on board the said vessels cannot in any case be deemed a sufficient cause for detention." And, from the sixth Article, it will be seen that, in order to fulfil that portion of Portuguese law which requires that "two-thirds at least of the crew of a Portuguese vessel shall be Portuguese." "The Portuguese Owner is permitted to reckon the negro sailors as Portuguese, provided they belong, *as slaves*, to subjects of the Crown of Portugal."

In the present case, it was proved that the slave-boy, Domingo, was the property of the Master of the vessel; not shipped for "purposes of the traffic," nor "put momentarily on shore," in order to avoid the observation of the Captors; but serving in the "*Aurelia Feliz*" as "a negro servant or sailor," in the character of a Cabin-boy. On these grounds, the Court decreed the restoration of the "*Aurelia Feliz*," and that the Registrar should ascertain and report the amount due to the Claimant for the illegal detention of his vessel.

(Signed) H. W. MACAULAY.
R. DOHERTY.

*Sierra Leone, February* 14, 1839.

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No. 65.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, March* 20, 1839.
(*Received September* 30.)

My Lord,

Enclosed we have the honour of handing to your Lordship our Report of the case of the Portuguese schooner "*Rozalia Habaneira*," seized by Her Majesty's sloop "Sappho," near to the Island of Jamaica, on the 13th of July, 1838, with a cargo of 247 slaves, said to have been shipped at New Sestos, on this Coast, and destined for the Island of Cuba.

After seizure, this vessel was, from her leaky and otherwise bad condition, conveyed to Honduras, where the slaves, then suffering from small-pox, were disembarked on the 23rd of July.

The detained vessel subsequently took her departure, under convoy of the capturing ship, for Jamaica, where it was intended she should be laid up to await adjudication, a competent Board of Survey at Honduras having declared her unfit to make the voyage to this Colony; and the Prize-officer was despatched here with the schooner's papers, and her late Master as a witness.

Proceedings were instituted against her, in the British and Portuguese Court established here, on the 4th; and on the 12th instant they were terminated, so far as the slaves seized on board this vessel were concerned, by the emancipation, on that day, of the survivors of the 223 negroes disembarked at Honduras.

With respect to the vessel, the Court, following the precedent of the "*Ingemane's*" case, reserved a final decision until placed in possession of evidence as to her fate.

We have, &c.
(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

## Enclosure in No. 65.

*Report of the Case of the Portuguese Schooner* "Rosalia Habaneira," *Manoel Martins, Master.*

THIS vessel sailed under a Passport and Muster-roll from the Government of the Cape Verd Islands, dated the 2d of August, 1837, and had no other papers of any description on board at the time of capture.

By the documents in question it appeared, that the schooner was American built, owned by the well-known João Jozé Claudio de Lima, of the Island of St. Jago; commanded by Manoel Martins, and bound direct from the Cape Verd Islands to the port of Bahia.

The course taken by this vessel on leaving the islands is not known, but on the 13th of July, 1838, she was found in the West Indies with a cargo of slaves on board, and seized by Her Majesty's sloop "Sappho." When detained the vessel was in a leaky condition, and the captor conveyed her to the nearest port, that of Belize, Honduras, where the slaves were disembarked, and whence a Prize-officer was dispatched for this Colony, by way of England, with the vessel's papers and one witness only, the Master of the captured schooner.

The officer and witness reached Sierra Leone on the 27th of February last, and on the 4th of the present month proceedings were duly taken in the British and Portuguese Court at this place for the prosecution of the schooner and the emancipation of the slaves found on board of her.

The captor's Declaration stated, that Her Majesty's sloop "Sappho," being in 18° 46′ north latitude, and 81° 34′ west longitude, on the 13th of July, 1838, had seized the schooner "*Rosalia Habaneira,*" sailing under Portuguese colours, and bound to Cuba with a cargo of 247 slaves, said to have been embarked at Young Sestos on the 6th of June, 1838. The Declaration further set forth that the schooner was well supplied with water and provisions, but that she was leaky, her sails in bad condition, and the negroes afflicted with small-pox.

A second Declaration of the seizor, made on the 23d of July, 1838, certified to the disembarkation of 223 slaves at Belize on that day, on account of the impossibility of sending them to Sierra Leone, as well from the unseaworthy condition of the schooner, as on account of the disease amongst the slaves.

The receipt of the Secretary of Government at Honduras, dated August 2, 1838, stated that the 223 slaves had been landed as above stated in that Colony, and had been there taken into the care and custody of Her Majesty's Superintendent.

On the disembarkation of the slaves at Belize, the detained schooner was surveyed by the senior Lieutenant, the Master, and Carpenter of Her Majesty's sloop "Sappho," on the 25th of July, 1838, and those officers reported her hull in many places decayed and defective, her fore-yard broken, her sails nearly in rags, and her rigging in a very bad condition; and that she was in consequence quite unequal to make a voyage thence to Sierra Leone. Those officers also reported that, with some caulking of the seams, and the loan from Her Majesty's ship of two sails and some old ropes, the detained vessel might be safely navigated to Jamaica, where it was proposed to lay her up pending adjudication, there being no suitable place for that purpose at Honduras.

Whether the detained schooner reached Jamaica or not, we are uninformed; the latest intelligence respecting her being, that she was on her way to Jamaica under convoy of the capturing ship, when the Prize-officer took his departure for this Colony.

On the 5th of March the Master of the detained vessel was examined by the Registrar upon the standing interrogatories, and deposed that "he was born at Lisbon, where he has since lived. Is a subject of Portugal, and has never been subject of any other state. Is not married. He was appointed to the command by João Jozé Claudio de Lima, a Portuguese residing at Villa da Praia, Cape Verds, from whom also he received possession there, on the 14th of September, 1837. First saw the vessel there and then. She was built in America. He was present at the capture, which took place because the vessel carried slaves. She sailed under Portuguese colours, and there were no others on board. The name of the vessel is "*Rosalia Habaneira.*" Previous to the month of May, 1837, (at which time she first appeared at the Cape Verds under American colours,) she was called the "*Faniboté.*" She is 95 tons burthen. There were 18 Officers and mariners, exclusive of witness, four of them Spaniards, and the remainder Portuguese; all hired and shipped by witness at Villa da Praia, in September, 1837. Neither he, nor any of the Officers, or mariners, had any interest in the vessel or her lading. Was Master on board. There were no passengers. The last clearing port was Villa da Praia, where the voyage began, to end at Havana. The vessel had touched for rice, ivory, and slaves at Gallinas, New Sestos, and other places along the coast as far as Cape Palmas. He first saw the capturing ship at eight o'clock in the morning of the 13th of July last, off the Alligator or Grand Cayman Island to the west of Jamaica. Chase took place immediately, and capture at four o'clock in the evening. Was steering at the time for Guanimar, on the Cuba Coast. The course was altered, and all sail made. The destination by the papers was the Coast of Africa only, but the vessel was proceeding to Cuba with the slaves, in obedience to a verbal order from the owner. There are no guns mounted on board; but there are eight cutlasses, ten muskets, and a box of ammunition for defence against any rising of the slaves. No resistance was made to capture, nor were there any instructions for resisting or avoiding capture, or for concealing or destroying the vessel's papers. João Jozé Claudio de Lima was the sole owner of the vessel, as he knows from having seen him purchase her at Porto Praia. His wife and family are, like himself, subjects of Portugal, and reside with him at St. Joga. He knows nothing of any Bill of Sale. The price of the vessel was 4,500 dollars, which was paid, and was a fair equivalent. Believes that the transfer was truly made, and that the vessel, if restored, will belong to De Lima only. He knows nothing of the lading of the last voyage. The cargo on the present occasion consisted of dry goods, tobacco, aguardiente, cutlasses, muskets, and gunpowder. Three hundred and five slaves, whose description he cannot give, were embarked at New Sestos, all of them from the shore, 53 of all descriptions died before capture, and 15 or 16 subsequently. After capture the vessel was carried to Belize, Honduras, and Port Royal Jamaica. All the Passports and other papers were and are entirely true and fair. None of the papers were destroyed, concealed, or made away with. There are no writings relating to vessel or cargo in any other country. There was no charter-party. He believes the vessel to have been insured, but with respect to the goods does not know. Does not know at what premium the vessel's insurance was made, nor when, nor where, nor by whom. With respect to her employment in trade, she was under the management of witness. Corresponds with the owner only. Bulk was broken at Gallinas and New Sestos, and no where else on the voyage, before or after capture."

The Affidavit of the Prize-officer, filed on the 6th instant, stated that 24 of the slaves seized in this vessel had died between the time of their capture and of their disembarkation at Honduras. With this the case for the prosecution closed and publication was granted.

The Monition, which was issued on the 4th instant, was returned into Court on the 12th, certified to have been duly served; and on that day the Court assembled for the adjudication of this case.

The circumstances under which the "*Rosalia Habaneira*" had been seized were sufficient, in the opinion of the Court, to justify the detention of that vessel, and to authorize it in proceeding to the adjudication of the slaves found on board of her. A sentence of emancipation of the 223 slaves landed from the detained schooner at Honduras, or the survivors of them on the day of trial, was accordingly pronounced. In respect to the detained vessel itself, the Court reserved a final decision, until her fate after quitting Honduras for Jamaica should be satisfactorily ascertained.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

*Sierra Leone, March* 10, 1839.

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No. 66.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, March* 25, 1839.

(*Received September* 30.)

My Lord,

We have the honour to inform your Lordship, that Her Majesty's brigantine "Forester," being in latitude 5° 42′ north, and longitude 9° 48′ west, on the 6th instant, seized the schooner "*Ligeira,*" sailing under Portuguese colours, on the suspicion of her being Spanish property and equipped for the Slave Trade; on which charge Lieutenant Campbell sent her to the Mixed British and Spanish Court here for adjudication.

On her arrival, the Proctor for the Seizor did not consider that the circumstances of the case afforded sufficient grounds to establish the charge, which Lieutenant Campbell had preferred against the detained vessel; it was therefore resolved to restore the schooner to her Master, which was accordingly done, and she left this harbour on the 24th instant, having been here only three days.

Previous to the restoration of the schooner, the Seizor's Proctor obliged us with an inspection of the Seizor's Declaration, and the several papers found on board of the "*Ligeira,*" from which and other authentic sources we are enabled to lay before your Lordship the following particulars, which exhibit another proof of the readiness with which the authorities of the Cape Verd Islands supply official papers to vessels of doubtful character.

The "*Ligeira*" was formerly the slave-schooner "*Dolcinea,*" sailing under the Portuguese flag, and was condemned on the 3d of December last in the British and Portuguese Mixed Court in this Colony. The "*Dolcinea*" was then sold at public auction by the Commissioner of Appraisement and Sale, and purchased by Mr. James Patrick Kidd, one of the English merchants of the Colony, for the sum of 310*l.*

On the 19th of December following, Carlos Estavao Sassetti, whom we shall hereafter describe, purchased the "*Dolcinea*" from Mr. Kidd for 600*l.*, which sum was paid here, and a Bill of Sale executed, in the presence of two persons, on the day mentioned. The official Bill of Sale, given to Mr. Kidd on his purchasing the schooner under the decree of the Mixed Court, does not appear to have been transferred to the new owner.

Sassetti having embarked half a ton of salt in his vessel, cleared her out at the Custom-house of this Colony, on the 26th of December last, as the "*Dolcinea,*" bound to Lisbon.

From Sierra Leone she went direct to the Cape Verd Islands; and there at once her Owner, Sassetti, obtained a Passport and other papers for her as a Portuguese vessel, bearing the name of "*Ligeira,*" and bound for Maranham, viâ St. Thomas' on this Coast; sailing under which papers she was seized, as previously mentioned, her only occupation after leaving the Cape Verds having been to purchase rice at the Sherbro.

In the Passport granted by the Government of the Cape Verd Islands, it was declared that the "*Ligeira*" is of Portuguese construction; a statement respecting which it is more than doubtful if the Governor had sufficient legal proof to justify him in making it. For in none of the papers belonging to this vessel as the "*Ligeira*" is there any evidence of this being the case; neither does it so appear in her papers when she was called the "*Dolcinea.*" On the contrary, the only evidence on the subject is the Deposition of the late Master of the "*Dolcinea,*" who swore distinctly that she was Mexican built.

Carlos Estavao Sassetti was formerly Master of the Portuguese schooner "*Victoria,*" condemned here on the 21st of November, 1836; and latterly of the Spanish brig "*O Veterano,*" condemned on the 11th of December last.

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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No. 67.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, April* 15, 1839.
(*Received September* 30.)

My Lord,

We have the honour to acquaint your Lordship, that Her Majesty's brig "Saracen," Lieutenant Hill, Commander, seized on the 31st ultimo, in the Rio Pongo, the Portuguese schooner "*Labradora,*" Victor de Barreda, Master, whilst in the act of embarking a cargo of slaves destined for the Havana market. Two hundred and fifty-three slaves had been shipped when the "Saracen's" boat made her appearance; and before the officer in command of her succeeded in getting on board the "*Labradora,*" two passengers and a seaman succeeded in making off with the schooner's boat, having two of the slaves in it. Lieutenant Hill immediately sent his prize to this Colony, where she arrived on the 6th instant, and on the following 13th the "*Labradora*" was condemned, and her 248 surviving slaves declared free.

Our Report of this case we have the honour herewith to transmit for your Lordship's information; on a reference to which, and to our Report on the case of the schooner "*Maria*" in our despatch marked Spain, of the 21st of November, 1838, it will be seen that the slaves found on board the "*Labradora*" were originally purchased with the view of being shipped on board the "*Maria;*" and on the capture and condemnation of the latter vessel, the "*Labradora*" was chartered by Don Baltazar Pujol, the Owner of the "*Maria,*" and of the slaves who constituted her intended cargo, to convey to Havana the property which was thus thrown on his hands.

The 300 slaves prepared for the "*Maria*" cost 18,000 dollars in goods and merchandize; the sum of 18,000 dollars was further to be paid for the freight of these slaves in the "*Labradora,*" the Owner of the slaves finding besides wood, water, and provisions for their maintenance, but paying the money only on the *safe arrival* of the cargo.

The "*Labradora*" was sold at Bissao to her late Owner Gomez by Kyetan, referred to particularly in our last yearly Report as carrying on an extensive Slave Trade on the British Island of Bulama.

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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Enclosure in No. 67.

*Report of the Case of the Portuguese Schooner* "Labradora," *Victor de Barreda, Master.*

This vessel was found sailing under a coasting Passport granted by the Governor of Bissao, Colonel Honorio Pereira Barretto, which gave her permission to make voyages between Senegal and Cape Palmas, for 12 months, from the 23rd February, 1839. The Passport described Antonio Gomez as the Owner of the schooner, and that she was Portuguese.

The Muster-roll of the vessel, dated the same day as the Passport, showed her to have a crew of 11 persons, and to be bound on a coasting voyage from Bissao.

The vessel's Log-book proved that she had visited several places on this Coast, for the purpose of procuring wood and provisions, previous to going into the Rio Pongo for her cargo of slaves.

By the Bill of Sale of this vessel, it appeared that, in consideration of 600 milreis, paid to Caetano Jozé Nozolini, by Antonio Gomez, the former had transferred his interest in this vessel to the latter person, on the 22nd February, 1839. This document was executed in the presence of the Notary Public, João Lucas Vieira, of Bissao, and of two other witnesses, Nicolas Antonio Duarte, and Felipe

de Graça e Silva. On the 23rd February, the Governor of Bissao authenticated the signature of the Notary Public, by affixing his Certificate and the Seal of Government to the above-mentioned document.

The Charter-party in this case described Baltasar Pujol as engaging this schooner for the conveyance of a cargo, then ready in the Rio Pongo, to the Island of Cuba; and, on the cargo being safely disembarked, Pujol engaged to pay, as freight, the sum of 18,000 dollars (£4,500), he finding wood, provisions, and cooking utensils for the slaves. This agreement bears date at Bissao, on the 27th February, 1839, and states that the said freight shall either be paid to the Master of the schooner, or Francisco Rubier, of Matanzas.

There was a letter to Rubier, from Antonio Gomez, dated Bissao, 6th March, 1839, requesting him, in the absence of the Master of the schooner, to receive the freight as agreed upon above; and, on the same date also, a letter of instructions on the same subject, to the Master of the vessel, in which he is directed to pay, out of the said freight, the wages of the officers and crew; viz.—

| | Dollars. |
|---|---|
| To 10 sailors, at 90 dollars each . . . . . | 900 |
| 2 boys, at 60 dollars each . . . . . | 120 |
| 1 Mate . . . . . | 200 |
| 1 Pilot . . . . . | 350 |
| | 1,570 |

Leaving a balance on this transaction, when completed, of 16,430 dollars (£4,107). The balance was directed to be in part appropriated for a return cargo for the schooner to Bissao, and the remainder brought in money or bills upon England or America.

Victor de Barreda's Certificate of naturalization, as a Portuguese subject, was dated at the Cape Verd Islands, on the 27th December, 1838. He was therein described as having resided more than 20 years in the Portuguese dominions, and on several occasions had commanded Portuguese vessels; but had not, up to that time, become a Portuguese subject, having had no fixed place of residence. To this Certificate Barreda appears to have put his signature at the Cape Verds; a circumstance which admits of some question, as the document was not issued to him until the 24th January following, at Bissao, where he paid the fee of 60 reis for the seal, as appears by the endorsement to that effect.

The Marshal reported the arrival of the "*Labradora*" in this port on the 5th instant; and on the same day the Surgeon to the Courts made his report upon the state of the slaves on board this vessel. It appeared from the Surgeon's statement, that no deaths had occurred among the 251 slaves seized in the "*Labradora*," during her passage here, and that the general appearance of these people was good, there being only 11 whom he considered as requiring hospital treatment. They were in a very crowded state on board this vessel, and the Surgeon therefore recommended their early disembarkation.

On the following day, the 6th instant, the Seizor's Declaration having been filed in Court, with the schooner's papers duly authenticated, and the usual Monition issued, the landing of the slaves was effected, the sickly being sent to the African hospital at Kissy, and the healthy lodged in the liberated African department at Freetown.

Lieutenant Hill, Commander of Her Majesty's brig "Saracen," stated in his declaration that, being in the Rio Pongo on the 31st March, 1839, he detained the schooner "*Labradora*" for having a cargo of slaves on board, with whom the Master of the schooner declared he was bound to Cuba. The Master of the schooner also stated that it was his intention, if he had not been interrupted, to have embarked 300 slaves. Two of those which had been shipped were carried away in the schooner's boat by two passengers and a sailor, who made their escape previous to capture.

Victor de Barreda, the Master of the said schooner, was examined on the standing interrogatories by the Registrar on the 8th instant, and deposed as follows:—"He was born in Biscay, in Spain; has lived for 10 years in Bissao; is a subject of Spain, and has never been subject of any other state; is not married; he was appointed to the command by Antonio Gomez, a subject of Portugal, living at Bissao, from whom also he received possession there in the month of November last; first saw her at Bissao two years ago; does not know where she was built; thinks in America; he was present at the capture, which took place because there were slaves on board; the vessel sailed under Portuguese colours, and there were no others on board; the vessel is called the "*Labradora;*" previous to last November she bore the name of "*Vestal;*" she is of 72 tons burthen; there were 11 Officers and mariners, exclusive of witness; four of them Spaniards, and the remainder Portuguese, all hired and shipped by witness at Bissao in February last; neither he, nor any of the Officers or mariners, had any interest in the vessel or her lading; was Master on board; there was one passenger, named Gil, a Spaniard by birth, and a cook and seaman by profession, taken on board in the Rio Pongo, and destined to Havana; witness does not know on what business; he had no interest or authority in or over vessel or cargo; the last clearing port was Bissao, where the voyage began, to end at Cuba; the vessel had touched at the island of Bissagos for fowls, and in the Rio Pongo for slaves; the seizure was made by a man-of-war's boat, which was first seen at sunset on the last day of March, while the detained vessel was at anchor in the Rio Pongo, and her people occupied in shipping the slaves; capture took place within a quarter of an hour, and the vessel, being carried out of the Pongo by the Captors, in the course of two days fell in with the capturing ship, to which the boat belonged; the vessel's destination, by her papers, was the Coast as far as Cape Palmas, and subsequently Bissao: would have altered it to Havana on his own responsibility; there are no guns mounted on board, but there were 6 cutlasses, and 10 or 12 muskets, and a few parcels of ammunition, for defence against any rising of the slaves; no resistance was made to capture, nor were there any instructions for resisting or avoiding capture, or for concealing or destroying the vessel's papers; Antonio Gomez, from whom he received command and possession, was sole Owner of the vessel; he is a Portuguese by birth as well as allegiance; there was a Bill of Sale made by Caetan (Kyetan) in favour of Gomez at Bissao, in January or February last; witness does not know in whose presence; last saw it at that time; the price was 800 dollars; thinks it was paid; it was a fair equivalent; believes the transfer was truly made; knows nothing of private agreements for the return of the vessel to her former Owner; one Baltasar Pujol, a Spaniard, living and carrying on business, as witness has heard, at Havana, was Lader and Consignee of the slaves, who formed the only cargo; does not know for certain if he was also the Owner, but supposes him to have had, at all events, an interest in the adventure; knows of no other persons as Owners; the lading on the last voyage was lumber, shipped at Bissao for Cape

Verds; the vessel on the present voyage came out in ballast; there were 223 slaves, whose descriptions witness cannot give, taken on board in the Rio Pongo, and all from the shore; there were no deaths prev ous to capture, nor have there been any since; the vessel, after capture, was brought direct to Sierra Leone; the Passports and others papers were, and are, entirely true and fair; none of the papers were destroyed, concealed, or made away with; there are no writings relating to the vessel or cargo in any other country; there was no charter-party; neither vessel nor goods were insured; the vessel, with respect to her employment in trade, was under his own management; corresponds with no one."

The other witness produced by the Captor was Celestino Roberto, the Boatswain of the detained vessel, who was examined by the Registrar on the same day as the Master. The evidence of the Boatswain went to prove that he was ignorant of all that concerned the vessel, excepting the names of the vessel and her Master, and her colours, the number of her crew, and where they were shipped, and the proposed termination of the voyage with the cargo of slaves; on which points he confirmed the testimony given by the Master.

The replies of the Master to the standing interrogatories were in general contradictory of the ship's papers, notwithstanding he swore that the papers themselves were true and fair. As, however, the Master's false swearing could not in any way tend to refute the plain evidence in this case of the guilty employment of the vessel when seized, it will be unnecessary further to allude to the same.

Publication was granted on the 10th instant.

The Monition, issued on the 6th, was returned duly certified on the 13th instant, at the sitting of the Court for the hearing of this case, when the "*Labradora's*" condemnation was pronounced. At the same time the emancipation was decreed of 248 slaves, being the survivors of the 251 captured in this vessel.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

*Sierra Leone, April* 15*th*, 1839.

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No. 68.

*Her Majesty's Commissioners to Mr. Backhouse.*

*Sierra Leone, July* 1, 1839.
(*Received September* 30.)

SIR,

IN pursuance of the 75th clause of an Act passed in the fifth year of the reign of his late Majesty King George the Fourth, 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 cases of Portuguese vessels, adjudicated in the British and Portuguese Court of Mixed Commission at Sierra Leone in the period from the 1st of January to the 30th of June, 1839.

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

CLASS A.

## Enclosure in No. 68.

RETURN of PORTUGUESE VESSELS, adjudicated by the British and Portuguese Court of Mixed Commission, established at Sierra Leone, betwixt the 1st day of January and the 30th day of June, 1839.

| 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. | | | | | | | | |
| Violante . . . | Jozé Marcolino . . | 1838 28 Dec. | 7° 9′ N. | 12° 42′ W. | Schooner and 191 slaves. | Arthur Kellett, Esq., H.B.M. brig "Brisk." | 1839 10 January | 191 | .. | 191 | 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. |
| Gertrudes . . . | João Antonio Foro . | 28 ,, | 6° 51′ N. | 12° 54′ W. | Schooner and 168 slaves. | John L. R. Stoll, Esq., H.B.M. brig "Bonetta." | 10 ,, | 168 | .. | 168 | Ditto . . . . . | Ditto. |
| Magdalena . . | Jozé Cardozo . . . | 17 ,, | 0° 54′ N. | 5° 57′ E. | Schooner and 320 slaves. | Brunswick Popham, Esq., H.B.M. sloop "Pelican." | 17 ,, | 320 | 18 | 302[a] | Ditto . . . . . | Ditto. |
| Aurelia Feliz . . | Manoel de Jesus Silva | 10 ,, | 10° 51′ N. | 15° 45′ W. | Schooner and cargo. | Arthur Kellett, Esq., H.B.M. brig "Brisk." | 13 February | .. | .. | .. | Restitution . . . . | Schooner and cargo delivered up to the Master. |
| Rozalia Habaneira | Manoel Martins . . | 13 July | 18° 46′ N. | 81° 34′ W. | Schooner and 247 slaves. | Thomas Fraser, Esq., H.B.M. sloop "Sappho." | No sentence with respect to the vessel: but only with respect to the slaves on the 12th of March. | 247 | 24 | 223[b] | Sentence upon the vessel withheld, until her existence and position should be ascertained. | |
| Labradora . . . | Victor de Barreda . | 1839 31 March | Rio | Pongo. | Schooner and 251 slaves. | Henry Worsly Hill, Esq., H.B.M. brig "Saracen." | 13 April | 251 | 3 | 248[c] | 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. |
| Passos[d] . . . | João Antonio Roiz . | 8 April | 1° 45′ N. | 7° 43′ E. | Schooner and 87 slaves. | William Tucker, Esq., H.B.M. sloop "Wolverene." | 11 May | 87 | 6 | 81 | Declared liable to confiscation for having been engaged in the illicit traffic, and a part of her tackle and stores which was brought to Sierra Leone condemned therefor. | The condemned tackle and stores were sold by public auction, but the proceeds were not sufficient to liquidate the expenses incurred in the case. |
| Liberal . . . | Manoel Jozé Pereira da Conha. | 14 ,, | 11° 40′ N. | 16° 0′0″W | Schooner and 41 slaves. | Arthur Kellett, Esq., H.B.M. brig "Brisk." | 11 ,, | 41 | 1 | 40 | 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. |

[a] Eight men and one boy died after emancipation, but previous to their descriptions having been taken to be registered.
[b] The slaves in this case were landed at Honduras and the vessel sent to Jamaica.
[c] One man died after emancipation, but previous to his description having been taken to be registered.
[d] The vessel herself had been destroyed at Princes Island as unseaworthy.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

*Sierra Leone*, 1*st July*, 1839
(Signed) J. MILLER, *Acting Registrar.*

No. 69.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, October* 12, 1839.

ON the 16th ultimo the "Correiro" of Lisbon published in the Portuguese language two Notes, which Lord Howard de Walden was instructed some months ago to present to the Portuguese Government, on the subject of the African Slave Trade carried on under the flag of Portugal.

I transmit to you herewith one copy of the "Correiro," and I have to desire that you will cause the two Notes to be reprinted, and to be circulated as extensively as possible.

I am, &c.
(Signed) PALMERSTON.

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

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Enclosure in No. 69.

*Correiro of September* 16, 1839.

*Containing Portugueze Translations of the Notes addressed by Lord Howard to the Portugueze Minister, on the* 28*th April and* 5*th May*, 1839.

(See Class B, 1838-9, further series, pages 71 and 92.)

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No. 70.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, October* 12, 1839.

I LATELY received a Note from the Baron de Moncorvo, Her Most Faithful Majesty's Minister at this Court, enclosing the copy of a Circular Note which has been addressed by the Portuguese Minister for Foreign Affairs, to the Courts who were parties to the Treaties and Conventions which were concluded at the Congress of Vienna in 1815.

The object of that Circular is to complain of certain measures which the Parliament and Executive Government of Great Britain have recently determined to take, with a view to put down the Slave Trade hitherto carried on under the flag of Portugal; and the Portuguese Government represents the conduct of Great Britain towards Portugal in this matter as unprovoked, oppressive, and unjust, and as being a flagrant violation of the law of nations, and a direct attack upon the rights of an independent State.

Her Majesty's Government have deemed it expedient to communicate to the Courts to which the Portuguese Note has been addressed copies of the papers which contain the substance of the negotiation between Great Britain and Portugal on this matter; and I transmit for your information a copy of M. Moncorvo's Note to me, and of my Note to the Ministers accredited to this Court by the Powers who were parties to the Treaties of the Congress of Vienna in 1815.

I am, &c.
(Signed) PALMERSTON

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

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Enclosures in No. 70.

*First. Baron Moncorvo to Viscount Palmerston, London, August* 14, 1839.

*Second. Viscount Palmerston to General Alava and others, Foreign Office, September* 30, 1839.

(See Class B.)

No. 71.

*Her Majesty's Commissioners. to Viscount Palmerston.*

*Sierra Leone, July* 31, 1839.
(*Received October* 31.)

My Lord,

We have the honour to acknowledge your Lordship's Despatch of the 28th of May, 1839, transmitting a copy of a Despatch from Her Majesty's Consul at Lisbon, on the subject of an instruction which had been addressed by the Portuguese Government to the different Custom-houses of Portugal, warning them against some foreign vessels suspected of being about to assume the Portugese flag for the purpose of engaging in the Slave Trade.

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

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

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No. 72.

*Viscount Palmerston to Her Majesty's Commissioners.*

Gentlemen,

*Foreign Office, December* 16, 1839.

I have referred to Her Majesty's Advocate-general your Despatch marked Portugal, of the 14th of February, 1839, containing the Report of the case of the "*Aurelia Feliz*," and I have the satisfaction of informing you, that there can be no doubt that the sentence pronounced by you, ordering the release of that vessel, was perfectly correct.

The vessel was certainly not engaged in the illegal traffic in slaves, and it would have been directly contrary to the stipulations of the Treaty with Portugal, to have condemned her merely for having a slave on board in the capacity of seaman or cabin boy.

I am, &c.
(Signed) PALMERSTON.

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

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No. 73.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, March* 16, 1839.
(*Received December* 16.)

My Lord,

With reference to our Despatch marked Portugal, of the 14th ultimo, reporting the restoration of the Portuguese schooner "*Aurelia Feliz*," Manoel de Jesus Silva, Master, we have now the honour of inclosing to your Lordship our Report of the second part of the case of that vessel, embracing the award of costs, damages, and expenses, decreed against the Captor for his illegal proceedings.

The Claimant's demand for demurrage having been refused, the Registrar assessed the other damages at the sum of £109. 3*s.* 10*d.* This award was approved and unconditionally confirmed by the Court, the usual receipts in triplicate being furnished to the Claimant, to enable him to recover the amount thus granted to him.

We beg leave to enclose a copy of the Registrar's Report.

We have, &c.
(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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## First Enclosure in No. 73.

*Report of the Second Part of the Case of the Portuguese Schooner* "Aurelia Feliz," *Manoel de Jesus Silva, Master.*

THE first part of the case of the "*Aurelia Feliz*" was reported in our Dispatch, marked Portugal, of the 14th ultimo; and the vessel having been restored to the Claimant on account of her illegal detention, it was referred to the Registrar to ascertain the amount of costs, damages, and expenses to which the Claimant was entitled.

It was not until the 27th ultimo that the claimant's schedule of damages was reduced to such a form that it could be admitted by the Court. The Registrar then at once entered into its examination, summoning the Proctors on either side to be present, and to urge their arguments and proofs in support or diminution of the different charges made.

As the fate of several of the items depended upon the decision which might be given with respect to the claim of demurrage, it was determined to take the question of demurrage separately, as in the case of the "*Pepita*," Class A. 1835, page 34.

The Court eventually decided against the Claimant's right to demurrage, though with considerable reluctance. There was one circumstance which distinguished the case of the "*Aurelia Feliz*" from that of every other vessel which had hitherto been restored by a sentence of the Mixed Courts. In every other case the restored vessel, although captured under such circumstances as would not warrant her condemnation, was shown to have been engaged in, or destined for, the Slave Trade, at the time of her seizure; and exhibited undoubted proof of the illegal object of her voyage, either by the actual presence of a cargo of slaves, or by the preparations which were made to receive them; and even in the case of the "*Atafa Primo*," (Class A. 1830, page 40,) relied on by the Captor's Proctor, the Commissioners clearly admitted that she was fitted and equipped for the Slave Trade, having leg-irons, coppers, and spare plank on board, as acknowledged by the Master. But the "*Aurelia Feliz*" afforded no such indications of slave-trading intentions; for neither was any slave shipped "for purposes of the traffic," in the particular voyage in which she was captured, nor was any portion of a slaving equipment discovered on board of her.

It seems never to have been contemplated by the Commissioners, who pronounced judgment with respect to the demurrage claimed for restored vessels, the size of which was less than 100 tons, that a vessel might be seized and prosecuted in these Courts, against which the averment even of slave-trading *intentions* could not be in any degree supported. In this condition was the "*Aurelia Feliz*." She was apparently a fair trader, improperly captured in the prosecution of a legal voyage; and no question could have arisen as to her right to claim and receive a demurrage for her detention, if she had been of the size of 100 tons or upwards.

At Class A. 1835, page 35, the following dictum was pronounced by the Commissioners who adjudicated the case of the "*Pepita*." "There are only two grounds upon which demurrage can be withheld, in cases of restitution, either of which is sufficient. One is, the Captor having been led into error by a voluntary and reprehensible fault on the part of the Captain of the detained vessel; and the other is, the detained vessel being of a less burthen than 100 tons." The *first* reason evidently did not apply in the present case; and the only question was, whether the second reason would exclude the "*Aurelia Feliz*" from receiving demurrage, owing to her being of only 50 tons burthen.

The claimant's Proctor forcibly urged the hardship sustained by a *fair trader*, in being denied compensation for his unjust detention, merely because his vessel was a small one. The remark of Commissioner Fitzgerald: "That justice, and reason, and feeling, should withhold us from encouraging the employment of small *slave vessels*," cannot of course apply to small *merchant vessels*, which of course enjoy the same moral right to redress for the injuries inflicted on them, whether they are 50 tons smaller or 50 tons larger, than the measurement mentioned in the Eighth Article of the Regulations annexed to the Portuguese Treaty. But while we could not avoid recognizing the moral justice of the Claimant's demand for demurrage, we could not go beyond the strict provisions of the Treaty in affording him relief. If the Treaty never contemplated the possibility of a seizure like that of the "*Aurelia Feliz*," it was not for us to supply the deficiency; and the memorable warning of the late Mr. Canning is particularly applicable to cases like the present, where justice seems to demand that we should, to a certain degree, "have gone beyond the terms of the Treaty." "It is the duty of the Commissioners," Mr. Canning says, "to decide conscientiously according to the Treaty, and to rely on the wisdom of the Legislature to provide a remedy for the inconveniences that might result therefrom."

For the inconvenience suffered by the Claimant of the "*Aurelia Feliz*," we were of opinion that the Treaty supplied no remedy, so far at least as demurrage was concerned. He is, however, authorized by the Thirteenth Article of the Regulations to demand reparation through his Government, and thus to obtain satisfaction for his losses by other means.

The sentence of the Court was, that the Portuguese Decree had not awarded demurrage to vessels of any description being of a less burthen than 100 tons; and that the item for demurrage should therefore be struck out of the Claimant's schedule.

The Registrar soon afterwards completed and presented his Report, a copy of which accompanies this document, and the Court confirmed unconditionally the amount awarded by him, 109*l.* 3*s.* 10*d.*, for which triplicate Certificates in the usual form were granted under the Seal of the Court. The ship's papers were then given up, the facts of the prosecution and release having been first indorsed on the vessel's Passport, and an abstract of the papers having been made and lodged in the Registry.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

*Sierra Leone, March* 16, 1839.

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## Second Enclosure in No. 73.

*Portuguese Schooner* "Aurelia Feliz," *Manoel de Jesus Silva, Master.*

To the trusty and well-beloved Henry William Macaulay, Esq., Her Britannic Majesty's Commissary Judge, and Walter William Lewis, Esq., Her Britannic Majesty's Commissioner of Arbitration, acting in the absence of either of the Commissioners on the part of Her most faithful Majesty the Queen of Portugal.

Whereas by your Decree of the 13th day of February, 1839, you pronounced the said vessel and cargo to be restored to the Claimant for the use of the Owners and Proprietors thereof, and referred it to your Registrar to ascertain the amount of the costs of suit, and such special damages and expenses only as have arisen by the detention of the said vessel by Her Britannic Majesty's brig "Brisk," with directions that he should report the same to you: Now I do most humbly report, that having received an account of the same brought in on behalf of the Claimant, and having taken it together with what was urged by the Proctors on both sides into consideration, I am of opinion that the Claimant is entitled to the several sums mentioned in the Schedule hereunto annexed. All which is humbly submitted by

(Signed) J. MILLER, *Acting Registrar.*

*Sierra Leone, March* 8, 1839.

*In the Case of the Portuguese Schooner* "Aurelia Feliz," *Manoel de Jesus Silva, Master.*

*Here follows a Schedule of Costs, Damages, and Expenses,*

Amounting to the sum of one hundred and nine pounds three shillings and ten pence.

(Signed) J. MILLER, *Acting Registrar.*

*Sierra Leone, March* 8, 1839.

These are to certify that the foregoing is a true and exact copy of my report of costs and damages in the case of the Portuguese schooner "*Aurelia Feliz,*" whereof Manoel de Jesus Silva was Master.

In faith and testimony whereof I have hereunto set my hand and affixed the seal of the Mixed Commissions, at Freetown, in the colony of Sierra Leone, this 13th day of March, in the year of our Lord 1839.

(L.S.) (Signed) J. MILLER, *Acting Registrar.*

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## No. 74.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, May* 27, 1839.

(*Received December* 16.)

My Lord,

With reference to your Lordship's Despatches of the 15th of December, 1838, of the 17th of December, 1838, of the 23rd of February, 1839, and of the 11th of May, 1839, on the subject of the slave-schooner "*Flor de Loanda,*" Manoel Antonio Teixeira Barboza, Master, captured by Her Majesty's sloop "Rover," Charles Eden, Esq., Commander, a short distance from Rio harbour, on the 11th of April, 1838, we have the honour to inform your Lordship, that Lieutenant Whaley Armitage, who served as Mate on board the "Rover," during her last commission, and was left in charge of the "*Flor de Loanda,*" at Rio, when the "Rover" proceeded to England, arrived here a few days since as a passenger on board Her Majesty's brig "Water Witch," with the purpose of acting upon the instructions which he had received, by bringing the "*Flor de Loanda*" before the British and Portuguese Court of Mixed Commission.

We should, of course, have admitted her to prosecution in the British and Portuguese Court, had any petition to that effect been presented; but no attempt whatever was made to prosecute the case; and we were informed by the Proctor, to whom Mr. Armitage applied, that no ship's papers or witnesses had been forwarded to Sierra Leone, and that he had strongly urged the imprudence of libelling the "*Flor de Loanda,*" even if those deficiencies could be supplied.

The case of the "*Maria da Gloria*" (Class A., 1834, page 31 to 45) is exactly parallel in every respect to that of the "*Flor de Loanda.*" Both vessels were captured off the harbour of Rio de Janeiro; both had a cargo of slaves on board, shipped from one of the Portuguese dominions south of the Line; both were prosecuted as Brazilians, before the British and Brazilian Court of Mixed Commission at Rio, which, with respect to both, affirmed their professed Portuguese character by declaring itself incompetent to decide upon their capture.

The "*Maria da Gloria,*" having been pronounced by the Rio Commissioners not to be a Brazilian vessel, came before the Sierra Leone Commissioners (as the "*Flor de Loanda*" would have done, had she been prosecuted) under a Portuguese character; and the "*Maria da Gloria*" having been restored with damages against her Captor, it is difficult to conceive on what grounds the Captor of the "*Flor de Loanda*" anticipated a different fate, from a precisely similar prosecution. Not a single alteration, even of a word, had taken place in our Slave Trade Treaties with Portugal, in the intermediate period, or since your Lordship declared, with respect to the capture in question (Class B., 1834, page 18), that "the Treaty permits the

detention of Portuguese slave-vessels in those cases only in which they are found to the north of the Line."

Had the "*Flor de Loanda*" been prosecuted in the British and Brazilian Court of Mixed Commission established at this place, in the first instance, we should have condemned her without doubt or hesitation, on the same principles which have guided our decisions in cases too numerous to mention—That, by the established rules of international law, national character may be impressed by mercantile residence and course of trade; and that these rules cannot be set aside by the Certificate (be it given in good faith or otherwise) of the Consular Agent of any Power.

But we are not in a condition to reverse the decision of the Rio Commissioners, that the "*Flor de Loanda*" did not possess a Brazilian national character; and if that vessel had been prosecuted before us as a Portuguese vessel, she must necessarily have been restored, on the same approved grounds which led to the restoration of the "*Maria da Gloria*," in 1834.

We have, &c.

(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

# SIERRA LEONE. (*Brazil.*)

No. 75.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, April* 15, 1839.
(*Received July* 16.)

My Lord,

We have the honour to acknowledge your Lordship's Despatch, of the 23rd of February, 1839, transmitting, for our information and guidance, a copy of an opinion given by Her Majesty's Advocate, Attorney and Solicitor-General, relative to the case of the slave-vessel, the "*Flor de Loanda.*"

We beg leave to thank your Lordship for this communication, and to assure your Lordship that, whenever the case may come before us, it shall receive our most anxious and attentive consideration.

We have, &c.
(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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No. 76.

*Her Majesty's Commissioners to Mr. Backhouse.*

*Sierra Leone, July* 1, 1839.
(*Received September* 30.)

Sir,

We have the honour to report that no case has come before the British and Brazilian Court of Mixed Commission, for adjudication, from the 1st of January to the 30th of June, 1839.

We have, &c.
(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

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No. 77.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Sierra Leone, September* 2, 1839.
(*Received November* 14.)

My Lord,

We have the honour to forward, inclosed to your Lordship, our Report of the case of the brig "*Emprehendedor,*" Joaquim Telles de Menezes, Master, condemned in the British and Brazilian Court of Mixed Commision, on the 31st ultimo, together with copies of the judgments delivered on the 28th and 31st ultimo, with respecting to the case of this vessel, the former in the British and Spanish, and the latter in the British and Brazilian Court.

The "*Emprehendedor*" was captured at anchor in the roadstead of Whydah by her Majesty's sloop "Wolverene," William Tucker, Esq. commanding, on the 23rd of June last, and arrived in this harbour on the 10th of the following month; but it was not until the 16th of July that her prosecution in the British and Spa-

nish Mixed Court of Justice commenced. The vessel was defended, much evidence was taken, and the case was ripe for trial at the beginning of last month, but the illness of one or other of the parties, who alone could have presided at the sitting of the Court, delayed the hearing of the cause until the 28th ultimo, on which occasion it was decided that the Captor had failed in establishing his allegation of the Spanish character of the detained vessel. All the evidence indeed tended to show that the "*Emprehendedor*" was neither Spanish nor Portuguese, but purely Brazilian; and that, from the day when she was built and bought, until the moment of her capture, she had been engaged exclusively in Brazilian trade. The present voyage also, the witnesses deposed, was to end where it began, at Bahia, where the crew were hired and shipped, where the Owner and Lader of the outward cargo resided, and where the return cargo was to have been discharged.

In our Despatch to your Lordship of the 31st December, 1838, we pointed out the immense advantages which would accrue from the power to capture Brazilian vessels on the ground of equipment for the Slave Trade. Such a power, it was remarked, "whilst it would necessarily embrace all Brazilian vessels, would at the same time equally affect all apparent Portuguese vessels engaged in Brazilian Slave Trade; and in conjunction with the equipment articles of Spain and the Netherlands, would give full effect to the four Treaties we are appointed to administer, so far at least as the flags of the four contracting powers are concerned." To Portugal, it is true, would still be left the undisturbed prosecution of her Slave Trade between one Portuguese settlement and another on the Coast of Africa south of the line, and a perfect exemption from seizure would still be enjoyed by Portuguese vessels engaged, even north of the line, in carrying on the same traffic between the African Coast and the neighbouring Portuguese Islands, unless they should happen to be encountered with their slaves actually on board. But the seizure of Brazilian vessels under the Portuguese flag, on the mere ground of equipment, will totally put an end to what may be called the foreign Slave Trade of Portugal. We have long condemned as Spanish, under the equipment article with Spain, all nominal Portuguese vesels engaged in the Slave Trade of Cuba; and if the same measure be adopted with respect to nominally Portuguese vessels engaged in the Brazilian Slave Trade, the flag of Portugal will be rendered utterly valueless to those illicit slave-dealers, to whom, until within the last year, it afforded the most complete protection.

The full perception of these advantages led us attentively to consider the whole subject. We have examined with great care the series of correspondence between Great Britain and Brazil, together with the Treaties and Conventions subsisting between the two Powers, and the decisions of the Admiralty and Vice-Admiralty Courts, so far as they apply to the matter in question, and in stating that the decision to which we have come is, that every Brazilian vessel, whose employment in the illicit traffic is evidenced by her slaving equipment, is liable to seizure and confiscation under the comprehensive terms of the first Article of the Convention between Great Britain and Brazil, which declares it to be "unlawful for the subjects of the Emperor of Brazil to be concerned in carrying on the Slave Trade under any pretext, or in any manner whatever," we anxiously and earnestly hope that this decision will meet with your Lordship's approval and sanction.

We are fully sensible of the serious responsibility which we have thus undertaken; but in this instance we had to choose between restoring the "*Emprehendedor*" with very heavy damages against her Captor, or acting at once upon our honest and unhesitating conviction, that both the letter and spirit of the Brazilian Treaty warranted us in pronouncing a sentence of condemnation. We beg leave to refer your Lordship to our judgment for the reasons on which our decision was grounded.

The first and necessary result of the course which we have pursued will be the detention and subsequent condemnation of a large number of Brazilian slave-vessels, even long before any reply to this communication can be received from your Lordship; and we consider that we are not too sanguine in anticipating a harvest of at least thirty Brazilian prizes before the present year closes.

We have, &c.

(Signed) H. W. MACAULAY.
R. DOHERTY.

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

## First Enclosure in No. 77.

*Report of the Case of the Brig* "Emprehendedor," *Joaquim Telles de Menezes, Master, captured under Portuguese Colours.*

THE facts of this case are so fully adverted to in the two judgments (copies of which accompany this Report), that it will not be necessary to enter into detail here so fully as we usually do.

The "*Emprehendedor*" was supplied with a Princes' Island Passport, dated on the 20th of December, 1838, at which time she was bound to Bahia, with a crew of 32 men. Her Owner was said to be the present Master, Menezes: and she was supplied with an armament of two 12-pounder, and two 18-pounder guns. This Passport was visaed at Bahia, by the Portuguese Consul, Francisco Jozé de Noreira Frital, on the occasion of the vessel clearing out, as he states, for St. Thomas' and Princes' Island; and a warning is added against any breach of the Portuguese Decree of the 10th of December, 1836.

Menezes claims to be considered Owner, by virtue of a Bill of Sale, purporting to be executed at Princes' Island, on the 6th of October, 1837. The seller was Francisco Felis da Souza, of Whydah, the notorious Chachá, one of whose daughters Menezes married.

There is a Muster-Roll, certified by Consul Frital, on the 17th of April, 1839, which mentions Princes' Island and the *Costa da Mina* as the vessel's destination; and the Manifest of the cargo, which was certified by the same party, names only Princes' Island as the place where the voyage was to end; whereas, in the endorsement on the vessel's Passport, mentioned above, Frital declared that the "*Emprehendedor*" was proceeding to *St. Thomas*' and Princes'. This circumstance will serve to show the value of the Certificates of this functionary, who, in three different documents, one granted on the 17th, another on the 24th, and the third on the 25th of April, 1839, describes and authorizes three totally distinct voyages.

The "*Emprehendedor*" cleared out from Bahia on the 25th, and sailed on the 27th of April last, having been 50 days in that port; but, instead of steering either for St. Thomas' or Princes', she sailed direct for the roadstead of Whydah, and was captured immediately after her arrival there, by Her Majesty's sloop "Wolverene," William Tucker, Esq., commanding, on the 23rd of June, and was immediately sent up to Sierra Leone.

The "*Emprehendedor*" arrived here on the 10th of July; but owing to the immense number of papers found on board of her (upwards of 200), and owing to the large amount of business which engaged the attention of the Captor's Proctor at the time, it was the 16th of July before the case was admitted into the British and Spanish Mixed Court of Justice. The papers were then received, authenticated by the Affidavit of the Prize-master; the Captor's Declaration was filed, a Monition issued, and the witnesses in preparatory were summoned for the following day.

The following is the substance of the Captor's Declaration:—"I William Tucker (b), Commander of Her Britannic Majesty's sloop 'Wolverene,' hereby certify that, on the 23d day of June, 1839, at Whydah, I detained at anchor the vessel named the '*Emprehendedor*,' under Portuguese colours, armed with four guns, said to be commanded by Joaquim Telles de Menezes, but really commanded by Justo Arambalza, who passes for First Mate or Pilot, who declared her to be bound from Bahia to Whydah, with a crew consisting of 30 men. She is detained for being Spanish property, under the equipment article of the Spanish Treaty of the '28th of June, 1835,' having on board a large quantity of plank for a slave deck, a large quantity of jerk beef and farina for feeding slaves, sets of patent boilers for shipping on the apparatus for cooking, a large quantity of copper mess-kits, and tins for supplying slaves with water, a large quantity of casks for water, &c. &c.

The Master, Joaquim Telles de Menezes, deposed, in reply to the standing interrogatories, "that he was born at Pernambuco, Brazils, has lived eighteen years at Whydah, on the coast of Africa, is a subject of Portugal, and has never been subject of any other state, is married, and his wife and family reside with him at Whydah; that he appointed himself to the command of the vessel, being owner of her; that he received possession of the vessel on the 6th of October, 1837, from his father-in-law, Francisco Felis da Souza, who lives at Whydah, and is a subject of Portugal; that he first saw the vessel three years ago at the Cape Verde Islands; that she was built in North America; that he was not present at the time of capture, which took place because the vessel was alleged to be engaged in the Slave Trade; that the vessel sailed under Portuguese colours, and there were no others on board; that the vessel is called '*Emprehendedor*,' and he never heard of her bearing any other name; that she is 240 tons burthen; that there were 29 Officers and mariners on board, exclusive of witness, all Portuguese, and all hired and shipped by witness at Bahia, in March last; that none of the Officers or mariners, except himself, had any interest in the vessel; that he was Master on board; that there were no passengers; that the voyage began, and was to end, at Bahia, which was the last clearing port; that the vessel called at Whydah to discharge her cargo, and take on board some ivory and palm-oil for Princes; that he himself is sole owner of the vessel; that there was a Bill of Sale, (which witness now produces,) made in his favour, at Princes Island, on the 6th of October, 1837, by Francisco Felis da Souza, in presence of João Telles da Faria, Jacintho Pereira Carneiro, and Edouardo Fernandez; that the price, (3,500 dollars,) was paid, and the transfer was truly made; that André Pinto da Silveira, a Brazilian, born, residing, and carrying on business, at Bahia, was the sole owner, lader, and consignee of the cargo; that bulk was no where broken during the voyage; that there were about 120 rough planks on board, which he was carrying to Princes for the wood-work of a house which he is building there."

The Spanish Mate, Justo Arambalza, deposed "that he first saw the vessel at Philadelphia, four years ago; that she is American built; that the present voyage began, and was to end, at Bahia; that he knows there is a great deal of spare plank on board, but he has not seen it, and cannot describe it."

The above evidence having been published, a Commission for the survey and inspection of the fittings of the "*Emprehendedor*" was prayed for; but owing to the closeness with which the cargo was stowed, and the very boisterous and inclement state of the weather, it was some time before a satisfactory survey could be held. It was then ascertained that a complete slave-deck, marked, numbered, and fitted for laying, was on board; and this fact having been established, it was thought unnecessary to expose the cargo to injury from the incessant rain by prosecuting a further search.

Previous to the return of the Monition into Court on the 23d of July, a claim was filed by Joaquim

Telles de Menezes, the alleged Master and Owner, on the ground that his vessel was Portuguese, and was improperly captured under the guns of the *Portuguese* fort of Whydah.

The Captor's Proctor then brought forward as a witness, to prove the Spanish character of the "*Emprehendedor*," Joaquim Antonio, Master of the lately condemned vessel "*Casoalidade*," who deposed to the following effect, in reply to special interrogatories approved by the Court:—"That he has known the brig '*Emprehendedor*' during the last two years and a half; that he first saw her at Whydah; that he *once* saw her in the Havana; that he does not know how many voyages she may have made to Havana; that he only knows of *one* such; that he knows the owners of the vessel, who are the brothers Zangrony, of whom one resides at Havana, and the other at Whydah, and both of whom are Spanish."

On being cross-examined a few days afterwards, the last witness stated, "that he cannot state the exact date at which he saw the detained vessel at Havana, but it was 18 or 19 months ago; that he does not know when the brothers Zangrony came into possession of the '*Emprehendedor*,' but they have owned her for the last four years to witness's knowledge."

The Claimant's Proctor, in order to do away with the effect of this evidence as far as possible, called three witnesses. The Master, Menezes, deposed "that he never saw or heard of the witness Joaquim Antonio, until his arrival in this colony; that he swears that the brig '*Emprehendedor*' never did belong to the brothers Zangrony; that he considers Joaquim Antonio to be a false witness, prompted by malice, because he (Menezes) declined the offer of his services as Mate, in the event of the '*Emprehendedor*' being restored."

The Marshal, Walter Large, Esq., deposed "that Joaquim Antonio tendered information to witness, and solicited money for such information when he tendered it; that he (Antonio) had previously applied to witness for employment, pleading his very destitute condition."

Mr. Large being totally unconcerned in the progress of the case, referred Antonio to the Captor's Proctor, who further deposed, with respect to the same subject, "that Joaquim Antonio did not solicit money from witness for the information which he gave respecting the brig '*Emprehendedor*,' and that witness has not, directly or indirectly, given any money to Antonio."

With this the case was closed, and a joint petition was presented from the Proctors on both sides, on the 30th of July, praying for a day of trial. Mr. Macaulay was, however, confined to his house by severe indisposition, and the subsequent illness of his honour the Chief Justice, (which ended in his death,) and of the Colonial Secretary, the only other persons who could act on such an occasion, caused the hearing to be deferred until the 28th ultimo, when the Court decided that the Captor had failed in affixing to the "*Emprehendedor*," a Spanish character; and that, on the contrary, she was clearly proved to be a Brazilian vessel. But, instead of pronouncing a sentence which would restore the detained property to the Claimant, and which would inflict damages on the Captor for its unwarranted detention, it was left open to the Captor's Proctor to withdraw the case from the Spanish Court, and prosecute it in the British and Brazilian Court of Mixed Commission, if he considered that his client had a prospect of success before the latter tribunal. This course was immediately pursued; and within three days from the first decision in the Spanish Court, a second decision was given in the Brazilian Court, comdemning the "*Emprehendedor*" for a breach of the first Article of the Brazilian Convention, by her having on board a complete equipment for the illegal traffic in slaves. All the evidence previously taken was made available in the second prosecution; the usual Monition, returnable in three days, was published; and the Claimant again came forward to defend his vessel against this new mode of attack.

The reasons for the course pursued by the Court in this instance being set forth at length in the annexed copies of their judgments, it will not be necessary here to repeat them.

(Signed) W. H. MACAULAY.
R. DOHERTY.

*Sierra Leone, September* 2, 1839.

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## Second Enclosure in No. 77.

*Judgment given in the Case of the Brig* "Emprehendedor," *Joaquim Telles de Menezes, Master, in the British and Spanish Mixed Court of Justice.*

THE "*Emprehendedor*" was supplied with a Portuguese flag and Pass at the time of her capture; and it is not averred by the Captor that she either had slaves actually on board at the moment of detention, or that a slave or slaves had been previously shipped at any period of the present voyage.

A sentence of condemnation is nevertheless sought at the hands of this Court, on the ground that the "*Emprehendedor*" was in fact a Spanish vessel equipped for the Slave Trade, in contravention of the Tenth Article of the Spanish Treaty. The two points therefore for the Captor to establish to make out his case are, first, the Spanish national character of the detained vessel; secondly, the presence of a slaving equipment on board of her.

Out of a mass of upwards of 200 papers, one only (No. 21) is produced to show that the present voyage had any connexion with a Spanish port. This is a letter from Jozé Francisco Magarom, dated at Bahia on the 24th of April, 1839, and addressed to Joaquim Jozé Duarte Silva at Havana, in which the writer states that on the present voyage "the brig '*Emprehendedor*' was going from Bahia to the Coast, and from the Coast to Havana." But allowing for a moment the correctness of this representation, which was made by a person who, for anything that appears to the contrary, had no connexion whatever with the proceedings of the vessel, what does it prove? not a course of trade surely; for, although the present voyage might have ended at Havana, it confessedly began at Bahia, a port at which all the former voyages of the "*Emprehendedor*," so far as we can trace them, both began and ended. If we look to papers 3, 5, 7, 9, 112, 137, 177, 183, 195, 202, and others, we find that, on the purchase of the "*Emprehendedor*" at Philadelphia, in 1835, she came direct from that port to the Cape Verde Islands, and thence to Whydah; that she left Whydah on the 1st, and arrived at Bahia on the 21st of May, 1836; that she again sailed from the Coast on the 21st of October, and arrived at Bahia on the 12th of November, 1837. She is then found at Bahia on the 9th of August, 1838, on which day she sailed for Whydah, and commenced her return voyage to the same port of Bahia on the 25th of December last. She finally sailed from Bahia, on the present voyage, on the 27th of April, 1839; and both the Captain and Mate positively swear that the voyage was to end at the same place.

The Owner, Lader, and Consignee of the cargo was the well-known André Pinto da Silveira, born, residing, and carrying on business at Bahia, where also the crew were all hired and shipped. If, therefore, the national character of the vessel is to be deduced from the course of trade in which she has hitherto almost invariably, if not exclusively, been engaged, she cannot be deemed a Portuguese; she cannot be deemed a Spaniard; she must be pronounced to be a Brazilian.

It is not, however, solely on course of trade that the Captor's Proctor has relied to establish the Spanish character of the "*Emprehendedor.*" He has referred to papers No. 174, 177, and 178, to show that in the month of August, 1837, De Souza, alias Chachá, of Whydah, and Zangrony of the same place were sole Owners of the detained vessel. Zangrony we admit to be a Spaniard; it is equally certain that the other alleged Owner, De Souza, is a Portuguese. It would therefore be manifestly unfair to deduce a simple Spanish character from such a joint ownership; and to decide that the Portuguese flag, which the "*Emprehendedor*" wears in right of the birth-place of one Owner, must be replaced by the Spanish flag on account of the birth-place of the other Owner, when we find too that the course of trade in which the vessel is engaged is neither Portuguese nor Spanish, but purely Brazilian.

It seems to be thought that this difficulty has been obviated by the evidence of Joaquim Antonio, lately Captain of the Flag on board the condemned slave-vessel "*Casoalidade;*" but we consider the evidence thus referred to totally inadmissible. The witness, from a spirit of animosity against the Captain of the "*Emprehendedor,*" on account of the latter having declined to employ him as a Mate, volunteers, and solicits money, for such information as he considers would condemn the vessel. In his first examination he swears that he saw the "*Emprehendedor*" at Whydah, two years and a half ago, on which occasion she carried slaves from the Coast to Cuba. In his second examination he swears that it was eighteen or nineteen months ago (that is in December, 1837, or January, 1838); that the "*Emprehendedor*" was at Havana, whereas No. 9, the Log-book, shows that she sailed from Whydah for Princes' on the 25th of September, 1837, and that she sailed from Princes' for Bahia on the 21st of October, 1837, reaching the latter place on the 12th of the following month of November. No. 137 and No. 177, both of which are translated, prove, in like manner, that Bahia was the port of return at the period to which the evidence of this witness relates. It may further be remarked that an isolated voyage from Bahia to Whydah, and from Whydah to Havana instead of to Bahia, even if it were proved, would not establish such a course of Spanish trade as would impress a Spanish character on the vessel so employed. Nor can it be allowed that the assertion of a perjured witness like Antonio, as to the ownership of the vessel being in the brothers Zangrony (of whom one resides at Havana, and the other at Whydah) should avail against the statement of J. J. Zangrony himself, who says, in the letter No. 174, that De Souza and himself were sole and joint Owners of the vessel, at a subsequent period to that referred to by the witness; and against a still later Bill of Sale, duly executed, and the truth of which there is nothing valid to impeach.

Thus, while a Brazilian course of trade has been clearly made out, the Captor's Proctor has altogether failed in establishing his allegation of a Spanish Ownership.

The proof of equipment, though sufficient, is not so full as it might have been, and as it might still be rendered on the removal of the cargo. A slave-deck, marked, numbered, and fitted for laying, is however proved to be on board; and this circumstance would of course have guided our judgment in this Court, if the Captor's Proctor had succeeded in proving the "*Emprehendedor*" to be Spanish.

We now come to the claim for the restoration of the detained vessel; and if the ground taken by the Captor's Proctor was in some respects untenable, that taken by the Claimant's Proctor is altogether so.

It was optional for the latter gentleman to have received the "*Emprehendedor*" either in her professed character of a Portuguese vessel, or in the Spanish character which the Captors have endeavoured to affix upon her; and to have urged that, neither as Portuguese nor Spaniard, was she liable to seizure and condemnation. The "*Emprehendedor*" has been defended as a Portuguese vessel; but not on the ground that she had no slaves on board at the time of capture, and had received none on board previously; but because she was captured at anchor off Whydah, an alleged Portuguese settlement, and because the Second Article of the instructions says:—"No merchantman or slave-ship can, on any account or pretence whatever, be visited or detained whilst in the port or roadstead belonging to either of the two high contracting Powers, or within cannon-shot of the batteries on shore." Had the Claimant's Proctor turned to the printed correspondence (the text-book of this Court), he would have found, at Class A., 1827, page 65, that the "*Trajano,*" prosecuted in the British and Portuguese Court, was captured, like the "*Emprehendedor,*" at anchor off Whydah, "where there is a Portuguese fort," as the Master of that vessel, Jozé da Silva Rios, says in his evidence. Also in the claim of the Master of the "*Trajano,*" he made oath "that the said vessel, '*Trajano,*' reached Whydah, and was brought to anchor under the fort, which he believes is called Fort St. Juan, the said fort being in the possession of the Crown of Portugal."

With respect to this defence, the Commissioners (Lumley and Ruffell) remark, page 67:—"The mention of a Portuguese fort being at Whydah can have no weight in the case; it has long been abandoned, and left to the occupation of one Chachá, *alias* De Souza, whose name. as connected with slaving transactions from that port, is constantly before the Courts." And it will be seen, at page 30 of Class B., for 1829, that this view of the case was amply approved and confirmed by Lord Aberdeen, then Secretary of State for Foreign Affairs. The plea, therefore, urged by the Claimant is altogether inadmissible.

All that has been satisfactorily established is, a Brazilian course of trade, and an equipment for the Slave Trade. Under these circumstances, an immediate and definitive sentence, in the British and Spanish Court, would of course restore the vessel to the Claimant, with costs and damages for her detention. But this we are unwilling to pronounce at once, as it is still open to the Captor's Proctor to petition that the papers now filed may be withdrawn from the Spanish and admitted in the Brazilian Court; and we shall be happy to hear any reasons which that gentleman may urge on a future occasion, to show that a vessel situated like the "*Emprehendedor*" may, under the terms of the Brazilian Treaty, and the changes which have taken place since it was entered into, be confiscated; and we shall be equally glad to listen to whatever the Claimant may urge, for the purpose of proving that slave equipment alone will not avail to condemn an acknowledged Brazilian vessel.

*Sierra Leone, August* 28, 1839.

## Third Enclosure in No. 77.

*Judgment given in the case of the Brig* "Emprehendedor," *Joaquim Telles de Menezes, Master, in the British and Brazilian Court of Mixed Commission.*

At the last sitting of the Court it was decided that a Brazilian national character, and an equipment for the Slave Trade, had been clearly proved against the "*Emprehendedor.*" It is now our duty to consider whether the establishment of these facts is sufficient to lead to the condemnation of the detained vessel, under the Treaty between Great Britain and Brazil, signed at Rio de Janeiro on the 23d of November, 1826.

That Treaty declares that, from the 13th of March, 1830, "it shall not be lawful for the subjects of the Emperor of Brazil to be concerned in the carrying on of the African Slave Trade, under any pretext or in any manner whatever." It also declares that, "for the regulation of Brazilian Slave Trade, *until the time of its final abolition,*" that is, until the 13th of March, 1830, the several articles and provisions of the Portuguese Treaty and Convention on the same subject, and the several explanatory Articles which have been added thereto, should be adopted and renewed, as effectually as if the same were inserted word for word in the Brazilian Convention.

The Portuguese Treaty and Convention would, therefore, have ceased to apply to cases of Brazilian Slave Trade on the 13th of March, 1830, had not one of the Articles of the Portuguese Convention, and which was "adopted and renewed" by the Brazilian Convention, stipulated that, in default of alterations adapted to the state of circumstances produced by the total abolition of the Slave Trade, "the Portuguese additional Convention, concluded at London on the 28th of July, 1817, should remain in force until the expiration of *fifteen* years from the day on which the general abolition of the Slave Trade should take place." Consequently, until the 13th of March. 1845, unless in the mean time some fresh stipulations be entered into, the proceedings of the British and Brazilian Commissioners will still be regulated by the provisions of the Portuguese Treaty and Convention, "so far as they are applicable to the said Convention between Her Majesty and the Emperor of Brazil."

Brazil, after some demur, fully acquiesced in this view of the joint operation of the two Conventions, and has ever since continued to recognise and support the authority of the Mixed Commissions, both in this Colony and at Rio de Janeiro.

The Article of the Portuguese Convention which refers to "the total abolition" of the Slave Trade contemplates the necessity of "*adapting to that state of circumstances* the stipulations" already in force, and of making "such alterations" in them as would be required to repress and punish as an offence what had formerly been permitted and legal. It was evident that all the clauses of the old Portuguese Treaty would not apply to this new order of things; and we may refer to the terms of the Commissions issued at different times by His late Majesty George the Fourth, and His late Majesty William the Fourth, to show that Her Majesty's Government took this view of the matter.

In the Commission issued to Messrs. George Jackson and William Smith, the first gentlemen appointed to act as His Majesty's Commissioners in the British and Brazilian Court of Mixed Commission, at a time when Brazilian Slave Trade had not as yet been finally abolished, all the clauses and stipulations of the Portuguese Treaty and Convention, without exception, distinction, or qualification, were laid before those Commissioners as their guide in dealing with Brazilian vessels. (See Brazilian Minute Book, August 29th, 1828.) But in the Commission, dated on the 2d of June, 1832, addressed to Messrs. Smith and Macaulay, and in that dated the 25th of February, 1835, addressed to Messrs. Macaulay and Lewis, at a time, be it observed, when it was no longer lawful for Brazilian subjects to carry on the Slave Trade "under any pretext or in any manner whatever," we are instructed to act upon the stipulations of the Portuguese Treaty and Convention only "*so far as they are applicable* to the said Convention between His Majesty and the Emperor of Brazil."

The two great characteristics of the Portuguese Slave Trade Treaty—those which distinguish it from the Treaties on the same subject now subsisting with the Netherlands, Spain, France, Sweden, and many other Powers—are, first, that no Portuguese slave-ship, even fully laden with slaves, can be detained to the southward of the line. Secondly, that no Portuguese slave-ship can be detained, whether north or south of the line, unless she have slaves actually on board, or unless she can be proved to have had slaves on board in the particular voyage in which she is met with.

Of the two restrictions on the right of capture here referred to, we are of opinion that neither one nor the other operates with regard to Brazilian vessels. It is notorious that, from the day of the "final abolition" of Brazilian Slave Trade, now nine years and a half ago, the British and Brazilian Commissioners have condemned Brazilian slave-vessels, whether captured to the north or south of the equator; and we cannot but consider that a complete equipment for the Slave Trade equally indicates the commission of the offence prohibited by the first Article of the Brazilian Convention, namely, "the carrying on of the Slave Trade under any pretext or in any manner whatever." And if the very strong terms here made use of will avail to set aside the fourth Article of the Instructions, which declares that "no merchantman or slave-ship shall, on any pretence whatever, be detained, which shall be found any where near the land, or on the high seas, south of the Equator, unless after a chase, which shall have commenced north of the Equator," they will equally avail to abrogate the stipulation that "ships, on board of which no slaves shall be found intended for purposes of traffic, shall not be detained on any account or pretence whatever." To us, indeed, has been reserved by Treaty the responsibility of deciding, with regard to every Brazilian vessel brought before us, whether she is "concerned in carrying on the Slave Trade;" and where we find *primâ facie* evidence of this fact in the equipment of the vessel, and where that evidence is not met by any satisfactory explanation, we shall feel no hesitation in pronouncing a sentence of condemnation.

For instance, a vessel is boarded, having her slave-deck laid, her water filled, her fuel stowed, her bulk-heads up, her slave-boilers fitted, shackles on deck, mess-tins and wooden spoons ready for use, slave provisions on board, end the slaves, for whom all this preparation is made, are seen on the beach on the point of embarking in the ship which is destined to carry them to Brazil. Can the Master of the slave-vessel, detained under such circumstances, come before the Court, and claim the restoration of his property on the only ground which is recognised by the Treaty as valid, namely, that he is not "concerned in carrying on the Slave Trade under any pretext or in any manner whatever?" Can such a plea be urged and substantiated in the case supposed? And if not, condemnation must follow as a matter of course.

Nor is this interpretation of the terms employed in the first Article of the Brazilian Convention over-

strained and exaggerated, but strictly consonant with the decisions of the Admiralty Courts, and with the declarations of existing Treaties.

In the case of the "*Fortuna*," a neutral American vessel, captured during the war, at a time when such vessels, if found to be engaged in the Slave Trade, were, on that account alone, condemned as good and lawful prize, Lord Stowell says, (1 Dodson, p. 86,) "If the ship should, therefore, turn out to be an American actually so employed, *and it matters not, in my opinion, in what stage of the employment, whether in the inception, or the prosecution, or the consummation of it*, this Court is bound to pronounce a sentence of confiscation."

In the case of the "*Severn*," tried before the Vice-Admiralty Court at Halifax, (Stewart's Reports, p. 285,) Dr. Croke, the learned judge, says, to prove engagement in the Slave Trade, "it is not necessary to have slaves actually on board. It was laid down in the '*Fortuna*,' that it was sufficient if the unlawful traffic was either incipient, progressive, or complete. *All we have to do here is to establish the fact of trading.*"

This, we may remark, is exactly our situation in the Brazilian Court. All we have to do is to establish the fact of "carrying on the Slave Trade;" and to prove this fact, a slaving equipment is sufficient; "it is not necessary to have slaves actually on board." All the maritime Powers which, like Brazil, have "*totally abolished*" the Slave Trade, and have entered into Treaties with us on that subject, concur in this just and reasonable view, and have united in declaring, that the equipment of a vessel for Slave Trade "shall be considered as *primâ facie* evidence of her actual employment in that traffic, unless rebutted by satisfactory evidence on the part of the Master or Owners."

There is only one ground on which we can conceive that the condemnation of this vessel should be resisted. It may be argued that the terms on which we insist so strongly, and to which we attach so liberal an interpretation, are inserted word for word in the old Portuguese and Spanish Treaties; and that both of those Treaties, in like manner, pronounced it to be unlawful "to carry on the Slave Trade under any pretext or in any manner whatever." We reply that, in the case of Portugal, the efficiency of this general declaration was greatly impaired by Her Majesty's cruizers being interdicted from seizing any vessels which might be met with south of the Line, or which might merely be equipped for the Slave Trade, and not have slaves actually on board; and, in the case of Spain, that although all legal Slave Trade south, as well as north, of the Line ceased in the year 1820, the Articles which prohibited the seizure of Spanish slave-vessels without slaves on board still remained in full force and effect until the Treaty of 1835 altogether removed the prohibition. But in the Brazilian Treaty no such restrictions are imposed; and we condemn Brazilian vessels, which may be captured south of the Equator, without regard to one Article of the Portuguese Convention; and such as may be captured with a slave equipment on board, without regard to another Article of the same Convention, because we believe that neither one Article nor the other applies to the altered circumstances in which Brazil is placed by the "final abolition" of her Slave Trade; and because it is no longer "lawful for the subjects of the Emperor of Brazil to be concerned in the carrying on of the African Slave Trade *under any pretext or in any manner whatever.*"

*Sierra Leone, August* 31*st*, 1839.

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No. 78.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, November* 19, 1839.

WITH reference to previous correspondence respecting the slave vessel the "*Flor do Loanda*," I have to acquaint you, for your information and guidance, that the law officers of the Crown have reported, that having fully considered the opinion of M. Dougan on the facts of this case, they agree with him in thinking that no further proceedings in this case can be successfully prosecuted, and that instructions should be given to all parties concerned, to abandon on the part of the British Government all claim on this subject.

You will act in conformity with this opinion of the law officers of the Crown in any question which may arise at Sierra Leone respecting the "*Flor do Loanda*."

I am, &c.

(Signed) PALMERSTON.

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

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No. 79.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, November* 22, 1839.

I HAVE received your Despatch, marked Brazil, of the 2d September, 1839, reporting the case of the brig "*Emprehendedor*," condemned in the Mixed British and Brazilian Court of Commission at Sierra Leone, on a charge of having been concerned in illegal Slave Trade, and I have the satisfaction to acquaint you, that Her Majesty's Government approve the principles upon which you acted, in coming to the decision which you gave in the case of that vessel.

I am, &c.

(Signed) PALMERSTON.

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

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# SIERRA LEONE. (*Netherlands.*)

No. 30.

*Her Majesty's Commissioners to Mr. Backhouse.*

*Sierra Leone, July* 1, 1839.
(*Received September* 30.)

SIR,

WE have the honour to report, that no case has come before the British and Netherlands Mixed Court of Justice for adjudication during the past half year.

We have, &c.
(Signed) H. W. MACAULAY.
WALTER W. LEWIS.

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

# HAVANA.

No. 81.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, June* 29, 1839.

Circular, transmitting copies of papers presented to Parliament.

(See No. 1, page 1.)

No. 82.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, May* 28, 1839.

(*Received July* 2.)

My Lord,

We have the honour to inform your Lordship, that on the 24th April last died Don Juan Francisco Cascales, Secretary to the Mixed British and Spanish Court of Justice at this place, and that on the 2d May inst. his Excellency the Captain-General was pleased to nominate Don Andres Cascales, the assistant Secretary, to be Secretary, *ad interim,* until the order of Her Majesty the Queen Regent of Spain be obtained as to the appointment.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

No. 83.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, May* 28, 1839.

(*Received July* 2.)

My Lord,

We have the honour to acknowledge having received your Lordship's Despatch, dated the 8th February, 1839, enclosing the correspondence with the Danish Government on the report made to your Lordship by Her Majesty's Commissioners at this place, of the Spanish schooner "*Con-la-boca*" having landed a cargo of negroes at the Danish Island of St. Thomas.

From this correspondence your Lordship will perceive, that the vessel in question did actually, about the time specified, visit St. Thomas, not only without motive assignable, but under circumstances of great suspicion. It is stated that her papers proved her to have left Sierra Leone in ballast, but that is not inconsistent with her having taken in a cargo of negroes afterwards, and the extraordinary self-contradictory evidence of the witness, Jean de Pontevice, can scarcely be explained otherwise than by the supposition that he had been dealt with to suppress an undesired disclosure. But whether the charge was well founded or not, we trust your Lordship will consider the case one to warrant its being reported. We are fully convinced of the unadvisability of leading your Lordship into any unnecessary correspondence with foreign powers, and consequently, though we hear frequently reports which would seem to require an investigation, we feel it our duty to repeat only such as we are certain of not being made for the sake of deception.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

No. 84.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, May* 30, 1839.

MY LORD, (*Received July* 2.)

DURING the last month we have reason to believe, that only one vessel entered this harbour from the Coast of Africa, viz., April 15th, the Portuguese schooner "*Sin Igual,*" after landing a few days previously about 335 Africans. She sailed hence for San Tomé the 23d October last, and is reported to have returned from the Isla del Principe; Master's name, Pereira.

Of the departures we have received notice only of the two following, viz.—

April 12, Portuguese brig "*Matilde*" for Princes Island.
" 22, " "*Elisa*" for Rio Pongo.

But we think it right to express a fear that this list is defective, inasmuch as Her Majesty's Commissary Judge saw a Portuguese schooner, having every appearance of being a slaver, sail out on the 29th April, and the monthly return of vessels in the Diario states that four sailed from this place in April under the Portuguese flag, whose destination we have not been able to ascertain, notwithstanding our inquiries, further than as stated in the above list.

We have, &c.
(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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No. 85.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, June* 1, 1839.

MY LORD, (*Received July* 23.)

ON the 28th May last we received an official communication from his Excellency the Captain-General, informing us that he had been directed by Royal Order of Her Majesty the Queen Regent of Spain, dated the 3d April, to permit the black soldiers serving on board Her Majesty's ship "Romney" at this place to come on shore under certain restrictions, which restrictions his Excellency at the same time specified should be, first, that six only be allowed to land at a time, and then under the superintendence of an English officer, to be named by the Commander of the "Romney;" secondly, that they should come on shore only on Mondays and Thursdays, from sunrise till noon; and third, that they be forbidden to go beyond certain bounds named, on the east side of the Harbour, and half a-mile inland.

To this communication, of which we enclose your Lordship a translation, we returned an answer, also enclosed, stating that we accepted with due acknowledgments this mark of Her Catholic Majesty's consideration, and would use our utmost efforts to have the regulations faithfully obeyed.

In fulfilment of this engagement, and in communicating the permission given to the Commander of the "Romney" (see Enclosed Letter 3), we strongly recommended him further to direct that the men go on shore only in the undress of their regiment, and unarmed.

We have, &c.
(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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First Enclosure in No. 85.

(Translation.) *The Captain-General to Her Majesty's Commissioners.*

GENTLEMEN, *Havana, May* 27, 1839.

HIS Excellency the Minister of State acquaints me by Royal Order of the 3d April last, that Her Majesty the August Queen Regent has been pleased to accede to the desire of the British Government, by permitting the black soldiers of the hulk "Romney" to land occasionally, under the precautions

necessary to prevent the least intercourse between them and the negroes of the island, such as, for example, the designation by the authorities of a spot where the said soldiers may be able to roam, without leaving its limits; that only six at a time shall land, accompanied by a British or a Spanish officer to keep them in order, without interfering with their recreation or rambling, and that periods not very proximate, and days and hours be fixed upon beforehand for these landings; of which I acquaint you for your information, and beg to add that I have determined, that the said black soldiers, to the number of six, be permitted to come on shore on Monday and Thursday in each week, from sunrise till 12 at noon, under the charge of a British officer, without the necessity of alternating with a Spanish officer, on the reliance that the officer who shall be appointed by the Commander of the "Romney" will take proper care to fulfil the above-mentioned objects. As regards the spot I have fixed upon the extent of the eastern shore of the Bay, from the Wharf of Triscornia to the northward, as far as Marimelena, including Porras's Stores; the limit to the southward being the road from Marimelena to Guanabacoa, and they will not be allowed to go inland more than half a mile. Thus the will of Her Majesty will be accomplished according to the terms of the before-mentioned Royal order.

God preserve you many years.

(Signed) JOAQUIN DE EZPELETA.

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

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## Second Enclosure in No. 85.

*Her Majesty's Commissioners to the Captain-General.*

*Havana, May* 31, 1839.

MOST EXCELLENT SIR,

WE have had the honour to receive your Excellency's official communication, dated the 27th inst., informing us that your Excellency had received a Royal Order of the 3d April last, whereby Her Majesty the Queen Regent of Spain had been pleased to grant permission to the soldiers of Her Britannic Majesty's West India regiment serving on board the "Romney" to go on shore under certain restrictions, which restrictions your Excellency has been pleased to determine shall be, that six of the said soldiers be permitted to come on shore on Monday and Thursday in each week, from sunrise till 12 at noon, under the charge of a British officer to be appointed by the Commander of the "Romney," and that they have for bounds the eastern shore of the Bay, from the Wharf of Triscornia to the northward, as far as Marimelena, including Porras's Stores, the limit to the southward being the road from Marimelena to Guanabacoa, and inland not more than half a mile. Which restrictions we accept with due acknowledgments of Her August Majesty's consideration, and will use our utmost endeavours to have strictly observed.

We have, &c.

(Signed) J. KENNEDY.
C. J. DALRYMPLE.

*The Captain-General,*
*&c. &c. &c.*

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## Third Enclosure in No. 85.

*Her Majesty's Commissioners to Lieutenant Jenkin.*

*Havana, May* 31, 1839.

SIR,

WE have received an official communication from His Excellency the Captain-General, giving permission, by command of Her Catholic Majesty, to the soldiers of Her Britannic Majesty's West India regiment, serving on board the "Romney," to go on shore under certain specified restrictions, of which we enclose you a copy for your information and guidance, and that of the officer commanding them.

In addition, however, to the restrictions proposed, we would strongly recommend that the men be allowed to go only in the undress of their regiment, and unarmed.

We have, &c.

(Signed) J. KENNEDY.
C. J. DALRYMPLE.

*Lieutenant Jenkin,*
*&c. &c. &c.*

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## No. 86.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, June* 1, 1839.

(*Received July* 23.)

MY LORD,

WE have had the honour to receive your Lordship's Despatch, dated the 12th April last, desiring us, in compliance with the request of Her Majesty's Commissioners at Sierra Leone, to report not only the names of the vessels sailing from this port to the Coast of Africa, but also the names of the persons sent in command of them.

We beg to say that we fully perceive the advisability of adopting this practice, and have accordingly obtained the information required for the last month's report, agreeably to your Lordship's instructions.

We have, &c.,

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

CLASS A.

No. 87.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, June* 24, 1839.

MY LORD, (*Received July* 23.)

THE following vessels have been reported to us to have been despatched from this port during the last month for the Coast of Africa:—

| | | | | | |
|---|---|---|---|---|---|
| May 7th, | Portuguese schooner | "*Josefina*," | Francisco dos Reis, | Master, for | Loanda. |
| „ | „ | "*Victoria*," | Juan José Acuña, | „ | Cape Mesurado. |
| „ | „ ship | "*Amalia*," | Mesquità, | „ | Madagascar. |
| 16th, | Oriental brig | "*Primogenito*," | Pascual Garcia, | „ | Pablo de Loanda. |
| „ | Portuguese schooner | "*Liberal*," | Francisco dos Santos, | „ | Loando. |
| 29th, | Hamburg brig, | "*Margaret*," | Peter Blohm, | „ | Isla del Principe. |

During the month also the following were reported to have arrived in the harbour, after landing slaves on the coast adjoining:—

| | | | | | | |
|---|---|---|---|---|---|---|
| May 3d, | Portuguese schooner | "*Ligera*, | Sales, | Master, after landing-about | 233 | negroes. |
| 10th, | „ brigantine | "*Macsimo*," | Silva, | „ „ | 360 | „ |
| 14th, | „ „ | "*Victoria*," | Santures, | „ „ | 283 | „ |

Besides these, however, also arrived on the 10th May the Portuguese brig "*Trinidad de Loanda*," Master's name Campos, from Mozambique, from which part also arrived the "*Macsimo*."

The "*Ligera*," we understand, came last from the Cape Verds, and the "*Victoria*" from San-Tomé.

One of the brigs from Mozambique, we regret to have to add, is reported to have lost more than 200 negroes on the passage.

We have, &c.,

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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No. 88.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, June* 25, 1839.

MY LORD, (*Received July* 23.)

WE have the honour to report to your Lordship, that on the 12th instant Her Majesty's schooner "Pickle," Lieutenant Holland, Commander, arrived here, having on board 173 negroes, taken from the slave schooner "*Sierra del Pilar*." The "Pickle" met with this vessel sailing under Portuguese colours on the 4th instant, off the Isle of Pines, when after a chase of six hours, during which the "Pickle" had to fire several shots, the Master of the "*Sierra del Pilar*" succeeded in running his vessel on shore on the Isle of Pines, and he, with several of his crew, escaped, taking with them about 20 or 30 negroes.

On the Officers of the "Pickle" taking possession of their prize, they found only two white men, Spaniards, and a Portuguese negro, who all formed part of the crew of the "*Sierra del Pilar*," the last-mentioned one being the Cook, together with 180 negroes, according to the first muster, which, however, afterwards appeared to have been erroneous.

On the "*Sierra del Pilar*" being got off shore, though with much difficulty, Lieutenant Holland placed an Officer on board, in the hope of being still able to bring the vessel into port. But she proved so damaged and leaky, that it was found absolutely necessary, on the 8th instant, when off Cape Antonio, to tranship the negroes to the "Pickle," to save the lives of all on board, and to abandon the prize. Before doing this, however, Lieutenant Holland had the slave-vessel set on fire, to insure its total destruction, and the few articles on board worthy of preservation, he was obliged to abandon also, together with two spars belonging to the "Pickle," on account of the threatening appearance of the weather, and the necessity of losing no time in getting into port, with so many persons crowded into his small vessel. On his arrival here the negroes were, with the concurrence of Her Majesty's Commissioners and Superintendent of liberated Africans, put on board Her Majesty's ship "Romney," as well for a precaution against disease, as for the better means of attendance to their wants.

On the negroes being mustered on board the "Pickle" there were found to be

only 176, of whom three died, from the customary emaciation attendant upon such voyages, before they entered this harbour; and it is a lamentable fact to state, that of 255 negroes, the number at first taken on board the "*Sierra del Pilar*" on the Coast of Africa, a full fifth appear to have died on the passage.

On searching the slave-vessel for papers none were found, except a sort of Log-book of the voyage, and a number of letters, among which were some addressed to Pedro Martinez and Co., appearing to have been written by an agent of theirs on the Coast. These prove that the "*Sierra del Pilar*" had been bought in December last at the Cape Verd Islands, under his directions, to bring the negroes for those notorious slave-dealers to the Havana, in the place of another vessel of theirs named the "*Constitucion*," which had been seized at Puerto Praya by the Portuguese authorities for some informality, and condemned.

Under these circumstances, the usual preliminaries having been complied with, the Mixed British and Spanish Court of Justice at this place met on the 20th instant, and the above-stated facts having been proved, leaving no doubt that the vessel was Spanish property, though taken under the Portuguese flag, agreed on the 21st to a sentence of lawful capture, and ordered their certificates of emancipation to be given to the negroes, as your Lordship will further perceive by the copy of the sentence enclosed.

For other particulars of the case we beg to refer your Lordship to the Captor's Declaration and Abstract of Evidence, also enclosed.

We have, &c.,

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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## First Enclosure in No. 88.

*Captor's Declaration in the Case of the* "Sierra del Pilar."

Her Britannic Majesty's schooner "Pickle," Lieutenant Frederick Holland, Commander, whilst cruizing on the Coast of Cuba, observed at 9 A.M., on the 4th June, 1839, a strange sail standing in for the Isle of Pines. The "Pickle" immediately made sail in chase of her. At 1 P.M. closing chase, the "Pickle" fired several guns to bring her to. At 2 chase showed Portuguese colours, but refused to heave to or shorten sail, continuing to run directly for the land. At 2. 55. observed chase to be on shore, and immediately after the crew and several negroes were observed swimming on shore. The "Pickle" dispatched her boats to rescue the negroes and take possession of chase, when she proved to be the "*Sierra del Pilar*," 78 days from Onim, on the African Coast, with 180 negroes on board, as under.

| | |
|---|---|
| Males . . . | 100 |
| Females . . . | 80 |
| Total . . | 180 |

There were three men on board the "*Sierra del Pilar*," two of whom, Spaniards, stated that they were Portuguese, from the Coast of Africa; the other, a black man, called himself the Cook of the vessel, and stated that the Captain and remainder of the crew, with some of the negroes, had jumped overboard, swam to the shore, and escaped into the thick bushes on the water's edge.

The "*Sierra del Pilar*" is a schooner of 110 tons burthen, having 12 muskets and 2 kegs of gunpowder on board, her rigging and sails much worn, foremast carried away, and on getting her afloat we found that she leaked considerably, requiring to be pumped day and night continually to keep her afloat.

Given under our hands on board Her Britannic Majesty's schooner "Pickle," in the Bight of Pines, this 5th June, 1839.

(Signed) FRED. HOLLAND, Lieutenant and Commander.
HENRY DORMER, Second Mate.

June 5, 1839. I do hereby certify that two of the male negroes who were sick died this day.

(Signed) FRED. HOLLAND, Lieutenant and Commander.

June 7, 1839. I do hereby certify that one of the sick male negroes died this day.

(Signed) J. B. FIELD, Midshipman in charge of the "*Sierra del Pilar*."

June 8, 1839. We do hereby certify that in consequence of the very leaky and unseaworthy state of the "*Sierra del Pilar*," also of her deficiency of water, having only 150 gallons for 177 negroes, and her evident inability to reach any port where water can be procured, and also from the very threatening appearance of the weather, we deem it advisable for the safety of the lives of the negroes and prize crew to tranship them into the "Pickle," leaving the "*Sierra del Pilar*" with her masts, tackle, furniture, &c. (as represented in the Inventory taken on the 5th June) in the hands of the Commander, Lieutenant Holland.

(Signed) FRED. HOLLAND, Lieutenant and Commander
HENRY DORMER, Second Mate.
J. B. FIELD, Midshipman in charge of the "*Sierra del Pilar*."

June 8, 1839. We do hereby certify that on mustering the negroes this day, on their being received on board the "Pickle," we found four short of the number mustered on the 4th instant, and that we consider they must have died and been hove overboard by the other negroes, or fallen overboard from weakness and inability to support themselves during the motion of the vessel, when on deck in the late tempestuous weather, whilst the Officers and prize-crew were engaged in the preservation of the vessel during the same.

(Signed) FRED. HOLLAND, Lieutenant and Commander.
HENRY DORMER, Second Mate.
J. B. FIELD, Midshipman in charge of the "*Sierra del Pilar.*"

June 8, 1839. I do hereby certify that I have this day ordered the "*Sierra del Pilar*" to be destroyed by fire, which has been carried into execution under my inspection, off Cape Antonio.

(Signed) FRED. HOLLAND, Lieutenant and Commander.

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## Second Enclosure in No. 88.

*Abstract of the Evidence in the Case of the* "Sierra del Pilar."

*June* 20, 1839.

*Lieutenant Frederick Holland*, commanding Her Britannic Majesty's schooner "Pickle," being duly sworn, affirmed the signature in the Declaration of the Captor to be his, and deposed that he captured the schooner "*Sierra del Pilar*" off the Isle of Pines; that the number of negroes he found on board of both sexes was 180, but that there were many more who had fled ashore with part of the crew, and he thinks the total number might have been 255, because in one of the papers found on board the prize is a statement of the number of Africans under charge of the Captain. (This paper and others found on board he now lays before the Court.) That he found on board the prize a small quantity of maize, pulse, and coffee, and about 10 casks of water, and took as much of each as he thought would last to this port, which was all consumed on the passage. That he also took what else was necessary for the passage, leaving the remainder on board the prize. That he tried to save the vessel, but she was so leaky as to make it necessary to burn her, nor could they manage to save any of her equipments. That two of the negroes died before they left the Coast of the Isle of Pines, one on the passage, and that four disappeared at Cape San Antonio, where they were transhipped from the prize to the "Pickle," by reason of the smallness of this last vessel and the unfavourable weather, and that therefore he only delivered on board the English hulk 173. That he is provided with the papers authorizing vessels of war to seize slave vessels, and is moreover included in the list furnished to his Excellency the Spanish Judge.

*Mr. Henry Dormer*, Second Mate on board Her Britannic Majesty's schooner "Pickle," being duly sworn, affirmed the signature at the foot of the Captor's Declaration to be his.

*Mr. J. B. Field*, Midshipman on board Her Majesty's schooner "Pickle," and Prize-master of the "*Sierra del Pilar*," being sworn, also affirmed the signature at the foot of the Captor's Declaration to be his.

*Antonio Joaquin*, a coloured man, native of Lisbon, married, and Cook on board the schooner "*Sierra del Pilar*," of which vessel Don Miguel Oliver is Master, being duly sworn, deposed that residing at the Cape Verds, where he kept an inn, the said Captain Oliver and two of his crew, one called Federico Santa Ana, who was Mate, and the other Benito Fernandez, a native of Havana, who was Boatswain, came to lodge with him, by whom he was enticed on board and carried to the Coast of Africa, where the said Boatswain had been taken on board, having been a prisoner there. That the schooner went in ballast to the Coast of Africa, and there took on board the cargo belonging to another schooner, in which Benito Fernandez had sailed, who being a prisoner was put on shore with the cargo, the whole of which was then put on board the captured schooner. That they made the mouth of the River Ayuda, and landed the cargo at a factory established there, in exchange for negroes then taken on board, with whom they sailed for Havana, for the purpose of selling them. That he does not recollect the date of their sailing from Ayuda. That they touched nowhere on the passage, and met with no novelty until fallen in with by an English schooner of war, by which they were chased, when the Captain made for the land, whereupon the English vessel fired on them. That they ran ashore on the Isle of Pines, when the English Commander went on board the "*Sierra del Pilar*" with two armed boats, and carried to his own vessel part of the negroes, together with the deponent and the two before-mentioned individuals, the remainder of the negroes and the crew escaping on shore by jumping overboard. That the English Commander with much labour got the prize afloat, and arrived with her off Cape San Antonio, where, being unable to continue her voyage on account of her leaky condition, they were all transferred to the "Pickle," it being impossible to save anything, her hull being nearly under water, and she was accordingly burnt. That the "Pickle" then made for this port, and was overtaken by a gale of wind, when four negroes were missed, and three died afterwards. That the Captain Oliver and nearly all his crew were Spanish.

The two Spaniards of the crew of the "*Sierra del Pilar*" being unable from illness to attend the Court, Her Majesty's Judge, accompanied by the Secretary Don Andres Cascales, who was commissioned on the part of the Spanish Judge, repaired to the hospital of San Juan de Dios, where *Don Andres Ledo*, a native of Gallicia, and seaman on board the "*Sierra del Pilar*," deposed as follows:—That having gone to the Coast of Africa in a brigantine schooner, he was there taken prisoner and sent ashore with the cargo consisting of gunpowder and merchandize. That being ashore the Captain Don Federico Santa Ana gave him a passage in his vessel, which was the one captured. That when he went on board she was in ballast, but afterwards Santa Ana received from the factory 255 slaves, whom he embarked, and was bringing to Havana for sale, which he did not, however, effect, for one morning they descried an English sail upon which they made for the Coast of the Isle of Pines, where they ran ashore. Whereupon the crew, and part of the negroes jumped overboard, leaving on board with the remainder the Cook, Don Benito Fernandez, and deponent. Just at this time, and after having fired upon the "*Sierra del Pilar*," the Captors arrived in two boats with arms, got her off, and went as far as Cape San Antonio, where the negroes were transhipped on board the "Pickle," the prize being very leaky, and it being impossible without loss of life to continue the voyage with her ,and as she was quite useless they set fire to what remained of her above water. That on account of his illness he can give no information as to the deaths that occurred among the slaves, or whether any of them escaped

on the passage, as he was all the while below. That about 40 of the negroes died before they were captured, and that between Cape San Antonio and this port they had rainy bad weather.

The deposition of the other prisoner Don Benito Fernandez could not be taken on account of his extreme ill health.

## Third Enclosure in No. 88.

(Translation.) *Sentence in the Case of the* "Sierra del Pilar."

In the always most Faithful City of Havana, on the 21st day of June, 1839, his Excellency Don José Maria de Herrera y Herrera, Conde de Fernandina, honorary Grandee of Spain of the First Class, &c. &c., and James Kennedy, Esq., the Spanish and English Judges in the Mixed Court of Justice established for the Abolition of the Slave Trade, having examined the proceedings consequent upon the detention made by the English schooner of war "Pickle," commanded by Lieutenant Frederick Holland, of the Spanish merchant schooner "*Sierra del Pilar*," Don Miguel Oliver, Master, on the Coast of the Isle of Pines, after being fired upon and chased by the "Pickle," the crew and part of the negroes escaping on shore, and it appearing that the said Master Oliver took on board the schooner "*Sierra del Pilar*, in the mouth of the River Ayuda, on the Coast of Africa, to which place he went from the Cape Verd Islands, 255 negroes, of whom 180 were captured, and of these three died, according to the Declaration of the Captor, up to the time of their arrival off Cape San Antonio in this Island, where the captured schooner was destroyed by fire, it being found absolutely impossible to save her, and the negroes, 177 in number, were transhipped on board the "Pickle," after which four of them were lost, either by death, on account of the smallness of the vessel to accommodate so many people, and the bad weather, or by throwing themselves overboard, so that only 173 arrived in this port, who were delivered over to Her Britannic Majesty's Government; and these facts being fully proved by the Declarations of the Captors and the individuals captured, and by the 23 documents attached to the proceedings, the Judges agreed that they ought to declare and hereby do declare, with all due regard to the merits of the case, and according to the usual brief and summary mode of proceeding adopted in all such cases on the truth being made manifest, that the said Spanish schooner "*Sierra del Pilar*" is a good and lawful prize, as also the 173 bozal negroes brought into this port by the "Pickle," the said negroes being definitely adjudged to be free from all slavery and captivity, their Certificates of Emancipation to be made out immediately by the Secretary, who will forward them with an official letter to his Excellency the President, Governor and Captain-General, for the purpose prescribed in the regulations for the Mixed Courts of Justice, together with a Certified Copy of this sentence, for his Excellency's information, the captured individuals of the crew of the Spanish schooner "*Sierra del Pilar*" remaining at the disposal of his Excellency. Thus the Judges provided, ordered, and signed, in the presence of the Secretary, who certifies.

(Signed) El Conde de Fernandina.
J. Kennedy.
(Signed) Andrés Cascales y de Ariza,
*Secretary ad interim.*

## No. 89.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, July* 1, 1839.
(*Received August* 17,)

My Lord,

In obedience to the Act 5 Geo. IV., c. 113, directing a Return to be made, on the 1st day of January and the 1st day of July in every year, of cases adjudged in the six months preceding, we beg to transmit the Return enclosed of adjudication, being the only one made by the Mixed British and Spanish Court of Justice at this place, during the last six months.

We have, &c.
(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

## Enclosure in No. 89.

Return of Case, adjudicated by the Mixed Court of Justice, at Havana, within the half-year ending 1st July. 1839.

| Date of Seizure. | Property Seized. | Seizor. | Date of Sentence. | Decree. | Whether Property has been sold or converted; and whether any remains unsold, and in whose hands. |
|---|---|---|---|---|---|
| 1839 4th June. | Spanish Slave Schooner, "*Sierra del Pilar*," with 176 negroes on board. | Lieut. Holland commanding H.M.S. "Pickle." | 21st June. | Lawful Capture. | The "*Sierra del Pilar*," having been run on shore by the crew, was found to be so damaged as to render it necessary to take the negroes on board the "Pickle," when the slave schooner was set on fire and abandoned. Nothing from the vessel was saved but 12 muskets and 20 Portuguese dollars, which were given up to Her Majesty's Judge of the Mixed Court, to be applied in part payment of expenses incurred previous to adjudication. |

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

No. 90.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, July* 15, 1839.

MY LORD, (*Received August* 17.)

IN our Despatch, dated the 25th June, 1839, we informed your Lordship of the Mixed British and Spanish Court of Justice at this place having, on the 21st, passed sentence of lawful capture in the case of the Spanish slave-schooner "*Sierra del Pilar.*" We have now further to inform your Lordship that, on the same day, the charge of the negroes, 272 in number (one having died since they were brought into port), was given to Her Majesty's Superintendent of Liberated Africans, Dr. Madden, who immediately proceeded to supply their necessary wants in clothing, and to forward them to one of Her Majesty's Colonies, according to his instructions.

We beg to refer your Lordship, respecting these particulars, to Dr. Madden's letter, of which we enclose a copy, and from which your Lordship will perceive that he chartered the Bremen brig, "*Louise Federicke,*" to take the negroes to the Island of Grenada, for which place she sailed on the 30th June. The negroes, though in a lamentable state of emaciation when brought into this port, had so far recovered on board the "Romney," in so short a space of time, that it was not found necessary to keep back one, and they were accordingly all sent. Dr. Madden, by his prompt attention, secured also the further advantage of sending them under convoy of Her Majesty's ship "Nimrod," on that day appointed to leave this harbour for Bermuda, and whose course, therefore, through the Gulf, would for some days be nearly the same.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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Enclosure in No. 90.

*Dr. Madden to Mr. Kennedy.*

SIR, *Havana, July* 1, 1839.

I HAVE the honour to acknowledge the receipt of your letter of the 28th ultimo, and the accompanying Tickets of Emancipation for 172 negroes of the "*Sierra del Pilar,*" liberated by the sentence of the Mixed Court of Justice, on the 21st of June, on which day the negroes came under my charge as Superintendent. I lost no time in freighting a vessel for their conveyance to Grenada; and, in order to take advantage of the departure of Her Majesty's ship "Nimrod," and of obtaining convoy for the transport through the Gulf Passage, I had the negroes removed on board the transport on the night of the 29th ultimo, the day following the receipt of the Tickets of Emancipation; and on the morning of the 30th the vessel, the Bremen brig "*Louise Federicke,*" sailed from this port for Grenada, with the whole of the liberated negroes of the "*Sierra del Pilar.*"

In facilitating all matters connected with my duties in the present case, I feel that you enabled me to use the necessary despatch to take advantage of this convoy; the protection of which, off this Coast, I consider of some importance.

I have, &c.

*J. Kennedy, Esq.* (Signed) R. R. MADDEN.
*&c. &c. &c.*

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No. 91.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, July* 15, 1839.

MY LORD, (*Received August* 17.)

WE have the honour to acknowledge having received your Lordship's Despatch, dated the 16th April, 1839, on the subject of the correspondence we had in January last, with Mr. Trist, the United States Consul at this place, respecting the slave-ship "*Venus.*"

In obedience to your Lordship's directions, we addressed a letter to Mr. Trist, informing him "that Her Majesty's Government would feel most sincerely obliged by his furnishing us at any time with any information in his power, which might enable Her Majesty's Government to enforce the penalties of the law against British subjects concerned in Slave Trade."

We also duly communicated your Lordship's sentiments on the obligation arising from the engagements entered into between the two countries by the Treaty of Ghent, for the entire abolition of the Slave Trade, that the agents of each Govern-

ment should furnish to the agents of the other Government any information, calculated to enable that other Government more effectually to accomplish the common purpose.

We beg to refer your Lordship to the copy of the letter enclosed, to which we have not received any reply.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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Enclosure in No. 91.

*Her Majesty's Commissioners to Mr. Trist.*

*Havana, July* 1, 1839.

SIR,

WITH reference to the correspondence we had with you in January last, respecting the slave-ship "*Venus*," which had about four months previously sailed from this place, under the flag of the United States, for the Coast of Africa, and had returned with a cargo of 860 slaves on board, we have now the honour to inform you, that we have received a Despatch from Her Britannic Majesty's Principal Secretary of State, confirmatory of our assertion that Her Majesty's Government will feel most sincerely obliged by your furnishing us, at any time, 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 promoting the Slave Trade, either by furnishing British fabrics, or shackles of British manufacture or otherwise.

Her Majesty's Secretary of State observes, "that the two Governments having, by the Tenth Article of the Treaty of Ghent, mutually engaged to each other to use their utmost endeavours to promote the entire abolition of the Slave Trade, it seems 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."

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

*N. P. Trist, Esq.,*
*&c. &c. &c.*

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No. 92.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, July* 15, 1839.
(*Received August* 17.)

MY LORD,

DURING the last month, the following vessels have been reported to us as having arrived from the Coast of Africa:—

| | | | | | |
|---|---|---|---|---|---|
| June 9th, | Portuguese schooner | "*Dos Amigos*," | Jozé Silva, | Master, | from San Tomé, after landing 413 Africans. |
| ,, 14th, | ,, | "*Josefina*," | A. Rodriguez, | ,, | from San Tomé, after landing 240 Africans. |
| ,, 20th, | ,, | "*Astrea*," | Sabino | ,, | from San Tomé, after landing 440 Africans. |

Besides these, however, also arrived the American schooner "*Hugh Boyle*," —— Brown, Master, from Gallinas, with 25 passengers, probably the crews of some other vessels that had been captured on the Coast.

The departures, we regret to have to observe, are, as usual at this time of the year, very numerous; and we fear others have been despatched with the same destination, not included in the list:—

| | | | | | |
|---|---|---|---|---|---|
| June 5th, | Port. ship | "*Maria Segunda*," | F. Batalla, | Master, | for Mozambique. |
| ,, | ,, brig | "*Ulises*," | A. Hernandez, | ,, | for Princes' Island. |
| ,, | ,, schooner | "*Ligera*," | J. de Ponza Brito, | ,, | for Loando. |
| June 17th, | ,, brig | "*Duquesa de Braganza*," | Urbano, | ,, | for Goa. |
| ,, | Amer. schooner | "*Hound*," | Hanna, | ,, | for Lagos. |
| ,, | ,, brig | "*Mary*," | Tomlinson, | ,, | for Gallinas. |
| June 25th, | ,, schooner | "*Catharine*," | Wedge, | ,, | for Gallinas & Bonny. |
| June 26th, | ,, ,, | "*Elvira*," | Jones, | ,, | for Princes' Island. |

Of these, the first, the "*Maria Segunda*," is the notorious "*Socorro*," and the fourth is the "*Venus*," respecting which we had the correspondence with the United States Consul, in January last. This vessel has been changed from a ship to a brig, we believe to deceive the British cruizers. Her Majesty's sloop "Sappho," being now off the island, with information of these vessels being about to sail.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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No. 93.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, August* 25, 1839.

Circular, transmitting Address, upon Slave Trade, from the House of Peers.

(See No. 4, page 3)

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No. 94.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August* 31, 1839.

I HEREWITH transmit to you, for your information and guidance, the copy of a letter which, under my directions, has been addressed from this office to the Admiralty, containing the opinion of Her Majesty's Advocate-General upon the case of the "*Hazard*," a vessel met with by one of Her Majesty's cruizers, and detained on a charge of being concerned in Slave Trade, although bearing the flag of a State which has not conceded to Great Britain the right of search.

I am, &c.

(Signed) PALMERSTON.

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

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Enclosure in No. 94.

*Mr. Strangways to the Secretary to the Admiralty, August* 29, 1839.

(See Enclosure in No. 26, page 28.)

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No. 95.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, September* 3, 1839.

Circular, transmitting Act for the suppression of Slave Trade.

(See No. 6, page 4.)

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No. 96.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, September* 13, 1839.

WITH reference to your Despatch of the 1st of June last, I herewith send to you a copy of a letter and of its enclosures, from the Colonial Office, upon the subject of the restrictions under which the black soldiers of the "Romney" hulk have been permitted occasionally to go on shore; and I have to desire that you will report to me whether, as stated in the enclosed papers, the tract allotted for the landing of the men is swampy and uninhabited; and whether the men are prohibited from speaking to or communicating with any inhabitant of the Island of Cuba.

I am, &c.

(Signed) PALMERSTON.

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

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Enclosure in No. 96.

*Mr. Stephen to Mr. Strangways.*

SIR, *Colonial Office, August* 24, 1839.

WITH reference to previous correspondence, on the subject of the occasional landing of the black troops on board the "Romney," I am desired, by Lord Normanby, to request that you will bring under Viscount Palmerston's consideration the accompanying representation of the British Superintendant at Havana, with respect to the restrictions imposed by the Spanish Authorities on this indulgence to the soldiers, and relating to a complaint, which had been preferred against them, of communicating with persons on shore.

I have, &c.

(Signed) JAS. STEPHEN.

*The Hon. W. Fox Strangways, M.P.,*
*&c. &c. &c.*

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## Sub-Enclosure in No. 96.

*Extract of a Despatch from Dr. Madden to Lord Normanby, dated Havana, July* 16, 1839.

My Lord,

I have the honour to acknowledge the receipt of your Lordship's Despatches of the 19th and 22nd of April, respecting the deferred permission for the occasional landing of the black troops on board the "Romney;" with the accompanying communications addressed to Lord Clarendon and Mr. Stephen on this subject. On the 29th of May last I informed Lord Glenelg, that the Captain-general had at length acknowledged to the Commissioners the receipt of the Spanish Royal Order, and had submitted the terms on which it was to be carried into effect. I stated to his Lordship, that the permission was accompanied with vexatious restrictions, and that I considered it "very doubtful if any British Officer would take his men on shore under such circumstances." These restrictions admit of the landing of the said soldiers twice a-week; the time is limited to between sunrise and midday; the allotted ground is confined to a distance of half a mile from the shore, along a swampy tract at the extremity of the harbour, uninhabited; and the men are strictly forbidden to hold any communication with any person on shore; and further, they are to be accompanied by an Officer, who is to be responsible for the observance of the latter prohibition.

But as the Governor's communication did not say what Officer should accompany the men, Lieutenant O'Brien, who commands the detachment on board the "Romney," conceived he was acting within the terms of the Captain-general, in sending the soldiers on shore under the charge of a non-commissioned Officer; and they were sent thus accompanied three or four times.

On the last occasion an attempt was made to compromise the party by the Captain of the Partido; this functionary taking on him to inform the Serjeant, that he was out of his bounds, and had held communication with some persons on shore. The Serjeant said he had not exceeded his bounds, and had not communicated with any one, but had been spoken to by a Spaniard a few minutes previously. The Captain-general, on this trumped up complaint of the man, whom, I presume, he had set to watch the movements of the black soldiers, addressed a letter of remonstrance to the Commissioners, and on their inquiry into the matter, and Mr. Kennedy having the allotted ground pointed out to him by Lieutenant O'Brien, it appeared the soldiers had not exceeded their limits; and accordingly the Captain-general was informed that none of the stipulations had been transgressed by them. Thus rests the matter.

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## No. 97.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, August* 12, 1839.

My Lord, (*Received October* 2.)

We have the honour to acknowledge having received your Lordship's Despatch dated the 28th May, 1839, enclosing the translation of an instruction 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 eugaging in the Slave Trade.

We trust this royal instruction will be faithfully obeyed, and will be productive of the good effects desired in suppressing the fraudulent use of the Portuguese flag.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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## No. 98.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, August* 12, 1839.

My Lord, (*Received October* 2.)

We have the honour to report to your Lordship, that on the 3rd of July last, in latitude 19° 21′, longitude 66° 47′, Her Majesty's sloop "Snake," Commander Hay, fell in with the Spanish slave-schooner "*Caridad Cubana,*" which, after a short chase was captured, and found to have 174 negroes on board.

The "*Caridad Cubana*" arrived here on the 30th of July, under the charge of Lieutenant Jauncey of the "Snake," but on examining the ship's stores, it having been found that there was not either water or provisions for a lengthened voyage to this place, the negroes, who were then reduced by death to 171, were on the 15th of July landed and left at Port Antonio in Jamaica, the Collector's Receipt for them being obtained. This failure of the stock, however, is satisfactorily accounted for by the circumstance of the "*Caridad Cubana*" being destined for St. Jago de Cuba, for which destination she was sufficiently provided, though not for the Havana;

and the negroes appear to have been well attended to on the voyage, as by the Bills of Lading only 175 seem to have been taken on board, and the mortality therefore was unusually small.

The ship's papers, which were in due form, as of a Spanish merchant-vessel, were brought before the Court on the 3rd instant, and your Lordship will perceive from the evidence, of which we enclose an abstract, that it was then proved she left St. Jago de Cuba on the 9th March, took the slaves on board at Bissao, a Portuguese Colony on the Coast of Africa on the 8th June, and was on her return to St. Jago when met with by Her Majesty's sloop "Snake," as above stated.

The Court, upon this evidence, agreed to a sentence of lawful capture, which was signed in due form on the 5th instant, and ordered the vessel to be broken up, and afterwards to be sold, according to the provisions of the Treaty between the two countries.

The "*Caridad Cubana*" was formerly under the American flag, and has been mentioned under her former name of the "*Emperor*," in the Despatches of Her Majesty's Commissioners from this place; and though, according to the Register, she appears to be the property of her Captain, Don Sebastian Fabregues, we understand that an American, named Wilson, residing at St. Jago de Cuba (to whom the "*Matilde*," condemned here in December, 1837, also belonged), was the principal Owner.

In addition to the abstract of the evidence, we beg to refer your Lordship for further particulars to the Captor's Declaration and the Sentence of the Court, of which copies also are enclosed.

We have, &c.,

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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## First Enclosure in No. 98.

*Captor's Declaration in the Case of the* "Caridad Cubana."

I, JOHN B. Hay, Commander of Her Britannic Majesty's sloop "Snake," hereby declare, that on the 3rd day of July, 1839, being in or about latitude 19° 21′, longitude 66° 47′, I detained the vessel named the Goleta "*Caridad Cubana*," sailing under Spanish colours, armed with guns, commanded by Don Sebastian Fabreguez, who declared her to be bound from Bissao, Coast of Alrica, to St. Jago de Cuba, with a crew of consisting of 10 men and one boy, no Supercargo, and one passenger, whose names, as declared by them respectively, are inserted in a list at foot hereof, and having on board 171 slaves, said to have been taken on board at Bissao, Coast of Africa, on the 8th day of June, 1839, and are enumerated as follows:—

N.B. (One slave having died at the time of detention.)

| | Healthy. | Sickly. |
|---|---|---|
| Men | 100 | 3 |
| Women | 30 | 1 |
| Boys | 12 | 1 |
| Girls | 22 | 2 |

Alexandre Proenza, passenger.

I do further declare, that the said vessel appeared to be seaworthy, and was supplied with a sufficient stock of water and provisions for the support of the said negroes and crew on their destined voyage to St. Jago de Cuba, but not for Havana, the lengthened voyage to that port preventing such supply being granted by Her Majesty's sloop.

Owing to her not having the necessary supply on board, I was reduced to the necessity of taking her into Jamaica.

(Signed) JOHN B. P. HAY, Commander.

Witnesses,
(Signed) HORATIO JAUNCEY, Senior Lieutenant.
JAMES BANKIER, Surgeon.

In consequence of the bad state of the weather at the time of taking a numerical account of the slaves in the "*Caridad Cubana*," it was afterwards ascertained that the whole had not been accounted for; three of them had been stowed away in some hole or corner, and could not be found by our men who were sent down into the holds in order to see them clear of the slaves.

This error was discovered at Fort Antonio, after the declaration had been signed by the Captain of the said vessel.

The number on board at the time of capture should be as follows, viz.

| | |
|---|---|
| Men | 106 |
| Women | 31 |
| Boys | 13 |
| Girls | 24 |
| | 174 |

(Signed) JOHN B. P. HAY,
Commander of Her Majesty's sloop "Snake."

Witnesses,
(Signed) HENRY MAPLETON, Master.
HORATIO JAUNCEY, Senior Lieutenant.
JAMES BANKIER, M D. Surgeon.

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## Second Enclosure in No. 98.

*Abstract of the Evidence in the Case of the* "Caridad Cubana."

*August* 3, 1839.

*Mr. Horatio Jauncey*, Senior Lieutenant of Her Britannic Majesty's sloop "Snake," and Prize-master of the Spanish captured schooner "*Caridad Cubana*," being duly sworn, affirmed the signature at the foot of the Declaration in English, delivered to him by Commander Hay, to be his, and deposed that the reason why the cargo of negroes was landed at Jamaica instead of being brought to this port was, as stated in the Declaration, the insufficiency of provisions and water on board the schooner to supply them to this port, although the vessel was in good condition, and had sufficient to serve them to Santiago de Cuba. That the only arms on board were two or three muskets. That the papers of the captured vessel he now lays before the Court, numbered from 1 to 6. They are as follows: 1. The Royal Sailing Passport; 2. Bill of Health; 3. Log-book; 4. Muster-roll; 5. Deed of Ownership of the Vessel; 6. A List of the negroes embarked on the Coast of Africa. That they landed at Jamaica, from the "*Caridad Cubana*," 171 negroes, as shown by the receipt he now presents. That at the time of detention there were 174, of whom three died previous to the landing.

*Don Geronimo Jayme*, a native of Majorca, and inhabitant of this city, being sworn, deposed that he is a seaman by profession; that he sailed in the "*Caridad Cubana*" from Santiago de Cuba in this island, with a cargo of aguardiente, sugar, and coffee, and made for Bissao on the Coast of Africa, where the said cargo was landed, in exchange for bozal negroes, to the number of about 170, who were taken on board the "*Caridad Cubana*" to be conveyed to Cuba, but that about 17 miles from Puerto Rico they were captured by an English sloop-of-war. That he cannot remember the number of negroes on board at the time of detention, but that one woman died on the occasion. That they did not make for Santiago de Cuba, but for Jamaica, the capturing Commander having calculated that, although the provisions and water would have lasted to the port of their destination, they were insufficient for the passage to this port, which was in reality the case, and the negroes were therefore landed in the said island, although he does not know the number of them at the time. That the Captors remained there also, sending on the captured schooner to this city, under charge of an officer, with the Captain, Mate, and a Cabin-boy, on board. That he does not know what papers the schooner on board.

*Don Sebastian Fabregues* being sworn, deposed that he is a native of Carthagena de Levante, an inhabitant of Mahon, a bachelor, and Captain of the Spanish schooner "*Caridad Cubana*." That he sailed from Santiago de Cuba on the 9th March last with Spanish papers, the same that are now shown him numbered from 1 to 6. That the cargo of the "*Caridad Cubana*," outward bound, consisted of sugar, rum, coffee, and five cases of common merchandize, with which he made for a Portuguese Colony called Bissao. That he there landed the said cargo, and received in exchange 175 bozal negroes, for whom he had to go to another island opposite to Bissao. That when he had embarked the negroes he set sail for Santiago de Cuba, or any other part of the island, and that he was captured to the north of Puerto Rico by the English brig-of-war "Snake." That the provisions being insufficient to bring them on to this port they were taken to the Island of Jamaica, although they might have reached some other port of this island, the vessel being in good condition, and provided with enough provisions for that purpose. That the negroes were landed at Jamaica, but he does not know how many there were, as he was no longer in charge of them, and that from thence the captured schooner was despatched to this port. That on recollection he finds only one negress died on the passage, and that consequently there must have been 174 remaining alive at the time of detention.

*Don José Mauri*, being duly sworn, deposed that he is a native of the principality of Catalonia and the town of Bagú, an inhabitant of Cuba, married, and by profession Mate of the Spanish merchant schooner "*Caridad Cubana*." That he sailed in the said schooner from Santiago de Cuba with Spanish papers, and a cargo of rum, sugar, coffee, and some cases of merchandize, with which they steered for Bissao, a Portuguese Colony on the Coast of Africa, where the said cargo was landed, and payment taken for it in bozal negroes, whose number he does not remember. That their principal object was to get paid in money, but the purchasers not having any they took Africans, for whom they went to another island opposite, called Sacramento, and as soon as they were on board they set sail for Santiago de Cuba, or some other port of the island, which, however, they did not reach, being captured about 17 miles north of Puerto Rico by the English brig-of-war "Snake." That he does not remember how many slaves were landed at Jamaica. That they were landed because the provisions and water were not sufficient to bring them on to this port, although they would have lasted to some other port of the island, and that they were then sent on to Havana in the captured vessel, under charge of an English Officer and a Prize-crew. That they had scarcely any arms, and that no part of the outward cargo remained, the whole having been landed on the Coast of Africa.

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## Third Enclosure in No. 98.

*Sentence in the Case of the* "Caridad Cubana."

In the always most Faithful City of Havana, on the 3d day of August, 1839, His Excellency Don Jozé Maria Herrera y Herrera, Conde de Fernandina, Grandee of Spain of the first Class, &c. &c., and James Kennedy, Esq., the Spanish and British Judges in the Mixed Court of Justice established in this city for the abolition of the Slave Trade, having met together to consider the proceedings consequent upon the detention by the English brig-of-war "Snake," Commander John B. P. Hay, of the Spanish merchant schooner "*Caridad Cubana*," Don Sebastian Fabregues, Master, on the 3d day of July ultimo, with a cargo of bozal negroes, of both sexes, on board, to the number of 174, and it being fully proved by the declaration of the Spanish Captain and the other witnesses examined, as well as by the documents found on board the schooner, that she sailed from Santiago de Cuba on the 9th of March last with papers and a cargo for San Jozé de Bissao, a Portuguese colony on the coast of Africa, where she landed her cargo and engaged the slaves, for whom she went to another island opposite called Sacramento, and took on board to the number of 175, one of whom died before the capture, which tock place 17 miles to the northward of Puerto Rico; that they then went to Jamaica, because, although the vessel was in good condition, and well provided with necessaries for a neighbouring port, she had not sufficient provisions to bring them on to this, where they delivered up to the English authorities 172 negroes, two having died on the passage since capture, the receipt for them, with its translation, being filed, with the proceedings, at

pages 28 and 29. The judges therefore agreed that they ought to declare, and hereby do declare, with all due regard to the merits of the case, and according to the usual brief and summary mode of proceeding in all such cases on the truth being made known, that the said Spanish merchant schooner "*Caridad Cubana*" is a good and lawful prize, as well as the 172 bozal negroes, the former being condemned, with all her tackle and apparel, and the negroes remaining alive being freed from all slavery and captivity. That it be made known to the proper authorities by the British Judge that they ought to remit the descriptions of the slaves in due form, and certified upon oath, in order that this Mixed Court of Justice may provide their Certificates of Emancipation, of which copies will be kept in the Register in the Secretary's Office. It is furthermore decreed, that the condemned vessel be broken to pieces, and that the fragments, with whatever else belong to her, be valued by the principal Masters of the Royal Arsenal, who shall swear to perform this duty faithfully, and that they be then brought to public auction before the Notary Don Manuel Fornary, and the proceeds applied according to the Treaty and the annexed Instructions; the vessel being, for the present, placed in deposit with Don Juan Sintos, who shall likewise swear to perform his duty faithfully, and shall receive her from the Prize-master, according to formal inventory. An official letter shall, moreover, be addressed to his Excellency the President, Governor and Captain-General, enclosing a certified copy of this sentence, for his Excellency's information, the detained individuals of the crew of the "*Caridad Cubana*" remaining at his Excellency's disposal. And by this their sentence definitively judging, thus the judges provided, ordered, and signed, in the presence of the Secretary, who certifies.

(Signed) EL CONDE DE FERNANDINA.
J. KENNEDY.
(Signed) ANDRES CASCALES Y DE ARIZA.
*Acting Secretary.*

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No. 99.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, August* 12, 1839.
(*Received October* 2.)

MY LORD,

WE have the honour to inform your Lordship, that Her Majesty the Queen Regent of Spain has been pleased to appoint Don José Antonio Valdes, Advocate of the Real Audiencia, to be Secretary to the Mixed British and Spanish Court of Justice at this place, in the room of the late Don Juan Francisco Cascales.

On the 10th instant, the Court having met for that purpose, Don José Valdes was sworn in to the due fulfilment of the duties of his office, according to the regulations of the Treaty between the two countries.

We have, &c.
(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

*To the Right Hon. Viscount Palmerston, G.C.B.,*
*&c. &c. &c.*

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No. 100.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, August* 22, 1839.
(*Received October* 2.)

MY LORD,

WE regret to have to inform your Lordship that we have not received a Return of Clearances of Vessels from this place to the Coast of Africa during the last month.

We are therefore unable to give any information respecting the departure of vessels for the purposes of Slave Trade, except to state that the American schooner "*Butterfly*," Captain Morris, sailed on the 2d July last for the Isla del Principe. We have also heard of another American vessel sailing about the same time for the Coast of Africa, named the "*Douglas*."

Of the arrivals during the month we have ascertained the following:—

July 10th, Portuguese schooner "*Magdalena*," Moradillo, Master, from San-Tomé.

July 19th, Portuguese brig "*Fortuna*," formerly "*Llobregat*," Barbosa, Master. She is said to have landed only 350 negroes out of 650 taken on board on the Coast of Africa, and is the property of his Excellency Don Joaquin Gomez.

About the beginning of the last month a circumstance occurred which we think deserving of being mentioned. A planter from the interior of the island having come to this city to purchase slaves and stores for the use of his estate, chartered a small schooner, named the "*Amistad*," on board of which he put the stores and 49 bozal negroes, whom he had bought at one of the barracones, and despatched them

to the port of Nuevitas, on the eastward of the island. Before, however, they reached that place the negroes rose up against the crew, killed the Master, who was also Owner of the vessel, and one or two other men, while two others of the sailors got into a boat and escaped. The negroes then sailed northward, and the report is that they have arrived at Nassau, though the Spanish brig-of-war "*Cubano*" was sent out immediately in search of them.

Should they have arrived at Nassau, information of the facts will, no doubt, have been received at the Colonial Office.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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No. 101.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, October* 12, 1839.

Circular, sending Lisbon Correiro of September 16, containing Lord Howard de Walden's Notes of April 28 and May 5 for republication.

(See No. 69, page 106.)

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No. 102.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, October* 12, 1839.

Circular, on negotiations with Portugal.

(See No. 70, page 106.)

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No. 103.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, November* 2, 1839.

Circular, communicating orders given under the Act for the suppression of the Slave Trade.

(See No. 11, page 7.)

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No. 104.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, November* 15, 1839.

I HEREWITH transmit to you, for your information, copies of the papers enumerated in the accompanying list, relating to four vessels, the "*Mary Anne Cassard*," "*Eagle*," "*Clara*," and "*Wyoming*."

The first-named vessel having been found on the Coast of Africa, sailing under the United States' flag, but equipped for the Slave Trade, was taken by one of Her Majesty's cruizers, on suspicion that she was in reality Spanish property, and was brought before the Mixed British and Spanish Court at Sierra Leone. This tribunal, however, decided, that "it was not competent for any one of the Mixed Courts to adjudicate a vessel, sailing at the time of her seizure under the protection of the Flag and Pass of the United States;" and the "*Mary Anne Cassard*" was accordingly restored to her Master.

When, therefore, the "*Eagle*," "*Clara*," and "*Wyoming*" were taken under like circumstances of suspicion, the Officers who captured those vessels decided upon sending them to New York, to be tried by the authorities of the United States.

You will perceive, that it was decided by the report of the district attorney at New York, that these vessels were really Spanish property; and the American authorities declined, therefore, to take cognizance of them.

Under these circumstances, Her Majesty's Government have thought it right to authorize the Officer in charge of these three vessels to take them to the Vice-Admiralty Court at Bermuda; and, if he cannot succeed in bringing them before that tribunal, to proceed to the Havana, and to bring them before the Mixed Commission there established.

I have now, therefore, to call your attention especially to the opinion, given by

Her Majesty's Advocate-General, against the decision pronounced by the Mixed Court at Sierra Leone on the "*Mary Anne Cassard*;" and I have to desire that, should the cases of the "*Eagle*," "*Clara*," and "*Wyoming*" be submitted to the consideration of the Mixed Court, of which you are members, you will take that opinion as your guide.

I am, &c.
PALMERSTON.

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

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## First Enclosure in No. 104.

*Her Majesty's Commissioners to Viscount Palmerston, Sierra Leone, November* 30, 1838.

(See No. 17, page 14.)

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## Second Enclosure in No. 104.

*Viscount Palmerston to Her Majesty's Commissioners at Sierra Leone, Foreign Office, Sept.* 5, 1839.

(See No. 42, page 56.)

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## Third Enclosure in No. 104.

*Her Majesty's Commissioners to Viscount Palmerston, Sierra Leone, February* 12, 1839.

(See No. 27, page 30.)

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## Fourth Enclosure in No. 104.

*Mr. Fox to Viscount Palmerston, Washington, July* 4, 1839.

(See Class D).

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## Fifth Enclosure in No. 104.

*Mr. Fox to Viscount Palmerston, Washington, July* 30, 1839.

(See Class D.)

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## Sixth Enclosure in No. 104.

*Sir John Barrow to Mr. W. Fox Strangways.*

*Admiralty, September* 10, 1839.
(*Received September* 12.)

SIR,

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of Viscount Palmerston, copies of a further letter, with its enclosures, from Lieutenant Fitzgerald, commanding the "Buzzard," and dated at New York, the 23d of last month, reporting his proceedings with regard to the two slave-vessels, "*Eagle*" and "*Clara*," detained by that vessel.

I have, &c.
(Signed) JOHN BARROW.

*Hon. W. Fox Strangways,*
*&c. &c. &c.*

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## First Sub-Enclosure in Sixth Enclosure in No. 104.

*Lieutenant C. Fitzgerald to Charles Wood, Esq.*

*Her Majesty's Brig "Buzzard," New York, August* 23, 1839.

SIR,

I HAVE the honour to acknowledge the receipt of your letter of the 23d instant, informing me that their Lordships approve of my remaining in this port until the conclusion of the trial of the slave-vessels.

I have now to acquaint their Lordships, that I have received, through Mr. Fox, Her Majesty's Minister at Washington, a copy of the District Attorney's opinion as to the matter of these vessels; and I regret to say, that what I had the honour to lay before their Lordships in my last has been confirmed by this official communication.

From the perusal of the declarations which I drew up at the time of their capture, and which were intended to be laid before the Mixed Commission Court at Sierra Leone, and from some private correspondence between the Mates and the Supercargoes (who were on shore), the District Attorney has come to the conclusion that they are *bonâ fide* Spanish vessels and property; and he has accordingly reported to the acting Secretary of State of the United States that they, therefore, cannot be dealt with here as American vessels. I beg to transmit herewith copies of the District Attorney's opinion, Mr. Vail's letter to Mr. Fox, and his Excellency's answer to me, from which their Lordships will be able to understand the precise ground on which the matter now rests. I have been summoned before the grand jury to give evidence, and that Court has found bills of indictment against William Littig, the Master of the "*Eagle*," and his trial will come on about the middle of next month.

I regret to inform their Lordships that the larger of the two vessels was blown on shore in a late south-east gale, and now lies bilged: if got off, it will be at some expense; but I am now working with all hands in clearing her out, and shall attempt to heave her off in a day or two, when the tides will serve. Commodore Ridgeley, of the Navy-yard, upon my application, has very kindly offered me all the assistance in his power, and which I expect to receive to-morrow or next day.

I have, &c.
(Signed) CHARLES FITZGERALD, Lieutenant commanding.

*Charles Wood, Esq.*
*&c. &c. &c.*

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## Second Sub-Enclosure in Sixth Enclosure in No. 104.

*Mr. Fox to Lieutenant Fitzgerald.*

*Washington, August* 16, 1839.

SIR,

THE acting Secretary of State has addressed to me an official letter, dated the 14th inst., enclosing a communication received by him from the United States District Attorney at New York, to whom had been referred for prosecution, as I previously informed you, the cases of the vessels "*Eagle*" and "*Clara*," detained by you on the North Coast of Spain, for being engaged under the American flag in the illicit traffic in slaves.

I herewith forward to you certified copies of the above official communications. You will perceive that the United States District Attorney now gives it as his formal opinion, upon an examination of the papers and evidence submitted to him, that the vessels cannot be legally proceeded against as American property, but must be considered as owned by subjects of Spain.

With regard, on the other hand, to the surviving American citizen, found serving, as reported, Master on board one of the vessels, the United States District Attorney reports it as his opinion that the offender can be prosecuted under the United States law for the prevention of the crime of Slave Trade of the 10th May, 1800, and it appears that proceedings are about to be instituted against him. Accordingly, under the circumstances here stated, I presume that you will decide either to carry the vessels, "*Eagle*" and "*Clara*," for adjudication, as Spanish slave-vessels, before one of the British Courts of Mixed Commission, or else to convey them to England, to be there dealt with by the British Court of Admiralty.

The certified copy of the United States District Attorney's opinion, which I herewith officially transmit to you, will probably serve as a record equally authentic as if the same had been communicated by him directly to yourself. If, however, you should deem it expedient, as an additional security for the ends of justice, that the District Attorney's opinion should be delivered to yourself individually, I have no doubt that an application to that effect, addressed to him by you, will be complied with.

I request that you will be so good as to communicate the contents of this letter, and its enclosures, to Lieut. Beddoes, the Officer in charge of the slave-vessel "*Wyoming*," as that vessel was detained by one of Her Majesty's cruizers under circumstances similar to those of the "*Eagle*" and "*Clara*;" and as the case was equally referred by the United States Government to their District Surveyor at New York, it is to be presumed that the opinion delivered in the case of the "*Eagle*" and "*Clara*" must be considered as equally applying to that of the "*Wyoming*." Although I have not yet received a separate official communication to that effect, I address a letter upon the subject by this day's post to Lieut. Beddoes, informing him that I have requested you to make the above-mentioned communication.

I have, &c.

(Signed) W. S. FOX.

*To Lieutenant Charles Fitzgerald,*
*Her Majesty's Ship "Buzzard."*

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## Third Sub-Enclosure in Sixth Enclosure in No. 104.

*Mr. A. Vail to H. S. Fox, Esq.*

*Department of State, Washington, August*, 1839.

SIR,

I HAVE the honour to enclose a copy of a letter from the Attorney of the United States for the district of New York, communicating to this Department the result of his examination of the cases of the vessels called the "*Eagle*" and "*Clara*," which formed the subject of your note of the 18th June last, and of my answer to it, dated the 20th of the same month.

I have, &c.

A. VAIL, Acting Secretary of State.

*To H. S. Fox, Esq.,*
*&c. &c. &c.*

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## Fourth Sub-Enclosure in Sixth Enclosure in No. 104.

*Mr. Butler to Mr. Vail.*

*United States District Attorney's Office, New York, August* 9, 1839.

SIR,

I HAVE had the honour to receive your letter of the 20th June last, in relation to the two vessels called the "*Eagle*" and the "*Clara*," shortly before brought into this port by the British brig-of-war "Buzzard," under the command of Lieutenant Fitzgerald, together with the copies of correspondence enclosed therein.

The papers found in each of those vessels have been placed in my hands by Lieutenant Commandant Fitzgerald, and I have examined the same, for the purpose of ascertaining the real character of the property. The following matters appear on these papers:—

1st. That the vessels were built and registered at Baltimore. The Register of the "*Eagle*" is dated December 1st, 1837, and that of the "*Clara*" July 27, 1838.

2nd. That the vessels being afterwards in the port of Havana, they were transferred at the office of the American Consul in that port, the "*Eagle*" to Joshua M. Littig, and the "*Clara*" to Samuel B. Hooker, the Bill of Sale in each case being executed by the Master of the vessel named in the Register, acting by virtue of a Power of Attorney from the Owners.

3rd. Littig and Hooker are represented by the papers to be American citizens; they respectively assumed the command of the vessels transferred to them, as the Masters thereof, and they were in command when the vessels were examined and detained by the British cruizers.

4th. Although in the face of the papers the vessels are thus represented as American property, there is the best reason to believe they were really owned by Spanish subjects, and that the names of the American citizens were used as a mere cover to conceal the true ownership, and such, after a careful and deliberate examination of the subject, is my own decided belief.

This conclusion is founded not only on the full acknowledgment made by Littig and Hooker to

Lieutenant Commandant Fitzgerald, and the other facts set forth in the documents laid before the State Department, the particulars of which need not be repeated by me; but on an inspection of various memoranda and other documents in the Spanish language laid before me with the ship's papers, and which strongly confirm the Spanish ownership. I have therefore the honour to report, as the result of my examination and enquiries, that the documents by which these vessels are represented to be American property are in fact *fictitious*, and that each of the vessels is really Spanish property.

Under these circumstances I do not think myself authorized by your instructions to proceed against the vessels, and have so intimated to the British Consul and to Lieutenant Commandant Fitzgerald, but I have as yet made no formal communication on the subject to either, partly because I am not instructed to do so, and partly from an impression that the Department may itself prefer to communicate to the British minister the decision which shall have been made. Hooker, one of the American citizens found in these vessels, died soon after their arrival in this port; against the other, Littig, I have obtained an indictment, founded on the 2nd and 3rd sections of the Act of the 10th May, 1800. In the view which I first took of the case, I did not believe that this Act applied, because no slaves were ever *actually* transported in, or brought on board of, or procured for, Littig's vessel, and I am yet strongly inclined to this opinion.

But as it has been held by Mr. Justice Story, in an information against a vessel under the first section of this Act, that it is not necessary, to constitute an offence against that section, that slaves should have been taken on board, I have so far changed this opinion as to procure the indictment. Previous to this I had instructed a civil suit against Littig for the penalty imposed by the Act of 1794, which applies where vessels are fitted out in the United States *with intent* to engage in the Slave Trade, which Act, and the like one of 1818, I had supposed the only ones applicable to the case, and that only in the event of its being proved that the "*Eagle*" had been prepared in Baltimore with the *express design* of being employed as a slaver; a fact which it very soon appeared could not be proved. As Littig was discharged on bail, in the penal action, before I thought of preferring an indictment against him, he is not now in custody, but a warrant has been issued for his arrest.

I am, &c.

*Mr. Vail,* (Signed) B. F. BUTLER, U. S. District Attorney.
*&c. &c. &c.*

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## Seventh Enclosure in No. 104.

*Sir John Barrow to Mr. Fox Strangways.*

*Admiralty, September* 10, 1839.

SIR,

I AM commanded by my Lords Commissioners of the Admiralty to transmit to you herewith, for the information of Viscount Palmerston, copies of a Letter, with its Enclosures, from Lieutenant Beddoes, of the "Harlequin," relating to the case of the "*Wyoming*," detained American vessel, conveyed in his charge to New York.

I am, &c.

*The Hon. W. Fox Strangways,* (Signed) JOHN BARROW.
*&c. &c. &c.*

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## First Sub-Enclosure in Seventh Enclosure in No. 104.

*Lieutenant Beddoes to Mr. Wood.*

SIR, *New York, August* 23, 1839.

HEREWITH I have the honour to transmit to you, for the information of my Lords Commissioners of the Admiralty, copies of three letters relating to the case of the "*Wyoming*" detained American vessel, of whose arrival in this port I had the honour last month to acquaint you.

Their Lordships will perceive, from the Report of the United States District Attorney, on what grounds the American Government declines to institute proceedings against the "*Wyoming*."

From the weak and leaky state of the upper works of the "*Wyoming*," from the defective and decayed state of her masts, sails, standing and running rigging, and from the desertion of 9 out of 14 of the prize crew, I think it necessary to await the sailing of the "Buzzard," and to proceed under her convoy to whatever port Lieutenant Fitzgerald determines to take the "*Eagle*" and "*Clara*."

The expenses necessary to put the "*Wyoming*" into a safe state to go to sea would amount to at least £150.

I have, &c.

(Signed) J. H. BEDDOES, Lieutenant of H. M. S. "Harlequin,"
*Charles Wood, Esq.,* In charge of "*Wyoming*."
*&c. &c.*

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## Second Sub-Enclosure in Seventh Enclosure in No. 104.

*Mr. Fox to Lieutenant Beddoes, R.N.*

SIR, *Washington, August* 20, 1839.

I HAVE the honour to transmit to you the copy of an official letter, which has been addressed to me by the Acting Secretary of State of the United States, communicating a Report from the United States District Attorney of New York, in relation to the case of the slave-ship "*Wyoming*," brought by you into the harbour of New York, the same having been detained by one of Her Majesty's cruizers on the coast of Africa, for being engaged under the American flag in the illicit traffic of slaves. You

will perceive that the United States District Attorney reports it to be his opinion, upon grounds, similar to those which caused him to form a like opinion in respect to the slave ships "*Eagle*" and "*Clara*," that proceedings cannot be instituted in the Courts of this country against the "*Wyoming*" as American property, but that the vessel must be considered as owned by subjects of Spain.

The certified copies, which I herewith officially transmit to you, of the Acting Secretary of State's note to me, and of the opinion of the United States District Attorney, will, I apprehend, serve as authentic documents for legal purposes, in the same manner as if they had been addressed directly to yourself. The last sentence in the present Report from the United States District Attorney refers, as you will perceive, to a part of the statement which he had made to the Acting Secretary of State in his previous Report upon the cases of the "*Clara*" and "*Eagle*." I would, therefore, recommend that you should retain in your possession a copy of that Report also, of which a certified copy was furnished by me to Lieutenant Fitzgerald, of Her Majesty's ship "Buzzard."

I am, &c.

*Lieutenant Beddoes, R.N.,* (Signed) H. S. FOX.
*&c. &c. &c.*

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## Third Sub-Enclosure in Seventh Enclosure in No. 104.

*Mr. Vail to Mr. Fox.*

SIR, *Department of State, Washington, August* 19, 1839.

I HAVE the honour to enclose a copy of a letter from the Attorney of the United States for the Southern District of New York, communicating the result of an investigation of the case of the brigantine "*Wyoming*," which, as you were informed by a letter from the Secretary of State of the 16th ultimo, he had been directed to institute.

I am, &c.

*H. S. Fox, Esq.,* (Signed) A. VAIL, Acting Secretary of State.
*&c. &c. &c.*

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## Fourth Sub-Enclosure in Seventh Enclosure in No. 104.

*Mr. B. F. Butler to Mr. Vail.*

SIR, *United States District Attorney's Office, New York, August* 15, 1839.

PURSUANT to the instructions contained in your letter of the 9th ultimo, I have examined the case of the brigantine "*Wyoming*," recently brought into this port in charge of a British naval officer and prize crew, and have the honour to report that, although the only papers found on board the vessel are an American Register, and a list of persons composing her crew, in which she is described in accordance with the Register, as the brig "*Wyoming*," of New York, I am yet entirely satisfied that the vessel was, in point of fact, owned by a Spanish subject, or subjects, resident in the Island of Cuba.

The Register bears date the 22d of December 1838, and, was granted in the port of New York to Joseph A. Scovill, of this city, as sole owner. Nicholas Christopher is described therein as then being Master of the vessel.

By the Certificate of J. A. Smith, the American Vice-consul at Havana, dated March 4th, 1839, it appears that John C. Edwards, an American citizen, took the oaths required by law, and on that became the Master of the vessel in place of Christopher.

The crew, as appears by the list made by Edwards on 7th of March, 1839, was composed exclusively of Spanish subjects resident at Havana. In addition to this circumstance it is stated by Lieutenant Beddoes, the British officer in charge of the vessel, that at the time of her detention there were on board fourteen Spanish passengers from the Havana, stated by the Captain to be slave factors. The facts above mentioned are well calculated to induce the belief, that the vessel had been disposed of at the time of the change of Masters to some person or persons resident at Havana; and such, as I am informed by Mr. Scovill of this city, her former owner, was really the case. This gentleman, soon after the arrival of the "*Wyoming*" in this port, submitted to my inspection sundry letters written from Havana in the beginning of the present year by Captain Christopher, detailing the particulars of a sale, and of the disposition of its proceeds of the brig in question, under a Letter of Attorney from the owner in question, Mr. Scovill. From these letters, and the other part of the correspondence, and other papers exhibited to me by Mr. Scovill, it appears that the vessel was sent to Havana with a cargo, and that Captain Christopher was instructed after disposing of his cargo to sell the vessel, if he should be able to find a purchaser, and that he did accordingly, as Attorney for the Owner, make such sale to Francisco Rocosa, a Spanish subject residing at Havana.

In this state of the case, I have not thought it proper to institute any proceedings against the vessel, but for reasons similar to those mentioned in my letter of the 9th instant, in relation to the "*Eagle*" and the "*Clara*," have made no formal communication to Lieutenant Beddoes.

I have, &c.

*A. Vail, Esq.* (Signed) B. F. BUTLER.
*&c. &c.*

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## Eighth Enclosure in No. 104.

*Mr. Fox Strangways to the Secretary of the Admiralty.*

SIR, *Foreign Office, September* 21, 1839.

I HAVE received and laid before Viscount Palmerston your letters of the 10th instant, enclosing copies of communications from the officers in charge of the slave vessels, the "*Clara*," "*Eagle*," and

"*Wyoming*," at New York, by which it appears that the District Attorney is of opinion, that these vessels are in fact Spanish property, and that they cannot therefore be proceeded against on behalf of the Government of the United States.

Under these circumstances I am directed by Viscount Palmerston to request that you will communicate to the Lords Commissioners of the Admiralty his Lordship's opinion, that the vessels in question should be sent for adjudication to the Mixed British and Spanish Court at the Havana; and I am to add, that as soon as his Lordship learns that the Board of Admiralty acquiesce in this opinion, his Lordship will give instructions to Her Majesty's Commissioners, resident at the Havana, to endeavour to ensure the admission of the cases of the "*Eagle*," "*Clara*," and "*Wyoming*," for trial before the Mixed Court established there.

I have, &c.

*The Secretary of the Admiralty,* (Signed) W. FOX STRANGWAYS.
*&c. &c. &c.*

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## Ninth Enclosure in No. 104.

*Sir John Barrow to Mr. Fox Strangways.*

SIR, *Admiralty, September* 23, 1839.

WITH reference to your letter of the 21st instant, relative to the cases of the "*Clara*," "*Eagle*," and "*Wyoming*," the detained slave vessels which have been conveyed to New York, I am commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of Viscount Palmerston, a copy of a letter addressed by their Lordships' directions to Lieutenant Charles Fitzgerald, commanding the "Buzzard," directing the measures to be pursued, with a view to the adjudication of the said vessels.

I have, &c.

*The Hon. W. Fox Strangways,* (Signed) JOHN BARROW.
*&c. &c. &c.*

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## Sub-Enclosure in Ninth Enclosure in No. 104.

*Sir John Barrow to Lieutenant Fitzgerald.*

SIR, *Admiralty, September* 1, 1839.

I AM commanded by my Lords Commissioners of the Admiralty to acquaint you, with reference to my letter of the 23d August, that if the American Government should not object to the vessels being given over to you, or if the parties interested in them should not make any claim as American property, and proceed for their recovery in the courts of that country, you are authorized to carry them before the Vice-Admiralty Court at Bermuda, being the nearest, according to your suggestion; but failing to succeed in bringing them before that Court, you may proceed to the Havana, and bring the case before the Mixed Commission there; you are to proceed with them to Jamaica, and consult with the Commander-in-Chief or Commodore, and leaving them there under such charge as may be decided on, return in the "Buzzard" to your station off the Coast of Africa.

I have, &c.

*Lieut. C. Fitzgerald,* (Signed) JOHN BARROW.
*Commanding H. M. Brig "Buzzard," New York.*

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## No. 105.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, November* 22, 1839.

I HEREWITH transmit to you, for your information, the accompanying Copies of Despatches from Her Majesty's Commissioners at Sierra Leone, enclosing the Returns of cases adjudicated, during the half-year ending June 30, 1839, by the several Mixed Courts of Commission established in that Colony, under the Treaties between Great Britain and Foreign Powers for the suppression of the Slave Trade.

I am, &c.,
(Signed) PALMERSTON.

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

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## First Enclosure in No. 105.

*Her Majesty's Commissioners to Viscount Palmerston, "Spain," Sierra Leone, July* 1, 1839.

(See No. 45, page 65.)

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Second Enclosure in No. 105.

*Her Majesty's Commissioners to Viscount Palmerston, "Portugal," Sierra Leone July* 1, 1839.
(See No. 68, page 104.)

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Third Enclosure in No. 105.

*Her Majesty's Commissioners to Viscount Palmerston, "Brazil," Sierra Leone, July* 1, 1839.
(See No. 76, page 111.)

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Fourth Enclosure in No. 105.

*Her Majesty's Commissioners to Viscount Palmerston, "Netherlands," Sierra Leone, July* 1, 1839.
(See No. 80, page 118.)

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No. 106.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, September* 20, 1839.
(*Received November* 26.)

My Lord,

We have had the honour to receive your Lordship's Despatch of the 29th June, 1839, informing us of your having transmitted us five Copies of two Series of Papers, relating to the Slave Trade, presented to the two Houses of Parliament during the present Session. The Copies referred to we also received by the same packet, and beg duly to return our thanks in acknowledgment.

We have, &c.,

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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No. 107.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, September* 20, 1839.
(*Received November* 26.)

My Lord,

We have the honour to submit to your Lordship the correspondence enclosed, had with his Excellency the Captain-General, under the following circumstances:—

In our Despatch, dated the 15th July, 1839, we informed your Lordship of Her Majesty's Superintendent having sent to Grenada, in the Bremen brig "*Louise Federicke,*" the negroes taken on board the Spanish slave schooner "*Sierra del Pilar.*" With those negroes were sent, as a safeguard, and for the preservation of order, four of the black soldiers of Her Majesty's 2d West India Regiment, serving on board the hulk "Romney," and with this fact the authorities of the port were acquainted, an Officer and boat from the Captain of the port's office having visited and seen them on board the brig "*Louise Federicke,*" when about leaving the harbour.

On the 12th of last month the brig "*Louise Federicke*" returned, after fulfilling her engagement in taking the negroes to Grenada; and with her also, of course, returned the four soldiers, who, on proceeding to their quarters on board the "Romney," were stopped by the Captain of the port, and put under charge of a Spanish soldier, while the circumstance was reported to the Captain-General.

On the following day we received a communication from his Excellency, in which, first assuming these soldiers to be an addition to the force already in the "Romney," in which, no doubt, he was misled by the Officers of the port, he proceeds to treat such increase as a subject of complaint, because "the Spanish Government, in a correspondence had with the British Minister of the date of the

31st August, 1838, had insisted on asking that white soldiers should be substituted for the black, and that the number, taken as 15, should not be increased."

Not having at that time seen your Lordship's reply of the 29th September, 1838, but acting on our judgment of your Lordship's sentiments, we answered, after correcting the mistake as to the supposed augmentation, "that we were not aware of Her Majesty's Government having consented to limit the number of black soldiers to any particular number, and did not believe there was any intention entertained of substituting white soldiers for them."

In the latter respect we find ourselves warranted by finding your Lordship's Despatch to that effect in the Parliamentary Papers for 1839, Class B, p. 81; and with regard to the number, though we believe there were but 15 at first, yet it is absurd to suppose that number could be sufficient for the duty required, and they were in fact, immediately after the arrival of the "Romney," considerably increased.

Beyond the smallest number advisable, we feel assured your Lordship would not have them increased, though what that number should be was a question rather for Her Majesty's Superintendent of liberated Africans than for us to consider. But on the 1st May, 1838, immediately after the present Captain-General assumed his Government, he was informed of the number being then 36 (see Parliamentary Papers for 1839, Class A, p. 102, Enclosure), though now only 29, serjeants included.

In reply to our letter the Captain-General wrote again, saying that the soldiers were detained on board the "*Louise Federicke*" by his order, but had been dismissed upon Her Majesty's Superintendent having explained to him that they were the same men who had been sent hence in charge of the liberated negroes. The first assertion can scarcely be taken literally, inasmuch as the soldiers were detained before he could have had any information on the subject, and with regard to the latter fact, Her Majesty's Superintendent having in the course of his duty had to send the men to Grenada, thought it incumbent on him to take the earliest steps to relieve them from any inconvenience, and had therefore called and obtained their liberation, upon a statement of the facts, before our answer could be returned.

In reality we cannot believe that the Captain of the port, or whoever detained them in the first instance, could be ignorant of the soldiers having been sent hence with the negroes to Grenada, or, consequently, that this detention was more than a pretext wherewithal to forward a complaint. That the authorities here are ready to do so whenever they can is manifest from many circumstances; and from one especially, respecting which we had a short time since a correspondence with the Captain-General, though we did not think it deserving of being laid before your Lordship. It was, in brief, for a complaint made by the Captain of the "*Partido*" that the soldiers, on one of the days allowed them to go on shore, had gone beyond their bounds, and conducted themselves with "arrogance." On this Her Majesty's Judge went to examine the locality, and found the charge only not frivolous, because it turned out that some of the inhabitants had been endeavouring to entice the soldiers out of the bare fields to which they were limited into their houses, by offering them drink. The soldiers, fortunately, did not fall into the trap, and we replied only that we had repeated our injunctions to the Officers on board the "Romney" to take care that they should not be allowed to exceed their limits.

To return to our present correspondence, it appears to us, therefore, on every consideration, to have been the right course, respectfully, but clearly, to state, that we considered this interference with the soldiers of Her Majesty's West India Regiment irregular, and one which we begged might not hereafter be considered as a precedent.

Indeed the fear put forward of the danger likely to arise from any intercourse between those soldiers and the slaves of the island comes with ill effect from those, who have themselves two regiments of black soldiers, constantly to be seen in their uniform in the streets, speaking the same language, which the British Black Soldiers cannot do. For, in addition to the fact of these being from the British Islands, we must remember that the negroes brought here from Africa speak so many different dialects and languages, that even their intercourse with one another must be very limited.

We have further to add, that, shortly after this correspondence, a party of Spaniards visited the "Romney," ostensibly from curiosity, but whose manners

gave strong indications of their having been sent for the express purpose of making a report to their superiors as to the force and equipments on board.

We have, &c.,

(Signed) J. KENNEDY,
CAMPBELL J. DALRYMPLE.

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

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## First Enclosure in No. 107.

(Translation.) *The Captain-General to Her Majesty's Commissioners.*

GENTLEMEN, *Havana, August* 13, 1839.

THE Bremen brig "*Louise Federicke*" having arrived in this port yesterday, from the Island of Grenada, with four black soldiers on board for the hulk "Romney," I am under the necessity of reminding you that in the note addressed by the Government of Her Majesty the Queen, my august Sovereign, on the 31st of August of last year, to the Chargé d'Affaires of Her Britannic Majesty, respecting the 15 black soldiers of the said hulk, it was insisted on asking of the Government of Her Britannic Majesty, if it were possible, to substitute white soldiers for the said negroes, and above all, that their number should not be increased, as it appeared to be the intention of the Commander of the said hulk to do: and the Minister of Her Britannic Majesty having made known that his Government conformed to the proposal, Her Majesty granted permission, under date of the 3d April last, for the negro soldiers to go ashore from time to time, under proper restrictions: under such circumstances I could not expect any attempt would be made to increase the before-mentioned number; and in order to determine upon the proper course to be adopted in this affair, I have thought it right to address this communication to you, that you may be pleased to report to me your views on the subject.

God preserve you many years,

(Signed) JOAQUIN DE EZPELETA.

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

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## Second Enclosure in No. 107.

*Her Majesty's Commissioners to the Captain-Ceneral.*

MOST EXCELLENT SIR, *Havana, August* 14, 1839.

WE have received your official communication of yesterday's date, stating that your Excellency had been informed of four negro soldiers having been brought in the Bremen brig "*Louise Federicke*," from Grenada, for the hulk "Romney," and that your Excellency did not expect that the number of black soldiers on board the "Romney" would be increased, as the Government of Her Catholic Majesty had insisted on asking that white soldiers should be substituted for them, and that no others should be introduced.

In answer we have to state that the brig "*Louise Federicke*" was chartered to carry to Grenada the negroes found on board the Spanish slave-schooner "*Sierra del Pilar*," condemned, by decree of the Mixed Court, on the 21st June last, and that the four soldiers in question were sent with them for a safeguard, and to maintain order on board. The number, therefore, of negro soldiers on board the "Romney" has not been increased by their return. But independently of this we are not aware of the British Government having ever consented to limit the number of any description of soldiers on board, nor do we believe they have any intention of substituting white soldiers for them.

In addition to these considerations we regret to learn that some of the Officers of your Excellency's administration, who could scarcely be ignorant of the fact of these soldiers having been sent with the negroes to Grenada, have detained them any time on board the brig "*Louise Federicke*," under custody of a Spanish soldier, on their return. Such interference with the regular troops of Her Britannic Majesty we consider calculated to lead to results which might have to be deprecated, and we must, therefore, beg your Excellency will give directions so that it may not be construed into a precedent hereafter.

We have, &c.

(Signed) J. KENNEDY,
CAMPBELL J. DALRYMPLE.

*His Excellency the Captain-General,*
*&c. &c. &c.*

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## Third Enclosure in No. 107.

(Translation.) *The Captain-General to Her Majesty's Commissioners.*

GENTLEMEN, *Havana, August* 20, 1839.

I HAVE received your communication of the 14th instant, in reply to mine of the day before; and, having taken into consideration its contents, I have to state that, being unacquainted with the fact of the four negro soldiers who arrived in this port, in the Bremen brig "*Louise Federicke*," belonging to the complement of the hulk "Romney," and that they had been escorting the emancipated negroes sent to Grenada, I ordered their detention, and addressed you an official letter on the subject; but, as soon as the Superintendent of Emancipated Negroes made the circumstance known to me, I directed

them to be sent on board the said hulk. This detention would have been avoided, had I at first been informed of what the aforesaid Superintendent afterwards told me by word of mouth.

God preserve you many years,

(Signed) JOAQUIN DE EZPELETA.

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

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No. 108.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, September* 30, 1839.

(*Received November* 26.)

My Lord,

During the last month, the following vessels arrived at this place from the Coast of Africa:—

Aug. 1st, Port. brig "*Felicidad,*" Freitas, Master, from San-Tomé.
Aug. 12th, „ schooner "*Segunda Amable Salomé,*" Gonçalvez, „ from St. Jago de Cuba.

Of the departures, we regret we have not been able to procure returns; and the more so, as we believe the trade is carried on with undiminished activity. The dealers seem nothing checked by the captures on the Coast, which, they have it reported, amount to 80 in the last 12 months. We hope the report may prove true, and that your Lordship's endeavours to suppress the traffic may be entirely successful, as we are quite satisfied that the continuance of the trade is as prejudicial to the well-being of this island as it is destructive to Africa.

The negroes we mentioned in our Despatch dated 22nd August last, as having risen up against their Owners, and killed some of the crew who were taking them from this port to another near the city of Principe, have been detained by the United States surveying vessel "*Washington,*" and carried into New London. There the last accounts state they were ordered to be tried at the Circuit Court at Hartford, on the 17th instant, though for what offence is not specified. It was at first our intention to have sent a statement of facts respecting them to the British Minister at Washington; but, upon obtaining the evidence given against them in the American newspapers, we find that the negroes, having killed the Captain of the schooner, and the Cook, and spared their two Owners who went with them, these Owners, in giving them up to the American Authorities, acknowledged they were bozales, bought at one of the baracones at Havana, from a cargo recently brought here. We could only have said as much, and with less authority than this confession of the parties affords; and therefore, while we did not wish it to be charged upon us that we were interfering, uncalled for, in the affairs of other nations, we are glad to leave it to the American people's own sense of justice to decide what should be done with these unhappy victims to a horrid traffic, and a flagrant breach of the laws of Spain.

It appears the object of the negroes was to get back to Africa, and they wished the white men left on board to steer east by the sun, but the latter contrived to outwit them by keeping to the north.

There is a report very prevalent in this place, that a Royal Order has been received from Spain, directing the Captain-General to deliver up to the British Government the negroes who have in former years been liberated by decree of the Mixed Court of Justice, and left in this island. We trust the report may prove correct, as nothing can be more vile than the treatment which those poor beings have received. Those who have been taken by the Government, for employment on the public works, have been tasked for that purpose with felons and other offenders, until the name of "Emancipado" has become a bye-word of scorn among the people of their class. And even those who have been hired out to the inhabitants, as your Lordship will remember, at so much per head, having been in effect so sold, were of course treated as in reality slaves, Thus we know several instances of "Emancipados" being allowed to work out, as other slaves are often allowed to do, upon the condition of bringing home so much per day or month to their masters.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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## Enclosure in No. 108.

*Extract from the Charleston Courier of September* 5, 1839.

[*From the New York Sun.*]

### THE LONG, LOW, BLACK SCHOONER.

The whole of the Particulars concerning the Piracy, Mutiny, and Murders, on board the Spanish Schooner "*Amistead,*" which was captured on Monday last, and carried into New London, Conn.

No sooner had the proprietor of the Sun heard of the capture of the suspicious schooner, which has excited so much remark of late, than he took efficient and prompt measures to procure full particulars. In pursuance of this purpose, we have procured, at a most enormous expense, a cut of the vessel and a most accurate likeness of the chief who devised the plan. The portrait was taken by that most talented native artist, James Sheffield, Esq., of New London, and is for sale at the desk, splendidly lithographed. It will be seen that our account is continued up to last night, and embraces every particular connected with this important affair, from the first to the last.

In the month of June last, Don Jozé Ruiz, a wealthy and noble Spaniard, left his estate at Principe, and proceeded to Havana to buy slaves. At Havana he purchased 49 from a cargo which had just arrived from the Coast of Africa. To forward his purchase home, he chartered the schooner "*Amistead,*" Ramon Ferres, Master and sole Owner. Together with his slaves he shipped a number of packages, partly his own and partly on freight. The packages contained a regular assortment of goods for that market. There was some crockery, some copper, and many dry goods, besides fancy articles for amusement or luxury. Personally, Señor Ruiz had but little money on board, although the Captain was supposed to have specie to the amount of 8,000 dollars in doubloons. Besides this cargo, the "*Amistead*" received on board Don Pedro Montez, and four slaves, as passengers. The slaves of Señor Montez were from the same cargo as those of Ruiz, but were all children between the ages of seven and twelve. Three of the four were females, and one a male. The crew of the schooner consisted of the Captain, his two slaves, and two white men. The slaves of Ruiz and Montez were all Congolese negroes, only six weeks from the Coast of Africa, four of which, at least, had been spent on the passage. One of the Captain's slaves was a mulatto, and employed as cook; the other a black boy, named Antonio, who is yet on board the schooner.

The schooner is of Baltimore clipper build, about 170 tons burden, six years old, and was called the "*Friendship,*" which, being Hispaniolised, means "*Amistead.* She was insured at Havana to her full value. Señor Ruiz is insured 20,000 dollars, and it is supposed the rest of the Shippers also were.

On the 28th of June, 1839, this vessel sailed from the Havana for Guanaja, the port of entry for Principe. Among the slaves purchased by Ruiz was one called (in Spanish) Joseph Cinquez, who is the son of an African chief. This Cinquez is one of those spirits which appear but seldom. Possessing far more sagacity and courage than his race generally do, he had been accustomed to command. His physical proportions are those best calculated to endure privation. His countenance, when in repose, looks heavy, but, under excitement, it assumes an expression of great intelligence. His eye is that of a Spaniard, and can exhibit every variety of thought, from the cool contempt of a haughty chieftain, to the high resolve which would be sustained through martyrdom. His lips are thicker and more turned up than those of his race in general; but, when opened, displays a set of teeth rivalling in beauty the most regular of those which we praise so much in Caucasian beauty. But his nostrils are the most remarkable feature he possesses; these he can contract or dilate at pleasure. His general deportment is free from levity; and many white men might take a lesson, in dignity and forbearance, from the African chieftain, who, although in bondage, appears to have been the Oseola of his race. In height, he is just 5 feet 7¾ inches, has a full chest, large joints and muscles, and built for strength and agility.

The head of this extraordinary man, now only 26 years of age, is one that, in phrenological parlance, indicates the strongly-marked character of its possessor. The forehead is high and perpendicular, no receding; it would most properly be called round. The organs of locality, individuality, and eventuality, are very prominently developed. Causality, comparison, and hope, rather small. Language is very good. In his head, the moral sentiments predominate. Benevolence, veneration, and conscienciousness, very large. Combativeness and destructiveness are only moderately developed. Perhaps, however, the strongest points are adhesiveness, concentrativeness, and firmness: these indicate unshaken courage and intense love of home and kindred. He is, taking him for all and all, one calculated to excite the deepest interest in his behalf, and just the man to invent and become the leader in such an event as that which has thrown him on our shores.

(The particulars of the massacre will be found in the testimony.)

About two days after the rising they had a heavy gale, which drifted them into the Bahama Channel. Here they boxed about again, but saw no vessels; at last, being out of water, the negroes ordered Montez to make the nearest land, which proved to be the Island of St. Andrews. Here the negroes met no one. After this Montez steered for New Providence, but the negroes were not disposed to land. By this time Joseph had learned to steer, and he took the helm in the day, leaving one of the white men to steer at night. Every night Joseph slept near the helm, and had two of the most trusty negroes by his side watching, and ready to awake him on the least alarm.

During this interval the negroes broke open the hatches and pillaged the cargo. Among it they found wine, raisins, and a great quantity of medicines; all this they ate indiscriminately. Ten died in a short time, and others would have done so, had not Joseph forbidden the rest to touch any thing but what he gave them. Any infraction of this wholesome regulation brought down on the head of the offender a severe personal chastisement from the hands of the chief. Joseph lived abstemiously during the whole trouble, and insisted on the most implicit obedience to his orders. The only food eaten was portioned out by his hand, and not a box of the cargo opened but under his direction. He divided the spoil, taking the smallest portion for himself. He was the master spirit on board; everything felt his influence. We confess that during all this time the whites were in a most wretched condition, and their hope of escape very small. In the night they steered to the west, and succeeded in persuading Joseph to keep to the north of east in the day.

About the fifteenth of this month, as the Spaniards suppose, for they had lost knowledge of dates and days, they came in sight of Long Island. In the interval they had been boarded by several vessels, one of which supplied them with a demijohn of water. They had seen many vessels and signalized

them, but were unable to call their attention. When any vessel came alongside Joseph would stand by Ruiz, the only man who speaks English, and watch him with fearful intensity.

The organ of communication between Señor Ruiz and the Congolese was Antonio, the Captain's slave. He is by birth an African, but has lived in Cuba eight or ten years. He speaks both Congolese and Spanish. He had been employed as a Cabin-boy.

On the 20th of this month they were hailed by pilot-boat No. 3, which gave them some apples. Joseph having some fear of betrayal would not allow Ruiz to speak with these. Pilot-boat No. 4 came alongside also, but they were not permitted to board. On the 24th they made Montauk light, and stood for it, hoping to run the vessel ashore, but the tide drifted them up the bay. They then came to anchor off Culloden Point, where the negroes went ashore to lay in water. Between the fifteenth and twenty-fourth they had anchored about thirty times at different places on the coast.

The negroes who went ashore at Culloden were almost naked, and the inhabitants were exceedingly alarmed. They were two days in the neighbourhood without any attempt being made to arrest them. Only in two instances did they succeed in bartering with the inhabitants for provisions, once for a doubloon, and once a musket. While engaged in watering they were fallen in with by Captain Green, and another gentleman from Sag Harbor, who had visited the point on a shooting excursion. Captain Green immediately saw that all was not right, and gave them to understand that they should be taken care of.

Either before or immediately after Captain Green and his friend had retired the boat of the cutter "*Washington*" came in sight and boarded the vessel. Immediately on seeing a gentleman in uniform Señor Ruiz went up to him and said:—

"These negroes are my slaves; they have risen and taken the vessel; that is the leader, (pointing to Joseph,) and I claim your protection."

Lieutenants Porter and Meade then immediately took possession, disarmed the negroes, and took the schooner in tow. Joseph on seeing this went below, and tieing some gold about his person, he leapt out of the main hatch, and at one bound was over the side. While under the water he disengaged the doubloons and came up about 100 yards from the vessel, having been under water at least five minutes. The boat was instantly manned and sent in chase of him. When the boat neared him he would stop, but just as it came within reach he would dive down and come up again some yards behind her stern. He thus employed them about 40 minutes, when seeing further attempts useless, he gave himself up. When pulled on board the boat he smiled, and putting his hands to his throat, intimated that he was going to be hanged. Joseph was then transferred to the "*Washington*," but he seemed so uneasy and displayed so much anxiety to return to the schooner that he was humanely gratified. On once more joining the "*Amistead*" the poor wretches clustered around him, making the most extravagant demonstrations of joy. Some laughed, some screamed, some danced, and some wept. Joseph stood in the midst, but did not even smile. When the noise had subsided, he addressed them in Congolese, which was translated by Antonio as follows:

"Friends and Brothers,—We would have returned but the sun was against us. I would not see you serve the white man, so I induced you to help me kill the Captain. I thought I should be killed —I expected it. It would have been better. You had better be killed than live many moons in misery. I shall be hanged, I think, every day. But this does not pain me. I could die happy if by dying I could save so many of my brothers from the bondage of the white man."

By this time the excitement had risen to such a pitch that the officer in command had Joseph led away by force and returned to the "*Washington*." Even this the hero bore with stoical dignity, while his poor countrymen uttered the most piercing yells. On board the "*Washington*" he was manacled to prevent his leaping overboard. Even this failed to elicit the slightest perceptible emotion. This was on Tuesday. On Wednesday he signified by motions that if they would take him on board the schooner again he would show them a handkerchief full of doubloons. He was accordingly sent on board. His manacles were taken off and he once more went below to receive congratulations, even more wild and enthusiastic than those of Tuesday. Antonio was told to watch and listen to him. Instead of finding the doubloons he again addressed the negroes, which, according to the interpretation of Antonio to Spanish, and from Spanish to English, by John Jay Hyde, Esq., editor of the New London Gazette, was as follows:—

"My brothers, I am once more among you, having deceived the enemy of our race by saying I had doubloons. I came to tell you that you have only one chance for death, and none for liberty. I am sure you prefer death, as I do. You can by killing the white men now on board, and I will help you, make the people here kill you. It is better for you to do this, and then you will not only avert bondage yourselves, but prevent the entailment of unnumbered wrongs on your children. Come—come with me then—"

Antonio made the signal and the unsubdued chief was dragged from the hold, again manacled, and put on board the "*Washington*." While making this speech his cheek shone, and his eye was often turned to the sailors in charge. The negroes yelled and looked as fiercely as he did. They leapt about and seemed like creatures under some talismanic power. On his way to the "*Washington*", the hero moved not a muscle, but kept his eye fixed on the schooner. On board the "*Washington* he made a thousand gestures and motions to be taken on deck, as if on some urgent and important errand. But when led up he only looks at the schooner, and remains with his eyes fixed upon her till taken below again. He evinces no emotion, and had he lived in the days of Greece and Rome, his name would have been handed down to posterity as one who had practised those most sublime of all virtues—disinterested patriotism and unshrinking courage. Now most probably he will be hanged as a murderer and pirate.

On Wednesday night, Captain Gedney despatched an express to the United States Marshal at New Haven, who gave information to his Honour A. T. Judson, United States District Judge. On Thursday morning both these gentlemen arrived, and after careful deliberation, concluded to hold their court on board the "*Washington*" then lying off the fort, within musket shot of the schooner. Lieutenant Wolcott kindly offered the services of the United States cutter "*Experiment*" to take all interested on board the "*Washington*." The United States Marshal politely took us under his protection.

## JUDICIAL INVESTIGATION.

At Anchor, on board the United States Cutter "*Washington*," commanded by Lieutenant Gedney.

*New London, August* 29, 1839.

His honour Andrew T. Judson, United States' District Judge, on the bench, C. A. Ingersoll, Esq. appearing for the United States' Attorney. The court was opened by the United States' Marshal. The clerk then swore Don Pedro Montez, Owner of part of the cargo, and three of the slaves, and Don Jose Ruiz, also Owner of part of the cargo, and 49 of the slaves. These gentlemen then lodged a complaint against Joseph Cinquez, (the leader of the alleged offence,) Antonio, Simon Lacis, Peter, Martin, Manuel, Andrew, Edward, Caledonis, Bartholomew, Raymond, Augustine, Evaristo, Casimiro, Mercho, Gabriel, Santario, Escalastico, Pasehal, Estanilaus, Desiderio, Nicholas, Stephen, Thomas, Corsino, Lewis, Bartolo, Julian, Frederick, Saturnio, Larduslado, Celistino, Epifanio, Tevacio, Genancis, Hipiloto, Venito, Tidoro, Vicinto, Dionecio, Apolonio, Ezidiquiel, Leon, Julius, Hippoleto 2nd, and Zidnon, or such of the above as might be alive at that time. It was ascertained that Joseph Cinquez and 38 others were alive, and on the complaint an indictment was framed, charging them with murder and piracy on board the Spanish schooner "*Amistead*."

Joseph Cinquez, the leader, was brought into the cabin manacled. He had a cord round his neck, to which a snuff-box was suspended. He wore a red flannel shirt and duck pantaloons. The portrait we had taken is an excellent likeness, but it is deficient in the hero-like expression of his eye and brow. His appearance was neat, and in cleanliness would compare advantageously with any coloured dandy in Broadway. He was calm and collected. Occasionally he smiled with a melancholy but determined expression, but he evinced no fear. At intervals he motioned with his hand that he expected to be hanged, and then for a moment would gaze intensely on his accusers.

Lieutenant R. W. Meade, who speaks the Spanish language both elegantly and fluently, acted as an interpreter between the Spaniards and the Court. The poor prisoner did not understand a word in either language, and stood a mute spectator, although interested in the event.

Several bundles of letters were produced, saved from the "*Amistead*," and such as were unsealed read. The contents being simply commercial can be of no interest to the reader. Among the papers were two licences from the Governor of Havana, General Ezpeleta, one for three slaves, owned by Pedro Montes, one of the men saved, and 49 owned by Señor Don Jose Ruiz, the other that has escaped, allowing the said slaves to be transported to Principe, and commanding said owners to report their arrival to the territorial judge of the district in which Principe is situated. A licence was found permitting Pedro Montes, a merchant of Principe, to proceed to Matanzas, and transact business, which was endorsed by the Governor of Havana and the officer of the port. Regular passports were produced, allowing the passengers to proceed to their destination. A licence was found permitting Lelestino Ferrers, a mulatto, owned by Captain Raman Ferrers, and employed as a cook, to proceed on the voyage. Other licences for each sailor were produced and read, all of which were regularly signed and endorsed by the proper authorities.

The Custom-house Clearance, dated the 18th May, 1838, was produced. Also another, dated 28th June, 1839, all regular. Several licences permitting goods to be shipped on board the "*Amistead*" were read, and decided to be regular.

Lieut. R. W. Meade testified that he was in the boat which boarded the "*Amistead*," and demanded the papers, which were unhesitatingly delivered. Previous to this demand Señor Don Jose Ruiz had claimed protection for himself and Don Pedro Montes, the only two white men on board. The protection was immediately granted, and the vessel brought to New London.

Many of the events which are detailed in the narrative were omitted in the evidence, as having no bearing on the guilt or innocence of the accused, in the present state of the proceedings.

Señor Don Jose Ruiz was next sworn, and testified as follows:—I bought 49 slaves in Havana, and shipped them on board the schooner "*Amistead*." We sailed for Guanaja, the intermediate port for Principe. For the four first days every thing went on well. In the night heard a noise in the forecastle. All of us were asleep except the man at the helm. Do not know how things began; was awoke by the noise. This man, Joseph, I saw. Cannot tell how many were engaged. There was no moon. It was very dark. I took up an oar and tried to quell the mutiny; I cried no! no! I then heard one of the crew cry murder. I then heard the Captain order the Cabin-boy to go below and get some bread to throw to them, in hope to pacify the negroes. I went below and called on Montes to follow me, and told them not to kill me; I did not see the Captain killed. They called me on deck, and told me I should not be hurt. I asked them as a favour to spare the old man; they did so. After this they went below and ransacked the trunks of the passengers. Before doing this they tied our hands. We went on our course; don't know who was at the helm. Next day I missed Captain Ramon Ferrer, two sailors, Manuel Pagilla and Jacinto ——, and Selestina the cook. We all slept on deck. The slaves told us next day that they had killed all, but the Cabin-boy said they had killed only the Captain and Cook; the other two, he said, had escaped in the canoe, a small boat. The Cabin-boy is an African by birth, but has lived a long time in Cuba; his name is Antonio, and belonged to the Captain. From this time we were compelled to steer east in the day, but sometimes the wind would not allow us to steer east, then they would threaten us with death. In the night we steered west, and kept to the northward as much as possible. We were six or seven leagues from land when the outbreak took place. Antonio is yet alive. They would have killed him, but he acted as interpreter between us, as he understood both languages; he is now on board the schooner. Principe is about two days' sail from Havana, or 100 leagues, reckoning three miles to a league. Sometimes when the winds are adverse the passage occupies 15 days.

Señor Don Pedro Montes was next sworn. This witness testified altogether in Spanish, Lieut. R. W. Meade interpreter.

We left Havana on the 28th of June. I owned four slaves, three females and one male. For three days the wind was ahead, and all went well. Between 11 and 12 at night, just as the moon was rising, sky dark and cloudy, weather very rainy, on the fourth night I laid down on a mattress. Between 3 and 4 was awakened by a noise, which was caused by blows given to the Mulatto cook. I went on deck, and they attacked me. I seized a stick and a knife with a view to defend myself; I did not wish to kill or hurt them. At this time the prisoner wounded me on the head severely with one of the sugar

knives, also on the arm. I then ran below and stowed myself between two barrels, wrapped up in a sail. (Here the prisoner motioned for his snuff-box.) The prisoner rushed after me and attempted to kill me, but was prevented by the interference of another man. I recollect who struck me, but was not sufficiently sensible to distinguish the man who saved me. I was faint from loss of blood. I then was taken on deck and tied to the hand of Ruiz. After this they commanded me to steer for their country. I told them I did not know the way. I was much afraid, and had lost my senses, so I cannot recollect who tied me. On the second day after the mutiny a heavy gale came on. I still steered, having once been master of a vessel. When recovered, I steered for Havana in the night by the stars, but by the sun in the day, taking care to make no more way than possible. After sailing 50 leagues we saw an American merchant ship, but did not speak her. We were also passed by a schooner, but were unnoticed. Every moment my life was threatened. I know nothing of the murder of the Captain. All I know of the murder of the Mulatto is that I heard the blows; he was asleep when attacked. Next morning the negroes had washed the decks. During the rain the Captain was at the helm. They were all glad next day at what had happened. The prisoners treated me harshly, and, but for the interference of others, would have killed me several times every day. We kept no reckoning. I did not know how many days we had been out, nor what day of the week it was when the officers came on board. We anchored at least 30 times and lost an anchor at New Providence. When at anchor we were treated well, but at sea they acted very cruelly toward me. They once wanted me to drop anchor in the high seas. I had no wish to kill any of them, but prevented them from killing each other.

The prisoner was now sent to his quarters, and the Court adjourned to the schooner that she might be inspected, and that Antonio when making his deposition might recognise those who murdered the Captain and his Mulatto Cook.

Adjourned Investigation on board the "*Amistead.*"—

Antonio, the slave of the murdered Captain, was called before the Court, and was addressed in Spanish by Lieut. Meade on the nature of an oath. He said he was a Christian, and being sworn he thus testified.

We had been out four days when the mutiny broke out. That night it had been raining very hard, and all hands been on deck. The rain ceased, but still it was very dark. Clouds covered the moon. After the rain the Captain and the Mulatto lay down on some mattresses that they had brought on deck. Four of the slaves came aft, armed with those knives which are used to cut sugar cane; they struck the Captain across the face twice or three times; they struck the Mulatto oftener; neither of them groaned. By this time the rest of the slaves had come on deck, all armed in the same way. The man at the wheel and another let down the small boat and escaped. I was awake and saw it all. The men escaped before Señor Ruiz and Señor Montez awoke. Joseph, the man in irons, was the leader; he attacked Señor Montez. Señor Montez fought with them and wanted them to be still. The Captain ordered me to throw some bread amongst them; I did so, but they would not touch it. After killing the Captain and the Cook, and wounding Señor Montez, they tied Montez and Ruiz by the hands till they ransacked the cabin. After doing so they loosed them, and they went below. Señor Montez could scarcely walk. The bodies of the Captain and Mulatto were thrown overboard, and the decks washed. One of the slaves who attacked the Captain has since died. Joseph was one, two of them are now below. (The boy then went on deck, and picked out the two negroes who had conspired to kill the Captain and Mulatto.)

The examination of the boy being finished, the court returned by the conveyance which put it on board the "*Washington,*" and after being in consultation some time came to the following decision:—

Joseph Cinquez, the leader, and 38 others, as named in the indictment, stand committed for trial before the next Circuit Court at Hartford, to be holden on the 17th day of September next.

The three girls and Antonio, the Cabin-boy, are ordered to give bonds in the sum of 100 dollars each to appear before the said court and give evidence in the aforesaid case, and for want of such bonds to be committed to the country gaol in the city of New Haven. These persons were not indicted.

Lieut. R. W. Mead, Don Jose Ruiz, and Don Pedro Montez are ordered to recognize in the sum of 100 dollars each, to appear and give evidence in said case before the aforesaid court.

The Court now finally adjourned, having given an order to the U. S. Marshal to transport them to New Haven.

As we were about to leave, the following was put into our hands by Señor Ruiz, with a request that it might be published in all the city papers:—

A CARD.

*New London, August* 29, 1839.

The subscribers, Don Jose Ruiz and Don Pedro Montez, in gratitude for their most unhoped for and providential rescue from the hands of a ruthless gang of *African bucaniers* and an awful death, would ake this means of expressing, in some slight degree, their thankfulness and obligation to Lieut. Com. T. R. Gedney, and the officers and crew of the U. S. surveying brig "*Washington,*" for their decision in seizing the "*Amistead,*" and their unremitting kindness and hospitality in providing for their comfort on board their vessel, as well as the means they have taken for the protection of their property.

We also must express our indebtedness to that nation whose flag they so worthily bear, with an assurance that this act will be duly appreciated by our most gracious sovereign Her Majesty the Queen of Spain.

Don Jose Ruiz.
Don Pedro Montez.

No. 109.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, October* 5, 1839.
(*Received November* 26.)

My Lord,

We have the honour to report to your Lordship, that Dr. R. R. Madden, Her Majesty's Superintendent of liberated Africans, sailed from this place on the 3d instant, pursuant to leave of absence obtained for six months, leaving Mr. Daniel Clarke, of this place, in charge of the duties of his office.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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No. 110.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, October* 18, 1839.
(*Received November* 26.)

My Lord,

We have the satisfaction of transmitting to your Lordship a list of vessels cleared out from this place for the Coast of Africa during the last three months, from which your Lordship will perceive that the Spanish flag is again employed more freely, now that the Portuguese is found to afford no protection, as of the 17 vessels cleared out,

4 were Spanish,
5 were American, and
8 were Portuguese,

no doubt with old papers retained.

| | | | | |
|---|---|---|---|---|
| July | 1st, | Portuguese schooner | "*Dos Amigos*," | for San Tomé. |
| „ | 2d, | American „ | "*Butterfly*," | „ Isla del Principe. |
| „ | 5th, | Portuguese brig | "*Triunfo de Loanda*," | „ Mozambique. |
| „ | 8th, | „ brigantine | "*Felicidad*," | „ Lagos. |
| „ | 20th, | Spanish brig | "*Ensayador*," | „ Cape Verds. |
| „ | 26th, | Portuguese schooner | "*Victoria*," | „ Rio Congo. |
| „ | 27th, | „ „ | "*Josefina*," | „ San Tomé. |
| Aug. | 1st, | American brig | "*Douglas*," (Captain Baker) | „ Bonny. |
| „ | 2d, | Spanish schooner | "*Yberia*," | „ San Tomé. |
| „ | 5th, | Portuguese schooner | "*Magdalena*," | „ Gallinas. |
| „ | „ | brig | "*Fortuna*," | „ Lagos. |
| „ | 24th, | Spanish schooner | "*Numantia*," | „ Cape Verds. |
| Sept. | 10th, | American „ | "*Lark*," | „ Isla del Principe. |
| „ | 10th, | Portuguese „ | "*Lavadeira*," | „ San Tomé. |
| „ | 19th, | Spanish „ | "*Mercedita*," | „ Cape Lopez. |
| „ | 21st, | American „ | "*Hound*," (Capt. Mackellar) | „ Cape Mesurado and Gallinas. |

This vessel arrived on the 7th instant from Baltimore, commanded by Captain Williams.

„ 24th, American schooner-cutter "*Campbell*," (Captain Galt) for Gallinas. This vessel, under the command of Captain Russel, arrived on the 14th from New Orleans, consigned to Pedro Blanco.

During the month we believe the two following were the only vessels that arrived:—

Sept. 2d, American schooner "*Octavia*," Hicaling, Master, from Popo Chico, (Gold Coast) consigned to Don Pedro Manegat.

28th, Portuguese schooner "*Porto Formoso*," Medal, Master, from San Tomé, consigned to the Captain.

The American vessels "*Douglas*" and "*Hound*" were cleared out by an American merchant named Tyng. The former was announced as having come here consigned to the English house of "Morison and Co.;" but we find, upon inquiry, that they had no connexion with the busines further than, as bankers, to receive the purchase-money.

Of the negroes of the Spanish schooner "*Amistad*," taken to New London, we have no further account than that the American Courts had declared they had no jurisdiction in the case, and presume Her Majesty's Consul at New York will have

given your Lordship the fullest reports, by earlier opportunities than we can possess.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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No. 111.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, October* 27, 1839.

My Lord, (*Received December* 14.)

In our despatch, dated 15th July, 1839, we informed your Lordship of our having written a letter to Mr. Trist, the United States Consul at this place, in obedience to your Lordship's directions, as given in the despatch dated the 16th April, 1839. A copy of that letter we then enclosed, and stated that, in answer to it, we had not received any reply.

On the 30th August, however, a reply was delivered, of which we have now to transmit a copy, not having been able to have it made in time for the previous packet, on account of its exceeding, as your Lordship will perceive, 260 closely-written pages. Of this extraordinary production we can scarcely trust ourselves to express an opinion, but are glad to think our so doing of less consideration, inasmuch as the most cursory glance at it must make your Lordship aware of its character better than any opinion we could convey. We must, however, be allowed to make a few remarks, and in the outset to observe, that, offensive as Mr. Trist evidently desires to be to us personally, we have the less reason to complain, as he undistinguishingly inveighs against the conduct of our predecessors in the Commission, as much as against what he imputes to us also; but that with regard to our motives of action, and mode of carrying them into effect, we trust we may lay claim to at least as much right feeling, honesty of purpose, and courtesy of demeanour, as he can put forward for himself.

Mr. Trist's claim to be considered a person entitled to pass judgment on us, or, indeed, on any question relating to slavery or the Slave Trade, we must at once and unhesitatingly dispute. Born, as he himself informs us, amidst black domestics, and brought up among slaves, the native of a slave-holding state, himself somewhat of a slave-holder, and having most of his connexions of that character, he cannot be supposed to have that freedom from improper bias on any such subject, which alone could make his judgment and opinions deserving of consideration. But when we find his public conduct in this place only the natural, though lamentable, consequence to be expected of such an origin, we must declare him the most unfit to be taken for our guide and instructor, in opinion or practice. Preferring, as we do, facts to professions, we will put the latter, for the present, out of consideration, and give, as evidence of our assertions, the following circumstances.

The office of Portuguese Consul has been vacant now nearly two years, during which time we have not heard of any respectable person being a candidate for it; nor do we believe any respectable person would accept it, or we may be sure the Portuguese Government would have long since made the appointment. During this time, then, when no such person was found to undertake the disgrace of sharing its associations with the Slave Trade—when the only occupation and advantage it could give proceeded from the slave-dealers, proportioned, too, to the degree in which the office-holder screened and aided them in their iniquities—the one person above all others they could find ready to become their instrument and assistant was the American Consul! and, as if the office of itself, on account of its only existing duties, had not been sufficiently disgraceful, he thus added the indecency of associating with it the compromising the flag and national character of his republic, the laws of which declared the severest penalties against the Slave Trade, while its citizens were openly, and with impunity, furnishing it vessels, and giving it every assistance their ingenuity could devise.

Mr. Trist might, perhaps, say that he undertook the office with a view to put down those abuses. This would be scarcely consistent with his duty to the Portuguese flag or nation; but, supposing it were so, how has he effected or attempted

this object? Not a vessel has gone to the Coast of Africa under the American flag, but he must have been aware of the purpose for which it was despatched, and yet we have not heard of any denunciations he has made, or steps he has taken to defeat or punish the offenders, except in one solitary instance, to which we shall have immediately to call attention.

Meanwhile, as evidences of the contrary intention on his part, namely, to assist the slave-dealers, we find the following facts alleged:—

1. The Pro-Consul at the Cape Verds charges him with "having granted" (we presume, allowed, or authenticated), "to his knowledge, more than 10 false Bills of Sale of vessels and Passes to these islands."—Parliamentary Papers respecting Slave Trade, 1839, Class B, Further Series, p. 110.

2. We find him giving vessels, which he must have known were intended for the Slave Trade, irregular assistance in furnishing them with blank forms, to be filled up at their convenience.—Parliamentary Papers, *ibid.*, Class D, Further Series, p. 25.

3. We find him giving such vessels certificates irregularly signed, as in two cases, the day before the documents they purported to authenticate (Parliamentary Papers, *ibid.*, Class A, Further Series, pp. 58, 59); and those in relation to a remarkable vessel, found, when taken, to have 21 long guns on board, 18-pounders, with a corresponding number and quantity of muskets, cutlasses, and ammunition strewed about the decks, and prepared for action!

The character of this piratical vessel could not have escaped his observation when he passed her papers, and, as sailing in breach of the laws of all nations, it was his duty to denounce her at least to the local government, whose laws more particularly she was setting at defiance; but instead of so doing, he appears to have even gone out of his regular course to facilitate her progress.

In one case, however, he did detain a vessel, as stated above, suspected of being engaged in the Slave Trade,—the American brig "*Thomas;*" of which fact, in our ignorance of his character and conduct, we made honourable mention at the time. (See Despatch, dated the 24th of December, 1838.) In the missive before us he refers to it, and shows that, unflinching advocate as he professes to be for national independence, the vessel was taken, by his directions, in this harbour by an armed force from the American sloop-of-war "*Ontario.*" Had an English vessel of war been committing such an act in a foreign port, we might, perhaps, have been fairly liable to all those charges here made against us for a trampling upon and contempt of the rights of a powerless nation; but the American Consul holds himself privileged to outrage those rights, and to commit an act which we may justly declare to have been perfectly wanton, because it was totally unnecessary. As an American vessel, the "*Thomas*" could not sail out of the harbour without the American Consul's special permission, and, in fact, it was only taken, to be delivered up to the Captain-General of the island, who would, unquestionably, as a matter of course, have ordered the vessel to be detained, upon an official demand from Mr. Trist, had he been pleased to make it. But this regular mode of proceeding did not comport with his temper or views. Without charging him with a vainglorious desire to make an exhibition of his power, or doubting his desire to defeat a slave-trading expedition, we must point out the fact confessed, that the Captain of the "*Thomas,*" who was also the Owner, and acknowledged "a man of very good connexions," had unfortunately, upon some former occasion, had a quarrel with Mr. Trist, at whose "demand" he had been for some weeks in prison, and had thus become "a most distinguished and sympathy-exciting victim of consular persecution."

The force of this sneer your Lordship will best understand, by perusing the proceedings at different meetings held at Boston and New York for petitioning the United States Government to remove Mr. Trist from his office, for various acts of capricious tyranny and neglect of duty. Of one of these meetings we enclose an account, and your Lordship will perceive from it, that Mr. Trist's own countrymen have just as much cause as we have, to condemn him for those perverted feelings and overweening notions of importance, which persons of weak minds are so apt to fall into, when filling appointments (no matter what) beyond their capability or merit.

Had the case against the "*Thomas*" been undeniably a clear one, the step of so forcibly taking possession of her in a foreign port unnecessarily would still have been most unjustifiable; much more then when it was so doubtful, that, upon investigation by the local authorities (of which he makes no mention), they at once

ordered her release, censured the detention, and awarded the Master damages, which he is now seeking to recover, we understand, from the Captain of the "*Ontario.*"

From all these facts, then, we think it evident that Mr. Trist's vaunted affection for national independence, and hatred of slavery, cannot be very deeply rooted, when he is found by his writings to be such an apologist for the Slave Trade, such an abettor of slave-dealers, and so ready to violate the clearest provisions of respect for the rights of foreign nations unnecessarily, and manifestly only to gratify his own petty resentments. Such a person should be the last to accuse others of unworthy actions or dishonourable motives; and certainly, in this case, the maxim seems as if it might be relied on, to estimate the solidity of a man's principles, and the truth of his professions, inversely as the loudness with which they are unnecessarily paraded.

Holding the lucrative office of American Consul, we cannot suppose that the few dollars Mr. Trist may further gain as Portuguese Consul can be to him of any consideration. But surely it little becomes him to taunt us with being paid from the labours of the factory girl, when he is himself so ready to partake of the blood-money of the slave.

We write thus decidedly because, as Mr. Trist has penned his invectives in that ridiculously inflated and theatrical style, so appropriate for his extravagant ideas of personal importance, with the evident expectation that they will be presented and printed among the papers laid before the House of Commons next Session, we should feel unwilling, in case your Lordship please to indulge him, that his own conduct should be left unexposed, or the indignities offered us unrepelled.

Those indignities we had but one way of meeting with regard to himself personally; and accordingly, in our acknowledgment of his papers, we expressed the fact of their being received in the shortest terms of official courtesy (Enclosure No. 2). We feel assured that, in so doing, we shall receive your Lordship's sanction, considering it all that was due to such an unbusiness-like collection of extravagancies as that which Mr. Trist has here put forth as arguments, opinions, and specimens of eloquence. That acknowledgment, however, in accordance with an intimation given in his voluminous letter, Mr. Trist sent back unopened (as, we suppose, purposing an insult) through the Post-office, in a large and thick envelope, so as to put us to the most expense of postage.

We ought, perhaps, to explain, with respect to his cavilling about the terms in which we communicated your Lordship's message, that they were written with reference to a paragraph in our former letter, which, for conciseness' sake, had been afterwards struck out; and that we wrote the last, knowing the lengths which Mr. Trist is so apt to go, in terms expressly not to give him the opportunity of taking your Lordship for a correspondent instead of ourselves.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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## Enclosure in No. 111.

*Mr. Trist to Her Majesty's Commissioners.*

*Consulate of the United States of America,*
*Havana, 2nd July,* 1839.

SIRS,

**Acknowledgment of communication.**

I WAS honoured last evening with your letter of that date, and now engage in the reply which is to close the correspondence between us.

You inform me "that we have received a Despatch from Her Britannic Majesty's Principal Secretary of State, *confirmatory of our assertion*, that Her Majesty's Government will feel most sincerely obliged by your furnishing us at any time 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 promoting the Slave Trade, either by furnishing British fabrics or shackles of British manufacture, or otherwise."

**Disputes the correctness of a statement.**

Surprised that such an "assertion" on your part could at the time have escaped my notice,—and this so entirely, that even when re-asserted my effort at recollection in regard to it was baffled,—I have turned to your last communication, wherein alone it could be contained. Its re-perusal has dispelled

the distrust awakened in my own attention and memory by lodging the error with yours. Not only is this "assertion" not there, but no intimation of the kind,—not a word on the subject can I find.

Relieved at this certitude that I am not chargeable with the remissness into which your error led me to suppose that I must have fallen, I proceed to respond now to this intimation, as I should have deemed it incumbent upon me to do then, had it been then conveyed.

Replies to the intimation it conveyed.

In the first place, then, as the mode of conveying it gives it the air of an acceptance of a proffer from me, I must begin by correcting a misconstruction of my letter, whereat I cannot but experience some surprise. Seeing that its entire scope was so pointedly opposed to an interpretation of the kind, it does seem strange that anything contained therein should have been construed into a proffer of my services to "Her Majesty's Government," in the honourable capacity of informer-general against British manufacturers, merchants, and mariners, to the end that they may be visited with the penalties of British law. The letter in question does, it is true, contain the words—"If requested to do so, he would doubtless cheerfully comply;" and these words refer to the supposed "American officer" previously spoken of as one who, although he might have acquired, in regard to British fabrics for the Slave Trade and to British laws on the subject of such supplies, a knowledge so complete as to enable him to specify every infraction of those laws, and to designate every individual concerned therein, would nevertheless be deterred by the silent force of the general sentiment of his country, in regard to the principle that it exclusively belongs to every nation to execute, no less than to enact, its own laws, from ever dreaming to "*volunteer* an official communication" on the subject "to any functionary of Great Britain," or "to assume to take part in the administration of those laws." These words do certainly occur in my letter. So far, therefore, as it is consistent with sound logic to infer a writer's state of mind, disposition, and intention upon a particular point from the mere correlation of two or three sentences, or parts of sentences, discarding all else contained in his discourse, so far may the imputation to me of this proffer be deemed logically and morally justifiable. He, however, whose logic is so stubborn as to refuse itself to this convenient process of elimination, and who consequently finds himself under the troublesome necessity to take facts as they are, and to keep their parts together, however much some of them may incommode him, will scarcely require a second perusal of even this particular part of my letter to satisfy him, that the sentence in question, friendly though it be, does not warrant so heavy a draught upon the good nature with which it is pregnant as this acceptance of its readiness to answer such calls would imply. He will see the true measure of the obligingness which it holds out—as determined by the general tone and views that pervade the letter in regard to the principle involved, and as illustrated by the particular request addressed to you, which immediately follows in the same sentence—to extend no further than a readiness to lend my aid so far as the communication of facts might go, when called for by the British authorities, in regard to any particular case of the violation of those laws of their own country, which it is their proper business to protect against infringement. To this extent I deem it the duty of every man, as a citizen of the world, to evince his interest in the maintenance of law, whether in his own particular country or in another. A murder, for instance, committed upon British soil or under the British flag upon the high seas, and proofs in regard to which might chance to come to my knowledge, I should, although myself not within British jurisdiction, deem it my duty to bear witness to, if called upon, and even to volunteer the information, if the circumstances were so extraordinary as to afford a ground for the presumption, that information from me might be of avail to the appropriate guardians of British law. So in regard to infractions of other laws,—for instance, infractions, by British subjects, of British laws against the Slave Trade. My recognition of this duty is restricted, however, to such laws as I may approve; because, from many causes, but above all that radical and widely-operating one—the detestable structure of governments—there is no foreign country whose laws, so far from yielding to them an indiscriminating respect in this particular, I would, while exempt from the duty arising from being in the country, hesitate to do all in my power to screen a fellow-man from the penalty of, in many cases, for instance, which might arise under the British law of treason, of libel, the corn-laws, and others.

Denies having given any reason to suppose a proffer of his services,

In capacity of Informer-General, &c.;

Though acknowledging some words in his letter to carry some idea of such an offer. Argument to the contrary from the context.

And no further than particular case.

And of such laws as he approves of.

Reason—the detestable structure of Government.

Forbidden as this construction so manifestly is by the whole tone and drift of my letter, it seems particularly surprising that it should be hitched, as it is in your present letter, to this particular part of mine; to those *shackles* and other articles for the Slave Trade, the far greater part of which comes—so at least says Havana rumour or notoriety—from England; of which shackles and other articles mention was made by me for the very reason, that the facts connected with them afforded the most forcible illustration of the power of that principle, which the proffer construed by you from my letter is irreconcileably at war with. They were adverted to by me for the special purpose of illustration, in respect to *American* notions concerning the scrupulous regard for the principle of NATIONAL INDEPENDENCE, which, among us, is held to be the *first* of all international duties, not less from the habitual reverence arising from our deep conviction of its vital importance to the whole human family, as a general rule for the conduct of its members towards each other, than from the intimate sentiment, springing from our knowledge of ourselves, that its punctual observance towards us is a condition absolutely indispensable to the maintenance of that peace upon which the best hopes of humanity depend, and to which we are so preeminently inclined through the force of those institutions, to whose results our brother-man in the old world is indebted for the demonstration which now cheers him, that the objects to which peace is important as a means of attainment are objects worth caring for.

Why he referred to shackles and other articles of British manufactures.

In illustration of American notions of the principle of national independence.

But it was not this principle alone that forbad the offer which has thus been imputed to me. Had no such preventive existed, the idea of making it would still have been altogether foreign from my thoughts; and had it accidentally been suggested it could have been considered only to be dismissed as a proposal fraught with insult to yourselves no less than your government, by venturing to approach you with which, any officer of the American government would richly earn the sharpest rebuke you could send, and could not fail to receive the severest reproof from those to whom I am amenable. On the one hand, the immense energies of the British people, devoted by the government under whose control those energies are, to the extirpation of the Slave Trade in any and every part of the world; its zeal so ardent as to spurn at all obstacles, not even excepting that "National Independence," the sacred inviolability of which her statesmen and philosophers are so anxious to guard that scarce a speech is uttered, or an Edinburgh or a Quarterly Review printed, that does not abound in the most impressive adjurations in regard thereto; overleaping all bounds, and passing from the narrow sphere of action appropriate to it, to fill all space, and "vindicate the rights of humanity" wherever outraged in this

Another reason of distinct duties.

Energies of the British nation exerted to suppress the Slave Trade.

Agents for that purpose. Encomium on Mr. Tolmê.

particular, with numberless agents of all grades, civil and military, posted for this one object in all quarters of the globe,—at this spot, a consul who must be known to his Government, as he is here, to be a man of high character, superior talent, great industry, and eminent effectiveness as a man of business and of the world; and, besides this officer, a numerous and costly establishment of commissioners and their adjuncts, civil and military, stationed here for the one and only purpose of justifying the selection made of them, by their devotion, body and soul, to the duties of the service in which they are enlisted! This is the picture on the one hand. On the other, one officer of the United States, burthened with the duties of the consular office in regard to upwards of one-half of the navigation resorting to this port, and contending single-handed with all the cares attending such a charge! With these two pictures before our eyes, and considering the contrast which they present in the one particular of command of time alone, could a greater impertinence be conceived on the part of the American Consul,—could he possibly be guilty of greater presumption, of a more indecent reflection upon the fitness, intellectual or moral, of all these agents, and not of them alone, but of the agents at home, to whom they owe their employ, than such a proffer of his services to do their work; and this, too, in regard to the particular which, from the very nature of things, must, more than any other, be subject to their sure means of cognizance and control?

Contrasted with the American Consul.

Impertinence or presumption of his offering to do their work.

If viewed as a proposal from the British Government.

These remarks will indicate in what light the subject will present itself to me, if, instead of the aspect under which it has just been considered, (given to it by the error into which you have fallen), it be viewed under that of a proposal, originating with your government, that I should engage in the office of denouncer or informer against the residents of Manchester and Glasgow, Sheffield and Birmingham, who may engage in the weaving and forging of fabrics and shackles, and the residents of Havana, who may receive them for sale.

The reasons to prevent the proffer prevent the accepting it.

Correspondent to, if not identical with, the reasons which existed to prevent such a proffer from me, are the objections to my accepting the employment when tendered; and if in regard to the latter point, the principle and the considerations brought into view with respect to the former, do not apply with precisely the same force in exactly the same direction, those considerations have here new bearings upon which I cannot but remark.

Supposing a necessity really to exist for invoking aid to the official machinery now in operation here under the control of the British Government, it might still be questioned whether a proposal to an officer of that of the United States, to furnish such succour in the capacity of an informer, can be regarded as "perfectly consistent with the respect which the agents of" one sovereign ought to deport themselves with towards that of another. This indeed strikes me as so very questionable, that it is only by ascribing the act to the ardent zeal which burns on the subject, that it appears to me reconcileable with a disposition such as I believe, and very sincerely rejoice in believing, to be truly reciprocated towards my country by your government, and what is far better still, by the people.

This impression with regard to the character of such a proposal derives no little strength from the recollection of the view taken by your predecessors in office, on the occasion of an incident that arrested my attention on looking over, a year or two since, one of those collections of Slave Trade documents, by the publication of which, the British Government afford to all who feel curiosity on the subject, materials for acquiring a definite idea of the nature of the occupation afforded to, and the results effected by, those costly establishments, whereby, if, "operative" inconvenience from taxation be augmented in a but insensible degree, the same may perhaps not with truth be affirmed in regard to the convenience and effectiveness of ministerial patronage. The incident referred to occurred in a correspondence between your predecessors and the Captain-General, brought on by their being compelled by their sense of duty, to "acquaint" him with a certain "report" in relation to the Slave Trade between Cuba and Texas. Of the specific allegations embraced in this report, one was "that several cargoes have recently left this island." In the report to their government of their doings on this subject, they state that their "*information*" was "*obtained*" through so authentic a channel, that that they gave to it "*the fullest credence.*" The communication to the Captain-General being referred by H. E. to one of his official law advisers, as, by the constitution of this Government it was indispensable it should be before he could take any action upon it,—the opinion and advice given was, that, in order to obtain in relation to this subject, such tangible matter as was legally indespensible as a basis to any exercise of the authority vested in the Captain-General to see the laws faithfully executed, H. E. should request of the British Commissioners to "acquaint" him of certain particulars, such as the *names* of the *persons*, or of the *vessels* referred to,—in what *part of the island* the occurrences had taken place. The letter conveying this apparently very natural request is replied to by a one made up chiefly of matter responsive to matter *non*-existent in the letter replied to; and the request itself is responded to by, "It is no part of the duty of His Britannic Majesty's Commissioners to bring before or prosecute in Spanish Courts of Justice, delinquents against Spanish laws;" to which is added a vindication of the step taken by them in making him "acquainted" with the report: which vindication consists of the conclusive proposition, that "it would be highly culpable in them, were they to neglect any opportunity" so to act.

Reference to a Report in former Slave Trade Papers respecting Slave Trade between Cuba and Texas.

In which the British Commissioners thought it no part of their duty to bring delinquents before Spanish Courts of Law.

In their report to the Secretary of State, this request is treated very disdainfully, as "the *attempt* to *impose* if possible upon the Commissioners the *odium of public accusers.*" They add, too, that this "would not only be totally incompatible" with "their judicial capacity," (the incompatibility of what was proposed to them with *their* judicial capacity would be of difficult demonstration), "but contrary to the instructions of His Majesty's Government upon this head."

Application to himself.

How far the proposal now made, spontaneously and without just provocation on his part, to the Consul of the United States bears resemblance to the "*attempt*" which, being made as an apparently natural consequence of their own proffer of service, was nevertheless deemed highly derogatory to the dignity of the British Commissioners, and a compliance with which was forbidden by "the instructions" to officers, existing for the sole purpose of devoting themselves to the extirpation of the Slave Trade, —to what extent this present proposal possesses the obnoxious properties of that "attempt" it would perhaps prove a not easy matter to measure.

I began by considering the question under the favourable supposition, that a necessity really existed for invoking my aid. But when this supposition is inadmissible, when the reality corresponds with the picture sketched above,—when the facts of the case show that, so far as human instruments and appliances can be relied upon for any object to be here effected in relation to the Slave Trade, the people of Great Britain are paying for, what strikes every beholder who bestows a moment's thought upon what is passing before him, as a most wasteful superfluity,—when such is the truth of

British people paying for a most wasteful superfluity.

the matter,—the only interpretation which the invocation seems to be susceptible of, is, (with respect to those at least, from whom it more immediately proceeds), one that appears as little reconcilable with respect towards the Foreign officer appealed to, as with candour, sincerity, and good faith towards their constituents and the world.

Interpretation to be given to the invocation.

In such light does my poor judgment compel me to view this proposal as coming from you; and in the spirit of frankness which is due to every matter connected with the relations between the two nations,—whose natural intimacy and good fellowship, while they afford demonstration of their own importance, involve likewise some elements of peril to their continuance, I feel bound to tell you so. My belief has for some time past been, that if our two nations are destined to be involved soon in a quarrel, the cause will be found in this subject; and its opportunity to become effective will be owing entirely to "the mother and the daughter," instead of coming to a clear, distinct, and positive understanding in regard to this matter, on the first symptoms of motherly interference, or rather interference of the mother's servants, having allowed themselves to become involved in entanglements presenting some Gordian knot, that will defy all cunning but that of the sword's edge. If this calamity should befall, no part of the blame shall rest upon my shoulders.

Supposition of the two nations becoming soon involved in a quarrel.

The blame shall not rest on his shoulders.

In this spirit, then, the spirit of sincerest cordiality towards the people in whose name you act, and a most heartfelt wish that peace between us may be eternal and our friendship ever waxing stronger—I speak my mind to you. I tell you that your proposal meets no sympathy in my bosom; that I consider it essentially disrespectful to my nation, and essentially wanting in good faith towards your own,—a proposal, regarding which, circumstances constrain me to believe, that you were fully aware that it would not be acceded to; and that if acceded to, still, no useful result could by any possibility follow therefrom; that therefore it was not made in earnest; and that if it were in the honestest earnest, still it would amount to neither more nor less than, that I should take a part in that ringing of the changes upon "rights of humanity," "nefarious traffic," and those other worn out, though still right profitably popular catches, with which every observer of what has been going on here for years, whose stomach is not so strong as to be proof against the powers of tartarised antimony, has long been sick even to nausea.

The proposal meets no sympathy in his bosom; is disrespectful to his nation, &c.

Imputation.

Popular catches, of which every observer has been sick unto nausea.

As a farce it might be laughed at, (which indeed it is here by all whose characters possess sufficient levity), if, as a mockery,—as an obscene desecration of a holy thing,—it did not kindle indignation in every bosom where dwells any vestige of that love of truth which can alone dispute dominion with the father of lies.

A farce.

A mockery, &c. to kindle indignation.

"*It is*," says Mr. Fowell Buxton—one of those of your countryman whose anti-slaveryism is as distinguishable from that of another class, embracing men of both high and low degree, as virgin gold is distinguishable from stinking pinchbeck "*It is superfluous to quote authority for the facts just enumerated, as they are notorious to commercial men*"

Quotes Mr. Fowell Buxton.

This, in a work, but a few months ago published in Albemarle-street, which, although it exhibits, in the readiness with which evidence is admitted, and in the hasty estimate made of its force, symptoms of the well known bias of the author's mind, yet bears every where that impress of sincerity and honest conviction which, to a cool eye, if not to the heated optics of a brain-bubbling fanatic, it is so difficult for any false-coiner to counterfeit.

And what are these "*facts*," which in Great Britain,—in the heart of England,—at the very centre, whence all those costly *seekers* of "information" (!) are despatched,—are so *notorious* to commercial men that from the Albemarle-street press 'tis proclaimed to be "*superfluous* to quote authority" in regard to them? what are they? why regular statistics—"*ascertained*"—founded upon "*returns*," about the "correctness" of which, and the completeness of which, (in regard at least to the "*entire*" quantity of cotton goods manufactured in Lancashire)" there can be no doubt. And to what subject do these *ascertained* statistics relate? To the *amount of goods* prepared *for* the *Slave Trade*, (and absolutely inapplicable to any other purpose except the Slave Trade), *manufactured in this country*.

That the facts are notorious in the heart of England.

Among these facts are the following:—That the merchandize chiefly, if not exclusively, given in exchange for slaves consists of cowries, Brazilian tobacco in rolls, spirits, and Manchester piece-goods; in the proportions of about one-third cowries, one-third tobacco and spirits, and one-third Manchester cotton-goods. That the value of Manchester goods manufactured in 1836, exclusively "for the African *legitimate* trade" is 150,000*l.*, say 750,000 dollars. There is no definition given of the boundary which separates the goods prepared for the "legitimate" from goods prepared for the illegitimate "African trade. A moment's reflection must satisfy any mind, that the task of tracing it must present difficulties not less than those which inhere in that of reducing to perfect distinctness the territories of Maine and of New Brunswick. And if this be true in regard to the mere *tracing* of such a line, what must the task be of maintaining it! Goods manufactured *exclusively* for the African "legitimate trade!" Does there or does there not lurk here a wretched self-delusion? How long do the goods remain under the control of the "legitimate" traders? Into whose hands is that control to pass? For whose *use* and *purposes* is it that they are destined? Is it for the use and the purposes of the people, among one of the "more polished and dignified and orderly" tribes of which, according to recent British authority, (*Encyclopædia of Geography*, by Hugh Murray, &c. &c.) "there are *two annual* customs, as they are called, in which the king and chief men seek to propitiate the manes of their ancestors by a crowd of victims," on which two annual occasions foreigners "are selected in preference; but as each seeks to multiply the number, unprotected persons cannot walk the streets without the hazard of being seized and immolated" . . "at the death of any of the royal family, victims *must* bleed in *thousands*, and the same is the case when the king seeks from the powers above favourable omens" . . "the legal allowance of wives for the king is upwards of three thousand, selected from the fairest damsels in his dominions;" who, "on any capricious disgust," are "often put to death" . . and "so natural did the king consider the Slave Trade, that he could with difficulty be dissuaded from sending fifty boys and as many girls as a present to the king of England!" Is it for the use and the purposes of the people who, Mr. Buxton tells us, "worship the shark and the snake, and whose prince imagines the agency of an evil spirit in the loadstone;" among whom "the parent—debased and brutalized as he is—*barters his* CHILD!" Is this the people to whom these "legitimate trade" goods are bartered? If so, how far, in space or in time, must they travel before they become susceptible of being used to multiply those cases where the tempted parent "barters his child?"

Estimate of exchanges in Slave Trade.

Quotes Hugh Murray as to the customs of African tribes.

To resume the FACTS:—That the value of goods manufactured in Lancashire adapted *only* to the Slave Trade, is 250,000*l.*, say 1,250,000 dollars. That goods suited to the Slave Trade alone are manufactured not in Lancashire, but at Glasgow likewise. That besides loom fabrics, "ammunition and fire-arms to a large amount, and, like the goods, of a quality only fit for the Slave Trade, are

Facts—British manufactures for Slave Trade.

sent from this country to Africa. The annual amount of such exports is stated in the official Tables No. 6 of 1836 (*Tables of Revenue, &c.*, published by authority of Parliament), to be 137,698*l.*," say 688,490 dollars.

Casks of British shackles rolling through the Havana Custom-house.

These are some of the facts. Among the British manufactures therein particularised, I see not those *shackles* which have been fixed upon as the sure characteristic whereby a vessel may be infallibly assigned to the Slave-trading class: casks of which (rolling through the custom-house here, without attracting any more notice from any one save myself than if they had been so many boxes of "negro head,") have elicited an inquiry, which, by the officer passing them, was evidently deemed as decisive an indication of my want of familiarity with the products of British Vulcan-industry, as a similar inquiry concerning negro-head cheeses would have been of ignorance in regard to the handicraft of Dutch dairymaids.

Notice of them omitted in Mr. Buxton's book. Presumes mentioned in correspondence of the Commissioners.

This omission, in the commercial statistics of Mr. Buxton's work, of an article so important and so striking as shackles, cannot but be deemed evidentiary of great carelessness on his part in making use of the materials which he had at hand: seeing that the sleepless vigilance, untiring zeal, indefatigable industry, and eminent ability, which the correspondence of Her Britannic Majesty's Commissioners, so far as it has come under my eye, proves that this place has been the theatre of, forbid the supposition, not only that their communications contain no information on a matter which is too entirely undisguised here to merit the epithet notorious, but that they have left any particle of such information to be desired, which human endeavour and human skill could accomplish the fishing up of.

Nor do the foregoing details upon this point exhaust the store supplied by Parliamentary Papers. They constitute but a specimen of the monstrous multitude of indecent facts in the presence of which this kindred proposal comes forth; and which, while they serve to keep its effrontery in countenance, make it as a mockery, but the more flagrant. At the very same period—the same month of the same year—when your predecessors, availing themselves of evasions of American law committed by American vessels, as a convenient pretext for getting up a fresh display of philanthropic zeal, were opening against the Slave Trade a new fire of "dens of infamy," "inhuman traffic," and all the other projectiles belonging to that peculiarly costly and efficient ordinance, for both the supply and the use of which you are at present the contractors; and were engaged in the further task of informing the American consul, that it would be "the painful duty" of His Britannic Majesty's Commissioners "to *report* to *His Majesty's Government*" these evasions of American law by American vessels? At this same period, the month of October, 1836, another Slave-trade scene was being enacted,—or, as you would perhaps prefer it, was enacting—at Rio de Janeiro.

Imputations—Reference to a former correspondence with him.

Mr. Buxton's calculations of the Slave Trade with Brazil.

According to Mr. Fowell Buxton, "the most considerable of slave-markets" is BRAZIL, the capital of which is *Rio de Janeiro*—according to the same authority, the number of African slaves "brought annually into these five Brazilian ports would be moderately rated at 100,000 — *one hundred thousand.*" From these two statements—showing the comparative rank of Brazil as a slave-market, and the "real amount" of slaves annually imported, it may be fairly conjectured that, of the amount of British merchandise manufactured *expressly for*, and adapted *solely to*, the *il*legitimate "African trade," *i. e.* the Slave Trade, the portion which finds its way to Brazil is probably not altogether insignificant. Regarding that other amount of British products, which is "*manufactured* exclusively *for*" (but which Mr. Buxton does *not* appear to have it in his power to assure us is also "exclusively *adapted to*") "the African legitimate trade,"—materials for a like conjecture do not seem to be afforded by the work in question.

From our general knowledge of the commercial wants and supplies of the two countries respectively, it may be deemed probable, that there are not very many articles supplied by "the African *legitimate* trade," whereof Brazil is in want; and were these articles ever so numerous, it may without any great hazard be presumed that, in the teeth of the rivalry of "legitimate African traders," direct from the mouth of the Thames, she could not well afford to pay for them in British manufactures, seasoned by twice crossing the Line, in the course of their voyage to and fro across the Atlantic.

And British goods required therefor.

The conclusion to which every consideration suggested by the subject concurs to point is, that of all English goods, *suitable for the African* market, which find their way to Brazil, and are there entered, *not* for consumption, but *in transitu*, a small portion only, if any, can be presumed to be *not* intended for the Slave Trade.

Duty on same by the Government of the Brazils.

So it appears to have seemed to the government of Brazil. In its ignorance of the laws of commerce, it appears also to have entertained the stupid notion, that to enhance the cost of these goods to the Slave-trader would be to present a hinderance to his traffic. It might prove insufficient, and even altogether transitory; since similar goods, or goods answering the same purpose, might be supplied by some other country, at about the same price. Still it must necessarily be felt, so far as its efficacy might go, and so far as this might last, it would hinder the traffic; and, at any rate, if the result should be only to substitute other foreign goods for those in present use, at least would the products of British industry be rescued from the prostitution to which they were now condemned. Governed by such stupid notions, or at least with the avowed design to fulfil its duty by doing something which might "operate as an *indirect* discouragement of that traffic in slaves," which baffled its direct efforts at suppression,—the Brazilian government passed, on the 26th of October, 1836, a law imposing a duty of 15 per cent. upon "all English goods *suitable for the African market*, which might arrive *in transitu* at any of the ports of Brazil."

Formally protested against by the British Represesentative at Rio.

This duty was formally protested against by the British diplomatic representative at Rio, "as opposed to the spirit of the compact between Great Britain and Brazil, and *highly injurious to the interests of British commerce!!!* And this step, on his part, was approved by Her Britannic Majesty's Principal Secretary of State for Foreign Affairs!!

Imputations—Hypocrisy.

And it is with an overpowering array of effulgent facts like these, flaring, like an Havana noontide sun, in the face of all Christendom, that, upon a subject whereon the people of England have been brought to a state of mind bordering on that phrensy which, as it prevailed among our common ancestors in regard to the Holy Sepulchre, is now an object of special school boy wonder to us, so long as we have not advanced far enough in the great volume of history to "wonder at nothing"—which man can do,—a subject, which throughout England, Scotland, and Ireland, affords at this day, at once the favorite field for enthusiasm to gambol in, and the most profitable one for hypocrisy to vend those cunningly compounded cakes and cordials, whereof the raw material is so cheap;—it is with this store of facts already collected, with these means and opportunities for exploring every region and diving into every depth where the promise of a fact may be,—with the double certainty thus afforded by a

legion of enthusiasts, attended by an army of sutlers, that, of all these means and opportunities, not one will remain unimproved,—that the single-handed, toil-worn American consul at Havana has it gravely proposed to him to engage in the task of collecting information, in order that the British Government may be "enabled" (!) to accomplish the conviction of "British subjects who MAY *be concerned* in promoting the Slave Trade by furnishing British fabrics!"

Mockery.

Of a piece with this mockery, is every one of the steps to which, in the height of that infatuation naturally and inseparably attached to such a career, you have been tempted by the illusive hope that the American consul would be found ready to take a part in your game of deception, or if he proved refractory, could by tricks of stalest diplomacy, be entangled into giving it a reluctant co-operation. Of a piece with it, is every single step on the part of your commission, that has ever come under my notice, as laid down in such parts of the chart of its course as your Government have seen proper to publish to the world, or, as constituting here the subject of local talk and criticism.

The American Consul not ready to take part in game of deception.

Those regarding myself, I will now pass under review. The task is so irksome a one and interferes so much with the pressing engagements from which I am never free, that these causes contributed in no slight degree to my determination in January last, to allow your letter of the 10th of that month to remain unnoticed, although I was not unaware of the accumulation of inconvenience that might ultimately prove the consequence of my leaving undisturbed the self-complacency of which it bore such flourishing manifestations. This possibility has become realized. My self-indulgence on that occasion is rewarded by its natural fruit, in the shape of the same task which ought then to have been performed, magnified at an unconscionably usurious rate. Your perseverance in these wanton displays of strategic skill is crowned with success; in one respect at least. I confess myself forced once more from that position of inaction with regard to you, which was the dictate alike of duty and of inclination. Thus compelled, I will struggle for free-agency so far as regards the nature of the part which I am to act. It shall not be that of your selection, but of my own. It shall consist of a renewed effort to accomplish the end at which my former endeavours have so effectually aimed,—to carry home to your comprehensions the considerations which forbid my acting in concert with you, and to impress upon your judgments the conviction, that the enterprise to weaken the controlling efficacy of those considerations is an utterly hopeless one.

Questions regarding himself.

Why he did not reply to Commissioners letter of the 10th January.

Now forced from his position of inactivity.

Will still struggle for free agency, &c.

The means to this end can consist only of a still further developement of the views and reasons which compel my refusal.

By further development of his views.

I will, in the first place, repeat the truth which I have already endeavoured to awaken you to a sense of, and which your last communication contains nothing to affect in the slightest degree the force of:—that *we do not stand in any official relation towards each other*;—that you do not belong to any class of officers, created as channels of communication between nation and nation, or by custom acting as such,—you do not so much as belong to any class of officers common to all nations for the internal purposes of each, and who, by this common character alone, might seem justified under some circumstances in recognising each other as fit parties to official converse,—you are agents, created for a definite, special purpose, existing solely in consequence of precise treaty stipulations, and as instruments for their effectuation, between particular members of the family of nations;—that consequently it would be absurd, and, in one aware of the absurdity, wrong and criminal, in any officer of any nation, not one of the parties to these stipulations, to allow himself to be made an instrument for practically placing his country into the predicament of such a party.—This would be true upon general principles, and in any case of the mere absence of consent of the nation represented by such officer. But in a case where there may have been a deliberate refusal of such consent, the force of the obligation becomes immeasurally magnified, and its violation by a conscious offender assumes the hue of treason itself.

1st, That we do not stand in any official relation to each other.

British Commissioners created for a special purpose.

To join in which would be criminal in agents of any power not parties to the treaty.

And treason where his country has deliberately refused.

Such a case is the present. So manifestly is it so,—and so flagrant therefore the indecency of the pertinaciousness displayed by you, to make me relinquish the position which I should deserve the doom of a traitor for abandoning,—that, with it alone for a ground of judgment, the most charitable eye could not fail to discern in this pertinacity a strong evidence of some latent spring of action, whereof, if a compound one, egregious folly and ignorance could not possibly be the only plates. To one placed in my position, it is but too manifest, that the chiefly active principle from which your conduct proceeds is a sordid selfishness, as little worthy of the nation in whose name the position which you abuse allows you to act, as it is of the holy cause to which lip-service is, with such prodigal self-oblivion and waste of all that it costs, rendered by you.

Accounts for pertinacity, in making him relinquish the position he had taken.

Sordid selfishness.

Position you abuse, &c.

To bring this with satisfactory force and clearness to the comprehension of others less advantageously situated for personal observation, nothing further is requisite than to lay before them a faithful sketch of the actually existent truth in regard to the Slave Trade here, on this theatre, where, to the disgust of every one,—whether he were or were not alive to the importance to the human race of the principle of national independence,—that sacred article of the Catholic cosmopolitan faith has been seen ruthlessly and wantonly trampled under foot, through the prostitution, by self-seeking place-holders, of the might of a powerful nation, to the purpose of insulting, without so much as the possibility of good to the cause that furnished the pretext, or to any cause but that of their own game of deception, the defenceless subjects and abject authorities of that government which, of all existing in Christendom at the present day, is the most utterly impotent for good.

To prove this.

The existent truth here in regard to the Slave Trade, where to the disgust of every one.

Is seen wantonly trampling under foot.

Without possibility &c.

The truth of the existing state of things here in relation to the Slave Trade can be condensed into one sentence. It is a pursuit denounced in every possible way by the law—by law FOREIGN *made* and FOREIGN *imposed*—and supported by an overwhelming public opinion. These few words express not only the fact in both its branches, but also the cause from which the second branch chiefly derive that vigor which makes it overtop and stifle the other. And, is it not in the nature of man that such an effect should follow from such a cause?

The truth.

The Slave Trade denounced by law foreign made and foreign imposed, and upheld by public opinion.

Thank God! it is. Thank God! that there is implanted in the heart of man, in the shape of an instinct, a something whose impulses drive him in the same line of conduct that is enjoined by the most lofty and intellectual patriotism.

Rhapsodies.

Forbid it Heaven! that the spirit of nationality, which with the masses, is the instructive safeguard provided by the great Architect for that self-government, which, as it affords to man his only hope of well-being, becomes in exact proportion to his rise, an intellectual and moral being, enshrined amid those cherished convictions which fill the place of instinctive impulses: Heaven forbid! that this spirit should ever be found extinct in any people, be they ever so deeply plunged in ignorance or debased by vice. God forbid! that it should ever perish, or ever fall short of fulfilling the great purpose for which it was given,—that of vindicating national independence; come the assault from

whom it may, on whatever pretext, on whatever ground. God forbid! that any reform, in religion, in morals, in law, or in government, be it ever so important or so urgent,—that any question that can possibly be presented to the mind of man,—if there be any attempt to decide it among any people through an invasion of their national independence, shall fail to be dismissed from their thoughts; never to be entertained again, until, acting as one man, they shall have repelled the invasion, and vindicated triumphantly this sacredest of all sacred causes.

But whether this effect of an assault upon a people's independence be desirable or not, it so a part of the truth which exists here with regard to the Slave Trade. Here that effect has been produced. The published correspondence of your Commission bears, (although this seems to have escaped the notice alike of those, who, perhaps unconsciously, divulged the fact, and those upon whom it was thrown away) testimony to its existence; and if this had not so chanced, it would still be known to every man in Havana: unless indeed there should chance to be here some, with powers of volition so strong as to close their minds at pleasure to conviction, and to render them insensible to the most salient of all the points of the public sentiment in which they move and have their being.

Proof of this effect, from correspondence of the Commissioners.

Nostrum-doctor discourses. Source of merriment. Peculiar and stupendous quackery.

In one of those nostrum-doctor discourses, which, on the spot where they are concocted, and amongst those who know the true value of the ingredients which constitute the theme of their grandiloquence, prove a plenteous source of merriment, not undisturbed now and then by a flash of indignation, when thought is turned upon the motives to, and the consequence of, this peculiar and stupendous quackery—in the Despatch of the 2nd of January 1837, which forms a proem-invoice of sundry packages of precious matter, labelled "Returns of arrivals and departures," are contained various remarks, explanatory of the peculiar expenditure of toil and skill involved, on this particular occasion, in the task of collecting the ingredients. Hitherto they had been so conveniently at hand as to "render the completion of the lists little more than a matter of form." Now, however, "the case was materially altered," and circumstances are explained, "whereby your Lordship will perceive it to be a matter of some difficuly to ascertain with the same accuracy as formerly, the proceedings of these vessels."

Comments on Commissioners Despatch of 2nd Jan., 1837.

Besides this acknowledgment, that, hitherto, there had been not so much as "*some* difficulty" in ascertaining "with *accuracy*" the proceedings of these vessels, in other words, that their proceedings were known to every body, and there was no wish or attempt at concealment; another truth is emitted in the heat of the illustration bestowed upon this interesting circumstance, that, now, "*some*" thing in the shape of a "difficulty" had come into existence, to afford an antagonist more substantial than empty air for Commissioner-zeal to grapple with. This other truth is expressed, "*Whatever may at one time have been the feeling* of some of the principal landed proprietors in favour of the suppression of the Slave Trade of this island, we confidently believe that there scarcely exists *at the present time any individual* who *entertains such a wish, nay who would not do his utmost to sustain it.*"

Conclusion drawn. Result of a wanton trampling on national independence. The Government which should resent this indignity has been made the instrument. Is the abject slave of its oppressors. Goading more intolerable from the belief, &c.

A truth! In one sense, at least, though not precisely in the literal meaning of the words, a true picture! And a melancholy one it is, whether considered in itself or its cause. Not so however, when considered as a result. Of what is it the result? Of a wanton trampling upon the principle of national independence. And this, too, attended with peculiarly aggravating circumstances; the most insupportable of which is, that the Government which should resent the indignity and repel the invasion has been made the instrument for inflicting them, that the people feel, that that Government which should perish rather than suffer its own free action with regard to its own subjects to be interfered with, is the abject slave of their oppressors. Then, to make the goading still more intolerable, comes the double conviction on their part, than which none entertained by man was ever more sincere, that the traffic in slaves is justifiable and right; and that the contrary belief now professed on the part of the English people is a hollow profession, put forth to cover the utterly selfish and unprincipled desire and design to destroy countries, whose rivalship in commerce or in power has become to them an object of dread.

Conviction and feeling of the people that, abandoned and betrayed by their helpless Government, they have a right and duty to help themselves.

This is the cause of that unanimity, which, as an evidence that their office had become "something less of a sinecure, was, by your predecessors, stated to exist upwards of two years and a half ago. This it is, which has rendered universal among the people the conviction and the feeling, that abandoned and betrayed by their helpless government, they are placed in that predicament where it is the right and duty of every man to protect himself,—the general right and duty of all men *individually* to protect and sustain each other. It is not in regard to the Slave Trade, to its impolicy, or its inhumanity, or its undesirableness in any respect,—that such a change of opinion and of sentiment has, or could have, come over the land. Such a change was, in the nature of things, impossible. Of all the causes which might have conspired to create here, in a number of individuals ever so small, an opinion and sentiment adverse to the traffic, not one but must necessarily have acquired greater force with every revolving year. The progress might have proved very tardy; but there could not have been a retrograde. It is not the *Slave Trade*, that has become in itself so popular, that not "any individual" could be found in the island, but would "do his utmost to sustain it." No such retrograde has taken place. On the contrary the sentiment adverse to it has made progress; although one that has been slackened by the operation of another sentiment, and is not easily discernible through its manifestations. This other sentiment is the sentiment of nationality. It is to its impulses that not an individual could be easily found, but would prove true, not an individual but would "do his utmost to sustain" not "*it*," not the Slave Trade, but the individual carrying on the Slave Trade, the feeling of his bosom towards any man capable of engaging therein, might prompt him to hang the offender. But he has had awakened in him a strong, overpowering sense of the fact that this cannot be done without bowing his neck to foreign-imposed law. This comes over him; and every duty becomes as nothing before the duty of defiance; every feeling is overwhelmed in its angry surges.

The Slave Trade has not become popular.

Another sentiment that of nationality.

Duty of defiance.

Conduct of British Commissioners.

This result so naturally belongs to all such intermeddling, that it could scarcely have proved possible to avoid it, even had the British Commissioners here confined themselves, with the most guarded circumspection and most refined delicacy, to the simple line of their duties, as defined by the treaty stipulations. Had they, as they were bound to do by the plainest principles of international right, and would have been compelled to do by any government capable of an effort in defence of its own dignity or the rights of its subjects,—contented themselves with the discharge of those functions for which alone they had been created, and for which alone they had obtained a residence upon Spanish territory; —had they thus deported themselves, their mere presence here could not have failed to prove a source of irritation to any man, whether friend or enemy to the Slave Trade, capable of a feeling for his country.

Their mere presence could not fail to be a source of irritation.

But when, instead of a course so enjoined by every consideration of policy with regard to the professed object, no less than of international decency in a powerful nation, or any one allowed to act in her name, towards a helpless one, a course directly the reverse has been pursued; when the attitudes in which they seemed to delight in seizing every occasion to exhibit, were of a kind to impress upon the beholder that they belonged to a newly invented class of plenipotentiaries, endowed with faculties of too transcendent an order to be confined within determinate boundaries; and when at the same time, these displays were seen by all to be of such a nature, that those making them could not possibly expect, and therefore could not possibly intend, any other effect from them—*here*, at least—than that of reminding the authorities, and through them the people, that they were bound to bow politely to insult; when such has been the course pursued, what must be the result? What must be the intensity in which it prevails?

Charged with seizing every occasion to exhibit, &c.

Reminding the authorities and people here that they were bound to bow politely to insult, &c.

That result is, the re-awaking of the old Guerilla spirit; that spirit which, when their national independence was suffering at the hands of Napoleon, was known by the French soldier to be near when he saw his comrade drop with the knife-handle projecting from his chest; which, noiseless and unseen, mowed a path for the Angel of Death through those serried ranks, in countless efforts to penetrate and to scatter which the Mameluke whirlwind had ineffectually spent itself.

What the result.

Assassination threatened.

Possibly I may have been led to form an exaggerated estimate of the intensity of this feeling by what I know, and had rather die than doubt, would be kindled in my country by any, the remotest approach to what I see inflicted upon this. There are things, not a few, in the United States, which are deemed by me to be crying evils, to remedy any one of which is a labour well worthy of exclusively occupying the patriotic ambition of a distinguished citizen. Not one of them, however, intent as I might be upon its extirpation, and near as I might have approached to the happiness of accomplishing it, but would be instantly laid aside, to await the return of times of *peace*, at the slightest indication of foreign interference. And the certainty and promptness of my doing this would be in exact proportion to the magnitude of the evil. To say nothing of Slavery (which, although I believe the condition of the slave in my native state to be incomparably better than that of the English operative, occupies nevertheless, in my estimation, by far the first place in our catalogue of evils), there are, among others, the *Bowie* knives, of which you have perhaps read.

Possibly exaggerated.

Knows this feeling would be kindled in his country.

Crying evils of the United States.

Slavery · though believes the condition of the slave there better than that of the English operative.

Among others the Bowie knife.

So serious an evil do I consider the practice of carrying these murderous weapons, which prevails in one part of our country, that no effort to put an end to it, which I could make with any promise of success, would be omitted. Nor is there any severity of penalty that I would stop short of, if necessary, to accomplish this. But if this Bowie-knife evil were to become an object of philanthropic zeal in your, or any other foreign country; and circumstances should be such as to impart to your Government the wish and the power to interfere with ours in regard to this object of my abhorrence; to dictate a law for its extirpation, and to take a hand in its execution; that abhorrence would be laid aside, never again to occupy my thoughts until your law and your interference had been driven into the sea; and, if necessary to the accomplishment of this, every reaping-hook should be beat into a Bowie knife, and every maiden in the land should be taught to handle it.

Would maintain it against foreign interference.

And beat every reaping-hook into a Bowie knife, and teach every maiden to handle it.

Nay, there is one thing which would have the power to make me turn my arm against my own country: and that is, her proving herself capable of tolerating such an abuse of power by those entrusted with her Government. No radical now drawing breath, in what I feel towards very much [?] as my native county of Devon (for there my forefathers were born and died, for many generations), can look forward with more heartfelt pleasure to the time when the people of England will be free.

In this cause would turn against his own country.

His forefathers were born and died in Devonshire.

When the oppression under which, in every possible shape, their heads have been so long bowed into the very dust shall have come to its end; when the House of Lords shall exist only upon the page of history, and a real *representation* shall have taken the place of that detestable *simulacrum* by which, in their own name, they have been plundered, and the wealth and the power resulting from their toil and their ingenuity, have been so shamelessly squandered in every imaginable mode in which it could subserve the selfishness of a sordid few; when the skilful and industrious working men of Great Britain—the bone and sinew of the most affluent and potent state upon earth—shall no longer know as a reality, but look back upon as an absurd fable, that state of things, so incredible unless so substantiated, of which the appalling picture was unfolded by the Edinburgh trials in January of last year: that picture of the industrious classes, self-organized for the purpose of protection against want; and, as a means to this end, every man regularly contributing from the scanty remnant left him by that hateful system of robbery called parliamentary taxation, to supply a fund for the support of secret tribunals and officials, the object of whose existence is to doom him to death and to effect the murder, if, maddened by the agonies of a starving wife, or the cries of a famishing child, he shall prove so reckless in his desperation as to accept work at lower wages than those decreed by the unknown despots to whose mandates he owes implicit submission, or to accept of work at all from an employer whom they may have deemed it necessary to put under the ban; when incredulity will be but strengthened by the tale, that, under such a state of things, so shockingly unjust was the distribution of political power, the mountain of taxation was still further heaped up upon the agonized giant's chest, through the obedience yielded by place-holders to the necessity in which they found themselves, to abdicate their sinecures, or conciliate the votes of a handful of hair-brained enthusiasts governed by a fixed idea, and, reckless of every other earthly consideration, pursuing as the great paramount cause of humanity, and the only one deserving their regard, the object of their sofa-inspired visions: dreams, the downy current of which, the voice of reason or the cries of famine issuing from myriads of their famished countrymen, were alike ineffectual to disturb. The time when Ireland may write the epitaph of her Emmet; when the sense of governmental oppression shall have ceased to be so keen in the bosom of the "sans-potato," O'Connell tribute-payer as to make him insensible to all besides, even to the true character of that Derrynane patriotism, whose cormorant scream, eternally vexing the ear of his country, makes her atmosphere alive with "*rint*."

Rhapsody.

The House of Lords, &c., A detestable simulacrum.

Picture unfolded by the Edinburgh trials in Jan. 1838.

In this state of things place-holders forced to abdicate their sinecures or conciliate a handful of hair-brained enthusiasts reckless, &c.

Object of their sofa-inspired visions.

Rhapsody about Ireland.

The time must come when all this shall have passed away, and become incredible to the common mind. It cannot be distant. Could it be hastened one single hour by any labour of my individual head or hand, there is not a man among the radicals of South Devon who would with greater alacrity buckle to the task. And yet, did my country at this moment possess, as possess she will before many more lustres shall have passed over her, the power to interfere with the question and to settle it;

and did she prove herself capable of abandoning that majestic attitude towards other states, which distinguishes her from them as her Washington is distinguished from their leaders, and in which she has influenced their destinies solely by the force of that example, under the efficacy of whose holy presence the thrones and the aristocracies and the impostures and shams of the old world are so rapidly crumbling into dust, and vanishing for ever from this earth; could she prove thus recreant to the principle of national independence, one, at least, of her sons would prove true to the sacred cause, even to the length of taking part against her; and even although assured that the certain consequence of his doing so would be the re-animation of the cold dead embers of ancient Toryism, and the revivification of the right Divine, with its accursed brood of wrongs and oppressions, for years beyond that period when the coming struggle shall be over; when merry England, and Auld-lang-Syne, and their sister Isle, the land of the tear and the smile, quietly basking in the blessed light of Democracy, under institutions modelled after ours, shall unite in a hymn to the daughter-land that first taught the world how to reconcile liberty with law, the might of an empire-nation with the freedom of a village-republic.

Judgment perhaps not to be trusted.

Such being my own feelings on this topic, my judgment is perhaps not to be trusted in regard to the state of things which, upon this stage, has been produced and now exists.

Slave Trade has become hallowed here by a union with patriotism.

So far, however, as that judgment can be relied upon, the picture is not highly charged. To all practical purposes the Slave Trade has become hallowed in all eyes here, as a consequence of the union that patriotism has been forced into with it. They are now effectually wedded, and they will continue to be one flesh, until the causes which have aroused the spirit of nationality to impart to it so strange a *penchant* shall have ceased to exist. Then, but not till then, may the divorce be hoped for.

Now proposed to give patriotism in wedlock to piracy also.
Rhapsody.

With this result before us for a warning, it is proposed now to give patriotism in wedlock to piracy also. By the same foreign made and foreign imposed law, Spaniards are to be told, that that piracy, which every man, and above all every mariner, in the world for countless generations back, has been taught from infancy to look upon as a crime,—nay, to the mariner, *the* crime of crimes,—that it is no worse than that Slave Trade which some now living may recollect to have seen most actively carried on by the mistress of the seas. Hereafter the two shall go under one and the same name; and the man who believes, and whose *country* believes, it perfectly right and even laudable to pursue a business, wherein, while his own end of gain is accomplished, he proves the instrument of snatching hundreds of negroes from famine on the coast of Africa, or from immolation in the hecatombs daily reeking either to Mumbo-Jumbo, or to some inferior concentration of the Divine Essence, from a clay shark-idol down to the airy ghost of any man who is entitled after death to the consideration due to the husband and lord of from thirty to three thousand wives;—the mariner or merchant whose country's mind continues yet unenlightened in regard to the Slave Trade, viewed in its ultimate consequences, and whose conscience can find therefore a sufficient sedative in the knowledge, that he is bringing negroes from such a state of things in their own country to one where they will have a chance of plenty and a long life,—is to be told that if he be tempted to engage in this pursuit, he might as well add to it, whenever opportunity offers, the plunder of merchant ships and the murder of merchants and women and children who have adventured upon the great deep. This addition will not make his neck a whit the less safe. And this he is to be told, not by his own country,—not even by his own *jure divino* master,—not under the sanction of the faintest shade of rightful authority,—but by a foreign power, whose usurpations on this very subject have rendered itself the object of his deepest hate, and his own government the object of ineffable contempt to him. What brood of horrors is to come of this new match those who get it up can perhaps tell. They have shown such a reach of foresight in regard to the fruits of the first, that this is no unreasonable expectation to indulge in towards them.

Foreign power, whose usurpations have made it the object of his deepest hate, and his own Government, of his ineffable contempt.

Sentiments engendered by these wanton exhibitions.

Nor is the sentiment thus engendered here, with regard to the Slave Trade, by these wanton exhibitions of contempt for the principle of national independence, confined to the Spanish population. Such a spectacle is not of a nature to be looked upon with composure by any man whose soul is not so sold to Mammon as to forbid his seeing or caring for anything save the to and fro of the money-bags. Every man with a spark of soul has experienced its influence; and as the degree in which he has done so was necessarily proportionate to the interest he was capable of experiencing in matters not directly and individually concerning himself, so has it been felt the most strongly by those to whose nature and principles the Slave Trade is most repugnant. This is no theoretic speculation. No man at all conversant with the mechanism of which human opinion and sentiment are the products, could fail to perceive at a glance, that it must have so turned out. No man placed upon this stage, with his five senses about him, could fail to become immediately aware of the fact, that it has so turned out, unless, indeed, the prospect of a snug pension, as a reward for patriotically and philanthropically bearing up against the tedium of a heavily charged West Indian sinecure, should constitute an "object too high" to permit him to be sensible of anything passing around him; and above all of any such inconvenient circumstance as, if he possessed a conscience, might render it a troublesome hinderance to any display got up to show off to distant eyes the utility of his sinecure, by attaching a sting to the consciousness that it served only to render positively and actively detrimental to the service in which he was receiving pay, an office which, restricted to its assigned duties, might prove no worse than merely useless.

No man not aware of it except under circumstances such as those of the Commissioners.
Imputations.

Deductions from his 1st position, that the trade is denounced by the law, and upheld by public opinion.
1st, That the trade is made no secret of, except, &c.

From the one truth, that *the Slave Trade is a pursuit denounced in every way by the law, and upheld by an overwhelming public opinion*, it would be no difficult task for any one acquainted with Spanish character in all its bearings, social, legal, and political, to deduce every particular requisite to the composition of the most detailed picture of the existing state of things here in regard to this subject. Such a picture, Colonel Napier could paint with his eyes shut.

It would, for instance, be a waste of words to inform him that here, *the trade is made no secret of, except towards the authorities;* and towards them *only* when *acting in their official capacity*. That, on all other occasions, it is spoken of with just as little reserve as any other pursuit; and every particular incident to it is as generally known as those that arise in any other branch of trade. Indeed far more generally known; for it constitutes a pursuit in regard to which the people consider themselves *at war*,—an unprovoked one-sided war, to be sure, but this only serves to whet their spirit the sharper,—and every incident of which, therefore, possesses a zest which cannot belong to those of any other branch of business, or even to any political subject. Every capture of a slaver is a wrong,—to be talked of, to become known to all, to be stirred up in the memory of each. Every arrival is an exploit,—a victory over the common enemy;—the news of which (that would be proclaimed by the

Every capture a wrong.
Every arrival a victory.

church bells, but that the government does not dare) runs like wild-fire to arouse exultation in every breast, and to kindle anew, both the spirit of cupidity and the flame of defiance.

It would, in like manner, be a waste of words to inform him of the other fact, that the man would awaken universal derision,—and derision merely, only because no apprehension would exist of anything to disturb that feeling, and to convert it into one more serious—who should gravely undertake to set on foot proceedings with a view to the judicial establishment of any one of the facts or incidents thus known to the whole city as the favourite part of the news of the day, on every day almost of the year. A shout of laughter would greet him at every street corner; and if he encountered there nothing more cutting than a laugh, it would only be because of the universal confidence that he was a harmless lunatic, who might, without danger to any one, be left free to follow his humour.

2nd, That no one would dare to set on foot judicial proceedings respecting it.

What individual on this spot, but knows this? In England itself, who can devote his understanding to the subject for a single hour, and not be fully aware that this must be the real state of the case? Why, the picture is ready drawn in this very work of Mr. Buxton. In the chapter entitled "*Failure of Efforts already made for suppression of the Slave Trade*,"—which does that credit to his common sense which I anticipated upon perusing, in the *Introduction*, the following words, "*We attempt to put down the Slave Trade* 'by the strong hand' *alone; and this is I apprehend*, the cause of our failure: our system, in many respects too feeble, is in one sense too bold;" in this chapter, which affords the first glimmering of sanity that has for a long time appeared upon the subject, at least in union with *sincerity*: for there is no lack of worldly wisdom in one of the parties, and may, I trust, be hailed as an earnest that Reason is at no very remote day to assert her empire over it. Mr. Buxton, while endeavouring to enforce his position, (a most incontrovertible truth, to any mind that has enjoyed and used any opportunity to acquire definite notions on the subject) that even a universal agreement among nations to declare the Slave Trade piracy would prove inefficacious, adduces in support of it the experience of the "three nations who have already tried the experiment of declaring the Slave Trade to be piracy—Brazil, North America, and England."

Well known in England, as shown by Mr. Buxton's word.

Which affords the first glimmering of sanity.

That declaring Slave Trade piracy would be inefficacious.

As proved in the case of Brazil.

"Brazilian subjects," he says, "from the time of passing the law have been continually engaged in the Slave Trade; indeed we are informed that the whole population of certain districts are concerned in it, and *not one* has suffered under the law of piracy."

With regard to the United States, he observes, "It will not be denied, that American citizens have been largely engaged in the traffic, but I have yet to learn that even one capital conviction has taken place during the eighteen years that have elapsed since the law was passed."

Of the United States.

Not to break the thread of Mr. Buxton's illustration, I will merely observe here, that if, by the assertion which he says "will not be denied," he means merely that in regard to the Slave Trade, cases have occurred of the successful evasion, and consequently of the unpunished infraction of the laws of their country by reckless desperadoes, who, either by birth or by adoption were citizens of the United States; then the only point to be discussed between us would be, the precise meaning here attached to the word "largely." But if the author meant to express his belief, that there is a want of sincerity on this subject in the people of the United States, that there exists among them a disposition to countenance the violation of our laws against the Slave Trade, I can affirm that he is utterly misinformed. Not an American citizen could be found who does not know such an assertion to be untrue, with just the same certainty that an Englishman would know the untruth of a similar assertion, if made with regard to the crime of infanticide in England.

Digression, Apology for Americans engaged in the Slave Trade.

Denies want of sincerity on the subject in the people of the United States.

The difference between the cases of Brazil and of the United States is one that no European—not even an enlightened Englishman—can realize and estimate at its full force. It is just as impossible for them to do so, as it is for an American *man* to realize those reciprocal feelings, condescension and deference—to call them by the mildest names, and to view them under their faintest aspects—which, in the atmosphere of England, are so naturally and unconsciously awakened, when "My Lord" and "Mister" are so thrown out of their proper spheres as to come in contact. Brazil law is imposed by the Government upon the people; and so far as an inference may be drawn from the relations existing between them, and the historical character of the stronger, in regard to its proneness to make such use of its power, this particular law may be presumed to have been imposed upon the Government of Brazil by the Government of England. Hence it is the reverse of surprising that a Brazilian law, above all that this law should, in "certain districts," or in all districts, be set at defi ance by "the whole population," and should be a by-word among them. Nor is it surprising that these violations should be rendered still easier than they otherwise might be by the connivance of the Government to which it has been dictated. In the United States, on the contrary, all this is clearly impossible. Not only is it impossible that the Government should have a law dictated to it by any foreign power, but on one side of the Atlantic it ceases to be a fiction. It is literally true, to an extent absolutely inconceivable to an European-bred mind, that the voice of the Government is nothing more than the concentrated voice of the people. Hence such a state of conflict between the law and public sentiment, as Mr. Buxton may be a believer in the existence of in our country, is an absolute impossibility. Had the law been a special one, enjoining or prohibiting a particular mode of conduct upon or to a particular and limited class of citizens, there might be a possibility of its necessity not being generally understood, and consequently of its being, with a large class, the object of a neutral sentiment generally, and of a hostile one wherever it might come up for enforcement. But with regard to a general law, binding upon the whole nation, and, with regard to every individual in it, imposing an emphatic restriction upon that complete and absolute right—which nowhere else upon earth exists untramelled—of every man to apply his capital or his labour to such uses as he sees fit,—with regard to a law of this kind the supposition is altogether inadmissible.

Difference between the United States and Brazil.

Law, presumed, imposed upon Brazil by England, and therefore set at defiance.

In the United States clearly impossible.

Where the voice of the Government is nothing more than the voice of the people.

To return from this unexpectedly-long digression to Mr. Buxton's illustrations "of the inefficacy of such a law:" he informs us that the most striking is that furnished by the experience of the British Government itself in its sway over the Isle of France. (To estimate the comparative force of this fact with respect to any regarding the Island of Cuba, it is necessary to advert to the circumstance that the Isle of France is about 150 miles in circumference, and not distinguished by the countless multitude of ports, islets, and quays which are so characteristic of the coasts of the Island of Cuba, the sea-line of which is at least 1500 miles). "For ten years," says Mr. Buxton, "*the Slave Trade prevailed at the Mauritius*—to use the words of Captain Moresby before the Committee of the House of Commons—'*as plain as the sun at noonday.*' Many were taken in the very act, and yet no conviction, I believe, took place." I fear that such a law would be a dead-letter, unless, at all events, we had the *bonâ fide* and cordial co-operation of the colonists.

Law, declaring the Slave Trade piracy found inefficacious, in the case of the Isle of France.

Were we able to obtain this in our own dominions? Our naval officers acted with their usual energy on the coast of the Mauritius. When General Hall was governor there, and when Mr. Edward Byam was the head of the police, *everything possible* was done to *suppress the traffic*, and to *bring the criminals to justice*. No persons could act with more meritorious fidelity (and I grieve to say, poorly have they been rewarded by the Home Government); it became, however, but too evident that the law was unavailing. *The populace would not betray* the slave-trader, the agent of the police *would not seize him;* if captured by our officers, the *prisons would not hold him*, and the *courts would not convict him!*"

This is the picture of a ten years' experience of the British Government, in a small field of only twenty-five miles' radius, under its own exclusive and absolute control; bounded by the mountain-wave, on which her power is without limit, and which here enclosed a mere handful—some six or seven thousand of the white race. And these conquered subjects; to keep whom in subjection the British people were taxed at a rate which may be conjectured from the officially ascertained fact, that, in the course of fifteen years, "the *expenditure* of government *in the island* exceeded the revenue by no less than 1,026,208*l.*" upwards of five millions one hundred thousand dollars! or annually at the rate of upwards of three hundred and sixty-six thousand dollars, were the productive classes of England, Scotland, and Ireland, taxed for the *part* alone of the cost, which was taken out of their pockets to be sent round the Cape of Good Hope to the Isle of France, to be there disbursed. With regard to the mode in which the absolute power possessed by the British Government over the handful of the white variety of the species, whom conquest and treaty had converted into free British subjects,—each, of course, *ipso facto* encased in a suit of the invulnerable panoply whereof so exhaustless a supply is ever ready to issue, at the nod of Westminster wigs, from that magic armory which venerable tradition accustoms even us to believe in the reality of, and teaches our thoughts to connect with the words, "British Constitution,"—with regard to this point, an idea is afforded by the circumstance—which, however trivial it may seem, may be adduced upon the same principle that a feather may be used to show the direction of the wind—that the Governor of the Mauritius, satisfied that, against "offenders of this kind," "no conviction could be obtained on the island," "was obliged to resort to the *strong expedient* of sending" them to England *for trial* at the Old Bailey! A Governor selected to administer the British "Constitution" to newly anointed "British subjects" obliged to resort to the *strong expedient* of sending them *for trial* on a western voyage, from the remotest island of the Indian ocean, under the southern tropic, round the Cape of Good Hope, across the line, to "Old Bailey," in the 52nd degree of north latitude! And this, in regard to the very same "infamous practice," for denouncing the King of Great Britain's unblushing patronage of which, as shown by the tyrannical exercise of his royal negative upon the reiterated effort made by my native country to render practicable the "abolition of domestic slavery," by first excluding all further "importations from Africa," a Virginian was, in 1774, marked out for proscription, and, had the power of the British Government proved commensurate with its laws, would have been torn from the native land whose interests and rights he was thus vindicating, in connexion with those of humanity at large, to be sent, "for trial" for high treason, on an eastern voyage across the Atlantic to the same point.

Expenditure of the Government in the island.
Rhapsody thereon.

Governor not able to obtain conviction of offenders; obliged to send them for trial to England.

Virginia in 1774.

This Mauritius experience of the British Government, in a little field, under its own absolute control, would have sufficed, one would suppose, if not fully to enlighten, yet sufficiently to prepare for readily receiving light, every mind really desirous to acquire a knowledge of Havana truth in regard to the same subject. So perfectly adapted, so irresistibly conducive, to this end does it seem to be, that it is no easy matter to conceive—even after making allowance for all the fogs that could be kept heaped around the subject by individuals, to whose present salaries and future pensions one fair glimpse at the reality might prove destruction—how any such mind can have failed to become long ago fully disenthralled from the dupery.

Conclusion from the Mauritius experience.

Imputations.

The particulars I have given sufficiently fill up the picture of the Havana reality, for the purpose, at least, of enabling a general estimate to be formed of the real character and merits of the communications which you saw fit to address to me in January last. No one need be told that in regard to a subject which, besides presenting an all-absorbing object of direct pecuniary interest to numerous individuals, and one of an interest less direct, but very sensible, to a far more numerous class,—forms the favorite theme for gossip throughout the classes connected in any way with the commercial movement, and the salient point for every *quidnunc's* attention,—the only possible difficulty connected with the obtainment of information must consist, not in collecting a show of the materials, thus ever coming up and floating past every eye, but in winnowing the true from the false, and reducing facts to their true and exact shape and dimensions.

Particulars given to show the real character of the communications from the Commissioners.

Under the general aspect belonging to the subject, then, any such proceeding on your part as an offer to make me acquainted with a "rumour" or a "report," is upon its very face a manifest absurdity, if no worse. It would be the same if the matter of your communication consisted of substantial *facts*, instead of "*reports;*" unless, indeed, you were prepared to furnish or to indicate some portion or other of that matter of *evidence* or *proof* which can alone impart to facts a legal existence,—which alone could "enable" (as the British Government desires to be, through my instrumentality, in regard to British merchants and manufacturers) the authorities of any country to use these facts, were they ever so *notorious*, as a basis of action. Without such preparation on your part, any such proceeding would be an absurd farce; and if the disposition were wanting, it would be a despicable mockery.

Offer to make him acquainted with a rumour an absurdity.
The same if of facts, unless supported by evidence.
Without such an absurd farce, a despicable mockery.

Now, it is matter of fact, known to every man in Havana, and which defies contradiction—for not one can be found bold enough to give it—that no such disposition did exist, or could exist on your part. If your facts were of the most conclusive kind, and you had a dozen respectable witnesses to each, you would not *dare* to name one of them. Nay, had the individual from whom your information was derived been known to me (and circumstances so plainly pointed him out, that the presumption was too strong to permit a doubt to rest on the mind of a single individual acquainted with the parties), and had he been summoned by me as a witness, he would have been sure as such to know nothing on the subject.

No such disposition did or could exist.
Commissioners would not dare to name a witness.
The individual from whom the information was derived.

This is so notorious here, that no one having the least pretension to character for candour would venture to dispute it. The Slave Trade is a matter which every one who feels any curiosity on the subject knows all about. Nay, although destitute of such curiosity, he cannot, if he possess the use of his ears and understand any language spoken at Havana, avoid hearing the news of the day or hour, of which it always constitutes the most piquant topic. To make sure of exact accuracy is a task which on this subject, as on every other, is attended with trouble and difficulty in various degrees.

News relating to the Slave Trade the most piquant topic of the day.
But no one could or would give testimony, &c.

But the particulars no one can avoid hearing. And yet, although everybody knows all about the Slave Trade, no one so knows anything about it, that the testimony he could or would give in a court of justice, or for any judicial purpose, upon any point connected with it, would be worth a straw.

End in view in making the communications.

What then was the end which you had in view, in addressing to me your two communications of January last?

Presumptions: 1st, Could not expect him to be ignorant of the fact. 2nd, Could not anticipate any useful result from any measure. Measure on his part. 3rd, That, from his returning a former communication, could not anticipate he could be moved by our interference. But the reverse. And adverse to the cause.

The presumptions afforded in regard to this question, by the existing state of things here, clearly are, 1st, that you could not expect to make known to me any particular, of which I was likely to be, or to remain, ignorant: 2nd, that, supposing you possessed grounds for such an expectation, you could not anticipate that any possible measure on my part in regard to the subject of such information could be attended with any useful result. In addition to these presumptions, resulting from the general state of the case, was a third, arising from the relation which I had assumed towards your commission by the act of returning its communication of the month of October, 1836,—to wit, 3rd, that, supposing the latter of the foregoing presumptions to be so far reversed, that it was in my power to adopt some measure that would prove otherwise than futile,—you could not anticipate that I could be moved thereto by your interference; but had every reason to believe the reverse,—that, so far as my disposition and my course in regard to the subject could possibly be influenced, in any way, by such interference, the only possible consequence of your venturing upon it, would be decidedly adverse to the cause which you are paid to promote.

Such are the presumptions which arise from the mere general fact of your addressing to me a communication of this nature. They are not very favourable to the character of the end which you proposed to yourself. Let us now see what grounds of judgment are disclosed by the particular contents of your letters. The end and aim of the first of the series,—that of the 8th of January is set forth in the opening paragraph, as follows:—

Presumptions not very favourable. Grounds of judgment.

*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,"* &c.

Analyzing of the opening paragraph of the Commissioners' letter.

Here so far as your proceedings could be presumed to be governed by a definite purpose, and so far as your assertion in regard to such purpose could be relied upon, we have the assurance,—1st. That the *end* and *aim* of your letter was, "*to make you* (me) *acquainted with* "a certain report;" 2nd. That the motive which immediately determined your volition to the adoption of this object, as an end to be accomplished through your instrumentality, or your spontaneous exertions, rather was the *conviction that it was right*—"We think it right"—that I should be made acquainted by you with the prevalent report; and 3rd., That the motive which determined your judgment to this conviction,—the reason why you thought it right that I should thus be made acquainted with this prevalent report,—was, the possibility that it might not have come to my knowledge—"*as* it may possibly not have come to your knowledge."

Logic complete.

Here we have, in perfectly logical completeness, the end and aim of your letter,—the conviction which induced you to adopt it as an end,—and the ground upon which that conviction rested. In point of form, a truly complete and satisfactory piece of logic! If it were but correspondent in respect to substance, it would leave nothing to be desired. Unhappily, however, the strength of the material is in perfect contrast to the skill of the workmanship; and the worthless chain serves only to make us deplore that so much precious labour should have been thrown away.

Conviction of right, best determining motive. Digression thereon.

Not but that there is some good stuff in it too. The middle link has the sound of true metal. As a determining motive to the will, nothing can be better than—nothing else so good as,—conviction of right. It is in exact proportion as our conduct is squared thereby, that we accomplish the approach to perfection, of which as moral agents we are susceptible. Our moral nature can aim at nothing higher. The man who acts up to what he believes to be right, fills the measure of his duty as a morally accountable being. He may be an idiot, who thinks it right to plunge his noddle into melted lead by way of experiment upon its refreshing properties; or he may be a fanatic, who thinks it right to set the world on fire in order to avoid the flames of the Judgment day; and, as a consequence of these convictions, those to whom they are imparted may think it right to avail themselves of the properties of straight jackets. Still, not one of this unenlightened multitude, if he have satisfactory assurance of the sincerity of conviction in the opposite party, will, if he be himself under the dominion of reason, consider him a just object of resentment or blame. His own safety, or that of society, may render it indispensable that he be held to what may be termed physical accountability; and this may be painful and severe to the last degree; but for moral accountability the supposition leaves no room.

Such is the advantage of acting up to what we think right; and such the immunity attending all error resulting from adherence to this golden rule. The condition upon which the granting of this immunity depends, is seldom, however, lost sight of. It pre-supposes, and imperatively requires, that the conviction be, not an affected belief put on for the occasion, nor even one carelessly taken up; but a real, sincere belief, the result of an honest, deliberate and anxious exercise of our powers of reasoning, such as God may have made them. The immunity must therefore be withheld when good grounds exist for believing the alleged conviction to be defective in any of these particulars.

Grounds for belief in the insincerity of alleged conviction.

Among the great number of grounds which may exist for a belief in the sincerity of an alleged conviction, and the still greater variety of possible combinations of such grounds, few can possess more inherent strength than the utter inadequacy of the logical motive to which the alleged conviction is ascribed by the man pretending to entertain it. So long as he merely affirms the conviction, without telling us anything of the process in the hidden mechanism of his brain, whereby that conviction was evolved, he is comparatively safe. But the first step he takes in the way of assigning reasons brings him upon perilous ground. If the reasons, which he tells us that his conviction rests upon be clearly such as, according to human experience, no conviction of the sort can be supported by, in any mind not under some very extraordinary stimulus, we cannot, on our part, avoid the conviction that there is something wrong somewhere. And if, in addition to this, it be apparent, from the circumstances of the case, that the actor has inducements independently of any conviction of right, for proposing to himself the same end, we are forced to the conclusion that his alleged conviction is a feigned one, and that his volition has been determined by another motive. The very least which our conclusion can involve is, that if the end aimed at by the actor was truly believed by him to be right, he thought it right also to conceal the true ground of his self satisfactory conviction, and to feign a false one.

Applied to the present case.

Few judgments are to be found endued with such powers of resistance, that they could resist for so much as half a minute the conviction that the present is a case of this kind.

According to your own statement, the "report" is already "*prevalent* in this place." You take the step of making me acquainted with it. The moral motive of this step is, so you say—the conviction that

it is right. The logical motive to this conviction is, so you say,—the possibility that the report may not have come to my knowledge!

What the report.

What is this "*report*"? Why, an American vessel of such extraordinary beauty as to render her and the purpose to which she is destined the common talk of the whole city, is, through successful evasion of American law, brought to Havana, and sails for the Coast of Africa; not a man in the place, who has bestowed a thought upon the subject, doubting that upon reaching that part of the world she will be divested of her American character, in order that she may with impunity be employed in the traffic which, by the laws of the United States, would subject to the punishment of death every individual pursuing it under the American flag. Some months after, she returns to the island of Cuba; successfully accomplishing the object for which she was sent, by bringing a large number of African slaves. Among the particulars relating to the voyage, one is, that she retained her American character and papers until the time arrived for taking the negroes on board; and that while under their protection she was boarded by an officer from a British cruiser, to whom the American master,—conscious though he was of a wicked evasion of the laws of his country—coolly pointed out her flag, fully confident of its efficacy to protect him on the highway of nations, against any meddling on the part of any foreign power.

Possibility it may not have come to the American Consul.

This is the "report" which had become "prevalent" in this place.—This report, in regard to a most remarkable vessel, has already become *prevalent* in the city. There is a *possibility*, however, that it may not have come to the ears of the American Consul. This possibility proves sufficient to force upon the minds of the British Commissioners the conviction that it is right for them to take the step of making him acquainted therewith; and this conviction being thus produced, the step is taken by means of a letter!

Most absurd insincerity.

Such is your own account of your proceeding! Is there a man to be found, who, without any particular knowledge upon any part of the subject, and possessed of the merest general notion of our relations, would fail to perceive at a glance, that the most absurd insincerity is stamped upon its very face?

Cannot go down; not expected; wretched bungling.

Awkwardly botched. Disgusting.

No, Sirs, this cannot go down; nor was it expected to. It was a mere contrivance,—and a wretchedly bungling one it is,—to serve the purpose of a head piece to your communication. The end and aim of that communication, and the spirit in which it was conceived, rendered it of no consequence how awkwardly botched its figure—head might be. Indeed, the more disgusting it should prove, the better; for the more in harmony would it be with the great end and aim of the proceeding.

End set forth in the beginning not the one in view. Could not believe him unacquainted with the Report. Or to make him acquainted, could be an object of solicitude. Opposite question hereafter. Continues analyzing the letter.

No, Sirs, you may have had some end in view, which you thought a "right" and just end; and for accomplishing it, you may have thought that communication a "right" and just means. But the end set forth at its beginning is one which you did not have in view. No one possessing the slightest general knowledge of the subject or of our relations could believe, for an instant, that you could really entertain the belief, that the American Consul was *un*-"acquainted with the report *prevalent* in this place respecting the ship Venus;" or supposing him to be so, that, to change his state of ignorance on the subject of this "report" into one of acquaintance with it, could be an object of solicitude with the British Commissioners.

Thus much regarding what was *not* the end which they had in view. With regard to the opposite question, I will hereafter adventure into a speculation, founded upon these same materials, which will not, I believe, be deemed very hazardous. For the present, it is proper to pursue the examination of your communications, for the purpose of ascertaining what sort of things they may contain besides the logical chain of end, motive and reason which has been set down in the inventory.

In stating the particulars of this report, you—unconsciously, as it were,—run into a *respectful suggestion*, thus: "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 this harbour, we would respectfully suggest that such immediate steps may be taken on her arrival, as may lead to the punishment of such offenders."

Circumstances which immeasurably magnified the indecency of such a step.

This forcibly illustrates the danger of such interference. Moved by the mere possibility that a certain report might not have come to my ears, and setting out with the sole design of making me acquainted with it, you cannot accomplish the task of stating the particulars before your disinterested zeal and generous ardour in the cause take such entire possession of your soul as to hurry you into the indiscretion of "respectfully" making to the officers of a foreign state, under circumstances which immeasurably magnified the indecency of such a step, a *suggestion*, which no officer of your own government, however subordinate his grade, could do otherwise than repel, if coming from any one not in immediate command over him, as a most impertinent interference; and if coming from his immediate commander even, to resent as a most insulting imputation. Such would have been the character of this "respectful" proceeding, even had the object of it been an officer of your own government, and under your own immediate orders. What then becomes its complexion when viewed in the light proper to it,—as addressed to the officer of a sovereign state,—to one for whom you really did not possess an official existence,—and not only thus, but who had been placed under the necessity of declining in the most peremptory manner to recognise you in any way as persons with whom he could hold official converse; and who had based this determination upon the peremptory refusal, finally given by his government in reply to the repeated importunities of yours, to even listen to any proposal for making of this subject a ground of agreement.

The consequence of yielding to so holy an enthusiasm, &c.

Such turned out to be, at the very first step you took, the consequence of your permitting yourself to commit this interference. So difficult is it to avoid losing sight entirely of the cold dictates of worldly propriety, when the impulses of so holy an enthusiasm as yours are once yielded to.

Such a suggestion to a Lieutenant would be a wanton insult.

Nor can the force of this illustration of that peril be adequately appreciated, without adverting to a circumstance which places in the strongest possible point of view the utter gratuitousness and wantonness of the suggestion into which you were thus "respectfully" hurried. Had you, under precisely similar circumstances, made such a suggestion to a lieutenant placed under your orders, it could not have failed to be looked upon, by every eye endued with vision for such considerations, as a prostitution of your influence at home to the indulgence of a disposition to wantonly inflict insult, supposing you to have possessed authority to make "respectful" suggestions to me, in regard to the discharge of my duties, this authority never could have been confided to you in the design that you should exercise it, except on fit occasions and in a proper manner: that is to say, on occasions when you might have some ground at least for the belief that your suggestion would not prove altogether superfluous; and in a manner which would not, in the absence of all cause for it, convey the insulting

imputation of neglect of duty. From such an imputation no suggestion is free, which, in general terms, merely suggests to an officer to do his duty: and this is the character of your suggestion. Conceiving it to be my duty (for if you did not, the absurdity and grossness of your conduct in every way becomes but the more flagrant,) to take "such immediate steps as may lead to the punishment of such offenders," you make to me the suggestion that these "steps" may be taken.

Conveys the insulting imputation of neglect of duty.

Now, at the precise moment when this "respectful" suggestion was addressed to the Consul of the United States, what were the particular circumstances of his position in regard to "American citizens implicated in" the class of violations and evasions of the laws of their country, to which this class belonged? These circumstances, to be sure, had never been communicated by him to you. He had even deemed it proper to meet, in a mode plainly signifying a determination not to be led into it, a proffer of conversation on the subject from one of you (the Judge Commissioner); for towards you, and because of your preposterous pretensions, it is a topic upon which his lips have ever been sealed; and, reversing the course which all who are acquainted with his character know to be natural to him on all subjects, he has ever maintained with regard to this a marked and significant reserve, in the design that you should not forget that it had become forbidden ground. Until their pretensions to interfere in the execution of the laws of his country, the subject was one on which the American Consul was as ready to converse, with his usual want of reserve, with the British Commissioners, as he always has been with the British Consul.

The particular position of the American Consul at the time.

Had plainly signified his determination not to be led into conversation on the subject because of our preposterous pretensions.

Marked and significant reserves, &c.

His natural disposition in this respect had not been altered even by the somewhat curious and instructive lesson, contained in the published correspondence of one of the predecessors of the present Judge Commissioner, a gentleman of well-known eminence in the science of Entomology: among the fruits of whose eight years' exile in this land of (to him) good cheer, operas, and nobility-*tertulias*, besides the invaluable contributions to the suppression of the Slave Trade, which have been attended with such notable effect, was a magnificient collection of insects, and a snug little fortune, estimated, in cash and retiring pension, at something over one hundred thousand dollars. Before this gentleman's return from the woful exile, his patriotic and philanthropic sacrifice in enduring which has been thus inadequately rewarded, and while the present Republic of Texas constituted one of the States of Mexico, by whose laws Slavery was not recognised, although engagements to service for a term of years were, at this period, a settler in Texas from the United States, visited Havana, and here purchased a number of slaves, in the design, as he alleged, of transporting them to that part of the Mexican Republic, thereby changing the condition of Slavery for life, in which he found them, into that of servants for seven years, while on his part he acquired a legal right to their services for that term. From there not being here at the time any Consul of Mexico, this person was under the necessity of applying at the Consulate of some friendly power for any Consular service which he might need; and his origin naturally directed him to that of the United States. There, at his request, his declaration under oath, to the effect above recited, was received; and the declaration was *authenticated* under the Consular seal and signature: that is to say, the Consul gave a certificate, *not* that the negroes had been emancipated, nor of any other event in the case, but solely and simply that the individual having appeared before him, had *declared* those facts. His declaration was received and certified to. Such, precisely, was the document delivered to him; and, inasmuch as the occurrence connected itself obviously with the Slave Trade, it was naturally mentioned by the Consul, on occasions when the African traffic—which he might designate as the "*nefarious*" traffic, but for the habitual caution in regard to these epithets of zeal, inspired by the disgust awakened by witnessing their use as a stock in trade—came upon the carpet. Among the persons with whom it was thus made a subject of conversation was the then Judge Commissioner, resident here on the part of Great Britain.

Former lesson. Attack on Mr. Macleay.

For reporting circumstances relative to the introduction of some slaves into Texas.

To which, there being no Mexican Consul here, the American Consul was a party.

And gave a certificate, &c.

Mentioned to Mr. Macleay.

After the measure of this gentleman's years of arduous toil in this yellow-fever atmosphere had been filled, and his own person as well as his brilliant entomological collections had been transferred to the salubrious air of England, the Consul, upon looking over one of the Slave Trade documents volumes of Parliamentary papers, perceived that the occurrence above-related had been embalmed for use by some future writer on that interesting branch of Natural History—in the estimation of some, not inferior in interest to Entomology itself—dedicated to the genus *Homo* of the mammiferous class. So mutilated and altered, however, had this subject become in the process of preserving it, that it could never be used in the composition of a work for rigorously scientific purposes, and would prove altogether valueless, except as affording the parent idea for an embellishment of some historical novel on the Slave Trade. Of the extent of this alteration, a conception can be formed only by comparing with the foregoing picture of the original subject in its own shape and proportions, the same subject as embalmed in the collection of facts contained in the "Report on the Slave Trade for 1835," transmitted by "His Majesty's Commissioner to Viscount Palmerston," from "Havanna, 1st January, 1836."

Genus *homo*, &c.

"*In the Spring of last year, an American agent from Texas purchased in the Havana* 250 *newly imported Africans, at* 270 *dollars per head, and carried them away with him to that district of Mexico, having first procured from the American Consul here, certificates of their freedom.*"

Copy of Mr. Macleay's Report.

"Certificates of *their freedom*, !" most accurate "report;" and this written by a gentleman whose philosophical habit of precision of thought and of language would doubtless have been ineffably shocked at any amateur entomological tourist who should have betrayed such looseness in either respect as to confound a butterfly-maggot of the Trojan with one of the Greek tribe, or to speak of a *Lepidopteron* of the *fusicorn* family as a *filicorn*.

Disputes its accuracy.

With such a specimen before us of the scrupulous accuracy of official "reporters" of Slave Trade facts, Mr. Fowell Buxton cannot but be exonerated from all blame for those exaggerations in regard to every particular connected with the subject, which produce at every page exclamations from every well informed reader, but were to be anticipated from any man writing in his closet under the smoke-canopy of London, with materials of this description for his reliance.

To exonerate Mr. Buxton from all blame for the exaggerations in his book on Slave Trade.

The purchaser of these slaves appears before the Consul and declares under oath, that he has emancipated them on the condition that they shall serve him for the term of seven years; and that he is about to embark them for Texas, to be there held under this contract and the laws of Mexico, which by their own force would make the negroes free so soon as they landed there.

Continues explanation.

A certificate of the fact that this declaration has been made is given by the Consul. Two or three years after, the latter finds that the official collector of facts stationed here by the British Government, with whom it had formed a topic of the same unreserved conversation which would have been held on

the subject with any other gentleman, has, in the course of a statement written a year after the occurrence, when the circumstances relating to the condition of Texas had become materially altered, and wherein this transportation of Africans from Cuba to that country is represented as a branch of the Slave Trade,—that this official "reporter" has introduced him, the Consul, into the narrative, in the character of a person from whom this alleged slave smuggler had "procured certificates *of their freedom*," that is to say, certificates to the fact, that *the Africans were free!*

Lord Glenelg's order respecting the Coolies, and digression.

And this specimen of philosophical precision occurring, too, at Havana, in a British commissioner-picture of the American Consul, at the very period when, according to subsequent developements, (see "Edinburgh Review" for April, 1838,) Lord Glenelg, Her Britannic Majesty's Secretary for the Colonies was engaged in drawing nice distinctions as a basis for instructions to the Governors of British Guiana, charging them that care must be taken to prevent *Africans* being imported (say from the coast of Guinea, distant fifty or sixty days' sail from Demerara) under the order in council permitting the importation from India, at more than double the distance, and in any quantity in which they could be stowed on board of any craft, the industrious, the frugal, the delicately-shaped, the gentle, the graceful, the refined, the engaging natives of Hindostan!—of these rice-eaters (eaters when philanthropy leaves them any of their rice to eat) who "have never seen the sea," and could not be made "to comprehend the nature of the voyage," ship off, under the British flag, or the Spanish, or the Portuguese, or any flag you please, to the Mauritius, or to the coast of Surinam, any quantity that can be kidnapped into an agreement, under which they fancy themselves about to be taken to "one of the Company's villages." *Hindoos?* yes! in any quantity. But beware of touching an *African!* The former possess, to be sure, a fraction of the title which constitutes the only available passport to the consideration of the legitimate philanthropy of the hour; but their title is far from perfect. They have the black skin, but they want the woolly hair and the flat nose. They belong to the *Caucasian* variety of the human species,—the *highest*, instead of belonging to the Ethiopian,—the *lowest:* that race which, according to the highest of modern authorities, in a British work belonging to the Republic of Science, and free alike from partisan exaggeration, and from cant,—whether of the fire, the faggot, or the mawworm type,—has ever remained plunged in barbarism, with no other idea of *law* than the despotic whim of the reigning chief, with "no written language, nor even a code of hieroglyphics," which, "after centuries of intercourse with the most enlightened nations, has retained its character unchanged," holding, by universal consent among naturalists "the lowest station among the varieties of his species," and exhibiting in some of its hordes the lowest debasement of the human form, and the least capacity for mental improvement." It was in enjoining upon British governors the proper discriminations between these two varieties of the species, that the Colonial Office was engaged at London, at the period when the British agent at Havana for collecting and reporting facts in relation to the Slave Trade, was erecting, at the expense of the American Consul, so striking a monument of the habit of scrupulous accuracy resulting from his zoological pursuits!

Resumes the subject of his position at the time. Respecting which had repulsed advances from one of the Commissioners. Had thrown the whole port and city into an uproar.

When led into this digression, I was about to state, in regard to the particular circumstances of my position, at the moment when your sense of right impelled you to "respectfully suggest" to me not to omit the discharge of my duty, that although those circumstances had never been communicated by me to you, and although I had deemed it my duty to repulse advances from one of you (the Judge Commissioner) to make of them a topic of conversation, yet they were no secret. They had thrown the whole port and city into an uproar; producing among the class of people particularly sensitive on this subject, a greater commotion than, to my knowledge, has ever been produced here. This could not but have been known to you, even had your perceptions of what is passing around you been still less lively than they would seem to be. Nor could the cause have been unknown to you. Even had it not formed the subject of town talk, there was not a guadano in the harbour who could have refrained from giving all the particulars to any person understanding Spanish, who should have taken a seat in the stern of his boat.

By the seizure of a vessel and crew in this port by an armed force. Character of the vessels, &c.; ground of seizure.

It was the seizure of a vessel and crew in this port, within sight of the Harbour-Master's office, and at an hour when the quay there is most crowded, by an armed force from the United States sloop-of-war "Ontario," then lying in the harbour. The character of the vessel and the ground of her seizure were equally notorious. She was a celebrated slaver belonging to this port; one of the fleetest vessels in the world, and the more remarkable from the not uninteresting historical association attached to her by tradition, that the vessel, upon whose keel and model she was, a new structure had been devised and built in France, for the express purpose of attempting the deliverance of Napoleon from the friendly guardianship of Sir Hudson Lowe. This well known vessel had but a short time previously left this port, and had returned to it under the American flag, procured by means of a bill of sale to the American captain, for the purpose of protecting her, not while carrying slaves, but while on her voyage *to* the Coast of Africa. This was known, just as all such things are known here, as a matter of notoriety; but not as one in regard to which judicial proof could be hoped for. The documents carried by her, however, were of a nature that in itself afforded in my opinion, sufficient ground for her seizure by a cruizer at sea (that is to say, by an *American* cruizer, and by an American cruizer *only*). And, owing to the hopelessness of this being accomplished at sea, except under extraordinarily favourable circumstances as could not be anticipated, it was done in this port.

Why seizure was made in the port. The American master had already been some weeks in prison at his demand. A man of very good connexions. Victim of consular persecutions.

The American master who had brought her here was, at the time your communication was addressed to me, known to the whole city to have been already some weeks in prison at my demand. And not only was the case of a nature to occasion the more talk, from the accidental notorieties of the vessel, but there chanced also to be a corresponding circumstance connected with this captain; who, a native citizen of the United States, and one probably of very good connexions, was known here to the whole port, and all the surrounding grog-shops, as a most distinguished and sympathy-exciting victim of "Consular persecution," under the pretext of protesting against and rescuing from brutal oppression on his part the black crew whom he had brought from the United States.

Strong doubt as to the compatibility of such a proceeding with the principles of national independence. In regard to a helpless nation particularly, &c.

The seizure of this vessel and crew in this port had been ventured upon, too, notwithstanding a strong doubt on my part as to the compatibility of such a proceeding with the principle of national independence, my respect for which had been rendered the more lively, and my disposition to avoid all infringement thereon the more scrupulous, from the anxiety here awakened in me, that, in regard to a helpless nation particularly, the conduct of a servant of the American people should exhibit the most pointed contrast to the course of the individuals whom circumstances allowed to act in the name of those transatlantic brethren of ours, whose noble energies, calculated from their own nature to prove

an almost unmixed benefaction to the whole world, have, to subserve the selfishness of the sordid few whose reign of misrule has so nearly reached its end, been converted, for so many fair portions of man's globe into the heaviest curse that weighed upon them.

Whose misrule, &c. the heaviest curse.

With this train of recent events bringing into such forcible relief to every eye my disposition in regard both to the black race, in questions of justice between a black sailor and a white captain, and to the evasion of American laws against the Slave Trade, your "respectful" suggestion, in regard to a notorious case, presenting a "flagrant violation of the laws of the United States," that I would not omit to perform my duty, possessed in the highest perfection every element which, had it been made in the purest sincerity, and been addressed to a Lieutenant or Midshipman of the Royal Navy placed under your special orders, could not have failed to subject you from every candid man to the imputation of either the extremest absence of mind, or the most ungenerous disregard of, the most brutal contempt for, the feelings of those subjected to the calamitous necessity of holding, at least as subordinates or fancied subordinates, official intercourse with you.

Return to our communication.

Imputation. Ungenerous disregard of, most brutal contempt for the feelings, &c.

After this "respectful" suggestion, comes, as a finishing flourish to set it off:--"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."

Notice of our letter continued.

To this, I replied at the time by a piece of information which, to my regret, appears to have been thrown away,---that 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." That a vital part of national independence consists in the exclusive execution, no less than the exclusive enactment, by each, of its own laws; and it requires, in regard to the one no less than to the other, the rigorous repulses of every pretension at foreign interference; and that if there be upon earth, two nations from whom, above all others, their own welfare and that of the world demands the most scrupulous regard for, and punctilous observance of the principle, those two nations are "the mother and the daughter."

Reply at the time.

Vital part of national independence.

I will now proceed to your second letter, of the 10th of January last, which was in reply to my answer to your first.

Proceeds to second letter.

Supposing it possible, although far from probable, that you might have both the ability and the will to put me in possession of some matter of evidence, or of some clue thereto,—of something, in fine, which might avail towards the legal establishment of the fact; and that your communication, to "make" me "*acquainted* with the report *prevalent* in this place," and to "respectfully suggest" to me "such steps as may lead to the punishment of such offenders," that is to say, "such steps" as might "suggest" *themselves* to me, might be looked upon as mere diplomatic verbiage, which, not being intended to have a meaning, must not be scrutinized for one, but be considered as a professional way of saying "I have something to tell you, if you will let me." Supposing all this possible, though extremely improbable, I determined for once to overlook your impertinence, and see what would come of my encouraging you to open your budget.

Supposing we might have information to detail.

Determined for once to overlook our impertinence.

Nothing! Not so much as a mouse, would the mountain yield! And yet I made every disposition I could to facilitate the accouchment and cheer you to the effort. In particular, you were reminded of the important distinction, which, although unprofessional men are apt to overlook it, cannot but have been rendered familiar by Temple lucubrations and Circuit experience, and their daily intercourse with which renders gentlemen of the robe so inhumanly insensible to the weight of *rumoured* facts, and *notorious* facts, that, in any coterie of tender-hearted old ladies, would, in the twinkling of an eye, send the "horrid wretch" who has committed the rape to the gallows.

What the result.

Of the reality of this distinction, and of the respect paid to it wherever British law prevails, until British governors are "obliged to resort to the strong expedient" of brushing the inconvenient cobweb away, a strong example is afforded in the Mauritius experience of the British Government, already quoted from the recent work of Mr. Fowell Buxton. There, although the Slave Trade prevailed "for ten years," "as plain as the sun at noonday," not a single one of these tens of thousands of notorious facts, in flagrant—flagrant "as the sun at noonday"—violation of the law, could the governor get judicially established. "*Offenders* of this kind" had, by a "strong expedient," to be sent "for trial" on a four-months' voyage.

Mauritius again.

Examples of the same kind might be indefinitely multiplied. I mean, of the kind to illustrate the distinction between notorious facts, and facts in regard to which judicial proof may be obtained; not of the kind to illustrate the "strong expedients" of British governors, although even these pearls are not so rare but that, with a demand sufficient to justify the undertaking, a string or two might, with due industry of research, be obtained. But, of the former kind the instances are so profusely scattered in every direction among the multifarious products of the Press, that it is no longer necessary to be a gentleman of the robe to possess a perception of the truth which they illustrate. If it be not familiar to any old dame in the United States, who solaces the hours of her son's absence by dipping into his *Edinburgh Review*, it must be because her thoughts are wandering too much after him to be intent upon the meaning of what she reads.

Distinction between notorious facts and facts to which judicial proof may be obtained.

How else than by a clear and perfect realization of this distinction can she, for instance, comprehend the statement made by Mr. O'Connell, in a House of Commons' speech (14th February, 1838), quoted from the *Edinburgh Review* for April 1838? How else is it possible for her to realize the possibility of such facts in a country where anything called a "Government" is in existence, or in any aggregation whatever of featherless bipeds, with or without government? But for the aid of this key she must needs assign these statements also to that new class of truths, which will be distinguished hereafter as as the Daniela, and the type of which is exhibited in its highest perfection in the famous Virginia-negro-breeding truth. The orator's theme is the state of things among the working-classes of Great Britain and Ireland, already alluded to by me, one feature of which is the thrice-incredible fact, to an American mind, that the operative in those countries compulsorily pays—not the Derrynane tribute-money, this being peculiar to Erin Mavoureen,—but a far more considerable share of his weekly earnings, for the support of—what? Why, nothing more than the "*Secret Committee of Assassination*," that is bound by oath to make away with him, or, by the efficacy of sulphuric acid upon his eyes and flesh, to convert him for life into a loathsome cripple;—if, when famine shall make his cold hearth her abode, and his wife and little ones her prey, he shall prove so insane as to forget the conditions on which alone, in that home of "the genius of universal emancipation," he has, *practically* speaking (in contradistinction to *legally*, *theoretically*, and *oratorically*), any right to use the head and hands which God gave him: one of which conditions is, that he shall not work for a farthing less than the price established by the Secret Committee; and another, that he shall not work

Mr. O'Connell and the Edinburgh Review.

Virginia negro breeding.

Secret Committee of Assassination.

at any price for any employer whom the Committee may have put under the ban, even although the cause of this measure should be, that said employer, as a reward for a faithful service of "*thirty years*" in his factory, had granted to the veteran the boon of "taking his son as *an apprentice*" in the same establishment, while the arrangement conflicted with one of the laws which the Secret Committee were bound to enforce, having for its object to keep down the number of apprentices, in order that the wages of the "*skilled* workmen" may not be endangered.

Sulphuric acid case at Glasgow.

(Of the efficacy of the "sulphuric acid," which is one of the instruments for keeping up the supply and paying for the use of which upon his own person the operative is compelled to contribute a portion of his weekly earnings, the following will afford an idea. It is taken from a certificate "obtained in the course of judicial investigation" from James Corkindale, M.D., Surgeon of the Royal Infirmary at Glasgow:—"He (Charles Cairney, a cotton-spinner) had, the evening before his admission, got a large quantity of sulphuric acid dashed in his face by a fellow-workman. The acid was spread over the whole right half of his head, from the nose to the nape of the neck. The effect produced was deep sloughing, or mortification, by which the half of his face and the half of the scalp became an ulcerated surface, thick patches of mortified parts falling off in succession. The right eye was completely destroyed, and the ear dropped off with the dressings, an entire putrid mass. He suffered great pain, and was several times in danger of his life. He remained five months in the Infirmary, and was removed to the country because his general health was declining. Though the surface is now skinned over, yet the new-formed skin is imperfect; it often becomes raw, and is so unseemly that he has always one-half of his head and face covered with a handkerchief." And this picture, be it borne in mind, presents the result, not of personal hate, of diabolical revenge in some demon under the human form, but of the regular operation of the regular systematic organization into which, for this express purpose—as, in their opinion, a necessary means to the end of securing themselves against starvation—the British industrious classes have been compelled by the force of circumstances! It is not a solitary individual case *sui generis*, standing out by itself, as a counterpart to that world-renowned one of the Italian, who was considered to have brought revenge to the highest pitch of perfection by carrying some of the same liquid about him to squirt into his enemy's eyes. It is a mere specimen of a large number of the same species, itself constituting but part of a genus consisting, according to the *Edinburgh Review* of "the *innumerable* crimes committed by combinations in different parts of the country.")

Quotes the Edinburgh Review as to combinations among workmen.

Of these O'Connell facts—the *Irish*, not the *Virginian*—facts whereof the *venue* is laid in "Dublin and other places in Ireland," and not in those high-fenced "pens" used by Virginia negro-breeders, for constraining individuals of the two sexes to the conjunction which is so abhorrent to their nature, the following are specimens,—all culled from a single page:—"This system of combination was carried on by clubs, to which the workmen were called on to pay 3*s*. per week."—"In the case of one man, who had worked thirty years in the factory, the employer asked the man how he could serve him. The man said he should be greatly benefited by having his son taken as an apprentice, and that it would be an act of charity. The boy was so taken, but the workmen turned out against it, and the boy was withdrawn."—"One man, who had resisted the turn-out, was *assassinated* in the *open day* in the *presence of twenty* persons."

"This was before the repeal of the Combination Laws. After that repeal the clubs lost much of their power." Of which *improved* state of things the following are specimens, (the clubs no longer having it in their power "to act as they did before," and being under the necessity to do "by others what they did not wish to do by themselves:")—"Four murders were committed, not by the clubs, but by men whom they paid for that purpose."—"In Cork, within the last two or three years, no fewer than thirty-seven individuals had been burned with vitriol, many of whom were deprived of sight. These were the results of the acts of the trades' clubs."—"In Dublin four murders had been committed by similar agents."—"The clubs did not themselves act openly, but they paid agents, whom they called Welters. These Welters attacked any man who was pointed out to them, and murdered him when the opportunity offered."—"He had strong evidence of the atrocity of the crimes committed by the Welters, whose number amounted to about 6000."

"On Thursday last the premises of a timber merchant were set on fire immediately after his having been served with notice."—"These men were ready to execute any vengeance *according to orders;* and although the trade combination did not commit actual offences themselves, they had *always a standing army in the Welters*."—"A fortnight previously to this last disgraceful crime, *a man and his wife having died of cholera*, the master, in whose employment they had been, with praiseworthy humanity, took *two helpless orphans*, the children of these people, as apprentices. The combinators revolted at this, and *insisted on their immediate discharge*, to which the master *was obliged to accede*, having no power to resist their mandate."

Such are the O'Connell illustrations of the difference between flagrant violations of law which are notorious,—nay, in regard to which even "*strong evidence*" exists, (for Mr. O Connell says that he—*he*, the Curtius of the age—has "strong evidence of the atrocity of the crimes committed" by this Welterian bi-legionary force),—and flagrant violations of the law, in regard to which "strong evidence" can be obtained, or even be used after it is obtained.

These, however, are afforded by the state of the "operatives" in *Ireland;* and there may be some extraordinary peculiarity in her condition, which renders it unfair to adduce them in regard to this important difference when considered in its general bearing upon human affairs. A peculiarity of this nature is, indeed, more than hinted at by Mr. O'Connell, in a sentence which would have constituted a forcible illustration of the views that I have endeavoured to unfold in regard to the cause of the difficulty attending the execution, upon this stage, of the Slave Trade laws. In regard to this regularly organized body of nineteenth century "Free Companions,"—for the number 6000 is too high to permit us to associate with their occupation that idea of mystery which might justify us in calling them "bravos,"—and their regularly organized employers, the orator says:—"There was a *great difficulty* in getting *evidence* against those parties, *for* unfortunately so *little sympathy* existed in Ireland between the governors and the governed, that it was a matter of great difficulty to get the law enforced in any case." Of this sentence the points are so arranged as to form a logical chain of the St. Patrick Order; but it presents with sufficient distinctness, at least for general purposes, the difficulty of getting evidence, as a *cause* (or as an *effect*, if you choose to insist upon taking "for" in its strict meaning) of the difficulty of getting the law enforced; and the want of sympathy between those

Quotes Mr. O'Connell.

who make the law and those who are called upon to conform to it, as a cause for both the recited difficulties, coupling them whichever way you will.

As, therefore, these are only Irish illustrations, it may not be amiss to contemplate one derived from the recent experience of British law, upon its own proper ground; within the "four seas" which serve instead of "towers along the steep" to the ever glorious little island, whose grassy vales and rock-moss glens so many of us on this side of the Atlantic have unconsciously learned to look towards with feelings of love and pride, as the land of our fathers and of the fathers of our language.

Notice of trials continued.

For our present object, also, we have to look no further than the same article in the same number of the *Edinburgh Review*. A more striking illustration of the important difference in question could not be desired than that afforded by the case of attempted murder upon a cotton-spinner named Graham, in which no fewer than FOUR HIRED assassins were employed. In this case three of the four murderers were arrested, and were, "in the hollow voice of the wounded man himself," identified. They were defended with the greatest ability by the first counsel at the bar; but Kean was, nevertheless "unanimously convicted;" Laferty and Orr, however, were convicted only of *assault*, though it afterwards turned out that they were *hired* accomplices to murder. With regard, however, to the fact, that these men acted as mere agents in the employ of the committee of the Cotton Spinners' Union, there was "*no evidence;*" and, consequently, though "*no one* in that part of Scotland had *any doubt* that this really was the case, yet there was no proof of it *attempted* at the trial."

Such was the judicial result; and to this was the judicial *attempt* even restricted, in a case wherein it afterwards appeared that besides the man wounded by them, who was a "*nob*," (that is to say, a workman who departed from the requirements of the committee,) "Messrs. Wright, Dunlop, Lindsay, and Ewing, were *particularly* pointed out to them as persons *whose lives* should be taken as soon as possible;" and other details, which are thus summed up by the *Edinburgh Review*:—

"It is now" (after a lapse of thirteen years) "proved by the concurring testimony of two witnesses, —one of whom was the assassin hired to discharge the pistol, and the other a *member* of the *secret select committee* by whom the assassins were to be paid,—that four men were *hired* by the committee of the association to shoot a *nob*, by way of striking terror into the rest; that the persons engaged in the murder were four in number, and that they were to get 100*l.* for it; that the expense of defending the assassins at their trial was borne by that body; that the wives of the transported assassins were maintained from its funds; and the one who was sentenced to Bridewell was sent, after his liberation, to America at their expense. This is proved by the concurring testimony of two witnesses, at the distance of thirteen years from each other, and in totally different judicial investigations; the confession of the assassin, emitted recently after his trial, being buried in the records of the parliamentary committee; that of Murdoch, the member of the secret select committee, obtained in the course of the trial for another murder perpetrated by a member of the association in a subsequent strike thirteen years after. And, as if to make the proofs of the guilt of the combination still more complete, the association, in the interim, little dreaming of the confession of their hired assassin, and of the testimony of their own secret committee-man, had the hardihood to call a meeting, where they denied all connexion with the assassination, or knowledge of the persons who had instigated it; bringing forward, in an especial manner, an individual (Paterson) who denied their participation, but who has since been proved to have been *the very person who was present at the hiring*, and who, by proving it before the secret select committee, *obtained for one of the assassins* his share of the promised reward."

No further illustration needed.

No further illustration can be needed in regard to either the reality of this difference, or the very marked, nay, absolutely controlling influence which it exercises over human affairs in every country where the reign of the thing called law is established, and which it must continue to exercise so long as Her Majesty shall not be deposed to make room for that Ashantee equivalent of "strong expedients," the strong predilection for, and exclusive use of which has been particularly noticed by modern naturalists as constituting an essential part of the moral characteristic of the Ethiopian variety of the human species.

Encouraging answer given to our first letter.

That the materials whereof you might be in possession for a reply to an encouraging answer to your first communication, would prove such as to show that you were not altogether unmindful of this important difference, I deemed, as I have above stated, not altogether impossible; and, therefore, I determined to overlook for this once the considerations that forbad my recognizing you as fit objects of official intercourse, and to give you the opportunity to tell me all you might have to reveal.

Condescension thrown away.

The event corresponded to the strong probabilities which the case presented. The supposed possibility which I had made the basis of my calculation turned out to be an entirely imaginary quantity, and my condescension to have been altogether thrown away. Not even a mouse, as I before observed, did the mountain bring forth; nothing so tangible even as a vapour, did the rumbling herald. With a proper apparatus, and due promptness, even a smoke might have been caught; but nothing came. The rumbling renewed itself, and, lo! I was as empty handed as before; for, unhappily, sound is a thing that modern science has not yet taught us to make a preserve of. Throwing open the door to you as wide as it was possible to turn it, I begged you to bring in "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 lest this should be deemed so general as to be somewhat vague, I particularized as points in regard to which anything in the shape of evidence, or a clew to evidence would be most acceptable, the two facts that she had "taken in a cargo of negroes whilst under the American flag, and that there are *several* American citizens implicated in this violation of our laws."

Analysis of the letter of 2d January continued.

To this you "beg to say that we have already communicated as much of the information we possessed as we felt ourselves at liberty to do;" and what was the amount of "*information*" that had been thus "communicated" by you? Why, "the *report* prevalent in this place!"

But if your letter contained nothing in the nature of evidence or information, this was not the only particular in which it corresponded to its forerunner; for, like it, it proved to be a cornucopia of other things.

First came the ground for *conjecture*, which, though you did not feel yourselves at liberty to go the length of giving me "information," was so considerately and charitably attached to your reluctant denial of what I asked for, a denial which, while it fulfilled the duty that forbad your actually unlocking the casket to me, generously went as near to a violation of it as honour would allow, by being so managed as, by rattling the contents in my ear, to give me the assurance that it was not empty.

Although you could not give me any more information, you so contrived your denial as to let me into the cause of it. It was not that, from having already given me all, you had no more to give. The loaf was not all disposed of, but you were not "at liberty" to favour me with another slice.

Thrown into perplexity.

This, although kindly meant, proved but one of the daily occurring instances of injudicious charity, for its only effect was to throw me into perplexity. First, there was the possibility that this form of speech had been inadvertently used by you, as a diplomatic mode of saying merely that you could not give me any more information, without any intention to intimate that, nevertheless, you had possessed yourselves of a further supply. Then came up to the support of this conjecture the extreme improbability, resulting from the whole state of the case here in regard to the Slave Trade, your means of information included (so far as these could be judged of either from my personal knowledge of persons and things, or from comparisons between the information contained in your published communications to government, and that contained in the current reports of every day), that it could be in your power to add a particle to the "report prevalent in this place," or to give me the slightest available clue to evidence. On the other hand, against the adoption of this conjecture, the manifest meaning of the sentence recurred, tending to preclude the supposition that it could have been written in any other design than to convey that meaning. And in corroboration of the propriety of thus supposing you to mean what you said, came the not improbable conjecture that, however accurate and full your information might be on any matter connected with the Slave Trade, it must have been received under the seal of secrecy, and be now bound up by your pledge, expressed or plainly implied, not to bring your informant into any difficulty. In regard to the necessity of faithfully adhering to this pledge, and cautiously avoiding to expose any one who might on any occasion have deemed "it right to make you acquainted with the report prevalent in this place," to being called upon by the authorities as a witness. or becoming known to the public as one who assumed the responsibility of interfering in the business, except for the innocent purpose of making people "acquainted with the report prevalent in this place;" in regard to this duty, there was likewise a strong probability of your being adequately impressed. It was possible even, that you might have heard tell of the angry feeling, rising to open threats, rung in his own ears, at that very period "prevalent in this place," against the American Consul, for the course pursued by him in regard to the vessel already mentioned; a feeling which, as it had a real, practical inconvenience, and the frustation of very extensive plans for its basis, rose to a pitch deemed by some to be not altogether void of danger; although counteracted by the sentiment of justice, wakened towards a foreign officer who was seen to have pursued a very plain line of duty, restricted entirely to his own flag, without the least pretension on his part to interfere with any other.

But, although you might not be "acquainted with" *this* "report prevalent here," you could not but be supposed to be perfectly familiar with this aspect of the subject; and, being no doubt readers of "The Edinburgh Review," you had probably had your impressions in regard to it very recently refreshed by a passage so strikingly to the point, and so highly calculated to produce that effect as the following picture of the difficulty experienced in that country, whose claims to be considered as emphatically the *land of law* are so generally conceded, in regard to procuring witnesses on the subject of Secret Committee of Assassination proceedings; in regard to protecting their lives after they are procured; and in regard to the requisite (merely "*exile for life*"), to their personal safety after their evidence is given.

Another quotation from the Edinburgh Review.

"The proceedings at the late trial have rendered it too clear that the account of these combinations, given thirteen years ago, still applies to them. It is sufficient to observe that in that trial the prisoners were charged with *eleven* different crimes committed during the continuance of a strike, including the murder of a spinner in the streets of Glasgow, and two attempts at fire raising; and, although the evidence, in the opinion of the jury, failed to connect *the prisoners* with the more aggravated of these charges, yet they were all *fully proved* to have been committed by *some person* connected with, and in the interest of the combination.

"When such powerful means of intimidation are at the command of, and unscrupulously used by, the ruling committees of Trades' Unions, it will not appear surprising that the *most unbounded terror* should prevail among the workmen who find themselves exposed to the assaults or violence of these formidable conspiracies. This, accordingly, is one of the most remarkable features of the case, and the one which is the most alarming both in a moral and a legal point of view. It was stated on oath by the sheriff of Lanarkshire at the late trial, that '*it was with the utmost difficulty* that witnesses could be got to come forward to give evidence against the combination, and that *he was obliged to meet them in the night at different obscure places*, in order to take their depositions, and that *as soon as these were delivered*, the witnesses were, *at their own request*, put in *jail* to protect them from violence, in which five of them lay *for five months*' till the trial came on. They required to be assured of protection by the court, in the strongest and most solemn manner, before they could be *brought to speak out*, and the result has been that they *must all* be sent into *exile for life*, as none of them *could remain with safety* in this country."

Ocean of conjecture into which launched.

Such proved to be the ocean of conjecture into which I was launched, to be tossed about from one wave to another, by the mistaken though kindly meant qualification of your denial of my request for information.

Respectful or reproachful suggestions.

To make up for the lack of this object of my desire, you renewed your present of an article of which I was not particularly in want. Close upon the heels of your denial of the former, comes a largesse of new "respectful" suggestions, or, more properly speaking, reproachful suggestions; for in this shape do they present themselves this time, thus furnishing a continuation of that chain of illustrations commenced in your first letter, of the danger already remarked upon by me with reference to it, which attends the first step in such a proceeding as yours. Your first letter begins only in the design to make me acquainted with a report—then comes a "respectful" suggestion—and now, at the very beginning, as it were, of your second letter, comes suggestions, not of what I ought to do, but of what I ought *to have done*.

Of what he ought to have done.

Step could not have been taken.

Bowing, as in duty bound, to censure cast by so legitimate a hand, I am nevertheless internally upheld by the secret consciousness that the step which I am thus charged with having omitted could not have been taken, even had my post been occupied by one more worthy of acting under your directions.

The step thus retrospectively suggested by you, in connexion with the hope which, spontaneously kindled in your enthusiastic bosom, had expired in the cold presence of my inglorious inaction, was an "*immediate* investigation," which investigation more definitely expressed, meant an "*examination*

*of the log-book and crew*," and this examination was to be effected by me in one of two ways; to wit, either "*through the Captain-General* of the island," or by my "own authority and the intervention of the commander of the American vessel of war."

All very simple and obvious! quite after the fashion of the new Joe Miller instruction for fitting a vessel to move by steam: big boiler in the inside, two big wheels on the outside, fit them together "by the intervention of" certain pistons, &c. &c. &c.; kindle a fire under the boiler, and away she goes. Had this process for obtaining evidence against a slaver but been imparted to the world in time for the use of the Governor of the Mauritius, he might have been induced thereby to flatter himself awhile longer than the "ten years" during which the Slave Trade prevailed under his nose "as plain as the sun at noon-day," that he might accomplish something, stopping short of the "strong expedient" of the Ashantee variety.

But beautifully simple as the thing may appear upon paper, it would, like so many other instructions that have been drawn up, beginning with the celebrated pinch-of-salt method of fowling, prove upon trial to be of no particular value, owing to the want of sufficient precise directions for the various intervening processes which are to establish the connexion between those prescribed by the instructor.

How was the consul to get rid of the log-book and crew?

In the present case, how, for instance, was the boy to get near enough to the bird to deposit the salt upon its tail? How was the Consul to get hold "of the log-book and crew," or of either of them? Why, nothing simpler. There were two several processes, either of which could not fail. One is defined as "through the Captain-General," the other as "by the Consul's own authority, and the intervention of the commander of the American vessel of war."

Of these two processes, let us pursue the details, step by step, this being the only way to ascertain whether any process can work at all in practice. We will begin with the last defined.

Jurisdiction of the American consul.

Supposing the jurisdiction of the American Consul to be absolute in regard to every vessel entering the port of Havana under the American flag, it must evidently be restricted to them. As an officer, he has no right set foot on board of any other. The second process pre-supposes, therefore, that any vessel to which it may be proposed to apply it, has entered the port under the American flag. Had the "*Venus*" done so, the course of the Consul would have been so plain, that, perhaps, no suggestions from Her Britannic Majesty's Commissioners would have been requisite to make him enter upon it. But what was the fact in regard to her flag? The possibility of his doing this was so obvious to those concerned, that, had Her Britannic Majesty's Commissioners brought with them to this place the betting propensity which is said to be even more common among their countrymen than it is among those of the Consul, they would have experienced no difficulty whatever in obtaining a wager, at any odds, that the "*Venus*" would *not* return to this port under the American flag. And so it happened, as, indeed, it was positively *known*—just as well known, and just as soon, as the fact of her return to this coast—that it would happen. It was known that she had returned under the Portuguese flag, and under the name of "*Duquesa de Braganza.*" By a strange fatality, too, as if it had been fated that no circumstance should be wanting which could possibly enhance the flagrancy of both the absurdity and the disingenuousness of this proceeding on the part of the British Commissioners, one of them (the Judge Commissioner), happening to have honoured the Consul with a visit at his office, at the same time that he was receiving one from a British merchant (Mr. Morison) of this city (which was about eight hours prior to the delivery of their first communication on the subject), the latter mentioned the fact of the "*Venus*" having returned to this coast under the Portuguese flag, and also her new name. The effect produced by this disclosure upon the Judge Commissioner proved it to be an altogether unexpected and unwelcome one, a most vexatious slip of the tongue on a subject upon which they had been conversing; and the feelings of awkwardness into an exhibition of which the surprise betrayed him, were but rendered the more distressingly potent by the mode adopted to conceal them.

Absurdity and disingenuousness of the proceeding.

Visit of one of the commissioners.

Change of flag by the "*Venus*."

This fact of the change of flag was, *à priori*, so extremely probable, from every circumstance bearing upon the question, that, in the opposite scale, nothing existed but the mere possibility; such as would not weigh a feather in the conduct of any man, upon any subject.

Satisfied as to the fact of change.

Unaccustomed as he is, however, to rely, even in a case affording a presumption of this sort, upon one hearsay merely, when opportunities exist for further inquiry, the consul availed himself of these, and the result was to satisfy his mind as completely in regard to the fact of a change of flag as in regard to that of the identity of the vessel. That the "*Venus*" was now under the Portuguese flag and called the "*Duquesa de Braganza*," was not a bit less generally or less surely known than that the "*Venus*" had got back from Africa.

Officically speaking, however, there yet remained a possibility, for the contrary had not been officially ascertained, that the vessel was still under the American flag, and had been reported as American to the boarding officers.

As she had entered in the night, this was the only way in which her national character could have been disclosed. In an unofficial way, this object presented no difficulty whatever. It was the simplest thing in the world to ask at the Captain of the Port's, and to receive the answer, which proved to correspond with the report as it was sure to do. Still this was not officially ascertaining the fact; and it was desirable that I should do so. But how was it to be done? Why, nothing simpler, you will think. A letter to the Captain-General, demanding to know under what flag the "*Venus*" had returned to this port.

American consul not to be confounded with the commissioners.

Not sent to catechise the authorities.

To this course, obvious as it may appear, there were, however, several objections. In the first place, it would, to this extent, have confounded the American Consul with the British Commissioners, in regard to the very particular in which he desired to keep himself in the most pointed contrast to them. I had been sent here, and recognised here, to act in regard to American vessels, but not to catechise the authorities in regard to any others; to a ship, for instance, which, for aught I knew, or could know, (bearing in mind the important distinction, which I have taken so much pains to illustrate, between notoriety and judicial proof,) might be enveloped in some vitally important state mystery. Had I written such a letter, and had it been replied to by the request that I would point out the provision or the principle which authorizes a consul to exercise a surveillance over any other vessels than those which show his flag, I should have been no less embarrassed than it would have chanced to your predecessors to be, had I inquired of them on a certain occasion, how it had come to pass that the proceedings of American vessels had got under the surveillance of British Commissioners, so as to render it their duty to "report to His Majesty's Government," (advising the American Consul of

such report,) any infractions or evasions actually committed by those vessels, or supposed to be so; against the laws of their own country. In the second place, supposing the objection not to exist, or the Captain-General to prove so indulgent as to overlook it, there lay a practical difficulty which could not fail to arrest me at the very first step; for it is not easy to see how his law advisers could have failed to point out to him the necessity of proceeding regularly to work in the matter, and precluding all mistake, by requesting me to designate the vessel to which I referred under the name "*Venus*" and to indicate to him the witnesses who could establish her identity with the "*Venus*" that had sailed from this port under the American flag. In other words, what grounds had I for asserting that the ship which had been reported to the boarding-officers as the Portuguese "*Duquesa de Braganza*" was the same American "*Venus*" that had been the talk and the admiration of the whole port a few months previously.

Law advisers of the Captain-General would require proof that the "*Venus*" was the same vessel as the "*Duquesa da Braganza.*"

Supposing this balk to have been effectually surmounted, it must still be apparent, to any gentleman of the robe particularly, that so interminable a succession of mountains lay behind, that the only consequence of my getting over the first would be to render the difficulty of retreat the more remarkable.

But it is needless to enter upon the consideration of these, seeing that the first balk could not be got over. And to this truth, you, gentlemen, could not have failed to advert, had not your attention been so engrossed as it is known to be by "objects too high" and "convictions of rectitude too strong to allow" any share of it to be thrown away upon things so grovelling, and considerations so mundane. Had every effort been made to establish judicially the mere identity between the "*Venus*" and the "*Duquesa de Braganza,*" and had the Captain-General lent himself to the task with all the ardour that commissioner-zeal could desire, what would have be the result? Utter discomfiture; unless, indeed, the parties interested should have seen clearly that they could safely venture to indulge in a little sport, just as the "*Venus*" was said to have done with the British cruizers that chased her on the coast of Africa, by taking in sail to let them come up a little now and then. Without such a prospect before them, they would not have allowed so much as the identity of the vessel to be established. You felt sure of it: so did I. But not small would have been my embarrassment had I been called upon to produce a good specific reason or a good corporeal witness to establish it. Such a request would have placed me in a position even more critical than that in which your predecessors found themselves some years ago, after making the Captain-General "acquainted" with the "report" about the Texan Slave Trade; for I should have had neither judicial incompatibility and dignity to mount upon; nor so much even as the pretence to creep behind, that this was calling upon me "to bring before or prosecute in Spanish courts of justice delinquents against Spanish laws." Nor would the result have been very brilliant, had I, in my strait, assayed to call you down from your transcendental contemplations by imploring you to supply me with a witness.

A little sport as the "*Venus*" had with the British cruisers, taking in sail to allow them to come up a little.

However wide my invocation might have awakened you to terrestrial realities, the only one that it would have been in your power to discern, germane to the question, would have been the fact, corresponding to that whereon rested the oath which, we have seen, was taken no longer ago than last year, by the Lanarkshire sheriff, "that it was with the utmost difficulty that witnesses could be got to come forward to give evidence."

If, indeed, my power had been such as to enable me to assure them, "in the strongest and most solemn manner," of protection within the walls of a strong jail, so long as their testimony should be wanted here; that not more than five or six months of this state of safety should elapse before the commencement of the trial; and that, so soon as this should be brought to a close, they should "all be sent into exile for life, as none of them could remain with safety in this country:" had it been in my power to give all these assurances, it is not impossible but a witness or two might have been "brought to speak out." But even if my powers had been adequate to the fulfilment of all these conditions, I am not certain, so liable am I to troublesome dubitations, all arising, no doubt, from my imperfect American education, that it would have seemed to me altogether irreconcileable with received, perhaps at this moment, exploded, axioms in penal jurisprudence. I do not see under what aspect such a mode of procuring witnesses against a man's life could be considered, so that it should seem beyond the ground covered by the prohibition of bribery as a means to such an end. To procure witnesses by the promise to keep them in jail for an indifferent number of months, and at the end of this keeping to send "in exile for life;" all for the purpose of making their lives safe, and all, no doubt, at public expense! in what light can it appear to be anything else than a bribe? This proceeding does certainly to me appear to belong to the class of "strong expedients;" and although I do not by any means deny that the nesessity of the case is rendered strong enough to fully justify it, by the present state of things in the island of Great Britain, I am not satisfied that I could have reconciled it to myself to adopt it upon this theatre.

Imperfect American education.

It is clear, then, that even this little point, the official ascertainment of the absolute truth in regard to the possibility that the "*Venus*" had returned as "*Venus*" still, and not as terrestrial "*Duchess,*" was of a nature to present a difficulty not altogether beneath notice. As American Consul, I could not by my "own authority," whether exercised directly and alone, or conjointly with and through "the intervention of the commander of the American vessel of war," advance any pretension to engage in an "examination of the log-book and crew," until I had previously ascertained the fact, that "*Venus*" or "*Hecate,*" she was under the American flag. Had I gone on board on any such errand, I should have most richly earned the reception which on two occasions in this port when an American ship-master came to ask my advice in regard to a threatened visit from a British man-of-war to take out one of his men, I have enjoined it upon him to bestow upon the commanding officer of the party, to wit,—to forbid his setting foot on his deck, and, if he persisted, then to knock him down, and to go on knocking down until he should have cleared his deck or been overpowered, and in this latter case to haul down his flag and come to me. Which injunction, allow me to add, was given not through any hostile feeling; for I could most cordially have extended my hand to the officer at the very moment of despatching the captain in all haste to defend his ship, but because I was persuaded, am still, that one such practical illustration from a Yankee hand, of the American notion of national independence, would be of greater service in attracting to the subject the attention of the whole world, and in fixing it upon its proper basis, so that for ever after not a midshipman in any vessel of the Royal navy that floats but would be required to understand it thoroughly before he was entrusted with the command of a gig, than all the editions of Grotius and Vattel that the press could send forth. Most richly, therefore, would I have earned a knocking down, had I proceeded on board

On two occasions enjoined it on an American ship-master to forbid an English officer to set foot on his deck to take out one of his men, and if he persisted, to knock him down, &c.

Persuaded one such practical illustration would be of greater service than all the press could send forth.

the *incognita* to inspect her log-book, unless, indeed, I had ascended her side prepared to make a polite retiring bow, upon being informed, as any man and every man on the wharf would have told me I should be, that she was not an American vessel. And, had I gone alongside to make the inquiry before ascending, the sailors might have taken it into their heads to talk Portuguese at me, which I do not understand, or they might have asked me in some language which I do understand, why I had not made the inquiry at the Captain of the Ports, and so saved boat hire. The difficulties that presented itself to my addressing him or any other of the authorities on the subject of this vessel has already been stated. Upon reflection, however, a mode occurred of effecting the object indirectly, and by a course which should bear no resemblance to British Commissioner proceedings; which was, to address a note to Don Juan de Montaño, Post Captain in the royal navy and Captain of the Port of Havana, requesting him to communicate to me the name and class of every vessel reported to him or to any boarding-officer under his command as an American vessel, that is, as navigating under the flag of the United States, which had entered port during a period which was so defined as to embrace the two days prior and the two days subsequent to the night on which the "*Duquesa de Braganza*" was known to have arrived. I thus effected my object, without advancing any pretension to obtrude myself upon the authorities for recognition as an accredited spy upon the movement of the port, or act in any other capacity than that in which it clearly belonged to me to act as American Consul.

Application to the case of the "*Venus*."

Mode by which he effected his object, bearing no resemblance to commissioners' proceedings:—by writing to the captain of the port, &c.

without obtruding himself as an accredited spy, &c.

Upon examination, therefore, the first of the two processes laid down by you for accomplishing the "examination of the log-book and crew," although it be evidently an ingenious one, proves not altogether suited to practical use. Like tail-salting, it is a beautiful abstraction; but the vulgar properties of organized matter forbid its application. With regard to the other of the two processes—that "through the Captain-General,"—it would be superfluous to enter here into a laboured examination of its practical merits, seeing that, while considering the applicability of the one that was to proceed by my own authority, we were led to the necessity of my having recourse to the Captain-General, and perceived what the result would be. It cannot be necessary to point out the mode in which the same result would follow from a dependence of exactly the same nature, only more entire, upon the same functionary.

Let us now resume the consideration of your letter. In addition to this reproachful suggestion of first, what I ought to have done, to wit, accomplish the "examination of the log-book and crew;" and, secondly, the two processes whereby it might have been done: you favour me with the specification of three several points, in regard to which the said examination "could not have failed to elicit" much better information than any you "could be expected to divulge."

Resumes consideration of the Commissioners' letter.

This part of your letter is proof against criticism. The proposition is a most logical deduction from the premises; quite as truly so, and quite as practically applicable, as the antique truth of Greek geometry, that if he had only been provided with a fulcrum firm enough, and a lever strong enough and long enough, Archimedes might have lifted up the earth, or as the comparatively modern discovery of French zoology, that "if my aunt had been born a male, she could not have failed to be my uncle."

Your specification of these three heads of inquiry closes with a statement of reasons for believing, that the ship's articles had provided that she should go to Bahia, and that she had never been there; after which comes your "fear," that "whether transferred or not to any other flag," it is indisputable that a gross abuse has been practised of the American flag."

The only remark which I shall make upon this point is, that if you only *feared* that such an abuse had been practised, circumstantial evidence has less power upon your minds than it has upon mine. I had no doubt whatever upon the subject, no more than Mr. Daniel O'Connel had, that "a gross abuse had been practised," of the right to walk the streets, in the case of the man who, "for agreeing to work at a lower rate of wages, was assassinated in the open day in the presence of twenty persons." But *cui bono?* To judge from the way your last head of inquiry is put, and your remarks thereon, it would seem that you were under the impression that if the ship had cleared for Bahia, a sale or transfer could lawfully have taken place there only; and as she could not have been to Bahia, she consequently could not have been lawfully sold, nor have been divested of her American character. Supposing all this, premises as well as conclusion, to be true, where were the means judicially to establish the mere identity of the vessel even; the mere fact that this vessel, which had just entered the port of Havana, was the same vessel which had sailed from it about four months before? But where is it written that the sale or transfer of a vessel cannot lawfully take place at sea?

Had no doubt that a gross abuse had been practised of the American flag.

Sale or transfer of a vessel may lawfully take place at sea,

To my great relief, I now find myself so near the end of my toilsome journey—a most dusty and weary way it has proved—as the closing paragraph of this your second and penultimate communication. It opens, too, in a tone that was quite exhilirating to hear, affording, as it did, encouragement to suppose that you had been refreshing your minds by a dip into the fountains of the law. "It is certainly no part of our duties at this place to take any steps to vindicate such a violation of your laws." Nothing certainly could have been better conceived or expressed: barring a few superfluous words, *e. g.* "at this place," and "such a." Striking these out, and substituting *any* in the place of the latter, so as to make it read,—"It is certainly no part of our duties to take any steps to vindicate any violation of your laws," the proposition would seem not unworthy to have been extracted almost verbatim from the note-book of the most attentive listener to Mackintosh's Lectures on the Law of Nations.

Near the end of his toilsome journey.

Continued analysis of the Commissioners' letter.

Judge, then, my disappointment at perceiving that instead of a full stop at "laws," there was not so much as a comma; and that, in the very same breath, you went on, "nor have we any wish to interfere in any like cases, further than arises from an anxiety to put an end to all such nefarious infringements of the rights of humanity."

If the art of diplomatic writing have been truly defined as the art of covering paper with sentences that collectively shall amount to nothing; and if that assemblage of words can be said to amount to nothing, in which the meaning of the latter half, so far as meaning can be found to it, is directly the reverse of that of the first, what a perfect specimen of the art have we here! A single sentence, comprising within its modest sphere two specimens of perfection, beginning with a proposition worthy of the luminous mind of Macintosh, and this proposition run into another, so skilfully, that no mark is left at the line of junction, and the whole taken together, is a production worthy of being the "couronné" prize essay of the first "élève" of the most eminent professor that ever delivered a "Cours de Style Diplomatique!"

You begin by making me believe that you have been brought to your senses, and become sensible

that you have nothing to do with the execution of American laws. Not content with offering me this assurance as to yonr actual state of mind on the subject, you go on to present me with something else, in the shape of consequence from it in regard to your future conduct, which, of course, I took for granted was to be in harmony with this beginning of the sentence, that is to say, in contrast with your previous conduct. Give the beginning of this sentence, down to the word "nor" inclusive, to any man in the world save a professor of "Style Diplomatique," and ask him what must logically follow after "nor." What will be his answer? Why, "nor"—*shall we advance hereafter any pretensions to do so.* According to the rules of logic, this was the inevitable termination of the sentence. But what was the appendage to this "nor," furnished by your guide-book on diplomatic style? Why, that you had not "any *wish*," (used as synonymous with purpose, as appears from the sequel,) you had not "any wish to interfere in any like cases further than" a certain extent!—and what was this field, to which your interference was thus graciously to be restricted? Why, it was to extend no further than your "anxiety to put an end to all such nefarious infringements of the rights of humanity."

And having thus defined your sphere of action, you add, as a discouragement to any further refusal on my part to recognise your right to gambol in it *ad libitum*, that "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."

But for the principle involved, this limitation of the field of your pretension, could it but have been accompanied by the certitude that it wonld be *bonâ fide* observed by you, would have been so satisfactory as to command my acquiescence. With such an assurance attached, the pretension would, to all practical intents, prove identical with no pretensions at all; and could it but have been thus accompanied, the principle alone would have been in the way of my desire to prove complacent on the occasion. But the stubborn case would not change its nature to accommodate my wishes; and there stood both the principle and the uncertainty, as insurmountable bars to them.

The former difficulty has already been sufficiently expatiated upon. The latter merits also a consideration of its particular nature and properties: the one belongs to the law of nations, the other is of a less abstract and more practical type. "Your anxiety to put an end to all such nefarious infringements of the rights of humanity." This was to be the limit of your interference,—thus far and no further; consequently, if there was no such anxiety, there was to be no such interference,—this was to be the bargain. Who will doubt,—that is, understanding by "*anxiety*," something *heartfelt*, something which impels one, not "to the corners of the streets that he may be seen of men," but to "shut the door," that he may meditate effectually on the mission to which he is called? Who will doubt, that taking "anxiety" to mean this, I might, without any practical infraction of the principle which forbad your interference, consent to your interfering as far as "anxiety" would carry you?

Discursive quotations from some novel-writer about factory children.

If there were any such doubter among those who might have followed me thus far, the following might perhaps be attended with the effect of sufficiently corroborating previous impressions to convert the doubt into conviction.

"The factory child,"—

"Yes, our little factory girl is nine years old; she is no longer a child, she is a dwarfed woman. Her infancy was passed in pining, puling want; from the first, almost an untended thing, left days and days alone, the mother denied the enjoyment of maternal sympathies by sharpest penury (the fiend that, at the hearths of the poor, now chills, now blights, and now makes stony hard the human heart), by keen necessity of out-door toil for the infant mouth at home. God knows how the child learned to walk! A short time, and another baby engrosses the few hours (nay, half-hours) stolen from work to lavish on the last born; and then, another helpless squalid thing; and then another;—and then our little factory girl becomes a nurse, and, at six years' old, hugs in her lean arms her half-naked tatterdemalion brother. She has not strength to carry him, meagre as he is, but shuffles and stumbles with him along the street;—and now she sits in doorways, and now in lanes and alleys her infant mind receives the seeds of future things: if things of goodness a blessed chance; if otherwise, the unthinking virtuous throw up their eyes and marvel at the wrong! And thus the child passes her first nine years of infant life. What an infancy! Lean and withered, and careworn (yes, careworn! her baby countenance made dull and colourless by the miserable aspects everywhere surrounding her,) she seems as if she has never been younger; nay more, that years could hardly make her look more old; there is within her face of babyhood so deep a stamp of sad maturity. All the better yearnings of the heart,—the peace, the sportiveness, born and abounding at the hearths of competence,—what has she known of these? Life to her has been a joyless, selfish, hungry, peevish thing. Her home has been the home of grinding want; at her fireside, man, the lord of creation, has been a serf to the lowest necessities, and not always a silent and unrepining one. How often is the brutal husband and the reckless father the horrid handwork of misery alone! Of all the violence, the cruelty, inflicted on each other by the miserably poor, how much of it is but the wild outburst of intolerable self-suffering! and our little factory girl has seen this, and the shadow of the evil has fallen upon her face.

"Let us, however, accompany the child to the factory. What a bitter season! how the wind howls! with what a dash the sleet is flung against the windows! The earth is frozen hard as iron, and the wind cuts blightingly;—snow is on the ground. It is five o'clock on a January morning. The child is up, and, with its scanty covering pulled about it, descends shivering to the street. Poor little wench! her blood is frozen under her very finger nails. Her foot, too, (for her shoes have been patched past further patching, and yawn in half a dozen places) is galled with a most nasty chilblain, and she limps most painfully. Her father, bound to the same factory, lifts her upon his back, and checking an oath, groans from between his teeth. The girl is nine years old, and half-clad, in a desolating January morning, is carried—through cold and darkness, carried to work.

"The girl is now in the factory. From this moment her childhood utterly ceases: she is bondswoman to all the cares of mature life: nine hours a day is her allotted time for work, the remainder of the twenty-four hours to be passed—in what? in the sports of youth—in the happy, artless recreations of children, to whom even the consciousness of existence is at times a source of the keenest pleasure? An hour and a-half is given to breakfast and dinner; and when we remember the wages earned by the factory girl, sometimes as much as 4*s.* 6*d.* per week, and the costliness of the luxury of bread, an hour and a half for two meals is surely time sufficient; they might, we have no doubt, be eaten—ay, both—in half the allotted time. There yet remain many hours—hours for what? For the merest rudiments of education? After nine hours' unceasing labour in the cotton factory, how elastic the mind, how apt for instruction, how strong to pore over a book, how fitted to receive any

impressions that shall raise its possessor a degree above the beast slaughtered for the shambles! The factory girl returns home, and what can she do but sleep? What should she do but seek oblivion from the noise—the racking noise of engines—the hell of sounds which she has all day suffered? Who could keep her one half hour from her miserable bed? Who could lessen the blessings of sleep, since sleep may sometimes bring to her at least dreams of quiet visions of happiness? What to her are reading and writing? Let her quaff forgetfulness!"

Such is the picture sent to us on this side of the Atlantic by an English painter. Wretched little mortal! Shocking and revolting as is the bare thought of such a metamorphosis—horribly impious as would seem to be such a desecration of the noblest of God's works upon this earth, as the transformation of the little blue-eyed, flaxen-haired maiden, with her "expanded forehead, large and elevated cranium," the future seat of that inscrutable movement which shall prove that in "this race" "the moral feelings and intellectual powers have been developed in the highest degree of perfection which human nature has ever exhibited," into a being with a black skin, "hair short, black, and woolly; skull compressed on the sides, and elongated towards the front; forehead low, narrow, and slanting," of that variety of the species which, "it is fully granted, holds the lowest station,"—altogether ineffable as must be the disgust awakened by such a proposal, who that can dispassionately exercise his reason on the subject will fail to be convinced that, to snatch her from such a doom as awaits the English factory child, this metamorphosis, beastly as it might be, would be a work of mercy? Who shall deny that he would be doing a good act, who, could nothing else be done for her, should place her as a little woolly-headed ethiop on the coast of Guinea, ready to be embarked in a slaver; and thus bless this living thing with a chance on the one hand of a speedy deliverance from this earthly evil, on the other of continuing wrapped in it where, whatever might be her appointed task, at least would the airs of heaven ever fan her cheek, the glories of God's creation for ever beam in her eye, lighted up by that sun whose warmth, making her for ever a stranger to the power of the cutting blast, would at the same time ripen that endless succession of fruits which was to preserve her for ever from the pangs of hunger.

Comments thereon.

Contrasts here with the negro child.

Rhapsody.

Who now can fail to be qualified for the task of appreciating the intensity of your "anxiety," proportionate as this must be to the quickness and the depth of your sympathies with human suffering? Who that adverts for an instant to the picture of "the factory child," and knows that she contributes her mite to pamper you in the luxurious sloth of a sinecure, as a fit preparation for the dignified ease of a pension, to pay which also her little frost-bitten fingers must be spry? Who that will

"Look here upon this picture, and on this,"

but must be deeply penetrated with the intensity of that philanthropic "anxiety," which, if your heart

——"be made of penetrable stuff;
If damned custom have not brazed it so,
That it is proof and bulwark against sense,"

you must ever be tormented with, "to put an end to all such nefarious infringements of the rights of humanity?"

Comments resumed on the letter from the Commissioners.

Whom this factory child constitutes by her mite to pamper for sinecure and pension, to pay which her fingers must be spry.

But whether the nature of your "anxiety" were such as to render the risk of interference on your part great, or to reduce it to nothing at all, the principle was still the same; and that principle I could not consent to allow you to infringe. You give me to understand that you are not to be twined from your course in this respect. If this means that you are determined to persist in getting up, whenever occasion may offer, this wretched farce of addressing to me a communication, to make me "acquainted with a report prevalent in this place," then I give you notice that my patience is exhausted, and that any and every communication from you shall be returned unopened; or if not at once perceived to be from you, then so soon as it shall be discovered to be so, without my reading a word of it. This shall be my "course." You shall *not* interfere, in any mode, manner, or degree, in the execution of any law which it may have pleased my country to pass for the government of its citizens. So far as the principle of national independence is in my keeping, it shall not be invaded in any way, nor to any extent. Henry Brougham should not do it, were he here in proper person. William Wilberforce should not do it, could he rise from the dead to make the attempt. Think ye then that it shall prosper when coming from stipendiaries? No! not if war were to come of it. Dr. Channing is not a more sincere lover of peace than I am. Revenge, whether on the part of a nation or of a man, is abhorrent alike to my most settled convictions, and to my most cherished habits of feeling. Interest—that is mere money, or property, or commercial gains,—on however magnificent a scale, could never weigh with me against the miseries of war. And yet, if I could read in the book of destiny that by flinging your communications into your teeth I should prove the author of the longest war that ever desolated Christendom, there would be no faltering on my part. No! not if I foresaw that in the defence of my country—of that part of it, I mean, which would be chiefly exposed to assault—every matron and every maid would have to arm. Before I would submit to your pretension, or would meet it when persisted, in any other tone than that defiance which I now hurl, my daughter should make a bonfire of her books and her music, and, bidding adieu to those pursuits which are to qualify her for the womanly employment which she has been taught to look forward to for support,—that of training the minds and hearts of her young fellow-citizens of our magnificent republic, in the same way that her mother, and her paternal grandmother's countrywoman, Maria Edgeworth, have trained her own,—she should dedicate herself to the rifle, until, to her eye and to her finger, its cunning should be as obedient as it proved to the Tennessee-man who drew the closest sight, and touched the surest hair-spring trigger at New Orleans.

If Commissioners persist in the wretched farce of addressing him communications they shall be returned unopened.

Natural independence, in his keeping, not to be invaded—not by Henry Brougham, nor by William Wilberforce—nor by stipendiaries, not if war were to come of it.

Rhapsody.

Hurls defiance—his daughter should make a bonfire of her books, and dedicate herself to the rifle.

I will now pursue the paragraph of your letter to its close. Having apprised me that "our objects are too high, and our conviction of their rectitude too strong to be turned from our course by taunts of any kind," you go on in the same breath—"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."

Comments on letter continued.

The utterly illogical connexion by which you string together the different phrases, or parts of phrases, of which your communications are made up, has already been the subject of remark. This defect in composition, if sometimes occasioned by the writer's not knowing how to express what he really wishes to say, is over discernable in him who has an end in view which he dare not openly and

Illogical connexiton of different phrases.

plainly avow. To effect this end, being at bottom his only motive for writing, he cannot but say something which shall tend towards it; while, on the other hand, the fundamental rule which forbids an honest avowal as to what it is that he is driving at, imposes the necessity of his dove-tailing these matters pertinent to his object into others that are not so, and are used for the very reasons that they are not so. Sometimes, and for a very obvious cause, these pilot or file-leader parts are quite contradictory to those which they design to cover the entrance of; as, for example, your admission above examined, that it is no part of your duties to interfere in the execution of American laws, used to begin an assertion of your determination to interfere. At other times, their sense is not contradictory, but merely neutral; so that no one can discover any relation between the proposition that is pertinent to the disavowed or unavowed object of the discourse, and that which is used to usher it in. Of this latter kind are the two sentences now before us. The part of them which is pertinent to your object is that which begins by informing me of the *wish* which you *would* indulge (if you could, understood) to preserve unimpaired your respect for the American laws, which have declared the Slave Trade piracy, and of the regret that you would experience at discovering that these laws were mere empty professions. This *wish*, in the conditional mood, and this subjunctive *regret*, by anticipation, are worn-out formulas for saying indirectly that the *hope* no longer exists, and that the *regret* has become a reality. In plain English, the meaning of these phrases is an assertion on your part, that the American "laws which have declared the Slave Trade piracy" are not entitled to respect, inasmuch as they are a mere "profession," designed, of course, for the purpose of imposing on the world, and not intended to be obeyed by our citizens. This is the plain English of the matter. But how is it introduced? In a plain, straight-forward English way? Not at all. It is awkwardly shuffled into the pack, stuck to a proposition, between which and itself there is not the remotest semblance of a logical connexion. Suppose the Grand Seignor, after asserting his purpose to keep up the practice of throwing his handkerchief, to say, "my objects are too high, and my conviction of their rectitude too strong, to allow me to be turned from my course by taunts of any kind, and with regard to 'Roxana,' in particular," I will indulge my caprice whenever it moves me. Such a sentence in Constantinople "familiar dialogues" would not present any very serious difficulty to the student. The order of ideas is natural, and the sense of the concluding proposition might almost be guessed at. The logical force of the phrase "in particular," would indicate that something of the sort must be the fate of Roxana. But suppose that instead of "I will indulge my caprice," the phrase "in particular" were followed by the words, "I would wish to preserve unimpaired" my admiration of her grandmother's embroidery. Such a sentence would clearly present a puzzle, that could be solved by nothing short of the most consummate Arabic scholarship, and even that could effect nothing more than its grammatical solution; for the highest logical acumen would be baffled in the attempt to discover the connecting thread between the high considerations which determined the Sultan to keep up handkerchief throwing, and his wish, with respect to Roxana "in particular," not to lose his admiration for her grandmother's embroidery. The possible existence of a logical connexion between the two things could at best be matter of merest surmise, unless some *savant* in eastern manners and customs should be able to make us acquainted with some part of the boudoir mysteries of an Oriental harem, an allusion to which was involved in the Sultan's speech, and which should serve to explain how, "in particular," the wish to keep on admiring Roxana's grandmother's embroidery had something to do with the lofty motives, on which rested his inexpugnable determination to keep on throwing the handkerchief.

Right construction of the meaning of the Commissioners.

Illustration of the Grand Seignor.

Thus much with respect to the logical merits of the mode selected by you for giving utterance to this slander upon my country; merits which I should not have deemed it worth while to bestow a word upon, but for the evidence which they afford of consciousness of wrong on your part, in regard to both the end which you proposed to yourselves, and the means to which it obliged you to condescend. I will now bestow some consideration upon the slander itself.

Slander imputed.

Comments continued on the letter.

The slander embodies two assertions, or, if you prefer it so, only insinuations: first, that the American laws against the Slave Trade are a "dead letter;" second, that they are mere "professions," with which to cheat the world. The first of these assertions—or insinuations, as the case may be—has for its subject the actual state of things now existent with respect to our observance of our Slave Trade laws. The second has for its subject the existing frame of mind of the people of the United States in regard to that state of things.

That a law is a "dead letter," means that its influence is not at all felt, or but imperfectly felt, in the community upon whom it is nominally binding; and this may be true in two senses, which are the opposite of each other. One of these is, that the object of the law has been so perfectly fulfilled, as to render a conformity with its provisions so much a matter of general habit that no one thinks of departing from it. The other is, that the object aimed at by the law is not fulfilled at all; that it is not executed, no one minds it, and any one may break it who chooses.

But little reflection is requisite to perceive that the state of things corresponding to the first of these modes in which a law may be said to be a "dead letter," is rather favourable than otherwise to occasional infractions of its provisions. If, for example, it were possible for the suppression of the Slave Trade to be accomplished by the mode now pursuing by the British Government,—the "strong-hand" mode, as Mr. Fowell Buxton calls it, in that glimmer of returning sanity which I have already greeted with due attention,—(which expectation is, in my humble opinion, as rational quite, as would be that of curing a human body covered with chronic ulcers, by searing them over so as to stop the issue,) —if this result could be brought about, what would be the consequence? Why, of course the British people would be relieved from the charge of supporting the expensive machinery now at work, or, if not actually at work, at least kept up ready to go to work whenever occasion offers.

British commissioners would, of course, retire upon their pensions; and British sailors would no longer be sent to cruise on the coast of Africa when the only thing remaining to be caught there would be the coast fever. Under such a state of things, all treaty-stipulations for the right of search, all statute-provisions awarding head-money to captors, and every part of the machinery, would become a "dead letter:" unless, indeed, with regard to the right of search, it should appear politically expedient to maintain it in healthy vigour, if for no other purpose than merely to keep other nations in mind that the British people were so free of the burthen of taxation, that they could afford to maintain the police of the seas at their own sole charge. Under these circumstances, which pre-suppose the Slave Trade to be entirely suppressed, and to be a business in which, as a general rule, no one thinks even of engaging, it is evident that, for this very reason, an occasional adventurer, who should break in upon the general habit, would experience still less difficulty in accomplishing his enterprise, than at-

Police of the seas.

tends similar adventures at this momont. Although even now, with all the Preventive Service in full activity, the risks are so inconsiderable, that slaves sold here at 250 dollars to 300 dollars, yield a profit sufficient to most rapidly enrich those who engage in the business.

In the sense of "dead letter" illustrated by this example, it is true that the laws of the United States are a "dead letter." But he who asserts, or insinuates, that they are so in any other sense, asserts, or insinuates, what every man, woman, and child in the United States—that is, every one who has ever had his or her attention awakened to the subject (for, generally, they are as little conversant with it as they are with the condition of the little factory girls who help to pay British commissioners' salaries and pensions)—knows to be as stupid and flat a falsehood as the O'Connell Virginia "breeding-pen" lie; or as any American stump orator would utter, who, finding it to his account to pay that sham in the shape of a patriot—as like to one of the Emmett order, as a "stuffed paddy" is to a genuine son of Erin—in his own coin, and, having become sufficiently a blackguard for the exploit, (both which suppositions, being derogatory to my country, are ventured upon for the sake of illustration only,) should tell his hearers that Derrinane Abbey is a brothel, where a father prostitutes his daughter to any comer for half a crown.

O'Connell Virginia breeding-pen lie and illustration.

On reaching the second branch of your slander, we quit the *terra firma* of material occurrences, any assertion in regard to the existence of which admits of being proved or disproved through men's senses, to mount into a more sublimated region. We have now to deal with human motives. The question is, whether sufficient grounds are afforded upon this theatre, or can be collected from any and all the four quarters of the globe, to justify the imputation upon the people of the United States, that their laws against the Slave Trade are a mere "profession;" that they have enacted those laws, not with the purpose of causing them to be observed, but (for this also is expressed by the word *profession*) in the degree of imposing on some other nation or nations.

Second branch of slander.

In regard to the latter idea, I observe only, that, familiarised as your minds have become with it,—in regard to those unfortunate nations where the people and the government are different things, and to whom treaty obligations might be dictated to pass laws which there was nowhere any power to carry into effect, and the passing of which consequently might, perhaps, be in truth a mere "profession,"—it is not very wonderful that the force of habit in dealing with nations such as these should have led you so far to forget yourselves, as to use the same word, flagrant, as is the absurdity of the application in speaking of the United States of America, where, compared with the condition of other states, the relations between the people and the government present a contrast not more striking than the defiance which they have together ever hurled at the invader of their sovereignty. It is in the nature of things possible that such a republic should have once passed laws, concerning the enforcement of which she had now become indifferent, and which such indifference alone prevented the repeal of; but it is in the nature of things impossible that, feeling herself, as she does feel to be, a match for the world were it combined against her independence, she should either put, or keep on, her statute-book any law as a mere "profession."

This, however, is a mere accident to the slander. Its substance consists essentially in the charge, that our laws against the Slave Trade are not accompanied with the purpose and the wish that they should be observed.

In regard to a charge of this nature,—be the government against which it is brought as badly constituted as it may, as little in harmony with the people, or as traitorously subject to foreign dictation as you please,—the test afforded by the mere fact of the extent to which the law is fulfilled or falls short of fulfilment, is an exceedingly fallacious one. It may be received in evidence, and that is all. Its weight, too, must evidently diminish, in exact proportion with the identity between the government and the governed, and the freedom of the state from foreign dictation and foreign entanglements; for in exact ratio with these must be the improbability that any law would be enacted, except in the intention on the part of the people that it should be observed.

Of the insufficiency of this test, the cases already adverted to in the course of this letter, as illustrations upon other points, will do for this also. Take for example the Mauritius case. How apt would a superficial thinker—or a person regardless of doing injustice, provided his turn could be served thereby—have been to consider, or to bring forward, the fact of the prevalence of the Slave Trade, during ten long years of British rule, all the while "as plain as the sun at noon-day," as proof that the British Government was insincere in the "professions" so oft repeated to the world, or that it had found it impossible to procure officers who could be got to do their duty! And yet how unjust would have been the imputation! as Mr. Buxton so strongly testifies, with regard to both branches of the united service.

Mauritius case again.

But, strongly as this instance may exemplify the important truth, there is an illustration of it, in in the presence of which a thousand such would only be as so many farthing candles in the presence of the sun. It is furnished by the same article, in the same number of the "Edinburgh Review," that has already supplied me with so many facts exactly to the points which I wished to enforce. The present is so striking, that—although afraid of exhausting your patience, and exceedingly anxious on my own account also to get out of this labyrinth in which I have found myself involved, while intent upon explicating the matters so skilfully condensed within the narrow compass of your communications—I cannot resist the temptation to dwell upon it.

Edinburgh Review again.

Matters skilfully condensed in the Commissioners' communications.

Among the avowed ends of Government, none is more generally professed than the protection of every man in the enjoyment of the fruits of his labour. This, it is true, is known to be a theoretic fiction; if not purely, yet to so great an extent, that the practical operation of the least imperfect governments is such as to present a lamentably long catalogue of exceptions to the rule: so that, judging from these results, particularly when collectively considered, the rule might be supposed the very reverse of that just expressed, and to be, to rob every man of the largest possible share of the fruits of his labour. The extent, too, to which any given country will exhibit grounds for the supposition that the latter is the practical guide of its government, seems to be regulated by some law of nature of very uniform operation, and to be everywhere dependent, in an inverse ratio, upon the diffusion of political power there prevailing. Wherever this is sufficiently concentrated, the principle will be found in sufficient intensity to have its efficacy attended by the taxation of the mass of the population to within an inch of their lives. And so, in proportion, where circumstances are less favourable to its operation. So boundless is the field of public service, so innumerable the ways in which the state may be served, and a little be thereby acquired to a fair compensation for so doing; and so manifest is this truth to those charged with the custody and management of that field, that the only possible objection that can

Discursion, principally about combinations among workmen.

ever be encountered from them to the multiplication of the persons employed under their direction, consists in the difficulty of proportionably increasing the number of the fair compensations, so that no one shall suffer in consequence of the admission of co-labourers. The consequence of this natural illimitableness of the field of public service is, that the aggregate fairly earned by exertion or residence therein will never fall short of the entire amount that may, by the most improved process of squeezing, be extracted from the rest of the community. This, however, applied after the shall have undergone an indefinite variety of minor or partial processes of the same general nature, resulting from schemes for the regulation of individual pursuits, the encouragement of enterprise, and other similar useful objects, enforced upon the community at the suggestion of the philanthropic few blessed with a share of political influence. In Great Britain, for instance, where circumstances are supposed to be not the most favourable in the world to the operation of the principle, and where their merits in this respect have been diminished of late years, and threaten before long to become nearly if not quite extinct, not a single man, of the thousands who partake of "Government-money," ever touches a shilling that he is not—so boundless is the illusoriness of human convictions—believed by himself, and by those who award it, to be fairly entitled to; and yet the result is such as "The Factory Child," the Edinburgh trial, Mr. O'Connell's speech, and other corresponding pictures afford a conception of.

But if this one among the avowed ends of Government be everywhere a fiction, to the full extent that it may be in the power of the ruling few to render it so, it does not follow that all their professions must be equally empty in regard to others; for instance, the protection of every man in the right *to labour*. To be truly stated as one of the ends of Government, as Government exists in England, even this would require a great many qualifications; for there is a vast difference between the right to employ one's head and hands as God bestows it, and as it is recognised by the law of England. To a certain extent, however, it has, according to the latter, an actual existence, in a far less restricted shape too than in China, and it would no doubt be recognised by English lawyers as part and parcel of that "right of personal security," which, as Blackstone informs us, "consists in a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his reputation," and is ranked by him as the first of the "three principles or primary articles" of those rights which "were formerly, either by inheritance or purchase, the rights of all mankind; but in most other countries of the world being now more or less debased and destroyed, they at present may be said to remain, in a peculiar and emphatical manner, the rights of the people of England." To determine the precise extent to which it is recognised as part of the "rights and liberties of Englishmen," would be an enterprise of no slight labour, and is not requisite to the present purpose. It is sufficient to know that something of the sort does actually exist, that it constitutes part of "that *residuum* of natural liberty which is not required by the laws of society to be sacrificed to public convenience," and to maintain which is "the first and primary end of human laws." Nor can this part of the *residuum* be viewed as a fictitious quantity, abstraction having already been made of all such portions of the "power of acting as one thinks fit, without any restraint or control, unless by the law of nature," as the Government could have any motive whatever for striking out. This being done to the fullest extent, some part must remain, in regard to which it cannot but be the real, sincere, and earnest desire of Government to fulfil "the first and primary end of human laws," by affording to it the most perfect and absolute protection. After the bees have worked out and produced, such a thing is conceivable as to prevent their falling into the luxurious indolence which might be the consequence of leaving to them all their own honey. It is conceivable too, that it might seem expedient to support bees of a particular class in their natural propensity to make the others conform to certain regulations, whereby the public good should be promoted, and, at the same time, the particular convenience of the contrivers. But, to prevent the honey's being made at all, whether by direct government interference, or by allowing the workers to be stopped and killed by those who do not choose to work, this is a design which it would be the height of absurdity to impute to the regulating power.

This proposition being, I think, clearly established, I will now introduce a case which will show that a belief in this utter impossibility would be forced upon any mind pre-occupied with the notion that the non-execution of a law justifies the imputation of insincerity upon the Government from which it emanates. It will be seen, that if the slightest weight in this respect could belong to the mere facts that a law is infringed, and that the Government knows it to be so, the mass of testimony afforded by this case is so absolutely overwhelming, that no earthly escape would remain to the British Government from the stigma of wilful indifference to the utter inoperativeness of the laws for the protection of its own native subjects, on their own native soil, in that right, the maintenance of which is pronounced by Blackstone to be "the first and primary end of human laws;" nay, in the most vital of all its vital points of that right—one so sacred that it is not specially noticed by him, for the simple reason that an invasion of it is a thing, the possibility of which has not occurred to the imagination even of one man in ten millions. To make a slave of a man, to compel him to work for you and not for himself: such a thing is unhappily too much in the way of man's propensities to be a stranger to the thoughts of many. But, to obstruct a man in the exercise of his right to work, and this, not for the sake of preventing his employing himself upon this or that particular thing, or in this or that particular way, but to prevent him from working at all! Who ever dreamed of the possibility of such a thing? A by law binding the parties to starve, to look on their wives and children, and listen to their expiring groans from famine, rather than take work!—subjecting each to the penalty of death if he falter, and this penalty enforced with a certainty that fulfils to the utmost this difficult requisite to the efficacy of a penal law! Such an *imperium in imperio* as this—such a hell upon earth—what raving bedlamite ever crouched before the picture of? And yet this is the picture of a reality—of a reality which it was reserved to this present age of wonders to produce for the contemplation of man. It is the picture of Great Britain at this moment. Not a fancy sketch, generalising a few particulars, ferretted out in some obscure corner which misery, and vice, and anarchy had been allowed to make their own, and thus only snatched from the oblivion into which they were already sinking. Nor is it an historical painting, after the style of Chateaubriand's *Atala*, whereby so true a conception of the manners and customs of Indian squaws is conveyed; or of that modern improvement upon *Atala*, De Beaumont's *Marie*, which presents views so just and accurate, that the only shape in which they could be embodied was a romance that, like Shakspeare's plays, proves its fidelity to nature by the contempt it shows for all such pedantic shackles as time and space, and corroborates this proof by a contempt which the bard of Avon's courage was not equal to, for coherence or verisimilitude in any of their modes. It is

nothing of all this: it is a literal, prosaic, David Wilkie, picture of a fact, of one vast overwhelming fact—its appalling magnitude covering the whole length and breadth of the land.

"*These associations*," says 'The Edinburgh Review,' "*have now become* so universal, *and are already so* thoroughly organized, *that their effects, be they for good or for evil, must be of the most extensive kind.*" What are "these associations," which "have now become so universal?" Why they constitute a *Government*—the actual existing Government of Great Britain and Ireland, so far as the "operative" class is concerned. The Government which, except that it does not directly interfere with the processes of tax-extracting set in operation by the other Government, consisting of King, Lords, and Commons, is the governing Government for cotton-spinners, and all such animals; the Government which regulates their conduct, and which executes them when they prove disobedient.

And of this Government, what are the avowed ends? How is it constituted? What means does it generally employ for maintaining the authority of its laws? How does the system work? All these questions are answered by "The Edinburgh Review."

The great end of the institution is, to give practical force to the doctrine that "the labourer is worthy of his hire." It is to secure to the "operative" a fair compensation for his labour.

In the constitution of government adopted for this purpose, traces are wanting of the influence of example. As might be anticipated, it exhibits, both in its distribution of political power and in the use made of it, a family likeness to that "matchless" product of the "wisdom of ages" which is administered by the superior classes of the same community—if community it may be called—for their special benefit. "This species of union is founded originally on the principle of universal suffrage." So says "The Edinburgh Review." Whereas the Transatlantic Democrat, into whose hands the number has fallen, cannot but prick his ears, and look with all his might, to see how democracy turns out to work on this partial experimental scale, amid the corruptions and oppressions of the old world. But alas! 'tis all a mistake. The "universal suffrage" is there, it is true: but so it is in the House of Lords; so was it among those "*very noble and approved good masters*," who erst did wield the trident. Every man has a vote. "In some trades," pursues the Edinburgh, "the whole associated workmen form one body, by the votes of a majority of which the office-bearers and ruling committee are appointed. In others, each manufactory forms a meeting of its own, a majority of whom choose a delegate, and a majority of these delegates elect the ruling committee." All purely democratic, until we find out that these "*associated* workmen" are, with respect to the vulgar herd of workmen, a select few, that the association consists of those individuals who have acquired the right to discharge the functions of a workman of the "skilled, or initiated class;" and that this skilled, or initiated class, which is the constituent body of the ruling committee, forms but a part of a small fraction of those employed in all the branches of the same trade. For instance, "the number of *spinners* in Glasgow in April, 1837, was between eight and nine hundred, and the *piecers* and *pickers*, *carders* and *reelers*, dependent on their labour, about seven times as many."

One of the first cares of these peers is, of course, to guard against all inconvenient increase of their own body; for what more obvious as a means of preventing the wages of a particular species of labour from falling, than to prevent the number of labourers from augmenting? The legal provisions for this object, although with regard to the ultimate end of the government they are like any other mere laws, yet are, with regard to their bearing upon the constituent body, to be viewed as supplemental to the organic laws; and ought to be considered in connexion with them, before descending to those divisions of the subject which are essentially subordinate.

"In order to effect this object," (that of "guarding against the influx of new hands into the trade,") the trades' unions have generally laid heavy restrictions upon the admission of any persons to the benefits of their association. Very effectual methods are, therefore, taken to accomplish this object. A long period of apprenticeship is usually acquired before the young aspirants are admitted to the skilled or initiated class; during the whole of which time the apprentice must pay a stated contribution to the funds of the association. A considerable sum, too, is generally required to be paid, in the name of entry money, by every apprentice or skilled hand, for admission, from any distant quarter." "In addition to this, several trades have a permanent system of offering *bounties* to such persons as will leave the trade and the country altogether." In the regulations of the Glasgow cotton-spinners, "they observe that another and perhaps a greater cause of the increase of hands in our trade, is the employing of boys as piecers. We have before our eyes many examples of other trades acting nobly to cure this evil of *apprentices*, and it is certainly our paramount duty to use every method we can suggest to stop the increase of *boy piecers*. We propose to embody this law in the obligation, that no man shall employ a boy as piecer, except according to the privilege long ago stated in our rules." In a word, no man, not a member of the association, however great his skill, however urgent his necessities, is allowed to earn his bread by taking work, nor is any manufacturer allowed to give employment to any such man, or to take in an apprentice, except with the consent of the ruling committee.

One of the direct consequences resulting from this interference with both classes, masters and workmen, who are parties to the employment and disposal of labour is, that "the current of labour is forcibly prevented from flowing out of those channels in which it is redundant;" and the country exhibits that "extraordinary diversity in the remuneration of different kinds of labour which has long struck foreigners with such astonishment." "Remuneration, on the principle of competition in the labour market, is thwarted," and the effect is "to depress to a most undue and disastrous degree, the remuneration of the more unskilled, but numerous class of labourers in the community." "By forcibly elevating at times the wages of the skilled classes, they have compelled the masters to depress the wages of the more numerous unskilled class of persons in their employment; by debarring industry in general an access to the skilled trades, except under heavy restrictions, they have thrown a vast multitude of their fellow-workmen back upon the unskilled departments, and have lowered the price of labour they receive to an extent that has proved in the highest degree injurious, both to the habits and welfare of the most numerous class in the community." In a word, the consequence of this annihilation of that "*residuum*" of a man's natural *right to work*, which, so far as the government is concerned, is left him by the common and the statute law, and is by them also theoretically secured to him against assault by his fellow subject, is the *starvation* of Britons by the thousand. For example, "while there has been no material diminution in the price of provisions from 1815 to 1832, the remuneration of the hand-loom weaver has fallen to one-*third of what it*

*then was.* Indeed it is *perfectly well-known that they are generally and proverbially working at the* starving point, *that their earnings do not exceed from six to ten shillings a-week; and that any considerable commercial crisis reduces them* to starvation. This deplorable reduction in the wages of this species of labour, which, in comparison with that of the combined operatives, may be called unskilled, because it can be learned in a few months, took place at the very time when the cotton spinners were making from twenty-five to thirty-five, and the colliers from thirty to forty shillings a-week." In one instance of this sort, "at Airdrie, in Lanarkshire, in 1837," being effectually protected by the power of Government in their right to labour, "the starving weavers were seen making thirty shillings a-week by working in the coal mines."

Of this description are the consequences of the fundamental rule, so obviously requisite for preserving the purity of the ruling *body*,—of that body which, from its own bosom, selects the few who are to hold in their hands the destinies of all; "skilled" patrician, no less than "unskilled" plebian.

However it may be elected, "the *result is the same.* Chosen either by a single or double election of the whole associated workmen, the committee of management originally selected by the equal suffrages of all, are in the end *invested with despotic power. To their decrees or regulations, all the members of the combination are bound, not merely by the obligation they come under on entering the association, but by the* powers and terrors *with which its office-bearers are invested,* implicitly and without hesitation *to submit.*"

With regard to the code of laws of this extraordinary body-politic, we will first consider what may be considered its *economical* part, consisting of the modes of conduct prescribed to its members or to strangers; and afterwards its penal part, or the punishments awarded, and the process for attaching them, to infractions of the former.

The regulations laid down by this despotic body, as may be naturally supposed, are such as are calculated to elevate the price of their skilled labour: to prevent strangers from ever interfering with it; and to secure to the different members of the combination their due proportion of the employment to be obtained,

"It is generaly a fixed principle, that no persons shall be permitted to work for any of the masters by whom they are employed, who do not belong to the association. If an uninitiated workman makes his appearance among them, and the master insists for his right to employ him if he chooses, the whole combined workmen in his employment immediately *strike,* and he is left with the new hand in the midst, perhaps, of some important operation. Till the obnoxious workman is dismissed, no other member of the combination is permitted to enter the master's employment. Thus the master finds himself unable to go on with his business or execute his orders, while all his brethren in the same trade are getting successfully on with theirs; his capital remains unproductive; his workshop or manufactory is stopped; he becomes liable to heavy penalties and damages, for breach of contract to the persons from whom he received his orders; and in the end, wearied out by a fruitless resistance to a combined body of skilful workmen, whose assistance is essential to his operations, he is generally forced to submit, after having sustained a heavy loss, and, perhaps, incurred very serious responsibilities."

"In order to secure the monopoly of the skilled part of the trade, it is usually enacted by the ruling committee, that no master shall employ more than a small proportion of apprentices to skilled workmen. In some trades, he is only permitted to employ one for three skilled workmen; in some, one for four; in others, one for five. In all, however, the proportion of skilled to unskilled must be very large.

If the master ventures to infringe upon this regulation, or to engage more than the prescribed number of apprentices, he receives a command from the committee of the union to dismiss immediately the extra hands; and if he disobeys their order, the whole combined workmen in his employment receive notice that they must forthwith strike; and *the trembling operatives, with a heavy heart, obey, and reduce themselves, by their obedience, to destitution.*

"The ruling committees also take upon themselves to fix upon the number of *hours* which the men are to labour, and the *wages* they are to receive.

"It would be incredible *à priori,* to what a length in some trades their laws carry this restriction; and how effectually, by a compact well organized combination, they can succeed in raising, for a long period, the price even of the most necessary articles of life. As an example, the colliers of Lanarkshire, taking advantage of the great demand for iron during the joint-stock mania of 1835 and 1835, issued a mandate that no collier should work more than three or four days in the week, and at the utmost, five hours in each day. This order was implicitly obeyed by the whole of the combined colliers around Glasgow; and not only by them, but by the whole colliers in Renfrewshire, Dumbartonshire, and Stirlingshire, amounting in all to between two and three thousand. The wages which the men were to get for working between twelve and fifteen hours *a week* varied from thirty to thirty-five shillings." (The consequence was, that the price of fuel at Glasgow was exactly *doubled,* and so continued for upwards of eighteen months." The *uniform* practice of the combined workmen is to fix a rate, below which not only no member of the union, but *no person whatever,* shall work to any master." "The variations in the price of manufactured produce, or the changes in the activity of commercial dealings, are not permitted to have any effect in lowering, whatever they may have in raising, the rate af wages. The master does not venture to give—the workmen to take—a lower rate of wages than that fixed on; even athough the depression of the trade compels the one to make a reduction, and the necessity of the other, from his situation, renders him willing to accept it. The despotic committee steps in, *even in the most secret agreement between man and man,* and says to the master, '*Whatever your necessities or circumstances may be, you shall not give less than a certain rate;*' and to the workmen, '*though on the verge of starvation, you shall not engage yourself for one farthing less than the prices of the committee; and if you cannot get them,* you must remain without work altogether.' If he attempts to take employment at a lower rate, and is discovered, he is instantly branded as a deserter from the union, or '*nob,*' and exposed to persecution and violence in many different ways; and if he still continues to work at the reduced rate, the whole combined workmen are ordered immediately to leave the employment in which he is engaged, and the master finds himself under the necessity of either dismissing him, or submitting to the commands of the committee.

"Another principle which is very generally acted upon by these unions is, *that the master is not allowed a choice of workmen if he requires any additional hands.* He is not permitted to choose

whom he would prefer, but must go to a certain office called among the tailors 'a house of call,' and there take the first man ho stands upon the list for employment. This principle is established, it is believed, in London, Dublin, Edinburgh, and Glasgow, both among tailors and many other trades. Its levelling and injurious effect upon the real interests of the workman, and the free employment of labour, is sufficiently evident. One main inducement to increased industry, skill, or activity, is taken away; when idleness is in this manner put on a level with industry, talent with remissness, and skill with inattention."

"Another practice of the unions, often most distressing in its consequences, both to the workmen and masters, is the rule generally acted upon, that no workman who does not pay his regular contribution, or who has proved himself at all refractory to the commands of the committee, *is permitted to work in any master's employment.*"

Thus much will suffice to convey an idea of the regulations prescribed, and to some extent also, of the means of enforcement, which are by the reviewer so blended with the rules, that it is not always easy to separate them. It is requisite, however, to bestow a further and separate consideration upon the penal part of this strange code.

In regard to it the Reviewer says "when a *plan* of combination anxiously and *systematically* contrived to interfere in so many particulars with the free employment and disposal of labour, on the part of both masters and workmen, is *generally carried into effect throughout the whole kingdom, in almost all the skilled trades*, it may readily be conceived that *a very powerful machinery must be required to enforce general obedience to its mandate.* This, however, is not wanting; and the means employed with this view, constitute, perhaps, the most dangerous and hidden parts of this system of confederacy. *Various methods are resorted to in order to support the authority, and enforce the commands of the ruling committees.*

Of these "various methods," he gives the three most important.—*First*, a regular weekly contribution is levied from every member, according to the rate of wages he receives. That of the Glasgow cotton-spinners was proved, by the books of the union recovered at the late trial, to have been half a crown a-week, and, on extraordinary emergencies, five shillings from each man. It may readily be conceived that the contribution from an association, embracing several thousand persons, will soon amount at this rate to a very large sum."

*Second.*—"In the next place, some of the Trades' Unions have adopted the additional security of compelling all the members to take secret oaths, which bind them, first, to keep secret the taking of the oath; and, secondly, to obey in all matters, legal or illegal, the will of the majority, as expressed by the ruling committee." The form of the oath is—I, A. B., do voluntarily swear, in the awful presence of Almighty God, and before these witnesses, that I will execute with zeal and alacrity, as far as in me lies, *every* task or injunction which the majority of my brethren shall impose upon me in furtherance of our common welfare,—as the *chastisement* of nobs, the *assassination* of oppressive and tyrannical masters, or the *demolition* of the shops that shall be deemed incorrigible; and also, that I will cheerfully contribute to the support of such of my brethren as shall lose their work in consequence of their exertions against tyranny, or renounce it in resistance to a reduction of wages; and I do further swear that I will *never divulge the above obligation*, unless I shall have been duly authorised and appointed to administer the same to persons making application for admission, or to persons constrained to become members of our fraternity."

The reviewer, after givin g some striking illustrations of the efficacy of the oath in defeating all legal proceedings against "atrocious crimes connected with combinations and conspiracies," proceeds to the

*Third*, "last, and most powerful engine for maintaining the authority, and enforcing the commands of the ruling committee,—*terror* and *intimidation*, the most effectual means of influencing mankind. This branch of the system consists of *two parts.* In the first place, the cajoling, molesting, threatening, and assaulting the new hands, or *nobs*, who are in any manner acting contrary to the mandates of the committee; then geiting up mobs to terrify the refractory hands, and strike a general terror into the whole community; and if all these methods fail of success, *the resource remains of appointing, by secret ballot, 'a* SECRET SELECT COMMITTEE,' *to organize the means of assassinating the refractory hands and masters, and setting fire to the mills of such employers as hold out against the desire of the association.* It fortunately happens that all the parts of this most nefarious system have been completely established by judicial evidence."

With regard to the practical working of this new form of government, the following instance conveys an idea of it under its Scottish modifications, a type which, the reviewer informs us, is comparatively a mild one. It is the Glasgow cotton spinners strike of 1837, which lasted "from April 8 to August 5, being a period of seventeen weeks and five days."

"To those unacquainted with the details of this manufacture, it is proper to premise that the *spinners* are the skilled operatives, who, by the aid of machinery, convert the raw cotton into threads; and that each of them gives employment to a certain number of women and girls, called piecers, carders, pickers, and reelers, who perform subsequent operations upon the cotton twist, and whose employment is entirely dependent upon the preparatory labour of the spinners. The number of these female operatives employed by each spinner, or to whom his operations furnish employment, varies from five to eight; *and they are instantly thrown out of bread the moment that the spinners' operations terminate.* The number of spinners in Glasgow, in April 1837, was between eight and nine hundred; and the piecers and pickers, carders and reelers, dependent on their labour, about seven times as many."

"It may readily be conceived what must have been the sufferings of the operatives during the latter weeks of this disastrous strike. The aliment allowed by the association to each man during the latter part of the strike was only *eighteen-pence* a-week. Such was the deplorable pittance to which the deluded was reduced, who refused, or was compelled by the committee to refuse, during the whole time, from thirty to thirty-five shillings a-week. The condition of the *female operatives*—the piecers, pickers, carders, and reelers—*was infinitely worse;* for there was *no fund whatever* provided for *their* maintenance; and *from the commencement they were thrown upon the streets without* either asylum, employment, or subsistence. It may readily be conceived what must have been the consequence of six or seven thousand women being kept in a state of destitution and idleness for four months, especially when in close proximity to equal numbers of the other sex, always trained to disorderly habits by the habitual receipt of high wages, and the habit of frequent intemperance. The

necessary consequence was, that crime and immorality increased to a frightful degree; and the rapid progress of fever, as well as great increase in the rate of mortality, evinced, in an appalling manner, *how fatal such strikes are to the best interests of the labouring poor.*"

Upon concluding the details relating to Scotland, the reviewer prefaces others, elucidating the condition of the sister kingdoms, with the following remarks:—

"The details which have now been given must, to persons not practically acquainted with the matter, *appear so extraordinary*, that they *may fail in obtaining general credit*; and being chiefly drawn from one district of the country, may be thought to be owing to some peculiar malignity which the principle of combination acquires when brought into connexion with the Scottish character. But, from the documents to which we are now about to refer, it will be seen that *the same evils exist to an equal, perhaps greater extent*, both in England and Ireland; and that in the latter country in particular, *the system has acquired a degree of atrocity, and produced effects even more disastrous than have yet been experienced on this side of the channel.*"

After giving the details thus introduced, the reviewer comments upon them as follows:—"But the limits of this article forbid us to enter into further details of the facts connected with this important question. Enough has been stated to prove that the Trades' Unions, as they are now *practically* in operation, have *established a despotism of the most universal and withering description over the great body of the working classes; a despotism only the more severe and oppressive, that it arises from the tyranny of their own brethren.* It was well observed by Sir Edward Sugden, in his speech in the House of Commons, on the 14th of February last, relative to the cotton-spinners' case, that no despotism is so severe and degrading as that which is inflicted by one section of the working classes over the other. Of the truth of this observation, the proceedings we have been investigating afford a memorable example.

The Preston strike, it has been shown, threw at once 8000 of the working classes out of employment. Including their families, it reduced from 20,000 to 30,000 human beings at once to a state of starvation. The strike of the cotton-spinners and colliers in Lanarkshire, in 1837, threw at least 2500 skilled, and 15,000 unskilled operatives into a state of entire idleness, in which they were kept, some for four, others for six months. Thus, including their families, it retained at least 40,000 human beings during that long period in a state of compulsory idleness and abject destitution.

"It may safely be affirmed that there is no instance in the history of the world of such a tyrannical act as this being carried into effect by the authority of any Government, however despotic. If the Czar Peter, or the Sultan Mahmoud, had, in the plenitude of their authority, attempted such an exercise of power, they would have been instantly overthrown. Even the sanguinary 'Committee of Public Safety' could never have ventured on such an arbitrary stretch of authority against the industrious population of the *Faubourg St. Antoine;* and the long columns of pikemen which issued from that dreaded quarter whenever the prices of provisions, or the cessation of employment had grown into an intolerable height, proved that how great soever their power was, it had not reached that pitch of being able to compel men to forego the staff of life. Lord Bacon long ago said, that the worst rebellions are those which arise from the stomach; and it is recorded as one of the most singular instances of the power of Suwarrow over his fanatical soldiery, that he sometimes contrived to get through an extraordinary dearth of provisions in his camp by proclaiming a fast for four-and-twenty hours. But what is that to the power assumed by the Committee of the Trades' Unions? They proclaim a fast, not for a day, but for four monhts; compel 30,000 or 40,000 human beings to remain in idleness and starvation for that long period, and imperiously commanded not only the members of their own combination, but all other workmen whatever, from any quarter, from infringing upon or interfering with that state of compulsory idleness. This deplorable state of matters, too, is not produced by a numerical majority of the whole human beings concerned. The skilled labourers, that is, a twentieth part of the mass, alone are consulted, and a majority of them, in the first instance, adopt the fatal step. After it is adopted, and the committee organised, the power even of that small majority is at an end. It in itself has fallen under the dominion of the committee of its own creating, which is in possession of the public funds, which feels none of the penury shared by the general body; which is invested with money to hire assassins, and armed with the terrors of murder, fire raising, and vitriolic acid. For months before the strike terminates, the great majority of even the skilled workmen who authorised it, have come heartily to repent of their folly; they secretly lament their unhappy blindness, and execrate their leaders who advised them to the fatal step; but they dare not venture to give breath in public to their sentiments, and in sullen mournful silence continue to yield unwilling obedience to the mandates of the Secret Ruling Committe. Meanwhile their families are reduced to the last stages of destitution; multitudes are perishing for want; licentiousness arises out of idleness, crime out of suffering; fever and pestilence make fearful inroads on a depressed and extenuated population, until at length the miseries and lamentations of the starving multitude compel the committee to abandon the contest, and permit the joyful sounds of industry and happiness again to be heard through the land."

Application to British Government.

Vast expenditure wasted in chimerical projects, &c.

Behold, then, the Government which, while their "betters" were engaged in taxing them, to provide salaries and pensions for Commissioners, to support a naval force, and to maintain the vast expenditure wasted in countless ways in the chimerical project of enforcing upon the subjects of foreign states the extorted concurrence of their Governments in a measure which in England itself had been carried only after a dubious contest of twenty years, conducted by "the single man of his age to whom it would have been possible to conduct such a struggle through all its ceaseless difficulties and disappointments." Behold the Government which the operatives of Great Britain, the "skilled" operatives have established for themselves and over *their* inferiors! Well might this reviewer, on presenting such a picture to the world, express doubt with regard to its "*obtaining general credit*" in the country even which it depicts; when, such has been the indulgence of its higher classes in what the biographer of Charles Lamb calls the "taste for oratorical philanthrophy," they are reckless zealots in behalf of so monstrous a pervision of the governmental trust! With such a reality howling around them, what possible excuse for their course, but that in the pursuit of the preposterous schemes suggested by their sofa visions, they have become too rapt to be conscious of what is passing around them; and that if awakened to it, "the details *must* appear *so extraordinary*, that they may fail in obtaining general credit?"

Purpose in adverting to these trials.

But, in adverting to this spectacle, my purpose was not to make any such comments upon it. It was simply to show that the infraction of a law is no proof of insincerity in the Government from

which it proceeds. If such a theory were to be set up, where would, in the present case, be the escape of King, Lords, and Commons from the charge of the most absolute indifference to the reign of murder in the place of law, so long as the authority of the former should be restricted to the inferior regions of society, and Blackstone's "first and primary end of human laws" should be as if it were not, in regard to vulgar operatives only?

It is clear then, that, even admitting what, as I have already said, is known to every man, woman, and child in the United States to be untrue, to wit, that our laws against the Slave Trade were inoperative,—the theory which alone could afford any countenance to your slander, as in inference from such a fact, is an altogether fallacious one. But if this theory were as sound as it is the reverse, still it could not in the present instance avail you. It could at best throw around the calumny a seeming of fairness, that could hide its brazen face and cheat the beholder, so long as it should not be dissipated by having turned upon it the flood of light which this melancholy volume of man's history sheds upon the question.

Calumny.

What says the History of the Slave Trade in regard to my country?

History of the Slave Trade abolition in America.

"America," says M'Culloch in his Dictionary of Commerce, after giving a sketch of the 20 years' struggle in the British parliament, "*America abolished the Slave Trade at the same time as England.*"

The daughter doubtless treading in the footsteps of the mother! So at least, will every British reader understand. And who is it that thus summarily disposes of British American History, and with a single stroke of the pen draws the parallel between it and the mother country? Is it some stipendiary, paid to keep up a supply of the raw material suited to the purposes of Sergeant Talfourd's dealers in oratorical philanthropy?" No: it is a purely scientific writer, in a most elaborate and carefully digested work, devoted exclusively to commerce, and designed for the use of the whole English-speaking world. With such an illustration of the philosophic caution and scrupulousness that prevails in regard to America on this subject, who will wonder at the manifestations of these historic virtues, with which the Transatlantic press teems at this day, no less than it did, on other points, in the bygone? Who, for instance, will experience any surprise at the contrast presented by the truth on the one hand, and the following picture on the other. It is of a man who, by a writer (see Ed. Rev., April, 1838) peculiarly competent to enlighten the British public in regard to American affairs and men, is pronounced to have been "a mere shadow" of Jefferson, one of the truly great intellects of America;" while, had he only been qualified by the most cursory perusal of Jefferson's published writings to express an opinion of his intellect, he could not but have been aware that if there ever had been a living intellect to which that of Thomas Jefferson actually deferred, it was the intellect of that friend, of whom, in the unfinished posthumous sketch of his own life, he expresses the opinion that he was "the *first*" man of every assembly in which, after his first youth, he ever sat; and of whom he adds, "with these consummate powers was united a pure and spotless virtue, which no calumny has ever attempted to sully." Such, in the estimation of THOMAS JEFFERSON, and not of him alone, but, it is not risking much to affirm, of a host of others, with GEORGE WASHINGTON at their head—such was JAMES MADISON: he whose intellect is now by universal consent revered as the creative one of that model Constitution, the destined influences of which over the fate of the human race are already seen to be beyond calculation; and the principles of which were so far beyond the depth of the contemporary "Statesmen" of the old world, that even after they had been for half a century in the operation contemplated by the designer, an European traveller has, by general acclamation, been elevated above his countryman Montesquieu, for acquiring and imparting little beyond a decent understanding of them. Such was the man, whom this Reviewer (whose lofty European pre-eminence could yet disport in a friendly parenthetical witticism upon the ignorance, so natural in an American lawyer and "President," as to make it doubtful whether it was *his* or "Miss Martineau's," betrayed by the one or the other, in "attributing unity to this bicomposite personage, Coke-Littleton;" which witticism however proves to be the fruit of the Reviewer's learned inadvertence to the fact that Coke-Littleton being but an elliptical name for *Coke's Commentary upon Littleton*, it was not much more irregular, after mentioning the work, to speak of the writer as one man, than it would be, upon mentioning Blackstone's Commentaries, to "attribute unity" to the venerian professor); such was the man, of whom this Reviewer speaks as Miss Martineau's friend, Madison," and tells his readers "at the same time, it seems, he accounted for his selling *his own slaves* by mentioning their horror of going to Liberia,—a horror which he admitted to be prevalent among the blacks!"

Jefferson. Washington. Madison.

Discussion about the Edinburgh Review and Miss Martineau.

Mr. Madison's slaves.

Here we see "Miss Martineau's friend, Madison," held up, as one of those nefarious "dealers in human flesh," to the general indignation of all "oratorical philanthropists," and of all humane listeners who, unlike Charles Lamb, are admirers of such philanthrophy. He actually did commit the atrocity of "selling *his own slaves;* and for this atrocity his apology was, that they had a horror of going to Liberia!" But what were the facts of the case? How was it that this sale of "human flesh" came to be connected in the way of cause and effect with the said "human flesh's" horror for Liberia? Did Miss Martineau not take the trouble to inquire, or is it the Reviewer who has not thought it worth while to explain?

And in the first place, what sort of a country is this Liberia, for which Mr. Madison's slaves had a horror? What would have been their condition there, had they consented to the removal? Had these critics upon American morality but adverted to the fact, the prosecution of this inquiry might have shed some useful light to their minds, upon the true nature of the condition which these pieces of "human flesh" refused to exchange for that of inhabitants of Liberia; preferring to be sold from hand to hand in the former, rather than to live as freemen in the latter.

Colony of Liberia.

Liberia is a settlement upon the coast of Africa, which, in Europe—so impossible is it for the genius of the American people and their institutions to be there understood—is honestly looked upon as an evidence of American ambition for colonial aggrandisement. However this may be, and whatever the ulterior designs to weich it is to be subservient, the avowed object for which it has been formed is that of serving as a receptacle for such free negroes and mulattoes as may consent to accept a passage to and outfit in that country: such removal being by the laws of the States where the institution of slavery unfortunately exists, a condition to liberation; which condition, barbarous and inhuman as it may be seen to be by the purer, intellectual, and moral vision of Europe, rests upon a deep-seated conviction in the American mind, on a subject that has, for upwards of a century, been uppermost in the thoughts of our best and greatest men. That this conviction must be erroneous, scarcely admits of a doubt; seeing that it is in conflict with what is absolutely self evident to European

judges; who, besides their superiority of intellect and of moral sentiment, possess in so vastly higher a degree the requisite opportunities for forming a correct estimate of the consequences that would ensue from the experiment of constituting a democratic state of the white man and the negro in about equal portions. But, although doubtless a fruit of barbarous ignorance and selfishness conjoined, in men habituated from infancy to the horrible practice of "dealing in human flesh," yet the conviction is not the less strong and sincere; and this will perhaps give to the barbarous law of which it has been the parent, some title to a mitigation of the execration that it so deservedly encounters. Of the intensity in which this conviction exists, the following passage from the posthumous auto-biographical sketch left by JEFFERSON, affords a not inadequate idea. It will be borne in mind, that it is from the same pen which in the year 1778,—the persistence of the British Government in forcing the Slave Trade upon Virginia, having been, *ipso facto*, arrested by the breaking out of the revolutionary war three years previously—drew the bill to prevent the further importation of Slaves, which passed into a law "without opposition" (the King of Great Britain's power to negative being now extinct), "and stopped the increase of the evil by importation, leaving to future efforts its final eradication." Giving at the age of 77, an account of the labours of himself and two other Virginians to whom, thirty years previously, had been committed the task of preparing a code of laws for the new commonwealth that had then just thrown off the Transatlantic yoke, he says in regard to "*the bill on the subject of Slaves*," that it "was a mere digest of the existing laws respecting them, *without any intimation of a plan for a future and general emancipation.* It was thought better that *this* should be kept back, and attempted only by way of amendment, whenever the bill should be brought on. The principles of the amendment, however, were agreed on, that is to say, the freedom of all born after a certain day and deportation at a proper age. But it was found that the public mind would not bear the proposition." Here it is seen, that to the minds of these three Virginia Abolitionists of the year 1778—long before William Wilberforce ever dreamed of becoming one—*deportation* appeared a natural sequence to *liberation*. Let us see now, how it was with the survivor of the three, in the year 1821. Had his anxiety on the subject abated? Had his views about the natural connection between abolition and deportation undergone any change? "*Nor*," says he, speaking of their plan for the extinction of Slavery, "*will the public mind bear it even at this day. Yet the day is not distant when it* must *bear* and adopt it, *or worse will follow. Nothing is more certainly written in the book of fate, than that these people* are to be free; *nor is it less certain that the two races, equally free*, cannot live in the same government. *Nature, habit, opinion have drawn indelible lines of distinction between them. It is still in our power to direct the process of emancipation and deportation, peaceably and in such slow degree, as that the evil will wear off insensibly, and their place be,* pari passu, *filled up by free white laborers. If, on the contrary, it is left to force itself on, human nature must shudder at the prospect held up. We should in vain look for an example in the Spanish deportation or deletion of the Moors. This precedent would fall far short of our case.*"

Quotes Mr. Jefferson.

Bill on the subject of slaves.

This conviction, "*that the two races, equally free, cannot live in the same government*," is the ground of, or the pretext for—whichever may best suit European charity—of that law in the states of the Union that are cursed with the institution of slavery, which renders a colony such as Liberia indispensable as an auxiliar to the wish on the part of any citizen to convert into freemen the bondsmen whom the acts of past generations have forced upon him the care and the responsibility of providing for. How far the properties desirable in such a place of refuge are possessed by this particular colony, may in some measure be judged from the quotations contained in Mr. Buxton's recent work, already so often adduced: "Nothing can be more delightful than a stroll along the borders of the beautiful fields, winding occasionally along most impervious clustres of young palms whose spreading branches excluded every ray of the scorching sun, then suddenly opening on an immense rice-field of the most delicate pea-green, skirted by the beautiful broad-leaved plantain and banana, literally groaning under the immense masses of their golden fruit." "Ashman," says Mr. Buxton, "who seems to have had a clear view of the interest of the Liberian settlers, writes to them thus: 'Suffer me to put down two or three remarks, of the truth and importance of which you cannot be too sensible. The first is, that cultivation of your rich lands is the only way you will ever find out to independence, comfort and wealth.' 'You may if you please, if God gives you health, become as independent, comfortable and happy as you ought to be in this world.' 'The flat lands around you, and particularly your farms, have as good a soil as can be met with in any country. They will produce two crops of corn, sweet potatoes, and several other vegetables in the year. They will yield a larger crop than the best soils in America. And they will produce a number of very valuable articles, for which in the United States, millions of money are every year paid away to foreigners. One acre of rich land, well tilled, will produce you three hundred dollars' worth of indigo. Half an acre may be made to grow half a ton of arrow-root. Four acres laid out in coffee plants, will, after the third year, produce you a clear income of two or three hundred dollars.

Why such a colony as Liberia indispensable.

Quotes Mr. Buxton.

"'Half an acre of cotton-trees will clothe your whole family; and, except a little hoeing, your wife and children can perform the whole labour of cropping and manufacturing it. One acre of canes will make you independent of all the world for the sugar you use in your family. One acre set in fruit trees, and well attended, will furnish you, the year round, with more plantations, bananas, oranges, limes, quaves, papaws, and pine-apples than you will ever gather. Nine months of the year, you may grow fresh vegetables every month, and some of you, who have lowland plantations, may do so throughout the year. Clear your lands, plant your crops, keep the weeds down, and the most favourable climate in the world alone, and under the direction of a bountiful Providence, will do more for you than all your toil and care could accomplish in America.'"

This is Mr. Buxton's adopted account of the country, for going to which MADISON's Virginia negro slaves indulged a horror! And no wonder! How frightful must their condition at home have been to permit any one to entertain the idea that they could ever be brought to consent to be removed to such a place: let their passage thither and their settlement there be provided with ever so much care! Deplorable as is the condition of factory girls and operatives, in Great Britain, how vainly might the drum beat among them, from one end of the year to the other, for recruits for such a colony! But still, how is it that this horror of theirs for Liberia could furnish to this "dealer in human flesh" a pretext for practising his nefarious trade upon them? What possible connection is there between the two things? These connecting links happen to have come under my notice. They are such as Adam Smith could have given a very shrewd guess at, had the two extremes been put into his hands. He would have required no further assistance than is afforded by his own proposition, that a slave "can

Discussion continued respecting Mr. Madison's slaves, to p. 183.

have no other interest but to eat as much and to labour as little as possible." MADISON inherited a number of tracts of land, with slaves upon each. He lived long enough to see the daily increasing unprofitableness of these plantations reach the point of requiring the sale of part of his property, to make good the arrears of income. The negroes did not choose to change masters, and he was averse to selling them. The consequence was, that land was sold, first one piece, and then another; the slaves meanwhile retiring upon the part that was retained, until his estate finally exhibited the spectacle of an overpeopled country: the women all breeding so soon as they reach the age of 14 or 15, and continuing to yield an active obedience to the precept, increase and multiply, until the hand of time put a stop to it. The population no longer produced enough to support it. What kind of treatment it received at his hands may be judged from one fact. His neighbourhood, although a remarkably healthy one, was visited by a fever of extraordinary malignity, which broke out among his "people," as a man's slaves are habitually termed in Virginia. Its nature was such as to require the free use of stimulants. Brandy and water, or whiskey and water, would answer, but rich old wine would be better still. Of this a plentiful stock had been laid in years before, at a period of greater plenty, to mellow, and correspond in flavour to Madison's hospitality. It was such old Madeira as Transatlantic epicures say, no man knows who has not crossed the ocean, and as makes a London alderman's mouth water to hear tell of it. Well, as this wine was thought by the doctor to be yet better for the pieces of "human flesh," than even good cognac and water, it was poured out to them like water. This will convey an idea of the treatment which the "human flesh" received at the hands of this dealer. But such things could not last for ever. Loth as the master was to part with beings who, even during the eight years through which the voice of his country had kept him in the office of President, had never known any other title to call him by than the "Master Jimmy" which dated as far back as he could recollect, something of the sort must be resolved upon: for when a population of one hundred souls or more, with land a plenty to cultivate, although indeed not a little worse for bad tillage, do not raise bread and meat enough for their own consumption, it requires a heavier purse than that of Madison's was when he had passed three-score and ten, to make up the deficit. What was to be done? Were they to be set free, and turned loose upon the parish? This had been a proceeding worthy of the practical wisdom of those who, from their London ottomans, would instruct the Virginians how to manage all such matters; but it accorded as little with Virginian notions, in regard to "human flesh," as it did with Virginian law. What then? Why, Liberia! I was proposed to them. But no: the "Amis des noirs," of the truly philanthropic class, who, like Miss Martineau, are so clear sighted as to see that colinization is a mere device of miscreants who would perpetuate "the traffic in human flesh," and like her, commiserate the weaknes of vision in such well meaning men as JEFFERSON and MADISON, which they betray by not perceiving that 2000 or 3000 persons in 18 years is not the rate at which to get rid of a population that increases 60,000 in one year,—these true friends of the black man have set their faces against his going to Liberia. They had resolved that he should be free in America; and to deter him from emigrating to the land of his forefathers, was therefore, a purpose so holy that no fraud conducive thereto but must be pious.—Hence, the minds of the blacks were effectually poisoned against the land which, for their race, had been ascertained by Ashman and other such like instruments of the "dealers in human flesh," to be a terrestrial paradise. MADISON's slaves, consequently, would not listen to such a proposition. Every time it was renewed, it found them but the more steeled against it. Finally, the alternative was presented to them to consent to emigrate to Liberia as freemen, or to be transferred to another master. They with one voice elected the latter, and the sale of "human flesh" did actually take place, to a purchaser approved by themselves; a native of the same county in Virginia, who having removed to banks of the Mississippi had there found a soil and a product which would bear what, in the days of ADAM SMITH, it seems that there were already but two colonial products that could bear, the expensiveness of slave labour.

Such is the truth in regard to the little incident in the life of MADISON, the trafficker in "human flesh," which is so delicately touched on by the *Edinburgh Reviewer!* Whether in a manner so dexterous as to leave unimpaired the truth of JEFFERSON's posthumous attestation, that, to the consummate intellectual powers of the Father of the Constitution, "was united a pure and spotless virtue *which no calumny has ever* attempted to *sully*," I shall not pretend to decide.

Of a piece with the fidelity of this *Edinburgh Review* sketch of one of America's men, in the relations in which he stood towards the institution of slavery, is the Political Economist's historical sketch of America's course in regard to the abolition of the Slave Trade; that traffic which, according to Mr. Pitt, whose oratory upon the subject appears to constitute Mr. Buxton's favourite reservoir of remarkable sayings, is "the greatest practical evil that ever afflicted mankind;" while, according to the *Edinburgh Review*, the death of that same minister—not his political, but his natural, death, nothing short of that—must now, "by the most calm and impatient judgment," be regarded as "the necessary precursor" of any measure on the part of the Government which he swayed, to put an end to what was by far the most active branch of the traffic,—that carried on by British capital and British sailors, under the British flag.

History of Slave Trade Abolition in America, continued. Disputes Mr. M'Culloch's account, to p. 187.

"America," says M'Culloch, "abolished the Slave Trade at the same time as England."

But how did this coincidence happen?

How chanced it, that the daughter did, on this particular subject, prove so conformable to the example set by the mother?

Her preparation for it had, it must be admitted, been not altogether bad. About the period in the world's history, which, to this island in particular is especially memorable, when His Majesty the King of Great Britain was engaged in fulfilling that royal contract, entered into early in the 18th century with His Majesty the King of Spain, for a supply of 144,000 negroes for this island, at the rate of 4,800 a year, which were to be "seven palms high, sound, and not aged:" and, allowing "three to a ton," His Catholic Majesty was to pay for "at the rate of 900 reals per ton:" about this period, when the punctual performance of such royal engagements was deemed so nationally interesting, that, if Lord Howe's biographer can be relied upon, Parliament voted 10,000*l.* for the "*support*" of the "*settlements*" on the coast of Africa, and Captain Howe (afterwards Admiral Lord Howe) was sent there "in the Glory, a frigate of the largest class, *to protect the traders;*"—then, it was, that ANTHONY BENEZET, the Pennsylvanian Quaker—one of those pure spirits to whom the corruptions and expressions of the old world were insupportable, and whose natural field of action was therefore in the new,—was engaged in the task of enlightening the minds of his countrymen in regard

to the nature of "the trade," and in sowing the seeds of that detestation for the institution of slavery, which fell in so congenial a soil that it required but a few years to make it the overwhelming public sentiment of the country.

This is what we see, upon casting a glance back as far as the early part of the last century. Coming down to the period of our Revolution, when, without ceasing to be of the same race, our fathers parted company with those who have remained under the rule of "King, Lords, and Commons," we find, that, in August, 1774, upwards of eight years before that Sunday in the month of November, 1782, when "*Mr. Ramsay*—a clergyman, who was the first (we believe)," says the London *Quarterly*, "to call public attention to the subject of *negro* slavery,"—happened to have among his auditory (and to plant in that listener's bosom "the germ of his future labours in that cause,") the particular individual of whom the *Edinburgh Review* says, "The political position assigned to him by his constituency in Yorkshire, the multitude and intimacy of his personal friendships,—the animal spirits which knew no ebb,—the insinuating graces of his conversation,—the graceful flow of his natural eloquence,—and an address at once the gayest, the most winning, and the most affectionate,—*marked him out* as the *single man of his age*, to whom it would have been possible to conduct such a struggle through all its ceaseless difficulties and disappointments;"—upwards of eight years before the occurrence of this wonderful conjunction of the circumstances from whose union alone, as thus declared by the highest British authority, it was within the range of human possibilities that the British Parliament should be induced, during the present age, to forbid the Slave Trade to British merchants and ships;—a Virginian was proposing to his countrymen an address to King George III., setting forth their grievances, and entreating him, as he valued the integrity of the empire committed by Providence to his hands, "to deal out to all equal and impartial right." At the head of the grievances complained of at the hands "of His Majesty, as holding the executive powers of the laws of these states," is the abuse of his power to negative the laws of the American legislatures; and at the head of the instances of this "shameful abuse of a power trusted with His Majesty for other purposes," are placed those whereby the repeated endeavours of the colonists to arrest the Slave Trade had been foiled:—"For the most trifling reasons, and sometimes for no conceivable reason at all, His Majesty has rejected laws of the most salutary tendency. The abolition of domestic slavery is the great object of desire in those colonies, where it was, unhappily, introduced in their infant state. *But previous to the enfranchisement of the slaves we have, it is necessary to exclude all further importations from Africa. Yet our repeated attempts to effect this, by prohibitions, and by imposing duties which might amount to a prohibition, have been hitherto defeated by His Majesty's negative; thus preferring the immediate advantages of a few British corsairs to the lasting interests of the American States, and to the rights of human nature, deeply wounded by this infamous practice.*"

This, in 1774, was already history, in regard to that "unterrified Commonwealth," which, in her earliest infancy, had not shrunk from the vindication of her right before the might of England, when wielded by the hand of Cromwell.

Not two years had passed over when the following flowed from the same pen:—"*He* (the King of Great Britain) *has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him; captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobium of* INFIDEL *powers, is the warfare of the* CHRISTIAN *King of Great Britain. Determined to keep open a market where men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce. And that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he has deprived them, by murdering the people on whom he also obtruded them: thus paying off all former crimes committed against the* LIBERTIES *of one people, with crimes which he urges them to commit against the lives of another.*"

At this time the war of the Revolution was fairly begun, and the coasts were lined with King George's fleets, which put an end to trade of every sort, the Slave Trade included—except that new branch of it which consisted in stripping the estates of the attainted rebels of Virginia, and the Carolinas and Georgia, of their labourers, and transporting these to the West India islands, there to enjoy, upon the plantations of loyal officers, or those to whom loyal officers might dispose of them, that liberty which royal proclamation held out as the reward for cutting as many rebels' throats as possible. Nevertheless, although thus suspended through the operation of war, the Slave Trade was not left to the effect of its casualties solely. In 1778—four years before Wilberforce heard that sermon from *Ramsay* on the subject of negroes, which "planted the germ of his future labours in the cause," and nearly ten years before those labours commenced,—a bill to prevent all further importation of negroes was introduced into the legislature of Virginia, and "passed without opposition:" thereby giving the force of law to the "Resolution to discontinue the importation of slaves, which, four years before, amid the excitement caused by the Boston Port Bill, and the anxieties attendant upon the impending struggle, had signalised the first proceedings of that convention, which, upon the dissolution of the legislative assembly by the royal governor, was elected by the people of Virginia "to consider the state of the colony, and particularly to appoint delegates to a general congress of all the colonies,"—that same continental congress which assembled at Philadelphia in 1774, and then, nearly two years before it threw off all allegiance to the British king, responded to the resolution of the Convention of Virginia, by the "Resolution not to import or purchase any slave imported after the 1st day of December in this year, and wholly to discontinue the trade."

The year 1787, which was signalised by Mr. Wilberforce's undertaking that "cause, by his labours in which he is the most extensively and permanently known," is memorable also in the world's history for the labours of that Convention which resulted in the formation of the existing Union, and the establishment, by the free suffrages of the people of thirteen independent states, of a government, as essentially different from any of the chance-begotten institutions under which humanity had hitherto groaned, as MAN is different from the monsters that peopled earth's primæval clime;—that government which is equally admirable and striking, as an attestation of the improvement which our race had undergone, and must for ever continue to exhibit, whether it be considered in the political wisdom evinced in its structure, or in the patriotic intelligence of which its adoption, by the separate action of the people of thirteen district states, was a manifestation far surpassing any yet afforded by the annals of mankind.

In these thirteen states, the institution of domestic slavery had, during their colonial dependence been generally recognised; and the efforts made to arrest the increase of that portion of the population had been defeated by the tyrannical prostitution of the king's negative to promote the temporary commercial profits of a few traders residing at Liverpool and other ports of England, at the expense of "the lasting interests of the American States." In the greater number of these, however, it fortunately remained inconsiderable. But five of them, at the head of which stood Virginia, with a population nearly doubling that of the next largest state, depended altogether upon slave labour for those agricultural products which constituted their only wealth, and the extended cultivation whereof could alone give value to that virgin soil, of which the boundless expanse invited the planter to make his children rich by sending them forth, each with a gang of new hands, which the liberality of transatlantic merchants would have supplied without stint.

The allurement, however, proved ineffectual; and the very year 1788, which, on one side of the Atlantic witnessed Pitt and Sir William Dolben engaged, from the beginning of May till the 7th of July, "in their struggles to pass the bill for regulating the transport of slaves,—merely subjecting the English traders to "*regulating*" restrictions—when, such was the philosophical indifference to this subject among the Oxonian and Cantab. statesmen of the old world, that, according to the *London Quarterly*, "Charles Fox went grouse shooting, while Pitt, in a house of forty-one members, one more only than a quorum," was engaged in the strenuous exertions which were crowned by the passage of the bill "by only thirty-five votes in a sort of Rump Parliament,"—the very year which witnessed this contrast of apathy and zeal on one side of the ocean, saw, on the other, the planters of Virginia, and the Carolinas and Georgia, making a voluntary offering upon the altar of their country, of a portion of that national independence which they prized so highly,—deliberately surrendering for the general welfare a part of the right of self-government, of which each was so jealous,—and subjecting themselves for ever to an express inhibition to admit any more slaves after a limited period.

Already, for the period of ten years, had this inhibition been imposed upon Virginia by her own act. Nor would it now have been made prospective in this general law, binding upon all the States, but through a concession, which, as a means to unanimity in the adoption of the Union, was made to the two southernmost States; which had suffered greatly from the incursions of loyal forces on the water side, and on the other of those scalping-knife allies, against the employment of whom the thunder of Chatham had vainly expended itself; and, in consequence of this double visitation, had suffered a double drain of that agricultural population on which the malignity of their climate to the white man renders them entirely dependent. One stream flowing to the Indian maize-grounds on their southern and western borders,—the other to the scarcely more remote loyal sugar-colonies, to the population of which the Virginia tobacco plantations, no less than the rice swamps of Carolina and Georgia, continued throughout that war—as they were destined subsequently to do in that which is known among us as "the *second* war of *Independence*," to contribute not unfrequent quotas.

Virginia had, so soon as her action on this subject was freed from the trammels of the Royal negative, obeyed the dictates of the long cherished convictions, barring by a law of her own, the door against African importations, in long anticipation of the period when it might again be thrown open by the return of peace.

But Carolina and Georgia thought it unwise, by binding themselves to the same interdict, to destroy the possibility of supplying the void thus produced in their agricultural labouring class.

In what light the subject presented itself at the time, is shown by the following remarks made in the Convention of the state of North Carolina, to whom their fellow-citizens had confided the trust of deliberating upon the merits of the proposed union and of the Government which it was to establish; and of deciding the momentous question, whether that state should or should not become one of its members. These remarks were uttered in July, 1788, the very month of the very year, when—so insignificant did the subject appear to the transatlantic public mind—even with regard to enactments for "regulating" the Slave Trade. "Fox and Burke," so says the London Quarterly, "though they had originally spoken for the bill," ("Talfourd's Oratorical Philanthrophy" !) "did not think it worth while to stay in town to vote for it," and consequently Fox was on his way a grouse shooting, leaving the bill to be disposed of by a rump of forty-one members; at a time, too, when its fate there was so uncertain as it may be presumed to have been, from the indication afforded by the vote in the House of Lords, where the most strenuons exertions of the Prime Minister, who "kept Parliament sitting with no other business before it," had just been able to accomplish nothing more than the passage of the same bill "by a majority of two," and this, after "many amendments" which "were technically fatal" to it.

At this very same time, one year before Wilberforce "first proposed the abolition of the Slave Trade to the House of Commons"—in the little town of Hillsborough in the state of North Carolina, the Convention, deliberating upon the adoption of the present Constitution of the United States of America, had under consideration that particular clause which conferred upon the general government authority to prohibit the importation of Slaves after the year 1807. Upon the demand of one of the members for an explanation of this restriction of that power to the period subsequent to the year 1807, Mr. Iredell said, "I rise to express sentiments similar to those of the gentlemen from Craven. For my part, were it practicable to put an end to the importation of Slaves immediately, it would give me the greatest pleasure; for it certainly is a trade utterly inconsistent with the rights of humanity, and under which great cruelties have been exercised. When the entire abolition of Slavery takes place, it will be an event most pleasing to every generous mind, and every friend to human nature; but we often wish for things which are not attainable. It was the wish of a great majority of the Convention to put an end to the trade immediately; but the states of North Carolina and Georgia would not agree to it. Consider then what would be the difference between our present situation in this respect, if we do not agree to the constitution, and what it will be if we do agree to it. If we do not agree to it, do we remedy the evil? No, Sir, we do not. For if the constitution be not adopted, it will be in the power of every state to continue it for ever. They may or may not abolish it at their discretion. But if we adopt the constitution, the trade must cease after twenty years, if Congress so declare, whether particular states please or not. Surely, then, we gain by it. This was the utmost that could be obtained. I heartily wish more could have been done. But as it is, this Government is nobly distinguished above others by that very provision. Where is there another country in which such a restriction prevails? We, therefore, Sir, set an example of humanity,

by providing for the abolition of this inhuman traffic, though at a distant period. I hope, therefore, that this part of the constitution will not be condemned, because it has not stipulated for what it was impracticable to obtain."

"Mr. IREDELL added to what he had said before, that the states of Georgia and South Carolina had lost a great many slaves during the war, and that they wished to supply their loss."

This limitation to the end of the year 1807, of the restriction upon the powers conferred to the General Government in regard to the Slave Trade, which limitation formed part of the restriction, as it was imposed at the time the Government was originally devised in 1787, affords the explanation of that coincidence in point of time, between the legislation of Congress and that of the British Parliament, which is so stated by Mr. M'Culloch, as to impress any reader with the notion that the former was the fruit of the latter,—the result of the spirit of imitation on the part of the daughter, watchful of the struggle going on in the bosom of the parent, and yielding a conformity to her example.

"America abolished the Slave Trade at the same time as England!" Yes, the Act of the British Parliament bears the date of 25th March, 1807, and that of the American Congress on the 2nd of the same month of the same year.

But what reader of the above sentence, coming in at the close of a sketch of that twenty years' struggle in the British Lords and Commons, which the *Edinburgh Review* pronounces Wilberforce to have been the only man of the age who could have brought it to a successful issue,—would ever divine that, to all intents and purposes, above all, when considered in its relations to a struggle of that nature, the American law had passed,—*her* measure of abolition had been agreed upon, before Wilberforce had made the first move by which that twenty years' struggle was brought on?

But although restricted in this one particular, the General Government of the Union was left free in all others regarding the Slave Trade. Before the year 1808, it was precluded from interfering with the importation of slaves into such of the states as might see fit to allow it: but in all other respects, its power over the subject was as unlimited as that of the British Parliament; if it be allowable to compare two things so entirely dissimilar as a government constituted in such a manner that its action must necessarily be a true exponent of the general sentiment of the nation,, and one composed of a detestable sham under the name of a Representative Body, tacked on as an appendage to another consisting of hereditary wisdom and patriotism, the general action of which could never have for its aim any other than that which is too well understood at the present day to require mention, and the particular action of which on any one subject might be determined in favour of any scheme, however wild or iniquitous, by the desire of the ins or the outs, to conciliate the favour and purchase the votes of half a dozen "members," *representing*, (!) perhaps, not as many hundred electors.

The use made of the authority thus vested in the *truly* "Representative" Government, which I have thus been led to compare with the transatlantic sham that passes under the same name, is seen upon our statute book, and in the decisions of our courts.

Simultaneously, almost, with the establishment of the American Government, was a measure on the part of Spain with regard to her colonies, which afforded a test to the sentiment of the people of the United States with regard to the Slave Trade. To the contract between their two majesties, whereby, in the early part of the century, His Britannic Majesty engaged to keep up the supply for his Catholic Majesty's possessions, of Africans "not less than seven palms in height;" succeeded other contracts in which the place of His Britannic Majesty was supplied by private individuals, among whom the most conspicuous place seems to have been occupied by the house of Baker and Dawson of Liverpool, within whose field of operations this island was placed by a royal order of 1786.

Some years after this, however, although the negroes were delivered by these contractors at the moderate price of 155 dollars, it was deemed advisable to abandon this system of privileged, for that of free trade; and accordingly the Canary Islands, together with Santo Domingo, Cuba, and Porto Rico, were thrown open to the vessels of all nations bringing slaves. Here was an inviting field to the enterprise of New England ship-owners and mariners; and the commercial skill which has raised them to such eminence in other branches would no doubt have rendered them formidable competitors of the Liverpool traders in this lucrative pursuit.

But this temptation proved as ineffectual to navigating New England as that of obtaining for her emigrating sons to the rich alluvions of the west, a plentiful supply of hands at 100 to 150 dollars a-head, had proved to planting Virginia. In March, 1794, not a year after the votes by which the House of Commons rejected, not only a proposal for abolishing the Slave Trade, but one also "for restricting the number of slaves to be annually imported into our colonies," and then another "*for prohibiting the employment of British capital in the introduction of slaves into foreign settlements*," nearly two years before the time when, the philosophical indifference to the subject still prevailing, "a body of Wilberforce's *supporters*, sufficient to have carried the bill for abolition were enticed from their places in the House by the new opera of the "Two Hunchbacks," in which a conspicuous part was assigned to the great vocalist of that day, Signor Portugallo," three years before the period when he encountered "a defeat more signal than any of those which he had hitherto endured." Ten years before the Lords defeated, for the second time, the bill after it had passed the Commons; and upwards of eleven years before "the House of Commons of 1805, receding from their former resolutions, rejected his bill," their own bill, twice sent by them to the Lords. On the 22nd of March, 1794, a law, passed without opposition, went into effect, involving an exercise by the Government of the United States, of the whole authority vested in it with regard to the Slave Trade. The American Congress did the very thing which the British Commons, at the very same period refused to do: they "prohibited the employment of" *American* "capital in the introduction of slaves into foreign settlements." Nor was the prohibition confined to American capital. It embraced all capital and labour whatsoever, whether American or foreign; and forbad its employment for that purpose anywhere within the jurisdiction of the United States. This law is still in force, and it would be difficult to find in any code one more anxiously or skilfully framed.

The prohibition established by it applies to "any citizen of the United States, or foreigner, or any other person coming into, or residing within the same."

It is, that no such person "shall, for himself, or any other person whatsoever, either as master, factor, or owner, build, fit, equip, load, or otherwise prepare any ship or vessel, within any port or place of the said United States, nor shall cause any ship or vessel to sail from any port or place within the same, *for the purpose* of carrying on any trade or traffic in slaves to any foreign country; or for the

purpose of procuring from any foreign kingdom, place, or country, the inhabitants of such kingdom, place, or country, to be transported to any foreign country, port or place whatever, to be sold or disposed of as slaves."

To enforce this prohibition, it is provided, first: That any vessel fitted out "for the said purpose" shall be forfeited to the United States. Secondly: That "every person so building, fitting out, equipping, loading, or otherwise preparing, or sending away, any ship or vessel, knowing or intending that the same shall be employed in such trade or business, contrary to the true intent and meaning of this Act, or any ways aiding or abetting therein, shall severally forfeit and pay the sum of two thousand dollars, one moiety thereof to the the use of the United States, and the other moiety thereof to the use of him or her, who shall sue for and prosecute the same;" and, thirdly, a penalty, to be sued for and distributed in the same way, of two hundred dollars for each and every person transported in violation of this prohibition. The Act contains a further provision, having for its object to prevent a violation of the prohibition on the part of foreign vessels, by retaining a control over their employment after they may have left the jurisdiction of the United States. It is, that in the case of suspicion on the part of any citizen, that a foreign vessel is intended for the Slave Trade, and the information on the subject being deemed satisfactory by the officer of the customs to whom it may be communicated, the vessel shall not be allowed to clear until a satisfactory bond shall be given, that none of the natives of Africa, or of any other foreign country shall, within nine months, be taken on board contrary to the true intent of the prohibition.

The questions of construction, arising in prosecutions under the Act, have been decided in a manner evincing anything but a bias towards parties acting contrary to its spirit. Thus, although the acts of preparing a vessel, and of causing her to sail, are essentially distinct, an information describing both acts in one count has been twice held to be sufficient. In another case, it has been decided, that, to incur forfeiture, "it is not requisite that the vessel should be completely fitted and ready for sea: the right of seizure attaches as soon as the preparations have proceeded so far, as clearly to manifest the intention." So, with regard to the penalty of two thousand dollars for building, fitting out, &c., any vessel, or any ways aiding or abetting therein, it has been decided that "the forfeiture attaches under the preceding article, where the *original voyage* is commenced in the United States, whether the vessel belong to citizens or to foreigners, and whether the act is done *suo jure*, or by an agent for the benefit of another person who is not a resident of the United States;" and further, that taking the vessel to a foreign port, and there making a sale to a foreigner, and commencing a new voyage from that port, "does not break the continuity of the original adventure," but leaves the party in the United States subject to the penalty, just the same as if the vessel had gone direct from the United States to the coast of Africa.

This is a fair specimen of the action of the government of the United States, by laws and judicial decisions, the former of which succeeded each other from 1794 to 1800, 1803, 1807, 1808, 1818, 1819, and 1820, as experience suggested new provisions for the complete effectuation of the object of utterly disconnecting the country, its citizens and its residents, in all possible modes, with the Slave Trade. These laws bear upon their face the impress of that sincerity and that directness of purpose so naturally characteristic of the laws of a country where legislation on any subject of moment cannot be aught else than the expression of the general opinion and sentiment, adopted and formed with the deliberation which cannot but produce them in a community where every man has a voice, where the doctrine of passive obedience, whether to kings or to majorities, is unknown, and where the authority of the state itself, and the correlative duty of obedience or conformity on the part of the individual citizen, are understood and felt to rest upon a compact to which every citizen is a party, with all the rights inseparable from that relation: a compact which enjoins it as the paramount duty of every citizen, that, in the exercise of his share of political power, he shall not aid in any unnecessary violence to the interests, the opinions, or the prejudices even, of any other; and the practical influence of which is, that, in exact proportion to the interest which any question may excite in any portion of the community is the consideration shown for it in the formation of that general sentiment, a conformity to which on the part of the minority who may not concur in it, is universally understood and felt to be the necessary price of the harmony and peace of society under the least imperfect of the forms in which the imperfection of human nature allows it to exist. These laws every individual in the country is free to denonnce any infraction of, to authorities that *dare* not, if they had the disposition, omit any step towards its punishment; their pecuniary penalties are so heavy and so distributed as to afford the strongest incentive to vigilance on the part of every individual capable of being quickened by the prospect of lucre in the discharge of the duty which every man in a Republic owes to the law; and the country is one, happily, where no man is afraid to speak out, and no necessity exists for bribing him with the promise of personal safety within the walls of a prison, to be exchanged, at the expiration of an uncertain term of months, for the reward of "exile for life."

Thus much in regard to the points presented by your two first communications. They might be dilated upon much further; but want of time to spare to the subject admonishes me to dismiss them, and to proceed to your third and last communication: that which has led me to engage in a task which I should so willingly have avoided, and all necessity for which I had indulged the hope of having precluded by the reception given to your first essays in this line.

**Proceeds to the third communication from the Commissioners.**

In this third communication, besides the proposal conveyed in your own language, which has already been the subject of comment, I am favoured with an extract from the "Despatch from Her Britannic Majesty's Principal Secretary of State" in the following words: "The two Governments having by the 10th Article of the Treaty of Ghent, mutually engaged to each other 'to use their utmost endeavours to promote the entire abolition of the Slave Trade,' it seems 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."

**Comments on the Extract from the Despatch of Her Majesty's Secretary of State, to p. 229.**

To judge from the juxtaposition in which you have placed this extract, with the proposal that I should accept the post of informer-general against British subjects, it would seem to have been intended as an argument to justify the proposal. If it is to be so considered, my answer to it is already given.

To judge of its meaning by its own terms, the design of the writer would seem, however, to have been somewhat different from the purpose to which you have applied the passage. It seems to have

been intended as a vindication of the respectfulness of the step taken by you in addressing to me your communication of January last, upon the general ground that "it seems perfectly consistent with the respect which the agents of each country must feel for the other country 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." And this general proposition is presented as a logical inference from the stipulation contained in the Treaty of Ghent; whereby, in regard to the "total abolition of the Slave Trade," it was agreed, that both the contracting parties shall use their best endeavours to accomplish so desirable an object."

How far the stipulation warrants the deduction here made from it, I will now enquire; and then I will examine how far, supposing the general proposition to be a sound one, it can afford justification to that course on your part, in defence of which it is brought forward.

To any mind in the slightest degree conversant with the principle of national independence, in its simplest applications, it is evident that this stipulation does not confer upon either party a shadow of right to interfere, in any mode, manner, or degree whatever, with the other, in the means which she may see fit to employ for fulfilling the object on her part; which proposition, however, requires one qualification, that those means shall not be in violation of the received principles of international law; for instance, that under the plea of "best endeavours to accomplish so desirable an object," one of the parties shall not effect the conquest of weaker states, or establish over their governments a control irreconcilable with those fundamental principles and that state of things, the maintenance of which is of paramount importance to the world. But, with this one qualification only, the proposition is self-evident. The stipulation does not in the slightest degree abridge the independence of either party in regard to her action upon the subject. It leaves her free to pass her own laws, and to provide for their execution, by her own exclusive action, and confers no right whatever upon the other party to interfere with that action.

One right it does confer upon both parties, and one right only, to wit, that the other "*shall* use its best endeavours." The only particular in which this right is susceptible of qualification, regards the precise nature and extent of the action thus made obligatory upon the several parties. Among the limitations in this respect, necessarily attaching to any covenant of the sort, between whatsoever two parties, provided these had a title to be considered to be within the pale of civilisation, one obviously is, that the endeavours to which each should be deemed to be bound, should not be of a character inconsistent with the general principles of civilised government; and the same protective limitation must evidently apply also to any particular principle that might be held sacred by one only of the parties. Hence the obligation, although mutual, could not be absolutely identical in its details, as applicable to either party, unless they should chance to possess governments exactly alike; for unless such an identity should exist, measures might be rightfully expected from the one, which it would be unjust to require of the other. For instance, the "expedient" adopted by the Governor of the Mauritius shows that, although "strong," it was not absolutely inconsistent with the principles prevailing in Great Britain with regard to the rightful exercise of authority over British subjects. It would, therefore, not be unreasonable in the Government of the United States to expect that among the "best endeavours" to which that of Great Britain is bound, it should freely use, through her Colonial governors the "expedient" of sending culprits to the Old Bailey "for trial." But it would be altogether unreasonable in the latter to expect of the former to use any means of corresponding strength: seeing that in the catalogue of acts of tyranny charged, in the declaration of independence, against the king of Great Britain, is that of having "combined with others" (the Lords and Commons) "for transporting us beyond seas to be tried for pretended offences;" and that this referred to an Act of Parliament which, two years before, by the same pen, had been thus commented upon in the proposed address to the king:—"By the Act for the suppression of riots and tumults in the town of Boston, passed also in the last session of Parliament, a murder committed there is, if the governor pleases, to be tried in the Court of King's Bench, in the island of Great Britain, by a jury of Middlesex. The witnesses, too, on the receipt of such a sum as the governor shall think it reasonable for them to expend, are to enter into recognisance to appear at the trial. This is, in other words, taxing them to the amount of their recognisance; and that amount may be whatever a governor pleases; for who, does his Majesty think, can be prevailed on to cross the Atlantic for the sole purpose of bearing evidence to a fact? His expenses are to be borne, indeed, as they shall be estimated by a governor; but who are to feed the wife and children whom he leaves behind, and who have no other subsistence but his daily labour? Those epidemical disorders, too, so terrible in a foreign climate,—is the cure of them to be estimated among the articles of expenses, and their danger to be warded off by the almighty power of a Parliament? And the wretched criminal, if he happen to have offended on the American side, stripped of his privilege of trial by peers of his vicinage, removed from the place where alone full evidence could be obtained, without money, without counsel, without friends, without exculpatory proof, is tried before judges predetermined to condemn. The cowards who would suffer a countryman to be torn from the bowels of their society, in order to be thus offered a sacrifice to parliamentary tyranny, would merit that everlasting infamy now fixed on the authors of the act!"

Nor is the difference in the details of this obligation, as it attaches to the parties respectively, necessarily confined to fundamental points of the nature of that just adverted to. It may extend to others, such as the proper principle to be observed towards other nations; or to matters of secondary importance, such as the mere expenditure of money. In respect to the latter, for instance, one government might, from its very constitution, be irresistibly predisposed, on all occasions, to a magnanimous prodigality; and have it in its power to indulge the propensity without stopping to enter into a miserly comparison of the two sides of the account, for the purpose of ascertaining whether the resulting benefit was, in certainty and degree, commensurate with the inconvenience experienced by those who provided the means for the expenditure; while, on the contrary, the other party to the agreement might be constantly subject to an equally effective bias towards a vulgar parsimony; through the impossibility of its engaging in any expenditure of the substance of the people over whom it was entrusted with the power of taxation, without a rigid inquiry, justifying it under every aspect in which its rightfulness could come in question. In such case, it would clearly be no less unreasonable and inconsistent with the true spirit of the stipulation, for the liberal government to require of the other to keep peace with its lavish expenditure, than it would be for the latter to

insist upon the former's placing a curb upon its own generous spirit, in order that the penuriousness with which it was in contrast should not be put to shame. A corresponding difference might be occasioned by the character of the two governments with reference to the rest of the world. One of them, for example, might be so constituted that its course towards foreign nations should naturally exhibit always a strict conformity to the maxim, "Peace and honest friendship with all nations entangling alliances with none;" while a propensity directly the reverse of this might belong to the character of the other. The former might be known to be governed by the idea, that its business was to attend to the concerns of its own people, and not of any other; that if it regulated the conduct of its own citizens, and maintained their rights, its office was fulfilled; and that its duty both to them and to the rest of mankind alike dictated a total abstinence from all intermeddling in the concerns of other states, and that these should be left to manage their own affairs,—the government dealing with its subjects, and the subjects with the government, according to their respective means of control. The latter, on the contrary, might be known to be confirmed in the habit of considering itself the ordained regulator of the affairs of humanity at large; so that in the distribution of its attention over the vast sphere of action belonging to it, but a small share could be allotted to the condition of its own immediate subjects, so long as any topic, connected with "the rights of humanity" should exist, in respect to which the composition of other governments might be beneficially modified, or their action advantageously influenced in any way; whether by directing or quickening it, or by assisting its operation by taking part in the execution of the laws they might be prevailed upon to pass for the regulation of their subjects. It is undeniable, that a difference of this kind would afford just ground for one between the exertions that the parties might severally be required to make towards the object in regard to which their best endeavours had been mutually pledged. The government, distinguished for its contracted views, might, without laying itself open to the charge of disappointing any expectation that could reasonably be entertained from one of such a character, limit its endeavours towards the abolition of the Slave Trade by other governments, to declarations of its own conviction and sentiments with respect to it upon all fit occasions, and to the influence of its example in faithfully maintaining the authority of laws truly calculated to prevent its own citizens from taking part, directly or indirectly, in the traffic, or from facilitating it on the part of others. Moreover, as the maintenance of laws of this kind is particularly expensive, and as this expensiveness increases in a geometrical ratio with the distance of the theatre upon which infractions may be committed, it follows that their absolute maintenance, so that unpunished violations of them shall be altogether unknown,—an impossibility to any government, with regard to any law—cannot be reasonably counted upon: above all from a Government, which, besides being one of those to whom "strong expedients" are forbidden, belongs also to the parsimonious class, that are so cramped in regard to the faculty of disposing of the fruits of the people's industry, as to be under the necessity always of justifying any exercise of it by showing that it has not been abused, either through the inherent worthlessness of the end, or through its being of too uncertain or too costly accomplishment. With regard to a government of this restricted nature, all these considerations concur to set limits to its obligation, which have no existence for one whose nature impels and allows it to spurn at all such restraints; and whilst the former, through its considerations of expense and other causes, might, without criminality, fall somewhat short of the utmost attainable perfection in the maintenance of its own laws, the latter might, without injustice, be expected to act a very different part, and not only to exercise all its influence in directing the legislation of other countries, but also to volunteer to enforce their laws: to this end, covering the sea with her cruizers, and the land with agents of all sorts, regardless of cost.

But, after making every such qualification of it, the right resulting from this stipulation still remains to each of the parties. It is a right that the other "shall use its best endeavours;" and although it does not by any means follow from this right, that either party should possess that of interfering in any manner with the other, by pretending to take part in either the enactment or the execution of her laws, it does follow that if this obligation be unfulfilled by either party, a further right does thereupon attach to the other, to wit, the right to charge her with faithlessness, in the face of the world, and to resort to such other measures as the power of the aggrieved party may render practicable, and the extent of the injury may warrant.

This right, "the 10th article of the Treaty of Ghent," quoted by her Majesty's Principal Secretary of State, does confer upon the British with regard to the American Government, if the latter prove unfaithful to the obligation thereby incurred. But it confers no other. That stipulation does not in any manner affect the independence of the two parties. It leaves it absolute and, in fact, as before; and confers upon neither the right to advance any pretension, or so much as propose even to take part either in the making or in the executing of the law of the other. Above all, does it not afford any ground for any proceeding of the sort on the part of subordinate agents, residing in a foreign country, and accredited there for a special purpose only, towards other subordinate agents who, although accredited to the same authorities, are not placed, and, from the special character of the former, cannot possibly be placed in any official relationship with them.

Affords no justification of the course pursued by the Commissioners.

But admit, for a moment, this proposition of Her Majesty's Principal Secretary of State to be incontrovertible: does it afford any justification to the course pursued by you? Not the slightest. Anxious as he appears to have been to cover your position, he could not venture upon a proposition broad enough to afford it even a shadow of protection. What he says, amounts in truth to nothing but a disclaimer of intentional disrespect, thrown into the shape of an unsound argument that no disrespect was shown. The disclaimer may be accepted; but the fallacy relates to a point too important to allow it to pass unexposed.

What is it, that to the Principal Secretary, "seems perfectly consistent with the respect which the agents of each country must feel for the other country?" Why, that they should, on either part, "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." Admitting this to be true, what is the thing to be furnished? It is "*information*;" and this information must be of a particular kind. Under this rule even, you could not, consistently with the respect which the Principal Secretary says you "must feel" for my country, offer to furnish me with any information, unless it were "calculated to enable the Government of the United States more effectually to accomplish the common purpose."

Manifestly fallacious as the Secretary's principle appears to me; and obvious as is, to my mind, the

duty of denying to it all influence whatever, in any determination I might come to in a case of the kind, yet I can conceive cases in which the nature of the "information" communicated, and all the circumstances attending the communication, would afford conclusive evidence of that sincerity of purpose, which, however misdirected it may be, ever carries with it its own title to a respectful and friendly reception. But the present case, unfortunately, is not of this class. To furnish the American Consul at Havana, with "*information*" which there might be a possibility of his not possessing, and truly "*calculated* to *enable*" his Government to make it a basis of action, would be one thing. To make that same officer "acquainted with the *report* prevalent in this place," is another, and a very different thing: so different, that to be sensible of the difference, it fully suffices to bestow one's consideration upon the naked act itself, without adverting to the various adjuncts, in the shape of suggestions and hopes, with which you judged proper to garnish it. And this brings me to the speculation into which, upon the occasion of showing that your object in addressing these communications to me could not possibly be that which you avowed. I announced my intention to venture, with regard to what really was the object at which you were driving. The task is, indeed, a superfluous one, seeing that my opinion on the subject cannot but be already sufficiently disclosed. But, as the speculation has been promised, I will give it.

What really the object at which the Commissioners were driving.

The belief, then, which everything has conspired to force upon my mind,—which no single circumstance exists to weaken,—is, that your communication was addressed to me without the remotest expectation that your making me "acquainted with the report prevalent in this place" could, by any possibility, conduce to any useful end regarding the subject; and, that the occasion was seized by you to get up for stage-effect at home, a display of zeal and efficiency, the hollowness of which could, at that distance, alone fail to be seen into, and to excite the contempt proper to such exhibitions. This, however, was a consideration, which they could not be expected to be otherwise than regardless of, whether at home or on this remote theatre, whose bosoms could feel comfortable under such a burthen as the consciousness of being parties to the little game of patronage, here exhibited to admiring eyes. So long as the object of getting up a show of efficiency, to cover the sinecure reality, could be accomplished, it mattered little what people here might think. Nor, although the primary, was this the only end which the occasion might be made to serve. It was a favorable one to punish the United States for having so pertinaciously resisted the entreaties of the British Government to flatter and conciliate the influences which had acquired such predominance over the action of its own place-holders and place-seekers, by the one concession of giving its consent to the plan constituting its navy the grand high constable of the seas, and becoming a party to the grant to it of the right of search. This punishment might be inflicted in the shape of the calumnious imputation, which your diplomatic skill taught you "respectfully" to present in the friendly guise of suggestions, hopes, and regrets; and besides the gratification of the feeling which prompted it, who could tell, but that the chastisement might be attended with the further advantage and glory to the actors, of subduing the stubbornness upon which it was expended? It was accordingly ventured upon; and if you are not by this time satisfied that the act was one in which you displayed greater valour than discretion, it is because my humble powers do not correspond to good-will which will ever animate me upon such an occasion, whether the slander cast at my country come from the hand of an underling sinecurist, or from that of the Principal Secretary of State.

Not the remotest expectation that it could conduce to any useful end. Seized for stage effect. Hollowness, &c.

Primary not the only end. Favourable occasion to punish the United States for pertinaciously resisting the right of search, by caluminous imputation.

Slander from an underling, or the principal Secretary.

If, as circumstances would seem to indicate, you really did indulge, while hazarding this step, in the delusive notion that expedients of the sort could be attended with the effect of extorting from the Government of the United States, the oft denied privilege of searching the vessels of its citizens, this would only be an additional proof of the utter misconceptions which yet prevail with regard to us. Could the people of Great Britain but be as free from all iniquitous taxation as they ever will remain from that, for which a pretext would be afforded by the consent of the United States to place themselves under pupilage of the British Government, and to have their laws, whether on land or at sea, executed by the agency of the British Navy or of British Commissioners. Mr. Hume's occupation, in one field at least, would be gone: for the condition of his countrymen would, in that respect, leave nothing to be desired. The Right of Search! You do not understand us: this is but too plain. Why, if through some extraordinary combination of circumstances, the administration of the Government of the United States should chance to fall into the hands of a man disposed to enter into such an arrangement, it would still be as far as ever from its accomplishment. To present for the consideration of the Senate a treaty subjecting American vessels to search by the officers of a foreign power,—and above all others of Great Britain,—would transcend the daring of any man, unless he were so far insane as to covet the distinction of impeachment. Such a idea could find a harbouring place in no American brain but that of a lunatic; and that the reverse should be counted upon by an European, only proves how little Europe understands America. The truth, to which I have pointed, in regard to the cause of the impossibility of a conflict in the latter country between law and public opinion, applies with no less force to the subject of national independence. In European countries, this is, except when some very extraordinary crisis may have arisen to throw the people into unusual excitement, a vague abstraction, which, to the common mind, appears as far above its own proper region of thought and sentiment, as the king's judicial ubiquity, or his more general exemption from fallibility. Like these attributes of majesty, independence is something which concerns the Government; and with which the subject has nothing to do.

Rhapsody on the right of search.

And national independence.

Far different is the case in my country. There national independence is an object familiar to the thoughts and dear to the heart of the citizen,—a sacred heir-loom, handed down from the generation of '76, the history of the acquisition of which, and duty of transmitting it unimpaired, is among the first lessons of the infant mind. It is seen to be a part of that self-government, which, the dearest inheritance of the people, belongs to them; cannot be invaded without grievously wronging them; cannot be alienated without enslaving them. Not a man in the country, however little he might have thought upon the subject, but would perceive at a glance, that the most atrocious usurpation of which, the public servants could be guilty, would be that of presuming to grant away to any foreign government any right to take part in the exercise of the powers confided to them. Not one but would feel it as an injury to himself personally,—the attempted robbery of a treasure, whereof he knows and feels himself to be one of the rightful owners. How could this fail to be the case, in a country where, instead of the King's birth-day or the Queen's birth-day, it is the birth-day of INDEPENDENCE that is celebrated: where every man's and every woman's earliest recollection of the discharge of artillery, or of martial music, or of the firing of crackers, exists in indissoluble association with the FOURTH OF JULY? The

The two wars of independence.

two wars in which the nation has been engaged, (I say the *two*, because the war with France has left no national impression) how are they distinguished, think you? As the *first* war of INDEPENDENCE, and the *second* war of INDEPENDENCE! When we buried the hatchet at the close of the last, great were the rejoicings! At the return of blessed peace, no people ever showed more joy; and amid the thousand ways in which this displayed itself, were heard congratulatory addresses to the chief magistrates of the Union from the cities, whose long silent wharves resounded once more with the hum of commerce. But even at that moment, INDEPENDENCE was not forgotten. Glad as they were to bury the hatchet, they were not unmindful of the duty of marking the spot, and of freshly inscribing the causes which might command it to be again dug up. Witness the following extract from the answer of the President—the same "dealer in human flesh," who, upwards of twenty years after, was guilty of the atrocity of "selling his own slaves"—to one of these addresses.

Quotes Mr. Madison's answer to an address.

"A candid review of the trials to which our country has been exposed, and of its conduct previous and subsequent to the appeal to arms, will always do equal justice to its love of peace, and its energies in war; to the stability of its political institutions, amid threatening shocks, and the public spirit which animated, and was in turn cherished by them; to its *respect for the rights of other nations*, and its *firmness in asserting its own*.

"The present generation, in disregarding temporary interests, when brought into competition with *essential rights* and *national character*, the *only* foundations of lasting prosperity, has emulated the wisdom and the virtue of that which bequeathed to it the blessings of FREEDOM and INDEPENDENCE; and it will have the happiness of handing down the precious trust, with additional security and lustre, to the generations which are to follow."

Occurrences at Brazil. British vessels of war firing on Brazilian.

By a singular coincidence, it has happened that while engaged in writing these remarks, I have received a bundle of Washington newspapers, upon opening which, the first thing that caught my eye is an article headed "*International Law*, Brazil," on the subject of an occurrence at Rio in April last, which has recalled to mind one of precisely the same nature, of which, in the same month of last year, the same place was the theatre. The first in order of time is thus narrated in an American paper of une 11th, 1838, containing news from Brazil, to the latter end of April, brought by the American ship Mogul: "A good deal of excitement has been created at Rio, in consequence of an outrage committed by the British corvette 'Rover,' upon a Brazilian vessel, on board of which were the inspector of the arsenal, the commandant of Marine Artillery, and two other Brazilian officers. The outrage consisted in first firing upon the Brazilian vessel, and then compelling the officers on board of her to go on board of the 'Rover.' The difficulty grew out of an order given by the commander of the corvette to the commander of the Brazilian vessel, as the latter was passing the former, and to which no attention was paid by the Brazilian. The case had been represented to the British Chargé d'Affaires, and it was said he had promised to make reparation." The more recent occurrence, which, in one particular will be seen not to admit of governmental "reparation," is thus related in the letter addressed upon the occasion by the British chargé to the British commodore in command on that station: "By representations made to me by the Government of His Imperial Majesty, I am informed, that on the 21st instant the steamboat Especuladora, returning from the island of Paqueta to this city, was fired into by the Ganges, one of the vessels lately captured with Africans on board, and that a Brazilian gentleman on board was mortally wounded. The communication of Senor Oliveira does not suggest that there was the slightest provocation for this Act, nor is it said that it was accidental."

No key furnished to the outrage.

In neither case are we furnished with the key to the outrage. Little doubt, however, can be entertained, that in both instances it arose from officer-like zeal in discharge of the duty assigned to the British navy of carrying into execution the laws of Brazil for the suppression of the Slave Trade. Ardour in the exercise of the right of search affords so natural an explanation, and it seems so difficult to imagine any other, that, in the absence of a conflicting statement, it seems scarcely possible to reject it.

The last incident also "is represented to have caused great excitement in that city;" the more so as the victim was a young gentleman of great worth and held in general esteem, who had been married but a week or two. So much for a steamboat excursion in the very harbour of his native city, under the right of navigation left to Brazilian subjects, after the magnanimous concession by their emperor of the right of search! Such scenes may happen in the port of Rio, "between the island of Paqueta and the city;" and the irritation yet find a cooling salve in diplomatic "reparation." But suppose anything of the kind to occur in the waters of Massachusetts, between George's island and the "*tea*" wharf,—or of New York, "between Staten island and the city,—or of Virginia, between Craney Island and Norfolk,—or of South Carolina, between the Palmetto Battery and Charleston,—what would be the consequences?

What would be the consequences of the kind in America.

A few words more, and this task will have reached its close. While upon the subject of the prevailing public sentiment here in regard to the Slave Trade, I have adverted to the double conviction, whereby it is upheld in the minds of the Spanish population, that the pursuit is in itself right, and that the present action of the British Government in regard to it is not the fruit of a contrary conviction, but springs solely from a desire to promote its own political and commercial power by inflicting injury upon other states. I have expressed, too, my own belief that this conviction is as honest a one as ever dwelt in the human mind. From this avowal, together with the general tone of my remarks, so strongly contrasting as it does with the formulas which constitute, at the present day, the only approved mode of speaking on the subject, it might be hastily inferred that the conviction is shared by me. No greater error could, however, be committed; and although it is a matter of no moment what my individual opinions may be on this or any other subject, yet it seems to be of some possible consequence that those of the writer of this letter be not the subject of such misconception. It possibly may come into the hands of some sincere inquirer, truly anxious for correct views in regard to this momentous topic; and the effect upon such a mind would be very different, according as it might have fallen into, or avoided, the error of regarding the writer as an advocate of the Slave Trade.

Does not show, in the conviction, that the Slave Trade is right, &c.

Short exposition of his creed.

Besides this inducement not to dismiss the subject without a short exposition of my own creed, I have another, Mr. Buxton's recent work affords to my mind, as I have already stated, a glimmering of returning reason; in a quarter, too, whence it is doubly welcome, from its being so entirely unexpected. His proposal not to rely altogether upon the "strong hand" for the suppression of the Slave Trade, and his remarks connected with that view of the subject, constitute one of the numberless encouragements afforded by the history of human opinions, never to despair of the ultimate prevalence

of truth over, error, and of sober sense over distempered enthusiasm. They show that reason has already so far asserted her empire in this field as to influence the judgments even of a mind possessed as that of Mr. B. has so long been; and such a phenomenon cannot but warrant high hopes, that the time is not distant when the phantoms which for so long a period have peopled it shall be dispelled, and her sway shall be undisputed.

With regard to such a period, the present state of things affords abundant grounds for apprehending a most unfortunate revulsion of public sentiment upon the subject. That which now prevails, although sound in itself, has been built upon such a foundation, that unless one more substantial be timely provided, its fate, so soon as the sun of truth shall begin fairly to shine upon it, will be like that which has so often befallen religion when reared upon a similar basis. By furnishing my own views upon the subject, and making known the grounds upon which my opposition to the Slave Trade rests, I may perhaps, therefore, be rendering an essential service to the cause.

Grounds of his opposition to the Slave Trade.

Does not believe the course pursued by the British Government to be ascribed altogether to a deliberate design to injure other nations

A compound.

In the first place, then, I do not concur in the belief that the course pursued by the British Government in regard to this subject, since the pesiod when it yielded to the sentiment which demanded a prohibition of the traffic to British merchants and ship owners, is to be ascribed altogether to a deliberate design to inflict injury upon other nations. The springs of human action are naturally too complex to justify the ascription of such an effect to so simple a cause. That it is in the present case a compound, involving a vast variety of ingredients, the products no less of what is good than of what is evil in our nature, I entertain no doubt; and although on perusing the eloquent burst of the enthusiasm kindled by one of its effects in the bosom of Channing, or the no less pleasing echo awakened by that burst on the opposite side of the Atlantic in the pure strains of Rogers, I cannot divest my mind of a strong doubt whether the sober award of posterity is to correspond to the annunciation of it which these poetic prophets have ventured to record; yet am I not, either, insensible to the moral beauty of a portion of the motives, at least, from which it sprung. To those who are to come after us, however, am I content to leave the question in all its parts. To the next generation, probably, opinion upon the character of the experiment will have ceased to depend upon speculation. It will have become a simple question of fact, whether it was of a nature to be attended with any other result than that of hastening the day when the British colonies on which the curse of slavery rested should become uninhabitable to the white man, except while under the immediate protection of a portion of that immense military and naval establishment which the British people must, some day or other, tire of maintaining. And, with respect to the question of motives, it will belong to some future Hallam to trace the working and the natural fruits of that distribution of political power in Great Britain, under which it befell the people, whilst "loaded with an unprecedented debt and with a grinding taxation," and engaged in establishing for themselves the sub-government of "Secret Select Committees of Assassination," and in maintaining armies of "Welters," six thousand strong, to be taxed another round hundred-million dollars, besides the various contingent small sums requisite for providing stipendiary magistrates, land force and naval force, judge-commissioners, and all the innumerable accessories, in order that that part of the nation whose imaginations had been plied with pictures of barbarities and miseries existing only in the brains of enthusiasts or the lies of imposters, until they were worked up to the proper pitch, might be indulged with the experiment. He will perhaps also point out, that such a thing could never come to pass under a truly representative government, such as that existing in Great Britain in his day: its democratized action showing, in every movement, a conformity to the vulgar injunction that charity should begin at home; and superseding all necessity for corps of Welters and their secret employers.

Barbarities and miseries existing only in the brains of enthusiasts or the lies of imposters.

But if I have not deemed it necessary to bring my mind to a state of absolute conviction in regard to the several shares of influence to be allotted to the various motives by which the action of the British Government has been determined in regard to Slavery and the Slave Trade, the case is far different in regard to these subjects themselves. Upon both, my mind has for a long period known no other state than that of the most absolute conviction: and these convictions do not differ from those manifested by the Virginia Convention of 1774, in their resolution against the further importation of Slaves; and which, 33 years afterwards, obtained the ascendancy in the British Parliament.

His convictions do not differ from those of the Virginia Convention of 1774.

With regard, however, to the grounds upon which they rest in different minds, there is a great difference; one, which, as I have already stated, I consider to be attended with great peril to the good cause, and to be entitled therefore to the most earnest attention.

He, in whose bosom enmity to the Slave Trade rests upon no surer foundation than belief in the accuracy of such pictures as are presented in the work of Mr. Buxton, or sometimes find a place in the speeches of Lord Brougham, is in no small danger of becoming an infidel. At least is it exactly proportionate to his chance of seeing, in place of the preposterous creation built up by the most reckless generalization of a few selected facts, the plain, unvarnished reality. To judge from this class of representations, none can be engaged in this traffic but men or demons whose mission upon this earth is to earn distinction as aids of the king of terrors; and who never deem an "expedition" a happy one, unless attended with the most frightful destruction of human life. The truth, however, is, that these men are as true and devout worshippers of mammon as ever carried on trade in any of its shapes. Their object is money; and it may be doubted whether a money-making pursuit was ever followed upon this earth, in which a nicer adaptation prevailed, of the means to the end,—nicer calculations with regard to contingencies of every sort—nicer attention to every arrangement by which loss could be avoided. Whatever may have happened in one or two, or in any number of selected instances, the character of the traders affords a security that they do not incur the expense and risk of fitting out vessels for the coast, for the mere pleasure of cramming them with Africans, in the design that one half may perish, or without especial regard to the number that may safely be embarked. It is not many months since I had a conversation with an American shipmaster; one of that class which has acquired for their flag a celebrity all over the globe, and than whom no better judges can be found, of the qualities of a vessel or of the arrangements for a voyage. Although as little connected with the trade as Mr. Buxton himself, he had, within a short period, enjoyed opportunities in this and other parts of the world, to indulge his curiosity by the inspection of slavers; and the result was, that even his New England experience and ingenuity had not protected him from admiration at the perfection exhibited by these vessels in every possible particular; in mould, in rigging, in fitting, in the manner in which every provision was made, both as to arrangements and as to supplies, that could tend to the success of the only object of all this trouble and expense,—the transportation of the human cargo in safety and

Preposterous creations built up by reckless generalization of selected facts.

Character of Slave dealers.

Character of Slave vessels.

good health. True, the fruit, thus far, of the measures against the Slave Trade has been the substitution of small sharp, wet clippers, for the large, clump, dry vessels of double and treble the tonnage, which would now be employed to transport the same number of persons: and there is no telling how far this process of reduction may be carried. This will depend altogether upon the point to which the necessity for it may be pushed by the multiplication and increased efficiency of British cruizers. If this should prove great enough, the size of the slavers will be brought down as low as ten tons or thereabouts; and should these vessels be found still too large to escape, the probability is that the trade will be suspended, until such time as a relaxation of vigilance shall enable it once more to break out. But whatever the womb of time may be destined to bring forth in regard to the aggravation of the horrors of the Slave Trade through the efforts for its suppression by "the strong hand," the sober, unexaggerated truth in regard to it, as it now exists, is such, that no one whose enmity to it rests upon a belief in those horrors, as depicted in the books and speeches of enthusiasts or "oratorical philanthropists," can fail to become a backslider upon acquiring correct information in regard to the matter.

If rendered necessary their size will be brought down as low as ten tons.

And even if the reality of those horrors should be found to correspond exactly with these pictures of them, dangerous consequences might still result to any such mind, from adding to its grounds of judgment, a knowledge of the change of condition resulting from a transportation in a slaver across the Atlantic. My own earliest recollection of a print, is of that celebrated *section* of a slave ship, constituting, if I recollect right, the frontispiece to one of Wilberforce's publications. There was something in it which excited my curiosity, and this was, by my grandmother diverted from the engraving, which necessarily remained a puzzle to me, to the trade itself; with the horrors of which my infant mind was filled, and for which a hatred was inspired, correspondent to that which animated the bosom of my instructress, the most remarkably generous and benevolent person in a very large circle of acquaintance. Nor did my subsequent education at all disturb this first impression. The feeling grew with my growth, and strengthened with my strength. My preparation upon coming to this country, had not, therefore, been of a character to predispose me to view the Slave Trade with favor, and form, upon what I saw, a judgment conflicting with that which had been the growth of my life. And yet it has so happened! So far at least, that I now entertain a deliberate and oft resolved doubt, whether, *considered merely in itself*, the Slave Trade be not a positive benefit to its supposed victims. Were the trade open, and regulated in the way that emigrant passenger vessels are, I should entertain no doubt upon the subject. But even taking it as it is,—nay more, admitting Mr. Buxton's generalizations to afford an unexaggerated picture of its horrors,—and taking into view also the average condition of the slave in this island, as contrasted with what it was in his native country, as learned from himself, from travellers of all nations, and from sea-captains who have visited the coast without being connected in any way with the traffic,—I am strongly inclined to the belief, that the purest, and most judicious philanthropist that ever lived, if called upon to decide the question for a cargo of slaves, ready for embarkation on the coast of Guinea, and required to found his judgment solely upon the probable consequences to these particular individuals, would unhesitatingly pronounce in favor of their encountering all the perils and hardships of the voyage. And this, although, from his birth and educatian, he should be totally without knowledge of the actual condition of the native African, in regard to morals, to intellect, and to the standard of physical comfort; and consequently prone to the utterly preposterous exaggeration of the horrors to be suffered by *him* on the voyage, resulting from an estimate of the circumstances with reference to his own feelings, or to those which would be experienced by an inferior class of his own civilized countrymen, in the same situation: this being the ordinary mode of realizing the horrors of the voyage, the compassionate reader being perhaps a lady who, from habit, would be rendered miserable by the necessity of dispensing for a day with her tepid bath, or the attendance of her maid, and the objects of her compassion, human beings, with the attributes of humanity so dormant in them, that all ages and sexes will move about among each other stark naked, in the presence of clothed strangers both white and black, utterly devoid of all sense of bodily exposure; an insensibility which extends even to occasions whereon some of the lower animals never fail to manifest the reverse!

Earliest recollection of a print.

Virtues of his grandmother.

Doubts whether the Slave trade be not a positive benefit to its supposed victims.

Condition of the Slave in his native country.

Such has been the result of the opportunities of personal observation and inquiry, afforded by a residence upon this island. Nor has this effect been produced upon my mind alone. Upon my mentioning it last winter to a countrywoman of mine who had recently visited Boston, she told me that a similar view of the subject had, within a year or two, been presented to the world by a distinguished New England divine; who, driven by ill-health to pass a winter at St. Jago de Cuba, had there availed himself of the opportunity to test the truth of his impressions by comparison with the reality before him.

Results of personal observation and inquiry.

New England divine.

And such, I am satisfied, will be the result of the same opportunities upon every candid mind that takes sufficient interest in the subject to make use of them. He who cares nothing about it may come, and stay ever so long, and go as he come, secure in his gratuitous and convenient creed. But let the honest inquirer after truth—he for whom everything that concerns humanity has an interest,—beware, unless his enmity to the Slave Trade has some better basis than a shuddering at the horrors of the voyage, or sympathy with the "miserable victims" who have escaped them. He runs great risk of being made at heart a Slave Trader, in less than six months after he shall have begun to use his own eyes, ears, and understanding.

Fortunately, this has not been the case with me, nor with my countryman, the Boston divine. However unprepared an European mind may be apt to be for such a shock, that of an American is likely to be better armed. He will find a never failing objection to the Slave Trade in SLAVERY. He will be under no necessity even of having recourse to the fact, that the Slave Trade, although it may be attended with the effect of beneficially changing the condition of the individuals to whom it affords an escape from the horrors to which they were born, has nevertheless a tendency to perpetuate them and to retard the period when this variety also of the species might emerge from the debasement in which it has remained through long ages of intercourse with civilized man. As yet, unfortunately, all the importance of this fact rest upon *a hope*:—a hope which, in its turn, rests chiefly upon what the negro has been made to become, while the slave of the white man instead of the black, and consists in the inference thence deduced, that when delivered from bondage he may continue to manifest the same capacity for improvement, instead of yielding to the propensities which draw him downwards. This argument has more substance in it than the horrors of the voyage; but it even as yet rests upon a hope: and the only one that can be urged, which presents an insurmountable objection to the traffic

An American's objection to Slavery.

Inherent evil nature of the institution in a society of freemen.

is, the *nature of slavery* itself,—the inherent evil nature of the institution, at least when planted in a society of freemen of the Anglo-American race.

What, then, is the objection to the institution of slavery? Is it that, as the African believes, it extends the range of Cannibalism, and imparts to the white man the bad practice of feasting on "human flesh?" Is it that, as Daniel O'Connell believes or affects to believe, it so depraves the master as to make of him an architect of "breeding-pens," for keeping the sexes in forced conjunction? It is neither of these. Nor is it, that the black man is equal to the white; an absurdity belied alike by all history and the researches of every naturalist. Nor is it, that admitting him to be the equal of the white in every particular, this would constitute a sufficient reason for attempting to form a society by placing the two races in juxtaposition. Such a project might possibly prosper in a state acknowledging a distinction of ranks; where the gradation, beginning with a king, might end with the black; and the latter be habituated to regard the white man of the rank just above him with the same deference that the latter would give him the example of, by showing it to the ranks to which he was subordinate. But to attempt to construct a democratic state with such materials, would be chimerical in the extreme; even upon the supposition that the black is morally and intellectually the equal of the white: for, admitting this equality, their homogeneity would be as far as ever from being a truth,—there would still remain those physical differences which create an inseparable bar to the accomplishment of any such project. This is a point which has ever exacted attention from those reasoners upon the subject who were most interested in it; whilst by those least so, it has been utterly neglected. Hence the irreconcilable difference in their respective views,—hence, the difficulty on the part of an European, in comprehending the full import of Madison's patriotic wish, that he were endowed with the power of metamorphosing the black man into a white;—hence the readiness with which Miss Martineau would pronounce in favour of instant emancipation, *without* "deportation;" whilst Jefferson at the close of a long life, devoted to the welfare of man, and in nothing more distinguished than for his early, his ardent, his unflagging zeal on the subject of slavery,—in the very same breath which conveys his parting adjuration to his conntry, to make haste and rid herself of the institution, expresses also his conviction, that it is not "*less* CERTAIN that the two races equally free, *cannot* live in the same government!" And why so? "Because nature, habit, and opinion have drawn indelible lines of distinction between them."

Jefferson's opinion that the two races equally free cannot live in the same Government.

Nature interposes an insurmountable barrier to a social equality.

And what would be the consequence of these distinctions? What effects would they produce upon the feelings of the two races, if once placed in such a relation of equality? This question may present ground for dubitation to an European mind, impressed from earliest infancy with all the notions proper to a subordination of ranks, and insensibly confirmed in all the correspondent habits of thought and of feeling. But an American could not fail to see at a glance the working of the whole scheme:—that its certain and instant consequence would be, aspirations on the part of the black to a *social* equality, to which nature interposes an insurmountable barrier; whilst the denial of it would inevitably prove a source of heart-burning and hatred, altogether inextinguishable, except in the last drop of the blood of one of the two races. The reality of this physical barrier to that amalgamation which would at once be pretended to by the black, constitutes the particular in regard to which European notions upon the subject seem most defective; although it is far from being the only one with respect to which ignorance the most profound is manifested: witness the *Edinburgh Review's* avowal, even after studying Miss Martineau's "six volumes," that it could not so much as "presume to guess the exact meaning" of the word "Amalgamationist," which popular instinct in the United States has substituted for "Abolitionist," as the proper designation of the man who would venture upon abolition without "deportation;" and the appropriateness of which any smart Philadelphia schoolboy could, after five minutes reflection, have justified to the Reviewer by explaining to him that if the black race were raised to a political equality with the white, they would naturally and inevitably aspire to be received into white society, and to be accepted and sought by white maidens and youths, as husbands and wives,—that if these claims should be denied, a worse state of feeling would arise than that which belonged to the relation of master and slave,—and that consequently, as it could not be supposed to be the design of the Abolitionist to substitute this worse state of feeling for the other, he must contemplate with complacency that which could alone prevent it,—the *amalgamation* of the two races.

Edinburgh Review and the amalgamationists; a word substituted for abolitionist.

And why

This is the rationale of the process whereby Amalgamationist has become substituted for Abolitionist, since the zealots on this subject have avowed projects which every American schoolboy can trace to their consequences: consequences the contemplation of which would be awful indeed, were it not that the intelligence, the sobriety and the experience of the American people in discharging the high trust of self-government, interpose a barrier, against which all the zealots that Christendom can send forth upon this new crusade, may harmlessly expend their fury. And it is in view of these consequences, that the Amalgamationist has awakened in the general bosom of the country a sentiment of disgust and loathing, the very reverse of that which, for several generations, had prevailed in regard to the abolition of slavery; and which consequently was felt to require a distinctive name. Its baptism followed; and although it would perhaps be impossible to ascertain by what voice the name was first called out, it no sooner struck the public ear, than the popular instinct—alive with a true, although a latent and perhaps unconscious, knowledge of the subject—recognised it as the right one. It is now a word engrafted upon the language; to live as long as it shall, and to become conspicuous in the history of the race to which it belongs. Already potent to kindle indignation wherever an assemblage of American citizens has been gathered together, it is destined to manifest, through the whole length and breadth of our land, an intensity of power, such as never belonged to word before, and which will inhere in it until all remembrance of the abhorrent proposal shall have died away. This "amalgamation," which the *Edinburgh Review* was so utterly at a loss for the meaning of, is fraught with significance for the American mind. To it, it means those particulars belonging to the subject of the extinction of slavery which present the great, indeed the only obstacle to it: that obstacle, of which so beautiful and emphatic an expression was contained in the wish of one of America's patriot-sages, that his fiat could make the black man white; that obstacle, but for which slavery would, long ere now, have been knownt o the Anglo-American, only as the power of King, Lords, and Commons is khown to him,—a thing of history, to be looked upon, not in the future, but in the past alone; and to be looked back upon with no other feelings than congratulation and honest pride. This, the very kernel of the matter, is the particular in regard to which European ignorance is most absolute, its temerity most conspicuous, the recklessness of its fanaticism most preposterous. This is the particular, therefore, in regard to which it behoves every man who takes an interest in the subject to

acquire just conceptions. Amalgamation is an absolute impossibility. Nature has thus decreed it The truth rests, not upon the *superiority* of the white man to the black, but upon the existence of *physical differences*, which create in the one a repugnance to amalgamation with the other. The moral and intellectual *superiority* of the white race, although a settled point in Natural History, is yet, from its nature, a topic upon which ignorance may indulge for ever in contentious pertinacity: but the existence of physical *differences* is a simple matter of fact; which, both in itself and in the repugnance affixed to it by nature, is placed, by the senses of sight and smell, beyond the reach of controversy; and there it would still remain, even although the moral and intellectual superiority should be demonstrated to be on the side of the black.

Absolute impossibility from physical differences.

This is the foundation-truth of the American view of the subject. Let every European who deems it of such paramount importance as to justify his turning a deaf ear to the appeals which the evils more immediately present to his view may make to his philanthropy,—let him study the thing until his mind shall have become penetrated with this one truth; and if he be honest and sincere, it can scarcely happen to him to become a mischief-maker. Under the safeguard of this one monitor, he may, without great risk, give the reins to his zeal.

This the foundation truth of the American view of the subject.

Nor will any person whose frame of mind upon the subject stops short of that reckless fanaticism which obliterates all vestige of candour, experience any great difficulty in bringing his mind to a recognition of this all-important truth. Any one who has made the experiment must be aware how readily the scales will drop from the eyes of the most self-deluding enthusiast, provided his mind be still capable of feeling and acknowledging the force of truths which it cannot controvert. Among the instances of this which have come under my own notice is one, in which the convert was a British naval officer. He had distinguished himself in his profession by a remarkably bold and gallant exploit; and his standing as a man and a Christian was even higher than that which he had acquired as an officer. Among other details which I learned respecting him, one was, that he belonged to the evangelical party in England; another, that he had a charming family, delightfully brought up, the daughters of which were remarkable for their loveliness. This last circumstance furnished me with the best possible touchstone of the sentiments which lay at the bottom of his heart in regard to the black man; for in a conversation which took place on the subject, he averred that his feelings towards the two races were precisely the same,—that with him it made no difference whatever whether a man was black or white. There could be no manner of doubt that the assertion was uttered in the most perfect sincerity; but I nevertheless felt sure that even his comparatively slight means of personal observation and knowledge of the black man must have been attended with the effect of implanting in his bosom something which, unconscious as he might be of its existence, could be summoned up to give the lie, practically, to what he had persuaded himself to regard as a truth. This was tested by the supposed case of two suitors to one of his lovely daughters;—a white man and a black man, between whom, in point of education, character, talents, morals, manners and fortune, there should not be the slightest shade of difference.—Which would he prefer that his daughter should accept? His candour would not allow him to pretend that he would not have a preference; nor, had I pressed the point, could it have allowed him to say that he had not rather consign his daughter's corpse to the grave, than her living person to such a nuptial couch. And thus will it ever be with every person in whose bosom a respect for truth be not utterly obliterated. If he possess any, the slightest personal knowledge of the black race,—if they be to him any thing else than creatures of the imagination purely—he must have within him, however unconsciously, the germ of an invincible repugnance to "amalgamation;" and this will, upon the first occasion, develop itself with a vigour exactly proportionate to the knowledge he may have acquired of the physical differences which separate the two races, and will for ever prove, what Jefferson calls them, "indelible lines of distinction." How truly they are so can be fully known only to one born and bred among blacks: for he alone can know how they defy the influence of time, of habit, of opinion, of affection. I was born amidst black domestics;—a black woman carried me in her arms, and the attachment between us was as strong as ever existed between a white child and a white nurse: so far from entertaining for those of her colour the dislike and hatred which constitute the supposed attribute of a slave-owner, my feelings towards them are kindlier even than those which I entertain towards my own race; for they are softened by the influence of a deep-rooted hatred for the condition in which the force of circumstances has placed them. I can take a black man by the hand as cordially as I can a white man of the same merit; and I had rather shake hands with an honest black hack-driver in Pennsylvania Avenue at Washington, than with any white scoundrel, however fashionable or titled, that could offer me that honour in Portland Place, London. I have travelled in the mail-coach in company with a mulatto man, who has fallen asleep with his head resting on my shoulders; and I have submitted for hours to the inconvenience rather than disturb him, for the sole reason that he was a coloured man; for his deportment had strongly recommended him to my respect, and I feared that to notice this consequence of his drowsiness might be attended with the effect of mortifying him. Such, from the moment of my birth to the present hour, have been my intercourse with and my feelings towards the race; and yet, times without number, have I been made sick—has my stomach been actually turned—by the effluvia from the skins of two or three cleanly black domestics, exerting themselves a little, in the apartment in which I was, in the removal of pieces of furniture: and these are the people whom European enthusiasts work themselves into the belief that they look upon and feel towards exactly as they do towards their own species!

All important truth.

Convert of a British Naval Officer.

Suitors for his daughter.

Was born amidst blacks:

can take a black man by the hand as cordially as a white.

Travelled in a mail coach with a mulatto.

Times without number been made sick by the effluvia of the blacks.

In introducing the incident of the British officer, I have called him a convert, because, after having been thus made aware of the truth in regard to the effect produced upon himself by the physical differences in question, nothing but reflection could be necessary to bring before him the consequences that must inevitably attend such discriminations as he would himself make, upon the reciprocal feelings of the two races, if placed side by side upon a footing of civil and political equality, nor could he fail to perceive that the nearer their condition should approach to such equality, the more active and operative would necessarily become every cause calculated to bring into relief those "indelible lines of distinction," drawn by the hand of nature, and make them a source of endless heart-burnings and hate.

British officer again.

What, then, again, is the true objection to the institution of slavery? Is it, that, in no stage of society, under no imaginable circumstances, it can be beneficial to the parties? Such is not my belief: for I entertain not a shade of doubt that there are in existence at this moment in England and in Africa, thousands and hundreds of thousands of human beings whose condition would in every possible

Which the true objection to slavery.

particular, be immensly benefitted—their own and that of their children for several generations—could they be set down in the woods of New-Holland, in the relation of master and slave. Is it even, that, in the state in which it exists at this day in the United States, it gives birth to the oppressions, brutalities, and horrors, with the glowing pictures of which the world is being entertained by the approved philanthropy of the hour? No! so far is the reality in this respect from constituting a valid objection to slavery,—so far is it from being true that the condition of the slave in the United States affords a just theme for playing upon the sympathies of the toil-worn and tax-worn operative of England,—that not a citizen of the slave-holding states of America, who believes in the hundreth or thousandth part of the miseries and the vices of the British labouring classes, as depicted by British writers of the highest standing, but knows that the condition of the American negro slave is, under every aspect, the religious and the moral no less than the physical, beyond all comparison better than that of the poorer classes in Great Britain; and, as to the "sans potato" of poor old Ireland! why there is not a negro-cabin in all America where "rint" for his succour might not be obtained from the inmates, unless they should drive the narrator of his condition from their door, through indignation at the attempt to make them believe that any set of human beings could be so badly off; or, *more* incredible still, that there should be another set,—their own countrymen, too!—with hearts strong enough to add to their miseries, even to, the climax of selling the "kish!" Yet, I must not be understood to claim the superiority in all respects for the state of the negro slave over that of the "sans potatoe:" for under the religious aspect, although recent statistical comparisons between the religious condition of the slave population of the United States, so far as a test is afforded by the number of churches and of communicants, is far better than that of the population of London itself, yet, in regard to the genuine sentiment of religion, the negro is doubtless far beneath the Irish peasant; who seems to be so thoroughly imbued by his Maker with the most earnest resignation and piety, that no degree of pressure has power to crush it out of him.

Condition of the American Negro slave better than that of the poorer classes in Great Britain or Ireland.

Except religious.

The true objection to slavery is one which has no existence except with respect to American institutions, and the hopes which these, and these alone, justify as to the possible condition of the species. It is in this irreconcilableness with the working of the Democratic principle,—the great fountain of hope to the human race,—and in that alone, that the institution of slavery finds it unavoidable and irrevocable condemnation. If the condition of society were destined to remain, such as it is, at the present day all over Europe; nay, but for the positive assurance afforded by the Democratic principle, that it must and shall change, what man, truly informed in regard to the condition of the labouring classes on the two sides of the Atlantic, would dare to whisper a syllable in condemnation of domestic slavery? Not one! It is only in presence of Democracy,—of beauteous, lovely, glorious Democracy,—that it becomes hideous and hateful. It is not for what it, in itself, actually is, but for what it must become, and what it must hinder and prevent, that it deserves execration. The condition of the American slave is better, beyond comparison, than that of the European labourer. So far as an American may be allowed to judge, from Miss Martineau and other British authorities, the state of feeling between the slave and his master, is, beyond comparison, better than that which exists at this moment between the employer and the employed in Great Britain.

True objection to slavery existing only with respect to America.
Its irreconcilableness with the workings of the Democratic principle.

Rhapsody on Democracy.

To judge, therefore, from this comparison, slavery is a blessed thing—and yet it is a hateful one! Why? Because, although the variety of our species which the naturalists of all nations place at the foot of the scale is not equal to that variety which is by all placed at the head;—although the negro decidedly, inherently and irremediably inferior to the white man;—although possibly he may not only be, as he is, comparatively inferior, but may, further prove to be positively and incurably incapable of improvement, except when in contact with, and in subjection to, some higher variety of the species;—notwithstanding this truth and this possibility, yet he is too good to be a slave, *in the presence of democratic institutions.* Under such as the old world is still groaning and grasping under, it is far from impossible that he might fit well into the lowest of the subdivisions into which the human cattle are parcelled; and there contentedly, because unprogressively, remain. But in the presence of democratic institutions, this is impossible, even to the Ethiopian man. There, as the slave of the white man, he does improve,—no one can fix a limit to his improvement; and as, in exact proportion as a man rises in the scale of humanity, he becomes unfit to be a slave, it is impossible but that the point of his absolute unfitness must be reached. Meanwhile, the institution cannot but prove the cause of an endless, ever-renewing struggle, in every thinking mind and every conscientious bosom, between its convictions of right and its sentiment of justice, and the stern necesities which every revolving hour must disclose; each bringing with it a shock to both, which shall be severe in exact proportion to the fitness, moral and intellectual, which the master has attained to be a citizen of a democratic state.

The Negro as compared with the White.

Improves as the slave of the White. No one can fix a limit to improvement.

This is the true objection to the institution of slavery. As yet, it applies to my country alone. But through the hopes which her example has long inspired, and daily infuses fresh vigour into, for the destinies of man in other countries, it becomes prospectively applicable to all in regard to which the aspiration may be indulged, that their inhabitants, too, will one day prove themselves capable of self-government. With regard to others it can matter but little, judging from the present condition of the world, whether their labouring class shall or shall not consist of Africans under the name of slaves. But for all such—for every country which has the faintest hope of establishing and maintaining a democratic government—nothing is more to be deprecated than this institution; for unless the slaves should be of the same race as the masters (thereby admitting of "amalgamation"), or, if of a different one, should be so few in number as to present no serious obstacle to "deportation," their presence in the land cannot fail, sooner or later, to be felt as the deepest curse with which it could have been visited. And for every such country, therefore, must the Slave Trade—the instrument for entailing that curse, however beneficial it may at the moment be to both parties—be looked upon as the greatest of possible calamities.

This objection to slavery applies only to America.

Here, Gentlemen, I must take leave of the subject. Not by any means that it is exhausted, or that my interest in it flags, but that I have no more time at present to bestow upon it. It is one so fraught with importance that there seems to be no end to the topics of which it is prolific. They rise up on all sides, and each appears so highly entitled to attention, that, greatly as this communication has swelled beyond any limits which, at the outset, I should have entertained the remotest thought of undertaking to fill, these are narrow to what they must have been, had full justice been done, even so far as I am capable of rendering it, to the few upon which I have touched. If, in the treatment of these, I should seem to have been not altogether observant of the approved style for diplomatic composition, this is to be ascribed—not to any want of the respect due to the sublime game of international

Takes leave of the subject, though by no means exhausted.

push-pin, whereof the Swedish chancellor betrayed so superficial and crude an estimate when he sent his son to take a part in it, in order that he might see with how moderate an expenditure of wisdom the world's affairs are managed—but, on the contrary, to my indisposition to profane it by applying to illegitimate uses those high formularies which it belongs to none but its regularly-ordained priests to hold converse in. Had we been placed in a diplomatic relation of any sort, the case would have been different, and I should have been studious to fulfil the duty of imitating as closely as possible the most approved specimens of the art of so stringing words together that no meaning shall attach to them. But, as I before attempted to make you sensible, we have been thrown here into positions, the very reverse of this; and the consequence has been, so far to reverse the line of duty on my part as to make it incumbent upon me to endeavour, as far as possible, to say something which should have a meaning. Not only were we not placed in any relation of any sort; but to this negation, events had superadded a positive prohibition.

Not a diplomatist.

Not placed in any relation of any sort with the Commissioners.

Your credentials had never been exhibited to me, and were of a nature to make the idea of their being so the very height of absurdity. To me you could be officially known only as the agents of a foreign government, possessing existence and residence here, in consequence solely, and in pursuance solely, of an express and private stipulation between that government and the one to whose authorities I was accredited in the precise and very limited capacity of Consul. That a stipulation of this character must necessarily be restricted in its operation to the parties between whom it may exist, cannot fail to be, to any mind capable of a moment's thought, a self-evident proposition. The function, for the discharge of which you had been sent and admitted here, stood defined in the treaty, and was known to consist solely in adjudicating upon the simple question of fact, whether a vessel detained under the provisions of that treaty, had been found under any of the categories which it forbad. That adjudication should follow the detention of a vessel "with as little delay and inconvenience as possible," was expressly declared by the treaty to be the sole object of the establishment of those "two mixed Courts of Justice," of one of which you are members, and as such alone possess any official existence. How could this capacity place you in any relation of any sort to the American Consul resident here? Indeed, no capacity having such an origin, of how complex a nature soever in itself, could possibly have been attended with any such effect. There is absurdity in the very idea. But that absurdity, which might have found some palliation in the complexity of functions extremely intricate and difficult in their nature, is heightened by the extreme simplicity and oneness of that with which you are charged. In what terms, then, seeing that the naked idea is preposterous in the extreme, shall it be spoken of, when considered in the precise shape and vesture given to it by your pretension, and the circumstances under which this has been advanced and persisted in? What shall be said of a pretension on the part of the members of such a "mixed Court of Justice," to take part in the execution of the laws of the United States of America, by making to their Consul at Havana, "respectful suggestions in regard to the line of his duty, real or supposed? And when a pretension, in itself so purely ridiculous, is advanced under the circumstances created by the deliberate, reiterated, and peremptory refusal of the Government of the United States to become a party to any arrangement whatever, of a nature similar to that between Great Britain and Spain, which alone confers upon these judges the Anglo-Spanish existence; and then pertinaciously persisted in, under such additional circumstances as those created by the course of the Consul, in referring to that refusal of his Government, and pointing to the peculiar complexion imparted by it to the subject: who can fail to perceive that for the extreme of preposterousness has been substituted the extreme of indecency?

Their functions.

Absurdity.

Extreme of preposterousness, and extreme of indecency.

I am, &c.,

(Signed) N. P. TRIST.

*August* 29, 1839.

P. S.—The date under which this letter was begun, is evidence of my wish to bring our correspondence to a close at the earliest possible moment; as the present date is of the hinderances which that wish has encountered. A long series of interruptions, beginning with the visit of the frigate "Constitution," and the occurrence of the Birth-day of Independence, early in July; and involving a severe attack of the prevailing epidemic cough, has repeatedly compelled me to lay it aside. And more recently the departure of my Vice Consul, on a visit to the United States, has been attended with the double effect of diminishing my command of time, and depriving me of that of my clerk's pen: thereby compelling me to make use of that of another copyist, whose want of familiarity with the language is but too apparent upon the slovenly face of his pages. This will, however, be excused, I hope, in consideration of his being the only person whose services I could at this moment obtain. He might have done better upon a second attempt; but even this is rendered impossible by a permanent engagement contracted by him previously to his undertaking the present copy.

Dates of letter and postscript accounted for.
Visit of the frigate "Constitution."
Birth-day of Independence.
Epidemic cough.
Absence of Vice-Consul.
Copyist's want of familiarity with the language, and inability to make another copy.

*The Havana Commissioners*, No. 35, of 1839.

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## Second Enclosure in No. 111.*

*Her Majesty's Commissioners to Mr. Trist.*

SIR, *Havana, 5th September*, 1839.

WE beg to acknowledge having received your answer, bearing date 2nd July, with postscript of the 29th August last, in reply to our official communication of the 1st July, written in obedience to directions from Her Britannic Majesty's Secretary of State for Foreign Affairs.

That answer of yours we will take the earliest means to forward to Her Majesty's Government, though we regret to find it of a character only calculated to increase existing impressions.

We have, &c.,

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

*To N. P. Triest, Esq.,*
*United States Consul.*

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Returned unopened.

## Third Enclosure in No. 111.

*Extract from "The New York Commercial Advertiser" of 9th September, 1839.*

*Meeting of Ship-masters and others.*

PURSUANT to notice, a meeting of ship-masters and other gentlemen engaged in navigation, was held at the old Supreme Court-room, on the evening of the 29th of August. The meeting was called to order by Captain Francis Dewson, and organized by the choice of Captain Joseph W. Lewis for chairman, and Captain Samuel Pearce for secretary.

Captain Dewson then, in some brief and pertinent remarks, explained the object of the meeting, viz.,—To examine into, and take some or derupon, the conduct of Nicholas P. Trist; the American Consul at Havana. He read a circular from a committee in New York, calling attention to this subject, and some other documents going to show the arbitrary and ungentlemanly conduct of that individual while acting in his responsible station; and also the proceedings of the meetings which had been held at New York for this purpose.

The meeting was then addressed by Captain Fouque of the brig "*Cambrian*," who made an interesting statement of the conduct of the American consul toward himself, but a short time since. His crew had mutinied without provocation, but were subdued after a contest, in which one or two of their number had suffered severely. They subsequently applied to the American consul, who listened only to their side of the story, and condemned him (Captain Fouque) without a hearing; and his unjust and arbitrary proceedings caused him much unnecessary trouble and detention. Captain Fouque considered Mr. Trist as ignorant of his duties, uncourteous and insulting in his manners, and consequently unworthy of the situation he held; and bore his testimony in favour of the truth of the sentiments expressed in the resolutions passed at the meeting in New York, and which had just been read.

The meeting was next addressed by Z. Jellison, Esq., of this city, who had recently passed several months in Havana. He thought the resolutions referred to, so far from being exaggerated, had not told all the truth. He had witnessed the conduct of Mr. Trist in many instances, and he felt constrained to say that it was insolent, supercilious, and tyrannical, and deserving of severe rebuke. Instead of attempting to elevate the character of his countrymen, by treating them with courtesy and respect, he embraced every opportunity to misrepresent their conduct and vilify their character; and had, on more than one occasion, pronounced the American ship-masters who traded to Havana a set of drunkards and blackguards. Instead of rendering them advice and assistance when in difficulty, he seemed to take delight in placing additional obstacles in their way, and professed to hold them in utter contempt and hatred. He had boasted that the Executive of the United States did not dare to remove him from office, and therefore it was indifferent to him whether his conduct gave satisfaction or dissatisfaction.

Mr. Jellison adverted to the case of Captain Abraham Wendall, of Salem, who had some difficulty with his mate, who demanded his discharge, which Captain Wendall refused to grant. The mate then complained to the American Consul, who most unjustly ordered Captain Wendall to give him his discharge, and three months' extra wages. There being no such obligation imposed upon Captain Wendall by the laws of the United States, he very naturally remonstrated against such a decision, and high words ensued between the parties. Mr. Trist complained to the Captain-General, and Captain Wendall was put in prison. All applications on the part of Captain Wendall to be released from confinement, or sent to the United States to be tried by the laws of his country, were disregarded by the Consul. When Captain Babbit arrived in Havana. in the sloop of war "Boston," Captain Wendall applied to him for assistance, and when Captain Babbitt inquired of the Consul the grounds of Captain Wendall's imprisonment, he knew nothing about it, but referred him to the authorities of Havana! But upon inquiry of the Captain-General, he learned that Captain Wendall was imprisoned at the request of the American Consul.

Mr, Jellison made some further remarks relating to his deportment toward Captain Babbit, and mentioned some other cases of gross misconduct of which he had been guilty.

The meeting was again addressed by Captain Fouque, who corroborated the statements made by Mr. Jellison, and related some other facts having a bearing on the case.

Captain John S. Sleeper made some remarks relative to the disgraceful conduct of Mr. Trist, in connexion with the Slave Trade, and read some extracts from an article purporting to be an abstract of certain documents, laid before the British Parliament by Lord Palmerston, by which it appeared that vessels engaged in the Slave Trade, from the port of Havana, were protected by the American flag, until their cargoes of slaves were received on board, when, by papers furnished by N. P. Trist, as Vice-Consul of Portugal, they were at once transformed into Portuguese vessels. Other Slave-vessels belonging to Havana, had also been furnished by Mr. Trist with American papers; and it thus appeared that he had shielded vessels engaged in this nefarious traffic from capture, so far at it could be effected by his authority, thus prostituting the flag of his country to the most vile and unworthy purposes.

Captain Sleeper then suggested the propriety of adjourning the meeting to some day in the ensuing week, in consequence of sufficient notice not having been given, and of the unavoidable absence of several individuals who were expected to have been present; but first moved the appointment of a committee to examine into the subject, and prepare a series of resolutions to be laid before the adjourned meeting.

This motion was adopted, and Captain John S. S. Sleeper, Z. Jellison, Esq., and Captains Francis Dewson and Charles Bradbury, were appointed on this committee.

The meeting was then adjourned to the same place on Thursday evening, September 5, to commence at half-past 7 o'clock.

JOSEPH W. LEWIS, Chairman.
SAMUEL PEARCE, Secretary.

*Adjourned Meeting.*

On Thursday evening, September 5, the meeting was called to order by the chairman, and the proceedings of the last meeting were read by the secretary.

Captain Sleeper then stated that the committee appointed at the former meeting, had attended to their duties, and had prepared a series of resolutions for the consideration of the meeting, which were as follows:—

1. Resolved. That the office of the United States' Consul at Havana, owing to the great number of American vessels that visit that port, the vast amount of American property which is at all times deposited in that city, the frequent applications for advice and assistance from the Government agent, on the part of American citizens, as well as for reasons of a political character, too obvious to require enumeration, is a situation of great responsibility, and of immense importance to the welfare of ndividuals, and the commercial interests of the United States, as well as to the honour of the country.

2. Resolved. That the incumbent of this office should be a man of intelligence and worth, not only familiar with his official duties, but honourable in his conduct, and urbane in his deportment; anxious at all times, and under all circumstances, to advance the honour of his Government; and to promote the interests of American citizens: and, by the faithful discharge of his duties, to elicit the respect of foreigners, and the confidence of his own countrymen.

3. Resolved. That evidence of the most conclusive character has been adduced, showing that Nicholas P. Trist, the present United States' Consul at Havana, is lamentably deficient in qualifications for that important situation—and has used the power with which he is clothed by the Executive of the United States, not for the protection of his countrymen, but as a means of committing acts of oppression, insult, and injustice; and that so far from eliciting, by his official acts, the confidence and respect of his countrymen in Havana, his ungentlemanly conduct, has caused him to be almost universally despised.

4. Resolved. That it having appeared by extracts from official documents laid before the British Parliament by Lord Palmerston, that Nicholas P. Trist has, in repeated instances, furnished papers to slavers, for the purpose of aiding and abetting them in carrying on the unholy traffic in human flesh—he has not only abused the power with which he is entrusted by the American government, but has sanctioned, in his official capacity, practices which any American of true honour and philanthropic feelings would shrink from in disgust.

5. Resolved. That in his arbitrary and tyrannical treatment of Captain Wendall, and other respectable and worthy shipmasters, he has shown that he is not only insolent in his deportment, overbearing in his disposition, and unfaithful in the discharge of his duty, but that he is a stranger to the generous and noble feelings which are wont to glow in the bosom of an American citizen.

6. Whereas, It appears by a letter of N. P. Trist to the Captain General of Cuba, that in the case of crew of the ship "William Engs," instead of sending them home for trial, a privilege which they had a right to demand, he excited and urged the Spanish authorities to punish them with imprisonment and hard labour, "for premeditated mutiny, bearing the most audacious and violent character," to use his own language, without listening to their defence, or providing them with counsel on their trial; and afterward, in a letter to Captain Babbit, declared that this was done by the Spanish authorities, at a call from the captain of the "William Engs," leaving it to be inferred that he (Consul Trist) should not be held responsible for the act, and intimating his belief, after a subsequent investigation of the case, that it was highly probable the crew were innocent of the charges brought against them, and that "the captain ought to be now engaged in cracking stones in their stead."

Therefore, Resolved. That Nicholas P. Trist has been guilty not only of the grossest injustice to those American citizens who were thus abandoned to a hapless fate in a strange country, with whose laws and even language they were unacquainted, but prompted by a natural wish to conceal his flagitious conduct from the public eye, has been guilty of tergiversation and deception, to give it no harsher term, which should indelibly stamp his name with ignominy.

7. Resolved. That the continuance of such a man in the office of United States' Consul at Havana, is not only a great disadvantage and injury to individuals of every condition, whose business or pleasure may call them to that city, but it is, in a remarkable degree, detrimental to the interests of the mercantile community, and a stigma on the fair fame of the American nation.

8. Resolved.. That we cannot entertain a doubt of the willingness of the President of the United States to dismiss this man from office, after the proofs of his unworthiness have been fully exhibited; and it has been shown that he neither deserves nor enjoys the confidence of American citizens.

9. Resolved. That a committee be appointed to prepare a memorial respectfully urging the necessity and praying the removal of Nicholas P. Trist from the office which he now holds, and to transmit the same to the President of the United States.

10. Resolved. That the conduct of Commander Edward Babbit, late of the sloop-of-war "Boston," in rescuing American citizens from consular oppression and Spanish injustice in Havana, was noble and manly, such as becomes a high-minded naval officer, anxious to promote the interests of his fellow-citizens, and the honour of his country, and entitles him to the gratitude of every American citizen.

11. Resolved. That the thanks of this meeting be given to those ship-masters and merchants in New York, who first entered on an investigation of this subject, and who have spared no pains to unmask the misconduct of an unworthy representative of our Government, and exhibit his character in its true colours.

Captain Sleeper then made some remarks in support of the resolutions. He said they were couched in strong language, but the committee believed it to be the language of truth, and not more emphatic than was warranted by the circumstances of the case. The committee had examined a number of persons who were familiar, from personal experience, with the conduct of Mr. Trist, and had been so fortunate as to procure some important documents bearing on the case, all of which evidence went to show that the consul was altogether unfit for his office, and ought to be removed. It was possible that Mr. Trist's motives, or even conduct, might be mistaken or misrepresented by others, but his own language, his own letters, convicted him of the grossest official misconduct. Captain Sleeper then stated, that when the sloop-of-war "Boston" arrived at Havana, Captain Wendall and other Americans, then suffering under the horrors of Spanish imprisonment in Cuba, addressed a letter to Captain Babbit, requesting his advice and protection, and referring him to three American

gentlemen of great respectability, then resident in Havana, for the truth of their statements. Captain Babbit accordingly wrote a letter to Mr. Trist, enclosing copies of the letters received, and requesting some information relative to the subject. The following are extracts from Mr. Trist's answer:—

*Extract from a Letter of N. P. Trist to Captain Babbit.*

"I have the honour to acknowledge the receipt, to-day, of your favour of yesterday's date, enclosing copies of three communications from Captain A. Wendall, jun., Captain L. Shaw, and certain seamen of the ship "*William Engs*," and schooner "*Henry Clay*."

"In regard to the two former, they have already taken up so much of my time that it is impossible to bestow any upon them on the present occasion, farther than to assure you that nothing that they can utter is deserving of the least credence. At the head of the list of persons referred to by Captain Wendall is the name of a merchant, the most dirty and sneaking knave known to me by reputation in all Havana. The second, Dr. Bumstead, is a bosom friend of the former, and a character of the deepest infamy; and the third is, according to all appearances, a congenial spirit with the other two. . . . .

"In regard to the seamen the case is different. Those of the "*William Engs*" were arrested *by the authorities of the place at a call from the captain*, prosecuted for mutiny, convicted, and condemned. As to the fact of the mutiny or *conflict* on board the ship there can be no doubt: with regard to its *origin*, the story told by them is, I am sorry to say, *but too probable* on the face of it, judging from my experience in such matters. If true, the captain ought to be now engaged in cracking stones in their stead. *Upon becoming* aware of this account of the affair, which was *not until after their condemnation*, my belief in its probability led me to take steps in their behalf, which will, I hope, be attended before long with a favourable result."

Captain Sleeper remarked that the person to whom Mr. Trist had applied the epithet of "the most dirty and sneaking knave in all Havana" was a merchant of great respectability, who had long been a resident in Havana, and who was well known to the citizens of Boston as an intelligent merchant, and whose character had been unblemished until the attempt of Mr. Trist to cast a stigma upon it. The whole of that part of the letter was a false and malicious libel upon the gentleman referred to.

With regard to the other part of the letter, in which he spoke of the crew of the "*William Engs*," the fair construction of his language was, that he was guiltless of their imprisonment; that he knew nothing of the circumstances of the case until they had been condemned by a Spanish tribunal; and that he had since satisfied himself that they were unjustly punished. But it happened, unfortunately for Mr. Trist, that the evidence of 130 ship-masters and merchants of Havana went to prove that he had caused these men to be punished, and that they had repeatedly written to him for aid and attention before their trial, which was refused.

Captain Babbit, having occasion to doubt the correctness of Mr. Trist's statement, took a proper measure to ascertain the truth. He wrote to the captain-general, requesting copies of the correspondence between the authorities of Havana and Mr. Trist, relative to the affair of the "*William Engs*;" and among the documents received was a copy of Mr. Trist's letter to the captain-general, urging the cruel punishment of these men. Captain Sleeper then read the following extract from this letter:—

"*Mr. Trist to the Governor General.*

"I have the honour to enclose to your Excellency a translation of the evidence of the said Captain Vaughan, which, I do not doubt, is literally true in all the particulars of the case—the plaintiff, belonging to the most respectable class of American captains, and being a man of rare moderation and mildness. His evidence, inasmuch as it concerns said mutiny, is confirmed in all its parts, by R. P. Etcbergen, commander of the American schooner, Guatemala Packet, who was a witness to all that happened. This mutiny does not appear in any measure to have been provoked, but, on the contrary, premeditatated; and being of the most audacious and violent character, and among other considerations which appear to require that it should not remain unpunished—the peace and good order which are to be kept in this port, is not the least."

After going on to show that it is usual for offences of this nature to be punished according to the laws of the country to which the offenders belong, and urging, as a reason for the departure from this rule, in this instance, that the witnesses could not be detained and sent here, and that sometime would elapse before a United States vessel of war would arrive in port, to carry the offenders to the United States, Mr. Trist says—

"Consequently, instead of begging of your Excellency to be pleased on this occasion to order that they should be kept prisoners at my disposal, I think it my duty to follow a contrary course—and recommend their trial in this case by the authorities of the country—so that the outrage, which would prove to have been committed against the laws of the country, might be punished in the manner they think most proper!"

Captain Sleeper said that he considered any further comment on these letters unnecessary. He then read the memorial dated January 10, 1839, addressed to Captain Babbit, commenting on the oppressive and ungentlemanly conduct of Mr. Trist, and earnestly requesting Captain Babbit to defer his departure for a few days, that he might have an opportunity to examine into the cases of Captain Wendall, the crew of the "William Engs," and others—and endeavour to procure their release from the Captain General.

Captain Sleeper also read a statement written by Captain Charles W. Bradbury, illustrating the imbecility and injustice of the Consul, as follows:—

"On or about the 15th March, 1839, being then at anchor in the harbour of Havana, a sailor attached to the ship, after putting me on shore, was seen by the first officer, on his return from shore, to purchase a bottle of spirits from a bumboat, and when he came alongside the ship, being then intoxi-

cated, he was ordered by the first officer to heave the bottle overboard, which he refused to do, at the same time using abusive language to the officer. When he came on deck the mate took the bottle away and broke it on deck; upon this the sailor struck the mate, and the mate gave him several lashes with a cow-hide—then the sailor immediately drew his sheath-knife, (which was ground sharp at the back,) and attempted to stab the mate, but was prevented by the second mate and cook, who took the knife away and secured him. When I came on board, which was soon after, the first officer reported the same to me; and on my asking him what he meant, was told by him (the sailor) that he would do the same to me if I struck him. After this, he was flogged, and in the afternoon I obtained a permit from the Vice Consul (the Consul not being at his office,) to put the man in prison for safe-keeping. About the 22nd of March, a government boat came alongside and took out the second officer and several of the sailors, and they were taken before a Spanish tribunal, and after giving their declarations, were allowed to get on board the ship as they could.

"On hearing of this, I immediately went to the Consul's office, for protection, but as usual he was not to be found. I called the next day, but could not find him, and told the case to the Vice-Consul, who said he would tell the Consul when he came in; but at the same time told me that the Consul had requested the Spanish authorities to look into the case. Soon after I found that a government boat was alongside, and I went on board and found that they wanted me and the first officer, and nearly all the remaining part of the crew, which left my ship without any officer or proper person to take care of her, my second mate having gone to this tribunal with two of the crew, by orders given him there the day before. I sent to the ship "Cabinet," and the first officer came up and remained in charge until the return of my first officer. I called again at the Consu's office; he was not in, and I requested the Vice Consul to say to him that I wished him to be present when I gave my declaration, but I never heard that he took any notice of it. I also requested at the Court that the Consul should be present when I gave my declaration; but they told me he would not be allowed to come there. We therefore gave our declarations and were allowed to go on board again.

"I heard nothing more about the affair until the 11th of April, when a government boat came alongside, and left orders for the captain, first and second officers, and nearly all the crew, to go to this tribunal, again at 9, 30 A.M., when he would have again left my ship without proper persons to take care of her. The United States ship "Boston" being then in port, I set my ensign union down at the main, and Captain Babbit sent a boat, and I told the officer that we were ordered to leave the ship, and I would be obliged to Captain Babbit if he would send an officer to take charge of the ship during our absence, and we all went on board the "Boston" before going on shore, and Captain Babbit sent an officer with me to the court; and they told him that there must be some misunderstanding; that they were not trying us, but the sailor, and only wanted us as witnesses. The officer then returned to the "Boston," and sent the others out, who were ordered here, and we gave our declarations a second time. Although they were trying the sailor, they told the cook, when they called him in, that they did not want him, and he did not give any declaration—he being the most important witness against the man, having seen the whole transaction on board.

"On the 30th of April, they again sent for me and the first officer, and read the decision of the Captain-General, in which they fined myself and first officer two hundred and fifty-two 50—100 dollars, and obliged me to discharge the man and pay him his wages, as the American Consul should order me.

"I paid the fine, and called on the Consul to settle with the man, and he made me pay him full wages up to the present date, May 1, 1839—the sailor, by the laws of the United States, having forfeited all his wages and everything belonging to him, by refusing to obey the lawful orders of the first officer of the ship.

"During the whole of this trial there was an order to the Captain of the port's office, to prevent me nd the first officer from leaving the port.

"The sailor was punished by the imprisonment during the trial, about two months and a half.

"CHARLES W. BRADBURY"

"*Boston, Sept.* 5, 1839."

Captain Sleeper, said he presumed there were gentlemen present who could add to the evidence already aduced that Mr. Trist was unworthy of his office; and he hoped that if Trist had any friends in that city, or if there were any present, who doubted the turpitude of his conduct, they would come forward at the present time and say something in defence of, or in extenuation of his conduct.

L. Jellison, Esq., moved the acceptance of the Resolutions.

Captain —— Hooper, of Marblehead, addressed the meeting, and made a statement of some difficulties which had occurred in Havana between him and Consul Trist. It seemed that soon after he had arrived in Havana, and without knowing anything of the character of the Consul, he remarked, in the presence of his clerk, that it was singular that there was so much difficulty between Mr. Trist and the American captains in that port; that he had heard he (Mr. Trist) always espoused the part of the sailors, whether they were right or wrong; with some other observations of a similar character. The conversation, it appeared, was reported to Mr. Trist, who was very indignant thereat, and sent a peremptory message to Captain Hooper to appear at the consular office.

Captain Hooper went to the office, but the Consul was not to be seen; but in the meantime had preferred a complaint against Captain Hooper to the authorities in Havana. But finding that he was likely to be balked in his malicious intention, he succeded in procuring a delay of ten days, and then offered to drop the action, provided Captain Hooper would make a suitable apology. This Captain Hooper, of course, positively declined to do, whatever the consequences might be, as he felt that he had been guilty of no improper conduct. The affair thus remained for some days, until Captain Hooper attempted to clear his vessel, when he found, much to his surprise, that an order had been given to the captain of the port, through the intervention of Mr. Trist, to prevent him from leaving the port! This placed him in an awkward position—as he could get no other person to take charge of his vessel, and a detention might prove highly detrimental to the interests of his owner. He consulted with his consignees—they had an interview with Mr. Trist, who still insisted on an apology from Captain Hooper before he would withdraw the action, and procure his release from the authorities in Cuba. After farther negotiation, Mr. Trist finally concluded to allow him to proceed to sea, upon payment of the expenses of the suit, about 100 dollars,—which was paid by the consignees, who

were subsequently reimbursed by Captain Hooper; and, after several days' detention, he was allowed to proceed on his voyage.

Captain Hooper also made some farther remarks, showing the gross tyranny and injustice of the Consul, in the case of Captain Wendall; he having been in Havana at the time that affair took place. He concluded by remarking, that he would not undertake to justify or vindicate the conduct of all the persons who had had difficulties with Mr. Trist. It was by no means unlikely that in some cases they were in the wrong,—but the Consul was unable or unwilling to discriminate, and had been guilty of many acts of gross oppression and injustice.

Captain Dawson then referred to the meeting held at New York on the evening of the 3rd instant, and read from the "*New York Commercial Advertiser*" a detailed account of the proceedings at that meeting.

Captain Hooper then read a copy of a letter which he had addressed to Mr. Trist, on leaving the port of Havana, commenting on his conduct, and protesting against the general character of his official proceedings.

The question was then taken on the passage of the resolves offered by Captain Sleeper, and they were unanimously adopted.

On the motion of Captain Francis Dewson, the following Resolutions were adopted:—

Resolved, That subscription papers be opened for the purpose of aiding Captain Wendall in the prosecution of his suit against Consul Trist, as also to defray the expenses of these meetings—and that every person now present consider himself a member of a committee for the accomplishment of the above object.

Resolved, That a full account of the proceedings of these meetings be drawn up and signed by the chairman and secretary; and the newspapers in this city be requested to publish the same.

The following Resolutions were offered by Captain Samuel Pearce, and adopted:—

Resolved, That the chairman and secretary, with the gentlemen chosen at the last meeting to draft suitable resolves for the consideration of this meeting, be a committee to correspond with our brethren at New York in the cause in which we are now embarked; and also to prepare a memorial, as recommended in the 9th Resolution.

Resolved, That a report of the proceedings of this meeting be transmitted forthwith to our friends at New York.

It was voted on motion of Captain Sleeper, that the chairman and secretary of the meeting be authorised to call a meeting for a farther investigation of this subject, at any time which they may think proper.

The meeting was then adjourned *sine die*.

J. W. LEWIS *Chairman.*
SAMUEL PEARCE, *Secretary.*

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## No. 112.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, October* 27, 1839.

(*Received December* 14.)

My Lord,

By Her Majesty's packet "Pigeon," which arrived here on the 24th instant, we have had the honour to receive from your Lordship the following Despatches:—

One, dated 25th August, 1839, enclosing four copies of an Address upon Slave Trade from the House of Peers to Her Majesty, and of Her Majesty's most gracious answer thereto.

One, dated 31st August, transmitting the opinion of Her Majesty's Advocate-General upon the case of the "*Hazard*," detained by one of Her Majesty's cruisers, on a charge of being concerned in the Slave Trade.

One, dated 3rd September, 1839, transmitting copies of an Act of Parliament recently passed for the suppression of Slave Trade; and,

One, dated 13th September, desiring us, on reference to a letter and enclosure received from the Colonial Office, to make a Report to your Lordship respecting certain statements therein contained.

Our Report, in obedience to your Lordship's directions respecting those statements, will form the subject of another Despatch; and for the enclosures and instructions transmitted with the other Despatches we beg to return our due acknowledgments.

We have, &c.,
(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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## No. 113.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, October* 31, 1839.

(*Received December* 14.)

My Lord,

We have had the honour to receive your Lordship's Despatch, dated the 13th September, 1839, transmitting the Copy of a Letter received from the Colonial Office, with its enclosure, a Despatch from Her Majesty's Superintendent of liberated Africans at this place, respecting the restrictions imposed on the black soldiers serving on board the "Romney."

Your Lordship desires us, with reference to certain statements made in the last-mentioned Despatch, to report "whether the tract allotted for the landing of the men is swampy and uninhabited, and whether the men are prohibited from speaking to or communicating with any inhabitant of the Island of Cuba."

In reply we have to state, that the tract of land, extending half a mile inland, and about two miles along the shore, is mostly on a declivity, and can scarcely, therefore, be pronounced swampy, though no doubt some part of that immediately on the verge of the water may be so. It is, however, certainly uninhabited, with the exception of a few huts, but bounded on the one side by the suburb Casa Blanca, where all the slavers lie, and on the other by the still more populous town of Regla, the haunt of all the worst part of the population.

With regard to the men being prohibited from speaking to or communicating with any inhabitant of the island, we are at a loss to conjecture the grounds upon which Dr. Madden made such an assertion. We have received no notice of any other restrictions placed upon them than what are contained in the Captain-General's Letter of the 27th May last, enclosed in our Despatch, dated the 24th June last, to which your Lordship refers, and in fact the men have had unrestricted visitors allowed them on board, and we believe no declared prohibition of intercourse on shore with whomsoever they could meet in their bounds.

Still it must be acknowledged the restrictions are most ungenerous. No English officer could be expected to go in attendance upon his men under such circumstances, and they have, in fact, been allowed to go with one of their serjeants, who, being of the same colour, it could scarcely be said came within the spirit of the regulation. Still the conduct of the men has been most orderly, and our hope, as well as your Lordship's, in expressing the acquiescence of the British Government to the restrictions proposed (Despatch dated 29th September, 1838), was, that "in course of time, when experience had shown that no evil resulted from the occasional landing of the men, the most inconvenient parts of the arrangement might be relaxed." We doubt, however, whether we shall ever find the authorities here ready to extend any indulgence, while, on the contrary, they seem most watchful to discover any ground of complaint. In the case referred to by Dr. Madden, and to which we have also adverted in our Despatch, dated 20th September last, the utmost the Captain of the "*Partido*" could allege was, that he was "informed the men had been out of their limits, and conducting themselves 'con arrogancia.'" He acknowledged he had not seen them out of their bounds, nor did he produce any person who had, while the men declared they had not been further than where the captain found them, at the limit, certainly, but in the only part on that side where they could have intercourse with the inhabitants, some of whom had been suspiciously endeavouring to inveigle them into their houses, by offering them drink.

We repeat the conduct of the men has been most orderly, but we could not have been surprised at some slight excess having at some time occurred, which would, no doubt, have been made the subject of a long correspondence, if not the pretext for greater restrictions.

On the whole, we must beg to submit to your Lordship, whether the advantage arising from the hulk being stationed here can be considered com-

mensurate with the expense, the exposure of the lives of Her Majesty's subjects, and the constantly arising grounds of irritation of which it is the subject.

We have, &c.

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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## No. 114.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Havana, November* 11, 1839.

MY LORD, (*Received December* 24.)

DURING the last month the following vessels arrived in this harbour from the Coast of Africa:—

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Oct. 4th, | Port. schooner | "*Recurso,*" | Ribas, | Master, | 80 tons, | in 48 days | from | San Tomé. |
| „ 5th, | „ „ | "*Montaña,*" | Viana, | „ | 71 | „ 58 | „ | San Pablo de Loanda. |
| „ 7th, | „ brig | "*Felicidad,*" (*a*) *Jacinto* | Lonsa, | „ | 140 | „ 35 | „ | Lagos. |
| „ 11th, | „ schooner | "*Eliza,*" | Vives, | „ | 83 | „ 45 | „ | Rio Pongos. |

The particulars of their cargoes we regret we have not been able to learn, but we have added the tonnage of the vessels, as that may enable us to form some judgment respecting them, and show the quality of the vessels engaged. The "*Felicidad,*" we believe, is the same that sailed on the 8th July, having returned, therefore, in less than three months; and we understand that the dealers have concerted measures to have their negroes ready at their factories for embarkation, so that the vessels may not be detained more than 24 hours on the coast.

During the month, the following sailed:—

Oct. 12th, American schr. "*Nymph,*" Murphy, Master, 127 tons, cleared by C. Tyng, for Rio Braza.
" 23rd, " ship "*John*" Seymour, „ 173 „ „ C. Tyng, for the Gold Coast.
This ship came consigned to Puente Hermanos, by whom she was advertised in the shipping list as for Africa.

Oct. 23rd, Spanish brig "*Joven, Emeline*", for Gold Coast.

The circumstance of the American ship "*John*" sailing on the same day as the Spanish Brig "*Joven Emeline,*" and for the same destination, gives good reason to suppose that she has gone as a sort of tender with the stores and equipments for the other. The last-named vessel was despatched by Messrs. Forçade.

The celebrated "*Socorro*" is expected to arrive here very soon, and we have given notice of it to the Commander of Her Majesty's sloop "Snake," at present cruising on this station, and also to Captain Carey of Her Majesty's ship "Comus," now about proceeding from this place to Jamaica.

We have, &c.,

(Signed) J. KENNEDY.
CAMPBELL J. DALRYMPLE.

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

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## No. 115.

*Vscount Palmerston to Her Majesty's Commissioners, Havana.*

GENTLEMEN, *Foreign Office, December* 31, 1839.

I HEREWITH transmit to you a Copy of a Brief, which has been issued by His Holiness the Pope, enjoining all Catholics to abstain from Slave Trade.

You will communicate this Paper to the Governor of Cuba, and you will cause it to be inserted in the principal newspapers of Havana.

I am, &c.

(Signed) PALMERSTON.

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

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No. 116.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, December* 31, 1839.

I HEREWITH transmit to you, for your information, Copies of Despatches which I have addressed to Her Majesty's Envoy at Washington, and to Her Majesty's Chargé d'Affaires at Madrid, on the subject of certain Negroes, who, in their voyage on board the "*Amistad*," from the Havana to another port in Cuba, rose upon the Master of the vessel and endeavoured to recover their liberty, but were subsequently conducted to the port of New London in the United States.

I have, &c.
(Signed) PALMERSTON.

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

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First Enclosure in No. 116.

*Viscount Palmerston to Mr. Fox, Foreign office, December* 21, 1839.

(See Class D).

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Second Enclosure, in No. 116.

*Viscount Palmerston to Mr. Jerningham, Foreign Office, December* 21, 1839.

(See Class B.)

# RIO DE JANIERO.

No. 117.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, April* 3, 1839
(*Received June* 27.)

MY LORD,

WE have the honour to inform your Lordship, that Commander Preston has this day brought into this Court of Mixed British and Brazilian Commission, the papers of the brigatine "Especulador," detained by him on the 25th ultimo, in lat. 22° 35′ S., long. 39° 30′ W., with 278 slaves on board, said to be bound from Anha, near Benguela, to Rio de Janeiro, Monte Video, and Moçambique. At the time of detention she had no colours hoisted, and only Portuguese colours were found on board.

We have, &c.,

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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Enclosure in No. 117.

*Captor's Declaration.*

I, WILLIAM PRESTON, Commander of Her Britannic Majesty's sloop "Electra," hereby declare, that on this 25th day of March, 1839, being in south latitude 22° 35′, and west longitude 39° 30′, I detained the brigatine named "*Especulador*" (which had no colours hoisted at the time of detention, but Portuguese colours only found on board), commanded by Manoel Joaquim Pereira Negrao, who declared her to be bound from Anha, near Benguela, to Rio de Janeiro, Monte Video, and Moçambique, with a crew consisting of 14 men; Joze J. Teixeira, supercargo; Joze Lorindo, Manoel A. Rodriguez, Bovento Todos Ravez, passengers; and having on board 278 slaves, said to have been taken on board at Anha, on the 26th day of February, 1839, and are enumerated as follows, viz.:—

| | Healthy. | Sickly. |
|---|---|---|
| Men . . . | 83 | 3 |
| Women . . | 65 | 2 |
| Boys . . . | 61 | 4 |
| Girls . . . | 52 | 8 |

I do further declare that the said brigantine 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.*

Witnesses—(Signed)—A. SAUNDERSON, Surgeon.
E. A. WILLIAMSON, Purser.

## No. 118.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, April* 11, 1839.
(*Received June* 25.)

My Lord,

We have the honour to report the arrival, in this port, on the 10th instant, of a slave vessel named the "*Ganges*," under Portuguese colours, which Commander Smyth, of Her Majesty's brig "Grecian," detained on the 7th April, 1839, with 419 slaves on board, under the circumstances detailed in the accompanying declaration, which Mr. Mowl, of the above brig of war, has this day brought into the Court of Mixed British and Brazilian Commission, together with the papers found on board the "*Ganges*."

We have, &c.

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## Enclosure in No. 118.

*Captor's Declaration.*

I, William Smyth, Esq., Commander of Her Britannic Majesty's sloop "Grecian," hereby certify that on this 7th day of April, 1839, Cape Frio bearing at the time W. ½ S. about 28 miles, and Anchora Island in sight, bearing N.W. by west about 20 miles; longitude 40° 24′, latitude 228 57. I detained the brig named the "*Ganges*," sailing under Portuguese colours, armed with two guns, four-pounders, commanded by Joze Ribeiro Costa, who declared her to be bound from Quillimane to Angola, with a crew consisting of 14 men and two passengers, and having on board 419 slaves, viz.:—

| | Healthy. | Sickly. |
|---|---|---|
| Men . . . | 158 | 1 |
| Women . . | none. | none. |
| Boys . . . | 209 | 15 |
| Girls . . . | 36 | none. |

And that the papers and documents seized by me on board the said brig, being marked from No. 1 to 7, are enumerated in the following list, viz.:—

Three packages—

| | | | |
|---|---|---|---|
| No. 1, | containing | Nos. 2, 3, 4 5, 6, | Various papers. |
| 2 | „ | 1 | |
| 3 | „ | 7 | |

(Signed) WM. SMYTH, *Commander.*

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## No. 119.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, April* 17, 1839.
(*Received June* 27.)

My Lord,

On the 3rd instant Commander William Preston, of Her Majesty's sloop "Electra," brought into Court the papers belonging to the brigatine "*Carolina*," detained by him, under Portuguese colours, on the 27th March, 1839, having 214 slaves on board.

Sentence of condemnation was passed on this vessel on the 16th instant, but,

from the press of business before the court, we must defer till another opportunity forwarding the several papers connected with this case.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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No. 120.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, April 18th,* 1839.
(*Received June* 27.)

My Lord,

A communication having been received by the court from Commodore Sulivan, that a prisoner on board one of the prize vessels, now under adjudication, had been identified by three of the crew of Her Majesty's brig "Wizard," as having made his escape from the "*Brilhante*," captured by that vessel last year, an examination of the parties was gone into by the court. The identity of the individual, a Portuguese, was distinctly sworn to by two sailors and a marine belonging to the "Wizard;" but, the fact being denied by the prisoner, the investigation led to no further result.

As if, however, to confirm the truth of the accusation, the prize-master has since reported his escape from the hulk, to which he was sent after his examination.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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No. 121.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, April 20th,* 1839.
(*Received June* 27.)

My Lord,

We have the honour to acquaint your Lordship with the detention of another slave vessel, under Portuguese colours, named the "*Leal*," by Her Majesty's brig "Grecian," William Smyth, commander.

Lieutenant Andrew, of that ship, arrived in this port in charge of this prize, on the 19th instant, and has this day brought into court the papers of the "*Leal*," and the declaration of Commander Smyth, detailing the circumstances of the capture, of which the enclosed is a copy.

Our Brazilian colleague, we are happy to assure your Lordship, has shown the greatest alacrity in the prosecution of this and the other vessels now before the court, and in joining us in rendering the several proceedings as summary as possible.

We shall, of course, lose no time in reporting to your Lordship the respective results.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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Enclosure in No. 121.

*Captor's Declaration.*

I, William Smyth, Commander of Her Britannic Majesty's sloop "Grecian," hereby certify, that on this 11th day of April, 1839, being 15 miles N.N.W. of Cape Frio, I detained the vessel named the "*Leal*," sailing under Portuguese colours, armed with guns, pounders, commanded

by Feliciano Joze Ribeiro, who declared her to be bound from Ambriz to Mozambique, with a crew consisting of 15 men, no boys, and no supercargo, three passengers; and having on board 364 slaves, viz.:—

| Healthy. | | Sickly. | |
|---|---|---|---|
| Men | 89 | Men | 0 |
| Women | 5 | Women | 0 |
| Boys | 185 | Boys | 3 |
| Girls | 81 | Girls | 1 |

And that the papers and documents seized by me on board the said vessel being marked from No. 1 to No. 122 inclusive, are enumerated in the following list, viz.:—

Various books and papers, in three parcels, numbered 1, 2, and 3.

(Signed) WILLIAM SMYTH, *Commander.*

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## No. 122.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, April 23rd,* 1839.
(*Received June* 27.)

My Lord,

We have the honour to acknowledge the receipt of your Lordship's Despatch of the 4th February last, transmitting copies of a correspondence between your Lordship's office and the Colonial Department, upon the subject of the negroes emancipated by this Mixed Commission, and desiring us to keep a careful watch over the fulfilment of the stipulation, which binds the Brazilian Government in respect to negroes so liberated, and over the due observance of the regulations which they have, from time to time, promulgated for carrying such stipulations into effect; and, finally, instructing us to keep your Lordship informed of the result of our inquiries and proceedings upon this subject.

The archives of this Commission not containing any trace of the communication to the late Mr. Cunningham, of which Mr. Aston's letter of the 17th May, 1830 (forming one of the enclosures in your Lordship's Despatch), held out a promise, we wrote an official letter to Mr. Ouseley, requesting to be informed whether any such existed in those of Her Majesty's Mission. To this we have as yet received no written reply; but the draft of a Despatch, dated 19th May, 1832, supposed to have been addressed by Mr. Aston to your Lordship, has been communicated through Mr. Grigg, and we enclose a copy thereof.

This paper, referring to a Despatch from the then Brazilian Minister for Foreign Affairs to the Department of Justice, by which that power of superintendence, that we have so often lamented the want of, would seem, to a certain extent, to have been given to the Commissioners, we requested that search might be made for a document, the existence of which was thus for the first time made known to us, in the hope that, if it should be found not actually to invest the Commission with the requisite authority, it might at least furnish additional grounds for claiming it.

As we have had no further communication from Mr. Ouseley on this subject, we presume he has not met with the paper in question; but our Brazilian colleague (who, your Lordship will remember, is also Under Secretary of State for the Department of Justice) has very obligingly furnished us, at our request, with the accompanying copy, adding, however, that the Minister to whom the Despatch was addressed, Senhor Diego Antonio Feijo (afterwards Regent), went out of office shortly after it was written, and that it was never acted upon; and, though the Brazilian Commissary Judge admits the expediency of such a power being given to the Commission, he denies that, as the case stands, any such exists.

The events now passing, and of which your Lordship will be informed, as well by Her Majesty's Chargé d'Affaires as by our subsequent Despatches, would seem to preclude, at least for the present, the prosecution of this point, or referring your Lordship to our previous correspondence, we should feel it our duty again to point out the total inutility of the great sacrifices made and making by Great Britain, so long as the present mode of disposing of the emancipated negroes be adhered to.

If arrangements, in concert with the Imperial Government, could be made for sending them to a British settlement, their ultimate freedom would naturally be secured; whereas, under the present system, the poor African, by his nominal emancipation, is much worse off, with very few exceptions, than he would have been if sold as a slave by his importer.

In the one case, he is considered and treated, if only from motives of self-interest, with comparative care, as property; in the other, the object of the hirer is to turn his acquisition to as good and immediate account as he can, whether by overworking, or transferring him to another for pecuniary consideration, conscious that, at the worst, he incurs no positive loss beyond that of his services.

Our Despatch of the 27th of October, 1838 described the use that was said to be made, by the then Minister of Justice, of the negroes at his disposal, and the motive by which he is stated to have been induced to yield the point of embargoes, after it had been declared by himself and his predecessors to be absolutely inadmissible, without changing the legislation of the empire, namely, the fear of losing such a source of profit and influence, goes far to prove the truth of the statements on this head.

We have, &c.,

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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First Enclosure in No. 122.

*Mr. Aston to Viscount Palmerston.*

My Lord, *Rio, 19th May, 1832.*

With reference to your Lordship's Despatch, marked "Slave Trade," dated November 1, of last year, respecting the condition of the negroes who have been emancipated in pursuance of sentences of the Mixed Commission Court, at Rio de Janeiro, I have now the honour to inform your Lordship, that I did not fail to call the attention of the Brazilian Minister to this subject, and that, in consequence of the investigations which have been instituted into the actual state of these negroes, measures have been finally adopted, calculated, as it is hoped, to prevent in future the recurrence of those abuses, of which there has hitherto been such just cause to complain.

By a Despatch addressed by the Brazilian Minister for Foreign Affairs to the Department of Justice (a copy of which I have the honour to enclose), it is directed that henceforward a regular correspondence should be maintained between the Brazilian authorities charged with the superintendence of the execution of the Alvará of 1818, relating to the condition of the negroes, and the Mixed Commission, by which arrangement the Commissioners will now be enabled to exercise a proper control as to the treatment of the negroes.

It is but fair to state, that the delay which has occurred towards effecting this desirable object has not arisen from any reluctance on the part of the Brazilian Government to interfere in behalf of those unfortunate individuals, but rather from the difficulty experienced in establishing the necessary communications between the local authorities in so extensive an empire.

In case the present arrangement should not be found to ensure to the negroes the anticipated benefits, I shall again bring this subject before the Brazilian Government, conformably to your Lordship's instructions.

I have, &c.,

(Presumed to have been Signed) ARTHUR ASTON.

*To the Rt. Hon. Viscount Palmerston, G.C.B., &c. &c. &c.*

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(Translation.) Second Enclosure in No. 122.

*The Minister for Foreign Affairs to the Minister of Justice.*

Most illustrious Sir, *Palace of Government, 4th May* 1832.

After the judicious measures contained in the Decree of the 12th ultimo, promulgated by the department over which your Excellency presides, relative to the manner in which ressels, with slaves found on board, should be treated, it is my duty to inform your Excellency that, for the better fulfilment of the philanthropic ends which the Alvará of the 26th January, 1818, had in view, it will be expedient that your Excellency should issue the necessary orders to the judges charged with the hiring of the services of the blacks declared by the Mixed Brazilian and English Commission to be

free, to keep up a regular correspondence with the same on this point, as a precaution against these poor freed men being overcharged with excess of labour, as the public voice declares they are.

I avail, &c.

(Signed) FRANCISCO CARNEIRO DE CAMPOS.

*To Senhor Diego Antonio Feijo,*
*&c. &c. &c.*

(N.B.—The Decree of *the 12th ultimo*, spoken of in the beginning of this Despatch, is that by which the law of the 7th November, 1831, was ordered to be put into execution, and has no reference whatever to the treatment of emancipated Africans.)

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## No. 123.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, April 24th*, 1839.
(*Received June* 27.)

My Lord,

We have refrained from troubling your Lordship with any mention hitherto of the various petty insults and annoyances to which we have been uniformly exposed, on the capture and condemnation of slave-vessels in this port; because, however distressing to ourselves, we were willing to hope that the consequences might go no further.

Of the threats held out to deter Mr. Stevenson from acting as proctor for the Captors in any future case, your Lordship is already aware, as also of the zealous endeavours of Her Majesty's Consul to supply the deficiency.

Latterly, similar attempts at intimidation have been extended to the Commission, which, on the arrival of every successive prize, have been repeated and enforced.

On Saturday, the 20th instant, one of the principals concerned in the slave-vessel "*Ganges*" made his escape, on his return from his examination before the Court, in a way, and under circumstances, which sufficiently confirmed the determination, long previously declared by the traffickers, to oppose the proceedings of the Commission by open violence.

In the enclosed translation from the "*Jornal do Commercio*" of the 23rd instant, will be found the best account which has reached us of this transaction, except that one very material fact is omitted, namely, that, on landing, the prisoner immediately jumped into a carriage which was in readiness, a proof that the whole affair was preconcerted. Her Majesty's Government will, however, doubtless receive the fullest report of what passed from Commodore Sulivan.

On the following night a most melancholy catastrophe occurred. A Brazilian gentleman was mortally wounded by a musket shot from the "*Ganges*" slave-vessel; but we do not trouble your Lordship with the details, as we consider the occurrence to have no immediate connexion with the business of the Commission, and refer to it only as having been artfully and studiously seized by the traffickers to increase the excitement already raised by the success of Her Majesty's cruisers, and the condemnation of the slave-vessels. This excitement was so great that, when the Court met on Monday for the examination of two other prisoners, it was found that their landing had been obstructed, and that, though attended by a small force, both of police and national-guards, the efforts of the populace to rescue the prisoners had been so serious as to oblige the party to take shelter in the guard-house of the Palace, opposite the landing-place, till an additional force could be obtained.

At length, after waiting till late in the afternoon, the prisoners were brought to the Court, but followed by several hundreds of the mob, who were very clamorous, and with difficulty restrained from more open violence.

On the return of the prisoners from the Court, to re-embark, the mob increased in number and excitement. The troops were assailed with every kind of missile, and several persons were wounded; and every individual known, or taken to be, English, was attacked when met.

All this time the police were in constant communication with the Court, which was surrounded by the mob; and at last the Commissioners were told they must not venture out into the street for some time, and must wait for an escort, which would be ready to attend them.

On the following morning the mob was only to be seen here and there in groups, by one of which Her Majesty's Commissary Judge was hooted and

insulted; but, at the meeting of the Court, the Brazilian Commissary Judge, after consultation with the authorities, proposed a suspension of the proceedings of the Commission for a few days, and, just before it broke up, an informal recommendation to the same effect arrived from Her Majesty's Chargé d'Affaires, to whom we must refer your Lordship for the course which may be pursued in this business.

In the mean time, it continues unsafe for the members of the Commission to appear in public; and even a guard, which was promptly given to Her Majesty's Commissary Judge, has not been sufficient to preserve his house from indications of violence.

Various untoward causes have contributed to produce this state of feeling. The deep conviction in the public mind, which nothing can eradicate, and which, we are sorry to say, is shared by individuals who, whether from station or personal bias, are little disposed to give easy credit to anything to the prejudice of British honour and interests, that blacks were sold from the first two prizes brought into this port last year; the irritating demonstration which, during several successive days, at the early part of this year, was made by the slave-vessels actually condemned by the Court; the distribution of the negroes belonging to the "*Flor de Loanda;*" the escape of an individual enjoying British protection, a native of Malta, after having been apprehended on board of that vessel, whither he had repaired to complete the purchase of some of them, for whom, as he alleges, he had already paid a sum in advance, under circumstances but too well calculated to give colour to the report that he had been allowed to escape because he could tell too much, and because he was English; the recent sale, by public advertisement, and the auction of the hull of the "*Flor de Loanda;*"—these several causes, combined with the severe losses which the traffickers have lately suffered, and are daily apprehending have produced a spirt of hostility to the Commission and its proceedings, in all cases covered by the Portuguese flag (and none other are to be expected), which we much doubt whether it will be in the power of the Imperial Government, even supposing them to have the will, to withstand. The hesitation to proceed with the business of the Commission strengthens this impression; and there is too much reason to fear, that the first attempt to bring another prisoner before the Court—and, still more, any fresh capture which may be made—will cause a repetition of the scenes of the last few days.

Under such circumstances, it will be for the wisdom of Her Majesty's Government to determine the course which it may be most advisable to adopt; but, inasmuch as the condemnation of vessels, sailing under the Portuguese flag, by this Mixed British and Portuguese Commission, can, for the most part, take place only on the principle that they are not entitled to the protection of that flag; and as not only our treaty with Brazil, but the laws of this empire, preclude the possibility of slave adventures being covered with the imperial colours, we would humbly suggest, as a preferable course, so long as Portugal shall refuse her assent to any new treaty or stipulation, the treating of all slave vessels sailing under the flag of that country as outlaws and pirates, and dealing with them, and their respective crews and cargoes, in such manner as to Her Majesty may seem expedient, without bringing them into this port, or before this Commission.

Such a course, besides other advantages, would have the welfare of the negroes to recommend it, the professed security for which is now completely illusory.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

P.S.—Since writing the above, fresh directions have been issued from the Department of Justice, with reference to the distribution of the Africans belonging to the "*Carolina,*" and to any other vessels which may hereafter be condemned, of which, in justice to the new administration, we think it right to forward a translation; but we must add that those directions in no way alter our view of this question.

(Signed) G. J.
F. G.

## First Enclosure in No. 123.

(Translation.) *"Extract from the Jornal do Commercio."*

SATURDAY evening the captain of one of the prizes now in this port, who had been brought ashore to be examined before the Mixed Commission, was returning on board, accompanied by some marshalmen; in the act of embarking, the prisoner attempted to escape, but was retaken and put again on board of the English boat, which had scarcely shoved off, when some persons on the beach called out to the prisoner to throw himself into the sea, which he immediately did, and made for shore. Upon this, a shower of stones fell on the boat with a view to cover the flight of the prisoner, who, in fact, effected his escape.

Another scene, of a more grave nature by its possible consequences, occurred yesterday. Two prisoners were brought on shore to appear before the Mixed Commission. They had scarcely landed when a multitdue, assembled on the quay, gave signs of wishing to rescue them. The escort that accompanied them, being few and weak, they withdrew them to the Palace Guard-house. In the meantime the assemblage increased, and became tumultuous. The Justice of the Peace arrived, and, some time after, the Chief of Police, who hastened to address an harangue to the assembly, which, being received with respect and attention, appeared to pacify them.

The Chief of Police then availed himself of this, and ordered the prisoners to be taken to the Mixed Commission, where they arrived without accident. But the English boat, which was to take them again on board, had already arrived at the quay. The multitude became again exasperated, and attacked it with stones. The boat retreated to the Marine Arsenal. The mob directed itself in mass to that point, the boat receiving orders to withdraw, but did not disperse, to commence anew the same disturbances shortly afterwards. At six o'clock, the prisoners left the Court in the midst of a great concourse of people; at the corner of Rue dos Pescadores stones and bundles of wood were thrown at the "Permanentes" of the escort, but they at last succeeded in getting the prisoners into the Arsenal, and embarking them in two armed boats belonging to the same, which took them on board.

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## Second Enclosure in No. 123.

(Translation.) *The Minister of Justice to the Judge of Orphans.*

*Department of Justice. Palace, 22nd April,* 1839.

THE Regent, in the name of the Emperor, orders that, so soon as you shall be informed, by the Municipal Judge, that he has taken in charge the brig "*Carolina*," which has just been condemned by the Mixed Commission for having been employed in the illicit traffic of slaves, you will repair on board in concert with the same Judge, to take account of the Africans there existing, as has been usual in similar occasions, in order afterwards to proceed to the hiring of the services of the same, in conformity with the instructions of the 29th October, 1834, and 19th November, 1835, observing with respect to their distribution (in order that no fraud or abuse whatever may be practised) as follows:—

In the list which, according to the 6th article of the said instructions, should be submitted to the approval of Government, all necessary remarks should be made for the information of the same, accompanied with the requisite notices respecting the persons residing out of the municipality who may apply for them.

That, after the distribution shall be made and approved, the same be published in the papers, not only for the knowledge of those to whom the Africans may be confided, but also for that of the public.

Orders have been issued to the Commander of the corps of "Permanentes" to furnish, upon an understanding with you, the necessary force for the custody and security of the said Africans, during the time of their being distributed. Until further orders, you are to understand that the same is to be always practised in future.

(Signed) FRANCISCO DE PAULA DE ALMEIDA E ALBUQUERQUE.

*To the Judge of Orphans,* ad interim, *in this City.*

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## No. 124.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, April 27th,* 1839.
*(Received, June 27th.)*

MY LORD,

THE confusion arising out of the late events, and the difficulty of access to the Office of the Commission, rendered it impossible for us to forward the several despatches prepared for the packet, which sailed on the 25th instant, by that conveyance.

We now avail ourselves of a fast-sailing vessel to Guernsey to forward the same, to which we can only add, that though the mob has disappeared, with the immediate cause which called it forth, much excitement still continues in

the city. Both the Commissary Judges have had warnings given them to be on their guard, and the proceedings in the trials pending before the Court are still suspended.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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No. 125.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, June 29th,* 1839.

Circular transmitting papers presented to Parliament.

(See No. 1, page 1.)

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No. 126.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, April 29th,* 1839.
(*Received July 11th.*)

MY LORD,

IN our report of the sale of the slave vessel "*Brilhante,*" we called your Lordship's attention to the low price at which that vessel had been sold, and to the circumstances which caused it.

We have now again to notice, still more pointedly, the inconsiderable sum at which the "*Feliz*" and the "*Diligente,*" were both appraised and sold, and which, when compared with the sales of other vessels, and even with that of the decayed timbers of the "*Flor de Loanda,*" is so absurdly diminutive as at once to disclose the frauds, and trickery, and intimidation, which, from the moment of condemnation, must, and notoriously have been resorted to by the traffickers, to produce such a result.

Knowing to what an extent this system is carried, we thought it right to let the senior officer of Her Majesty's ships on this station be made acquainted with it, in case he should think proper, by a higher bidding, or otherwise, to counteract it.

In the first case, that of the "*Feliz,*" the proceeds fell short of the expenditure 850 rs. 690. ff.

In the second, the "*Diligente,*" the deficiency was not less than 3073 rs. 700 ff.

This difference, however, may in part be accounted for by reference to time and numbers.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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No. 127.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, April 29th,* 1839.
(*Received July 11th.*)

MY LORD,

REFERRING your Lordship to our Despatch of the 17th instant, announcing the condemnation of the brigantine "*Carolina,*" we have now the honour to enclose herewith the following papers relative to this vessel.

Commander Preston's declaration.

Report of the case and the sentence of the Court, adjudging the adventure to be Brazilian, condemning the "*Carolina*" as a good prize to Her Majesty's sloop "Electra," and emancipating the surviving slaves to the number of 211; 3 having died since capture.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## First Enclosure in No. 127.

*Captor's Declaration.*

I, WILLIAM PRESTON, Commander of Her Majesty's sloop "Electra," hereby declare, that, on this 27th day of March, 1839, being in south latitude 24° 18′, and west longitude 40° 45′, I detained the brigantine named the "*Carolina*," sailing under Portuguese colours, armed with two guns, commanded by Francisco Ferreira dos Santos Serva, who declared her to be bound from Ambriz to Rio de Janeiro and Moçambique, with a crew consisting of 18 men, Luiz da Rocha Miranda, supercargo, Candido Jozé de Leaõ, Jozé Antonio Guimaraens, Manoel Francisco de Socorro, passengers, and having on board 211 slaves, said to have been taken on board at Ambriz, on the 23rd February, 1839, and are enumerated as follows:—

| | Healthy. | Sickly. |
|---|---|---|
| Men . . . | 77 | 17 |
| Women . . | 13 | 0 |
| Boys . . . | 66 | 1 |
| Girls . . . | 37 | 0 |

And that the papers and documents seized by me on board the said brigantine, being marked from No. 1 to 6, are enumerated in the following list:—

No. 1. Passport.
2. Muster-roll.
3. A document part written and part printed.
4. Three written documents.
5. A sealed letter.
6. A Log or Journal up to the 8th March, 1839.

I do further declare that the said brigantine appeared to be sea-worthy, 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) WM. PRESTON,
Commander of Her Majesty's sloop "Electra."

Witnesses—A. SANDERSON, Surgeon.
E. A. WILLIAMSON, Purser.

N.B. A Supplementary Declaration of Commander Preston states the total number of blacks found on board the "*Carolina*" at 214; 1 sick woman and 2 infants having been overlooked at the moment of capture.

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## Second Enclosure in No. 127.

*Report of the Case of the Brigantine* "Carolina," *condemned on the 16th April*, 1839.

THIS vessel, bought by a subject of Portugal, Luiz da Rocha Miranda, at Rio de Janeiro, in 1836, was furnished with a passport from the Governor of Angola "Vidal," dated 11th October, 1838, for a voyage from thence to Moçambique, touching at Ambriz and Rio de Janeiro. Her manifest declared her to be in ballast of 63 pipes of salt water.

She was detained on the 27th March, 1839, in latitude 24° 18′ S., longitude 40° 45′ W., by Her Majesty's sloop "Electra." William Preston, Commander, with 214 slaves on board.

The declaration of the captor having been received on oath on the 3rd instant, and the usual monition having issued, according to the forms of this country, five witnesses were examined.

First Witness.—Antonio Lopez da Costa, boatswain and pilot, native of Lisbon, subject of Her Most Faithful Majesty, swore that the owner is Luiz da Rocha Miranda, and that he was living in the street "Traz do Hospicio," in this city, when he sailed in the month of June last; that he was Portuguese; that Remigio dos Martires was his correspondent at Loanda; that his (the witness's)

agreement was with the captain both on the outward and home voyage; that the latter was in ballast to Mozambique, touching at Ambriz and Rio de Janeiro; that he knew only of blacks being to be received when they came on board; that he first came to Brazil in 1833, and had been since then sailing to and fro from the coast of Africa.

Second Witness.—Candido Jozé Leao, Brazilian subject, swore that he was a passenger on board the "*Carolina*;" that he did not know the name of her owner, nor that the vessel was to carry blacks; that he sailed for Angola in August last from Bahia, and that his object was licit trade.

Third Witness.—Francisco Ferreira dos Santos Serva, subject of Her Most Faithful Majesty, swore that Luiz da Rocha Miranda was the owner; that he resided at Rio when the vessel sailed from hence; that he despatched her, and that it was with him, he (the captain) made his agreement; confirmed the statement that Remigio dos Martires was the correspondent at Angola, and that the latter proposed to him to take African colonists to Moçambique, touching at Rio to receive a pilot, as he had never been at the former place.

Fourth Witness.—Manoel Francisco do Socorro, Brazilian subject, admitted, that, before the abolition, he had been in the habit of going to and fro from the coast, swore that he sailed from hence in this vessel last year for Angola, but denied any knowledge of the owner; that his trade was lawful, not for slaves; that he left goods to the value of 1,500,000 reis at Angola, from fear of the fever, and that he embarked in this vessel for the chance of putting into Rio.

Fifth Witness.—Joze Antonio Guimaraens, subject of Her Most Faithful Majesty, swore that he sailed from hence in January last for the coast Africa, but denied all knowledge of this transaction; that he went to Angola to engage in a house there as clerk, but that, finding the person dead, he returned here.

This vessel was unprovided with any certificate of register, and it being proved that the owner, who purchased her in this port in 1836, has since constantly employed her in voyages between Brazil and the coast of Africa, fitting her out himself for Angola last year, that she has been in the habit of entering at this custom-house *in transitu*, as being bound in ballast for Moçambique, but, in fact, sailing again direct for the west coast of Africa. The Commissary Judges ajudged the adventure to be Brazilian, passed sentence of condemnation on the "*Carolina*," as good prize to Her Majesty's sloop "Electra," William Preston, Commander, and emancipated the surviving slaves to the number of 211.

*Rio de Janeiro*, 16*th April*, 1839.

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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## 3rd Enclosure in No. 127.

(Translation.) *Sentence.*

*Rio de Janeiro*, 16*th April*, 1839.

THE present proceedings being examined respecting the captain of the brigantine "*Carolina*," by Her Britannic Majesty's sloop of war "Electra, on the 28th of March last, in 24° 13′ S., and longitude 40° 45′ W., for having on board 211 (214) Africans, it is ascertained that these wretched beings were intended for the inhuman traffic in slaves, under the fictitious appellation of colonists. For it is seen, by the papers taken on board, that this vessel, having cleared out at Angola, in ballast, for Moçambique, to touch at Ambriz and Rio de Janeiro, did in fact sail for this penultimate port; and having received the Africans on board, departed immediately for the coast of Brazil, the real destination of her voyage, and not for Moçambique, as was fraudulently pretended, which is proved as well by her being fallen in with and detained in the place above mentioned, as by the stock of water and provisions taken on board, fit only for a customary voyage to Brazil, and by no means for a voyage to Moçambique; however the master in his deposition may endeavour to colour such deficiency, by alleging an intention, on leaving Ambriz, to touch at this port, and here to refit with whatever might be wanted for the prosecution of his long voyage, because this being directly opposed to the express injunction in the letter of orders, that the said master should not touch at Rio de Janeiro, but, on the contrary, should proceed direct to Moçambique, it is evident that this vessel should have been supplied with the requisite provisions, if, in fact, her voyage had been to Moçambique, as is pretended.

It is further seen that this same vessel, purchased in this port in the year 1836, by Luiz da Rocha Miranda, a Portuguese subject, has been constantly employed in voyages to the coast of Africa, uniformly returning and putting into this port, in ballast, without ever showing that she had been at Moçambique, notwithstanding that, according to her papers, such would appear to be her destination, as was lately practised in March, 1838, since the certificate proves that she then entered at the Custom-house of this city, as touching here in ballast, having sailed from Angola, as is pretended in the present instance, for Moçambique, after, of course, landing Africans on some point of this coast, as she would have done on the present voyage, if she had not been fallen in with by the sloop which captured her.

It being, therefore, clear that the brig in question intended to land the Africans in Brazil; that she was purchased, as has been stated, in 1836, by Luiz da Rocha Miranda, a resident in this place, who fitted her out from this very port, and despatched her, from that time to the present, to the coast of Africa; since by the depositions of the mate and boatswain, it appears that at the period of her late voyage from hence, the above-mentioned Miranda resided here, although it being alleged, without, however, being proved, that he is at present on the coast of Africa; to which is to be added the irregularity of the papers with which she sailed under the Portuguese flag, inasmuch as it being expressly required by the Maritime Code of that nation, that a certificate of registry should be one of the ship's papers, and essential to establish the ship's national character, such document is not among her papers, which constitutes this whole adventure Brazilian, and that the Portuguese flag is

assumed only to protect the fraud with which such speculations are most immorally carried on. The Commissary Judges of the Mixed Commission adjudge the brig "*Carolina*" to be lawfully detained by, and to be a good prize to Her Britannic Majesty's sloop "Electra," and condemn her, with whatever cargo may be on board, in conformity with the additional Convention of the 28th July, 1817, with that of the 23rd November, 1826, and with the instructions in 1835, excepting the Africans to the number of 211, now existing, whom they declare to be free and emancipated, in order to their being placed at the disposal of the Government of His Imperial Majesty, according to the seventh article of the regulations annexed to the said Convention of 1817.

(Signed) JOAO CARNEIRO DE CAMPOS.

G. JACKSON.

A true Copy. (Signed) BRAZ MARTINS DA COSTA PASSOS, Secretary.

A true translation. JOHN BAPTIST COSMELLI,
Interpreter *ad hoc* to the Mixed Commission.

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No. 128.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, April 29th,* 1839.
(*Received July* 11*th.*)

My Lord,

On the arrival of the slave vessels "*Carolina*" and "*Especulador,*" the Brazilian Commissary Judge applied to his government for authority to name an interpreter *ad hoc*. When, however, the proceedings of the two last prizes sent in were about to commence, it was found that the authority given did not extend beyond the former cases, which necessitated a further application to his government.

In the answer which he received, and of which we enclose a translation, it is recommended to select a person permanently for the situation, and our colleague applied to us to concur with him in doing so.

This, under your Lordship's instructions, we did not feel ourselves at liberty to do, and we have, therefore, limited our concurrence to the nomination, *ad hoc*, in each successive case.

The same course, and for the same reason, has been followed in regard to the Marshal, but we trust we shall soon be honoured with your Lordship's further instructions on both these points, not only as the service is far less satisfactorily performed, but as the expence attending it is much greater.

We have, &c.,

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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Enclosure in No. 128.

*M. de Oliveira to M. de Campos.*

(Translation.) *Palace,* 18*th April,* 1839.

Replying to the Despatch which you addressed to this department under date of the 11th instant, I have to inform you that the Regent in the name of the Emperor, has been pleased to authorize you to admit John Baptist Cosmelli as interpreter in the process of the brig "*Ganges*" taken with Africans on board, and in any other similiar cases.

But, as it is expedient to prevent once for all the circumstance in question, the Imperial Government thinks fit that the Mixed Brazilian and English Commission do recommend a person with the requisite qualifications, to fill permanently the place of interpreter in all such cases, which I communicate to you for your Government.

God preserve, &c.,

*To Senhor Joao Carneiro de Campos.*
*&c. &c. &c.*

(Signed) CANDIDO BAPTISTA DE OLIVEIRA.

A true copy. (Signed) BRAZ MARTINS COSTA PASSOS, Secretary.

A true translation. JOHN BAPTIST COSMELLI,
Interpreter *ad hoc* to the Mixed Commission.

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No. 129.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, April 29th,* 1839.
(*Received July* 11.)

MY LORD,

IN our Despatch of the 16th January last, we stated that the question of prosecuting subjects of Portugal, proved before the Court of Mixed British and Brazilian Commission to have been engaged in the traffic of slaves, in the vessels brought before it for adjudication, had been laid before the Imperial Government, who referred it to the law officer of the Crown.

His report has not been published, but the public prosecutor has been instructed to institute proceedings against the individuals so implicated in the cases of the "*Diligente*" and "*Feliz*," and he has applied accordingly to the Registrar of the court to be furnished with the necessary documents.

Such a step however will do no more than establish the principle, as it is more than probable the individuals in question will not be forthcoming, and certain that even should they be found, they will be acquitted by any jury before whom they may be tried.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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No. 130.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro May 6th,* 1839.
(*Received July* 11.)

MY LORD,

WE have the honour to acknowledge the receipt of your Lordship's Despatch of 20th February, 1839, referring us to a part of our Despatch of the 14th July, 1838, in which we are supposed to state that British merchants are concerned, and that British capital is employed in Brazil in Slave Trade, and desiring that we will collect and transmit to your Lordship all the information we can obtain, with a view to facilitate the identification and prosecution of such persons as may be concerned in these transactions.

In reply, we beg leave respectfully to represent to your Lordship, that our statement in the Despatch referred to seems to have been misunderstood, and that a greater latitude appears to have been given to our expressions than they were intended to convey. That there is nothing to prevent any British subject from buying and selling slaves in Brazil, every day's practice fully demonstrates; and the case of Dr. William Cullen—by no means, we regret to say, a solitary one—is an instance of a British subject making purchases of blacks, imported since the promulgation of the law of the 7th November, 1831, by which, as your Lordship is aware, every African entering the territory of Brazil after that date, with only two exceptions, becomes, *de facto*, free; but that British merchants are concerned in the Slave Trade we never meant to affirm, although we certainly did, and still must very distinctly advert to the indirect, if not, as we before said, direct interest which both they and British capital derive therefrom.

In confirmation of the former we observed, that it was chiefly with British goods, technically called *coast goods*, that the African market was supplied through this country, and that the payment of the same had been in some instances refused, temporarily or conditionally, by those whose speculations had been ruined by the capture of their vessels.

As regarded British capital which, we have been assured on what we consider good authority, has suffered severely in this city from the recent captures, we reminded your Lordship that the various undertakings going on in this country, which are every day multiplying, and which are for the most part the result of British enterprise, are all dependent on slave labour.

In a Despatch from Her Majesty's Commissioners, dated the 10th August, 1837, it was stated that the property of the Candonga Mining Company in this country was, by express instruction from the Association in London, to be worked wholly, or as much as possible, by hired negroes. We since learn that this has been found impracticable, and that this Company now goes into the market for its slave labour like any other establishment.

We have, &c.,
(Signed) GEORGE JACKSON,
FRED. GRIGG.

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

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No. 131.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, May 6th,* 1839.
(*Received July* 11*th.*)

My Lord,

In our Despatch of the 3rd ult. we had the honour to report the detention, by Commander Preston of Her Majesty's sloop "Electra," of the brigantine "*Especulador.*"

We beg leave now to transmit the following papers regarding the same:—

Commander Preston's declaration.

The sentence of the court, condemning the vessel, emancipating the slaves, and declaring her Master, Manoel Joaquim Negrao, to have incurred the penalty assigned in the 1st Article of the Convention of the 23rd November, 1826.

Our report of the case.

We have, &c.,
(Signed) GEORGE JACKSON,
FREDERICK GRIGG.

*The Right Hon. Viscount Palmerston,*
*&c. &c. &c.*

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First Enclosure in No. 131.

*Captor's Declaration.*

I, William Preston, Commander of Her Britannic Majesty's sloop "Electra," hereby certify, that, on this 25th day of March, 1839, being in south latitude 22° 35′, and west longitude 39° 30′, I detained the brigantine named the "*Especulador,*" (which had no colours hoisted at the time of detention, but Portuguese only found on board,) commanded by Manoel Joaquim Pereira Negrao, who declared her to be bound from Anha to Rio de Janeiro, Monte Video, and Mozambique, with a crew consisting of 14 men, Joze J. Teixeira, supercargo, three passengers, and having on board 278 slaves, viz.:

| | Healthy. | Sickly. |
|---|---|---|
| Men . . . | 83 | 3 |
| Women . . | 65 | 2 |
| Boys . . . | 61 | 4 |
| Girls . . . | 52 | 8 |

And that the papers and documents seized by me on board the said brigantine, being marked from No. 1 to No. 9, are enumerated in the following list:—

No. 1. Passport.
2. Muster-roll.
3. Three printed documents.
4. Six written documents with stamps.
5 A package of fifteen documents.

6. A package of nine letters.
7. Forty bills and eight written documents.
8. Four log-books.
9. A written book.

(Signed) WM. PRESTON, Commander.

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## Second Enclosure in No. 131.

(Translation.) *Sentence.*

*Rio de Janeiro, 4th May*, 1839.

THE present proceedings, respecting the capture of the pataxo "*Especulador*," by the English sloop of war "Electra," in lat. 22° 35′ S., long. 39° 30′ W., being examined, it is seen that the captured party endeavours to prove, by the bill of sale, that Jozé Joaquim Teixeira, residing in Benguela, bought, on the 14th May, 1834, by his agent, Antonio Ferreira Lopez, from Manoel Alvarez do Rio, residing in this city of Rio de Janeiro, (for in the bill of sale he is declared to be present,) the above-mentioned pataxo, for the sum of 1 conto and 200 milreis; it being in the bill of sale expressly stated that the seller (as appeared from another bill of sale that he presented) was owner and possessor of the pataxo in question, which was said to be then in this port under Portuguese colours; although neither in the bill of sale executed in the Portuguese Consulate, nor in the acknowledgment of the payment of the duty to the Board of "Diversas Rendas," is it declared that the said Alvarez was Portuguese; which would not have been omitted, had he in fact been so, as was practised in the case of the buyer.

It is seen, by another bill of sale, that Manoel Alvarez do Rio, residing in Lisbon, (as appears from a letter inserted in the same, dated 1st September, 1832,) having authorized Manoel Jozé Gonsalvez to buy for him a small vessel, the latter executed the commission by purchasing, on the 19th December of that year, from André Gonsalvez da Graça, the aforesaid pataxo, being Brazilian-built. Now, if Manoel Alvarez do Rio, when he bought her, was at Lisbon, and, when he sold her, was at Rio de Janeiro, it follows either that he changed his domicile in the interval between December, 1832, and May, 1834; in which case the character of the vessel and that of the transaction, as regards the effect of her capture, is different; or that his existence in Portugal was simulated, and thus the vessel continued Brazilian.

A further circumstance, tending, in a legal point of view, to invalidate the force of the first bill of sale, with reference to the nationality and residence of Manoel Alvarea do Rio, is, that in the registry made at Benguela, the pataxo is said to be sold to Teixeira by Manoel Gonsalvez do Rio, a Portuguese subject, residing in Setubal; while he is described as being in this city when he made the sale on the 14th May, 1834, and in Lisbon when it is pretended that he made the purchase in December, 1832; a concurrence, finally, of error both as to date and person, which is very important to consider for the establishment of the fraud which marks the whole transaction—of date, because, the purchase being pretended to have been made on the 14th May, 1834, the Benguela register dates it in February, 1835—of person, because the seller, at Rio de Janeiro, being Manoel Alvarez do Rio, in the register of Benguela he is declared to be Manoel Gonsalvez do Rio; the pretended actual owner being thus made to appear neither to know when he bought the pataxo, nor the name of the person from whom he bought her,—an indisputable argument that the bill of sale, made out with the sole object of covering the real owner, residing here, was not transmitted there (Benguela), and, consequently, was not produced in the act of registry; as, if it had been, such important mistakes would not have been made.

It being then impossible to consider the pataxo in question as Portuguese before the 14th May, 1834,—more especially as it does not appear that, at the time of the first purchase in December, 1832, the duties, commonly called the Timber Fees, were paid in the Portuguese Consulate, where the act ought to have been passed,—it remains to be seen whether, since May, 1834, to the present time, she can be considered as being legally Portuguese.

The previous facts depose against the good faith of the acquisition, and the subsequent ones do not improve her condition, from the fact of the Brazilian national character of her Master, Manoel Joaquim Pereira Negrao, who is proved to have been in the service of the Brazilian squadron, in 1827, as a warrant officer of the same; and still more,—what in law may be called *proof-proven*,—from a certificate given by the Brazilian Vice-Consul in the Island of Madeira, declaring the aforesaid Master to be a Brazilian citizen, on the authority of witnesses to that document, and on his own affirmation, that he was in Brazil at the time of the declaration of her independence, and that he had adhered to the same, with the full intention of continuing thenceforward a Brazilian subject.

It is alleged, on behalf of the captured party, that the bill of sale and the certificate of register are all that is necessary to constitute the proof of the nationality and ownership of the vessel; but it being an incontrovertible principle of maritime law that the documents in proof of the ownership of any vessel should aid each other by a complete coincidence, in the present case the Benguela register does not accord with the Rio bill of sale, neither in time nor in person; the consequence of which disagreement is a failure by means of these documents only in that certainty which is required for the establishment of ownership, and that it is necessary to have recourse to inductions and collateral arguments to determine the same, as also the objects of the voyage.

Now, these inductions and arguments all combine to induce the condemnation of the pataxo, and to cause the adventure to be considered as belonging to persons residing in this city, from whence she sailed, and to which she was to return with the cargo of Africans with which she was met; the description and various marks of whom, as well as papers found on board, leave no doubt that they belong to divers individuals, and that the pretended owner in Benguela is nothing more than a man of straw (already recognised as such in this court), who, besides having so badly played his part as, in his declaration to obtain his register, neither to hit upon the date of his supposed purchase, nor upon the real name of the seller of the pataxo, fails also to show (nor is any such proof to be found in the process), that the Africans belong to him, since he does not even so designate them. Supposing the alleged letter of orders to be genuine,—on the contrary, from the terms in which he expresses him-

self, directing the captain to repair to the port of Anha, to receive from André Soares 306 blacks that he has there ready,—according to the communication he had made to him, he gives no idea whatever of ownership, or property in the same, there being no invoice, nor bill of lading, nor minutes in proof thereof—documents most essential, and without which there can be no proof of ownership.

Inasmuch then as, besides what has already been stated, all the papers found on board, combined with the log and the examination of the same, and with the latitude in which she was found, establish the certainty that this vessel was coming direct to Rio de Janeiro, in order to land here the Africans by contraband, as she had received them in Benguela, or at Anha, bought and shipped on account and for the risk of persons resident in Rio de Janeiro, whether Brazilians or Portuguese,—the impudent assertion that these same Africans were going to be exchanged for others less slothful in Mozambique, being a mockery to common sense, the Commissary Judges of the Mixed Commission adjudge lawful the detention of the aforesaid pataxo "*Especulador*," declare her to be good prize to Her Majesty's sloop of war "Electra," and condemn her, with all her cargo on board, in conformity to the Additional Convention of the 28th July, 1817, and to that of the 23rd November, 1826, with the exception of the existing Africans, to the number of 268, whom they declare to be free and emancipated, to be placed at the disposal of the government of His Majesty the Emperor, according to the 7th Article of the Regulation, annexed to the aforesaid Convention of 1817; and the master of this vessel, Manoel Joaquim Pereira Negrao, to have incurred the penalty assigned in the 1st Article of the Convention of the 23rd November, 1826.

(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.

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## Third Enclosure in No. 131.

*Report of the case of the Patacho* "Especulador."

*Rio de Janeioro, 4th May*, 1839.

THIS vessel, Brazilian-built, and avowedly Brazilian property in 1832, was, it is pretended, sold first to a Portuguese subject, residing in Portugal, and, subsequently, in 1834, to a subject of Her Most Faithful Majesty, residing at Benguela, named Jozé Joaquim Teixeira.

The "*Especulador*" was furnished with a passport from the Governor, *ad interim*, of Benguela, for a voyage to Moçambique, touching at the ports of Anha and Monte Video, which declares both her owner and captain to be Portuguese subjects.

The Custom-house clearances, as usual, describe her as in ballast of 38 pipes of water. Besides these documents, the "*Especulador*" had on board a paper purporting to be the certificate of registry, required by the Portuguese Decree of 17th December, 1836; but which (as is demonstrated at large in the sentence) was so full of inconsistencies, as to prove it to be fictitious.

This vessel was detained on the 25th day of March, 1839, in south lat. 22° 35′, west long. 39° 30′, by Her Majesty's sloop "Electra," William Preston, Commander, with 278 slaves on board. The declaration of the captor having been received on oath, on the 3rd of April, 1839, and the usual monition having been issued, according to the forms of this country, six witnesses were examined.

The first witness, Manoel Joaquim Pereira Negrao, deposed that he was born in Portugal; that he is a subject of Her Most Faithful Majesty; that he was appointed captain of the "*Especulador*" by her owner, Jozé Joaquim Teixeira, in Benguela, and that his agreement was to go to the port of Anha to ship the Africans, and from thence to Moçambique. This witness, at first, swore that he came to Brazil, for the first time, in 1830, but it was afterwards proved by a warrant, found on board, that he had served in the Brazilian navy in the year 1826.

The second witness, Antonio Pereira, native of Oporto, subject of Her Most Faithful Majesty, boatswain, deposed that in Benguela, Joze Joaquim Teixceira was owner of the vessel, but that he did not know who was the owner in Rio, this being the first voyage he had made in her. His evidence, as to the embarkation and destination of the Africans, confirmed that of the preceding witness, but he denied any knowledge of the papers, and of her being despatched in ballast. He further swore that he came to Brazil, for the first time, in 1825, and that this was his first voyage to the coast of Africa, having sailed from hence last year, in a vessel, the sloop "*Mariana*," belonging to the deceased Governor of Benguela, named Justiniano Jozé dos Reis.

The third witness, Boaventura Jozé da Veiga, deposed that he was a Portuguese subject, born at Lisbon; that he came to this country while a youth, but that he had returned to Lisbon several times, and that he was there at the period of the declaration of the independence of Brazil; that he was only a passenger on board the "*Especulador*," whose owner's name was Teixeira; that none of the Africans on board this vessel belonged to him, and that he had no concern whatever in her; that certain papers found on board, indicating the contrary, referred to another vessel, of which he was pilot, and in which he left this country last August, but which was not engaged in the traffic of slaves.

It was subsequently ascertained that several of the Africans on board had marks on them exactly corresponding with the description given of negroes, said, in memoranda and notes found on board and directed to him, to be sent with such notes. This fact confirmed the previous conviction that this individual was the principal agent in the whole transaction; but he persisted, to the last, in his denial of all participation in it.

The fourth witness, Laurindo Arcenio Alvarez, swore that he was a Portuguese subject, native of the Cape Verd Islands; that he came to this country in 1824; that he gained his living as clerk in commercial houses; that he was only a passenger in this vessel, and that he knew nothing either of her or of the Africans on board.

It appeared, however, that he was in the habit of going backwards and forwards to the coast of Africa, and that he sailed from hence in the slave-vessel "*Brilhante*" (captured on her return by Her Majesty's brig "Wizard"), and that he was sent on board by a man named Joao Moreira, living in this city. Being questioned respecting a letter found on board, dated at Benguela, making mention of a certain number of slaves which the writer had been desired, by a letter from a person resident in this city, and which was entrusted to this witness, to send in return for goods also sent by him from hence, he admitted having received a letter and a parcel of goods, when on the point of sailing, through the above-mentioned Moreira.

The fifth witness, Manoel Antonio Rodriguez, swore that he was a Portuguese subject; that he came in this vessel as passenger; that he heard that Jozé Joaquim Teixeira is her owner, but he believed her to be Brazilian-built, and that he sailed from hence last October, in the sloop "*Mariana*," belonging to the widow of the defunct Governor of Benguela.

Sixth witness, Joao Correia, a Portuguese subject. This witness's deposition was no otherwise material than as proving that he also belonged to the above-mentioned sloop "*Mariana*."

An examination of the log of the "*Especulador*," by the master of Her Majesty's ship "Stag," demonstrating that she intended from the first to make Cape Frio, confirmed the conviction that the adventure was Brazilian, and, disregarding the pretended certificate of Registry and Bill of Sale as being fictitious, the Commissary Judges passed sentence accordingly on the 4th May, 1839, condemning the "*Especulador*" as good prize to Her Majesty's sloop "Electra," William Preston, Commander, and emancipating the surviving slaves to the number of 218, ten having died previous to adjudication.

(Signed) GEO. JACKSON,
FRED. GRIGG.

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## No. 132.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, May 8th,* 1839.
(*Received July 11th.*)

My Lord,

On the 9th ultimo, Commodore Sulivan addressed to the Commission a letter, of which the enclosed is a copy, to which we thought best, instead of communicating immediately to the Brazilian Commissioners, to return the reply, of which a copy is also enclosed.

To this no answer has been returned; but we understand that numbers from the several detained Slave Vessels have been sent on board the ship, referred to in our letter to the Commodore as provisionally hired for the purpose.

We have, &c.
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## First Enclosure in No. 132.

*Commodore Sulivan to the Mixed Court.*

*Her Majesty's Ship "Stag," Rio de Janeiro, April* 9, 1839.

Gentlemen,

I have the honour to enclose the copy of a report from the Surgeon of Her Majesty's ship under my command, on the state of the prisoners therein mentioned.

And I have to request you will be pleased to give directions for their being immediately sent to the hospital, or some place prepared for them, as I cannot keep them on board the "Stag," at the risk of my own men catching the disorder.

I have, &c.,
(Signed) T. B. SULIVAN,
Commodore and Senior Officer.

*To the Gentlemen of the Mixed English and Brazilian Commission Court, Rio de Janeiro.*

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## Sub Enclosure.

*Her Majesty's Ship "Stag," Rio de Janeiro, April 9th,* 1839.

Sir,

Nine of the prisoners forming part of the crews of the Slave Vessels "*Carolina*" and "*Especulador*," discharged into this ship, being afflicted with complaints, for which I would recommend hospital treatment, some being of a contagious nature, I beg leave to enclose you a list of their names and diseases.

I have, &c.,
(Signed) RICHARD DOUGLAS, *Surgeon.*

*To Commodore Sulivan, C.B.,*
*&c. &c. &c.*

LIST of Prisoners on board Her Majesty's Ship "Stag," recommended to be sent to the Hospital at Rio de Janeiro.

*9th April*, 1839.

| Vessel belonging to. | Names. | Disease. |
|---|---|---|
| CAROLINA . . . . . | Juan Jozé de Cunha . . . | Virulent itch, or craw-craw. |
| ,, | Francisco de Servia . . . | Fever and diarrhœa. |
| , | Manuel Ignacio . . . . | Virulent itch. |
| ,, | Candido Jozé de Leaõ . . . | Itch and bowel complaint. |
| ,, | José Antonio Guinet . . . | Virulent itch, in an ulcerated state. |
| ,, | Manoel Juan de Castro . . | Fever and diarrhœa. |
| , | José Lorinda . . . . . | Fever, debility, and edema of ankle-joint. |
| ,, | Juan Jozé Correia . . . . | Rheumatism, and swelling of the wrist. |
| ESPECULADOR . . . . | Michael Antonio Rodriguez . | Enlargement of the abdomen, diseased liver, and mesenteric glands. |

(Signed) RICHARD DOUGLAS, *Surgeon.*

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## Second Enclosure in No. 132.

*Her Majesty's Commissioners to Commodore Sulivan.*

*Rio de Janeiro*, 11*th April*, 1839.

SIR,

To avoid superfluous correspondence, we have suspended for the moment the communication to our Brazilian colleagues of your letter of the 9th instant, received yesterday, addressed to this Mixed Commission, in which you request it to give directions for the immediate removal of nine of the prisoners, part of the crews of the Slave Vessels "*Carolina*" and "*Especulador*," to the hospital, or some place prepared for them, as you cannot keep them on board the "Stag" at the risk of infection.

The only reply which this Commission could, as a body, make to you, would be, that it has no means at its command of complying with your request; but, as the English members of the same, we would observe to you, sir, that, by a Despatch from Viscount Palmerston, of the 5th December, 1838, we are informed that a hulk will be sent out to Rio for the reception of those taken on board Slave Traders, captured by Her Majesty's ships, so soon as a suitable ship can be provided, and that, in a previous Despatch from his Lordship, of the 22nd October, 1836, in contemplation of an arrangement similar to that which we understand (for we have only hearsay for our authority) has been resorted to as a provisional arrangement, till the arrival of the expected hulk, his Lordship states that "it appears to him that their security might be provided for, by anchoring the vessel alongside the Admiral's ship, with a guard on board."

We have, &c.,
(Signed) GEO. JACKSON.
FRED. GRIGG.

*To Commodore Sulivan, C.B., Senior Officer,*
*&c. &c. &c.*

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## No. 133.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, May* 8*th*, 1839.
(*Received July* 18*th.*)

MY LORD,

ON the Marshal employed by the Commission proceeding to intimate the Sentence of the Court to the master of the "*Especulador*," who, by that sentence, is declared to be a Brazilian subject, and, as such, to have incurred the penalty of piracy, he was informed that he had made his escape.

We understand, also, that several other individuals, belonging to the several

prizes, have also got away; but, having received no communication whatever on the subject, we can give your Lordship no particulars, nor speak positively to more than the escape of the master of the "*Especulador*," as reported to the Marshal.

If the individuals belonging to the last vessel captured, viz., the "*Leal*," are still forthcoming, the proceedings in that case will he resumed; at present they are suspended, from the continued apprehension entertained by the Imperial Government that the examination of further witnesses may produce fresh disturbances; and from the necessity of selecting some securer place for the sittings of the Court.

On this point, the decision of the Government remains to be declared. In the mean time, the excitement in the public is allayed, and no further tumult has occurred.

We have, &c.
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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No. 134.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, May* 16*th*, 1829.
*Received July* 22*nd.*

My Lord,

We have the honour to enclose herewith a translated extract of the only parts of the two Ministerial Reports, recently made to the General Legislative Assembly by the respective Departments, which bear at all upon our duties.

That of the Minister for Foreign Affairs contains nothing which is not already known to your Lordship, nor is any mention made of the Additional Articles signed by Mr. Fox.

His Excellency's reference to the custody of the Africans on board the slave vessels, pending adjudication, will be best elucidated by the advices which your Lordship will doubtless receive from Her Majesty's Mission.

The extract from the Report of the Minister of Justice does not call for any more particular notice, except it be to regret that his Excellency should have permitted himself to use the term "assassination," with reference to the recent unfortunate catastrophe mentioned in our Despatch of the 24th April, and that he should, even hypothetically, have attributed the occurrence which preceded it to motives of philanthropy.

With regard to the distribution of emancipated negroes, all that we have advanced in our preceding Despatches becomes more notorious every day; and the statement made in our Despatch of the 27th October, 1838, of the political use that had been made of them, has even been admitted and justified in the Chamber of Deputies, by some not very discreet friends of the late administration.

Both Reports attest, unfortunately, the continuance of the traffic; and the experience of every day confirms its alarming progress.

As a proof, we have to inform your Lordship that, out of the 34 vessels, a list of which was enclosed in our aforesaid Despatch, 20, besides 11 others, have entered this port from the coast of Africa *in ballast*, in other words, after having landed their cargoes of slaves.

Of the utter hopelessness of putting a stop to this evil, but by an increased number of British cruisers along this extensive coast, your Lordship may convince yourself, by a perusal of the translations of the official papers, which we have the honour to transmit herewith.

They refer to the case of a vessel which recently arrived in the province of Sergipe, with a cargo of Africans; and contain a statement of the measures taken—or rather of their failure, to seize the said vessel.

The subject of the scandalous and universal continuance of the traffic throughout the empire, the danger to which it is thereby exposed, the repeal of the law of the 7th November, 1831, and the distribution of emancipated Africans, are all topics which have already, in this session, been brought with

great earnestness before the Chambers, and it seems probable that the whole question will, in the course of it, receive a very full discussion.

We have, &c.

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## First Enclosure in No. 134.

(Translation.)

*Extracts from the Report made to the Legislative Assembly, by the Minister for Foreign Affairs.*

THE following vessels, the schooner "*Flor de Loanda*," the pataxos "*Cezar*," and "*Especulador*," the brig "*Brilhante*," the brig-schooners "*Diligente*" and "*Feliz*," and the brigantine "*Carolina*," having been taken by Her Britannic Majesty's ships of war, the sloops "Rover" and "Electra," and the brig "Wizard," for having been found with Africans on board, to the number, in all, of 1763, the Mixed Commission, not considering itself competent to take cognisance of the schooner "*Flor de Loanda*," as being the property of Portuguese subjects not resident in Brazil, condemned the other vessels, declaring their cargoes of Africans to be free, conformably to the Instructions annexed to the Convention of the 28th July, 1817. Besides these vessels, the brigs "*Ganges* and "*Leal*," whose adjudication is pending, have been further captured.

If, on the one hand, it is painful to witness the continuation of an inhuman traffic, and which is reproved by modern civilisation, the efforts and the perseverance shown by civilised nations to effect its total abolition, are, on the other, worthy of the highest appreciation: and as the Portuguese Government having recently taken energetic steps to repress this trade, carried on on the coast of Brazil, under the protection of the flag of that nation, it is to be hoped that the evils resulting from such traffic will once for all cease.

The Imperial Government, faithful to treaties, has striven to take those measures that appear to it most efficacious for the end it has in view in this matter. Such, among others, is the Portaria of the 14th February last, ordering the Brazilian Commissioners no longer to admit embargoes to sentences passed by the Mixed Commission.

This proceeding was founded on the principle that, on the one hand, the Mixed Commission is strictly speaking, an exceptional tribunal, regulated by conventional dispositions, and consequently without the sphere of the ordinary tribunals of the country; and, on the other, that, the traffic in Africans being considered illicit by the Convention of the 23rd November, 1826, and by the law of the 7th November, 1831, the same reasons cannot now prevail which rendered embargoes necessary, when the traffic was permitted to the south of the Line, and thus the practice followed, in similar circumstances, in the Mixed Commissions at the Havana and at Sierra Leone, is observed.

I will not conclude this part of my Report without communicating to you that, sad experience having shown the serious inconveniences resulting from keeping the Africans on board the captured vessels during their adjudication in this port, the Imperial Government, anxious to avoid the recurrence of such unhappy events as those which lately took place in this capital, owing to the abovementioned cause, by which the nation might have been most seriously compromised, but for the employment of energetic and timely measures, has, at this moment, directed its attention to this important object.

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## Second Enclosure in No. 134.

(Translation.)

*Extracts from the Report made to the Legislative Assembly, by the Minister for Foreign Affairs.*

DISAGREEABLE and painful is the task imposed on this department, respecting the illicit importation of Africans. You know perfectly well the state of this affair, as regards the abolition of this horrid traffic, condemned by civilisation, but which the cupidity of gain embraces, in spite of all moral or legal obstacles; and, perhaps the wants of agriculture have fostered it with impunity.

Relating, therefore, what has immediate reference to this department, I will report the information in its possession.

The Mixed Brazilian Commission has, from May of the last, to the 29th April of the present year, tried and sentenced five vessels, all with the Portuguese flag; besides another, under the same flag, which the Commission did not judge itself competent to take cognisance of: 1133 Africans taken on board these have consequently been declared free; three more, with nearly 1000 Africans, being actually under adjudication.

All those already adjudicated have been employed, some in public works, while the services of others have been hired out to individuals; the distribution of 211, which were recently adjudged to be free, being about to be made.

Such is the information afforded by this office, and in my power to give. I hope that you will give it your attention, whilst I endeavour to acquaint myself more particularly respecting it.

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It remains for me to relate the recent occurrences, of some moment, which unhappily occurred in this capital; immediately on my appointment; I mean what took place on occasion of the trial of the last English capture of one of the slave vessels, of which I have already spoken.

The Mixed Commission was proceeding in its labours, in the accustomed manner, when one of the prisoners, who went from hence to Moçambique, as captain of the brig "*Ganges*," recently taken, and

who came back in her as passenger, being on his return from examination before the Commission on the 20th ult., and being already delivered over to the English boat, in waiting at the palace landing-place, by the police who had him in charge, threw himself into the sea, in order to run away; and, being again secured by the police, and again delivered to the same boat, he threw himself over a second time, and effected his escape, not without risk, but he was already out of the custody of the police agents. There are reasons for thinking that this flight was protected by persons on shore, as he could not otherwise have escaped. It is not, however, yet ascertained who they are who aided his escape, nor what inducement they had for such an act, whether a nobl sentiment of philanthropy, with a view to rescue a fellow-creature from the custody of severe and foreign guards, or, perhaps, with the ignoble intention of protecting a criminal partner in their gains and inhuman traffic. Certain it is that, on the following day, when the steamer "*Especuladora*," belonging to the company of Nictheroy, was returning from the island of Paquetá to the city, having on board a great number of passengers and families, it being a very moonlight night, a musket-shot, preceeded, it is said, by others, was fired from the brig "*Ganges*," loaded with ball, which, alas! mortally wounded a young Brazilian close to his wife, of which he died the following day, amid the anguish of his family and relations.

As yet nothing more has been ascertained from the judicial proceedings, than the fault of the English soldier who practised this assassination, and who has been committed by the Judge Conservator of that nation, while all necessary inquiries are prosecuted for a complete knowledge of every particular of such facts.

As regards the relation which they have with foreign affairs you will learn it from the Report of the Minister of the respective Department.

I conclude, therefore, by begging your concurrence, in order that evils of this kind may be avoided as much as possible.

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## Third Enclosure in No. 134.

*Official Statement of Measures taken in the Province of Sergipe, relative to a Case of Slave Trade.*

(Translation.) *Palace of Government of Sergipe, 14th February*, 1839.

Verbal information having reached this Government that in the next eight days a vessel employed in the vile traffic of human flesh, and laden with Africans, is expected in this city, the President of the Province, relying on the incorruptibility of the "Juiz de Direito," orders him to take secretly the necessary steps for the capture of such vessel when she arrives here, or at any part of this territory.

(Signed) JOAQUIM JOZE PACHECO.

*To the Juiz de Direito and Chief of Police,*
*Claudio Manuel de Castro.*

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*Palace of Government of Sergipe, 14th February*, 1839.

It being the duty of Government to prevent, by every means it its power, the vile and inhuman traffic which is publicly exercised in this city, to the scandal of the laws of morality, and of whatever is most sacred, in the face of the Justice of the Peace and other authorities, who, it is impossible should be ignorant of it, the President of the Province orders the afore-mentioned judge to be on the watch, in order that any vessel touching here may be seized; bearing in mind that information has been received that, within eight days, a vessel, laden with Africans, is to arrive here; and he hopes that the indifference on the part of the authorities of this city will not continue. In this due secrecy is to be observed.

(Signed) JOAQUIM JOZE PACHECO.

*To the Justice of the Peace of Estanica.*

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*Palace of Government of Sergipe, 14th February*, 1839.

The Commandant of the detachment of Estancia is to afford every aid to the police authorities, for the purpose of seizing the vessel expected here, laden with Africans; and should the authorities (which cannot be supposed) fail to take the necessary measures, the Commandant is authorised to make the capture, and immediately to inform Government thereof, remaining responsible for any abuse that may be committed. In this inviolable secrecy is to be observed.

(Signed) JOAQUIM JOZE PACHECO.

*To the Commandant of the Detachment of Estanica.*

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*Palace of Government of Sergipe, 26th February*, 1839.

I am this moment informed that the brig "*Caçador*," laden with Africans, has arrived here. Let the Juiz de Direito fulfil the orders given him on this subject.

(Signed) JOAQUIM JOZE PACHECO.

N.B.—Similar instructions to the Justice of the Peace and to the Commandant of the detachment.

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*Estancia, 28th February*, 1839.

Most Excellent and Illustrious Sir,

As I was preparing my report to your Excellency, in reply to your Despatch of 14th instant, ordering me to take measures secretly respecting the information against a vessel coming here, laden with Africans, to be imported, contrary to all law, into this province, I received your Excellency's other Despatch of the 26th instant, repeating your instructions, and apprising me of what I was already informed, and had provided against, respecting the arrival of the slave-vessel "*Caçador*." I no sooner learnt it than I sought the Commandant of the detachment, and in concert with him ordered the

whole disposable force to march at nine o'clock of the evening of the 24th; the result of which you will see in the inclosed report.* The law of the 7th November, 1831, it is sad to tell your Excellency, has become a complete nullity. Repressive laws, when executed faithfully, have their effect, but when not executed they are only a mark of the weakness of public authority. The traffickers in human flesh, knowing the propensity and the wishes of this district, not to say province, do not hesitate to run the risk, because the interest of gain speaks louder to their hearts than the principles of humanity, and the accursed impunity does the rest. In one word, your Excellency, there exists in all a complete conspiracy in favour of the traffic, and against the law of the 7th November, 1831. I find myself without the means of preventing or remedying the evils consequent upon so great immorality, the causes of which I know, and therefore lament the future fate of my country. As Chief of Police, I do not possess the proper and indispensable attributions which the office requires. It is sufficient to notice, that should I find it necessary to order any step to be taken in a district, the Justice of the Peace of which should not be deserving of my confidence, I should see myself in the predicament either of violating legal forms, or of failing in my efforts, because our actual laws do not relieve me from the embarrassment, supposing it impossible to institute a search, independent of the Justice of the Peace of the place. Moreover, some justices consider themselves independent, and act only from their own will. This happened but the other day, when the detachment was in march, with a view to the measure referred to. I was informed that the Justice of the Peace was preparing to take some other step, having made a requisition of the Commandant of the detachment for eight men, and shortly after I learnt that he was proceeding to the same spot, but neither before nor since has he made any communication to me, having even required force from the Prefect, leaving me in ignorance of his whole proceeding.

God preserve your Excellency,
(Signed) CLAUDIO MANUEL DE CASTRO,
Juiz de Direito.

*To his Excellency Joaquim Jozé Pacheco,*
*President of Sergipe.*

(A true Translation.) JOHN BAPTIST COSMELLI,
*Interpreter*, ad hoc, *to the Mixed Commission.*

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## No. 135.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro May 20th*, 1839.
(*Received July* 22.)

(Extract.)

We have had the honour of receiving your Lordship's Despatch of 13th March last, in which, referring to our several Despatches on the subject of "Embargoes," your Lordship enjoins it upon us, as our duty, to insist that a sentence once given by the court shall, as the treaty directs, be final and without appeal.

The question of Embargoes has been now definitely settled in favour of the interpretation so long contended for by us.

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## No. 136.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro*, 21*st May*, 1839.
(*Received August* 3.)

My Lord,

We have the honour to acknowledge the receipt of your Lordship's Despatch, of the 22nd March, 1839, desiring us to transmit, in full, a translation of the depositions made by each witness examined before the Court, together with copies or translations of every paper which may, in each case, have been laid before the Commissioners, and a statement of the argument which must have been given by each member of the Court, in illustration of his views, and in support of his decision.

Beginning with this latter point we beg to observe, that in every case where recourse has been had to arbitration, the opinion of the Arbitrator has been faithfully reported in his own words. Latterly Her Majesty's Commissary Judge has had the good fortune to secure a perfect coincidence of opinion between his Brazilian colleague and himself; and, in such cases, the grounds of their opinion, according to the usage of the country, are expressed, not in a separate argument, but in a detailed sentence, embracing the main points of the question.

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* *Note by Her Majesty's Commissioners.*—This Report not published.

With regard to the depositions, your Lordship should be apprised that they are not made in answer to separate and prescribed interrogatories (as recommended at the institution of the Commission), but that they are the result rather of what may be termed a colloquial argument, which it is not very easy to bring into that regular and succinct shape required, perhaps, by British practice. It has, however, been the uniform endeavour of Her Majesty's Commissary Judge to disentangle and remould, in as distinct a form as possible, the evidence so adduced; nor is he aware of having, in any instance omitted any particular that appeared at all essential to a due understanding and appreciation of the case.

This course of examination has been followed, as well to conform to that observed in such matters in this country, as because it has been thought to be more effectual in counteracting the organised system of hired agency and notorious perjury, invariably resorted to, to suppress the real facts of the case under investigation.

As regards the several papers laid before the Court by either party, Her Majesty's Commissioners have been wont to use their own discretion in adding them to their reports, or not; and they have followed this course, as well with the view of not troubling your Lordship unnecessarily, as from the physical impossibility of making copies, or translations, of such voluminous matter.

We have, &c.

(Signed) GEORGE JACKSON,
FRED. GRIGG.

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

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No. 137.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August 3rd,* 1839.

I HAVE received your Despatch of the 21st of May last, explaining the reasons for the discretion hitherto exercised by you in transmitting to this office copies of papers relative to the cases of slave vessels adjudicated by the Mixed Court of which you are members. And with reference to my Despatch of the 22nd of March last, I have to acquaint you that I am still of opinion that you should send home, in full, a translation of the deposition made by each witness examined before the Court, together with copies or translations of every paper which may in each case be laid before the Court, and a statement of the argument 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.*

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No. 138.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, May* 31*st,* 1839.
(*Received August* 6.)

MY LORD,

IN recent casual conversation with Commander Smyth, of Her Majesty's brig "Grecian," we learnt that he boarded some weeks ago a small vessel, under Brazilian colours, with 70 or 80 negroes on board, whom he found to be under the charge of an Englishman, to belong to a British merchant residing at Rio de Janeiro, of the name of Platt, and to be bound to an estate f that individual.

No communication whatever was made to the Court of this circumstance; but, at the request of Her Majesty's Commissary Judge, Commander Smyth promised to send to us a copy of the report made by him to his commanding officer. He has since declined doing so, saying that such communication would be contrary to his instructions. We therefore can give your Lordship no insight into this transaction, further than that we understand that the negroes in question were provided only with the ordinary passports from the Justices of the Peace, and that they did not appear to Commander Smyth to be new blacks. We beg leave, therefore, to refer your Lordship to that officer's report, should you deem the subject deserving of closer investigation, and mention it only as a corroboration, to an extent indeed greater than we had anticipated, of the statement contained in our Despatch of the 6th May, 1839.

Of our further observations therein, respecting the importation of *coast goods* into this country from Great Britain, your Lordship may have noticed a striking confirmation in Mr. Buxton's recent pamphlet on the Slave Trade.

We have, &c.

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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No. 139.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, June 5th,* 1839.
(*Received August* 17.)

My Lord,

Our Despatch of the 11th April last reported the capture of the "*Ganges*," under Portuguese colours, by Her Majesty's brig "Grecian," William Smyth, Commander, whose declaration was therein enclosed.

On the 12th of the same month the examination of witnesses commenced, and was continued regularly till the proceedings in this, as in other cases before the Court, were suspended indefinitely in the manner reported in our Despatch of the 24th April.

On the 22nd May further evidence in the case of the "*Ganges*" was taken, and we have now the honour to transmit herewith—

The Sentence of the Court passed on the 31st May, 1839, condemning the vessel and emancipating the surviving slaves;

And our Report of the Case.

We have &c.,

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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First Enclosure in No. 139.

(Translation.)

*Sentence.*

*Rio de Janeiro 31st May,* 1839.

The present proceedings respecting the detention of the Portuguese brig "*Ganges*," by Her Britannic Majesty's brig of war "Grecian," William Smyth, commander, on the 7th April last, off Cape Frio, on account of there having been found on board of her 419 Africans, being examined, it is ascertained that this vessel was bought in this port by Antonio Gomes da Cunha, a Portuguese subject, who equipped and loaded her from hence for Quilimane, and who on her return to this port, in October last, re-despatched her in November to the above-mentioned port, with goods for this adventure.

It is sought to show that this owner, although he purchased the brig at this port, is yet not domiciled, and is without any establishment here, and that having gone himself as captain in this same brig on her first voyage to Quilimane, he remained behind there with the intention of repairing to Angola. And although at first sight the reasons given may appear to be in some sort deserving of attention, yet, on examination of the proceedings and of the papers found on board, the supposed hypothesis of the owner Antonio Gomes da Cunha, not being at Rio at the time of the second departure of the brig from hence, completely vanishes, inasmuch as among the papers seized, there exist—

1st. An invoice signed by Cunha himself, and dated here the 26th November, 1838, of specie and goods shipped by him in the brig, on account of himself and of others, to whom

the same might belong, to be delivered in Quilimane to Bernardino Dias Pereira, who, by the clearances, is ascertained to have gone as master in the same brig.

2nd. The bills of lading, dated 23rd and 2[illegible]th of the same month of November, signed by the aforesaid master, Bernardino Dias Pereira, of specie and goods received from the owner Cunha, to be delivered to him, the master, in Quilimane.

These documents, then, establishing beyond all doubt the certainty of the existence of the owner in this city at the time of the brig sailing on the second voyage in question, destroy also the allegation that he had not returned from Quilimane on the first voyage; the pretext resorted to, to invalidate the legitimate conclusion resulting from the above-mentioned invoice and bills of lading, viz., that the owner left his signature in blank to be used during his absence for this purpose, being futile and worthy only of derision; and which supposing, but not conceding such to be the case, would have been a fraudulent act, since it supposes him to be in a place in which he did not actually exist, although the brother of the said Cunha, in his deposition, would have it be believed that so irregular a proceeding arose out of the confidence reposed in him by his brother, because it is as evident as the light of day, that to make out an invoice on account of a person absent, there was no necessity to leave a blank signature for such an object.

To all these circumstances is to be added the entry made at the Custom-House of this port, that this brig on her first voyage came consigned to her owner himself, which is another indubitable proof of his residence in this city, and which is further corroborated by the deposition of the master, Bernardino Dias Pereira, that at the time of his sailing for Quilimane the owner Cunha was in this city, and that it was with him that he made his agreement, although he added that he, Cunha, was about to leave for Angola—a declaration deserving of no attention, because he produces no document whatever in proof of his departure from this city after the second sailing of the above-mentioned brig.

Seeing then all the circumstances which, combined, afford full proof that the brig "*Ganges*" has been employed by her owner, Antonio Gomes da Cunha, in the illicit traffic of slaves; that she was bought and fitted out here by him as well on the first as on the second voyage; that he was then resident in this city, and probably is so still, since it is not shown, as already noticed, that he left this place after the second expedition of the brig in question, the Commissary Judges of the Mixed Commission adjudge the detention of the same by Her Britannic Majesty's brig "Grecian" to be lawful, declare her to be a good prize thereto, and condemn her, with whatever cargo may exist on board, in virtue of the Convention of the 23rd November, 1826, and of the instructions of 1835, with the exception of the surviving Africans to the number of 386, whom they declare to be free and emancipated, to be placed at the disposal of the Government of His Majesty the Emperor, in conformity to the seventh article of the regulations annexed to the Convention of 1817.

(Signed) JOAO CARNEIRO DE CAMPOS.
GEO. JACKSON.

A true copy. (Signed) BRAZ MARTINS COSTA PASSOS, Secretary.

A true translation. JOHN BAPTIST COSMELLI,
Secretary, *ad hoc*, to the Mixed Commission.

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## Second Enclosure in No. 139.

*Report of the Case of the brig* "Ganges," *condemned on the* 31*st May*, 1839.

*Rio de Janeiro*, 5*th June*, 1839.

This is the case of another vessel, professing to be Portuguese, condemned in virtue of the instructions transmitted to this Commission in 1834—1835, on the subject of temporary residence.

This vessel was built in Portugal, and was sent to Rio de Janeiro, in 1837, with a cargo from Oporto, by her owner, a Portuguese subject, whose agent at Rio, being duly empowered so to do, sold her, in 1838, to another Portuguese subject, then residing at Rio. Antonio Gomes da Cunha, who changed her original name, "*Maria*," to that of "*Ganges*," and her rig from that of lugger to that of a brig.

That this individual is really a subject of Her Most Faithful Majesty there is no doubt: he had, at the time of making this purchase, 1838, recently arrived in this city by the British packet from Falmouth, charged with despatches from the Portuguese Chargé d'Affaires in London, Marçal Jozé Ribeiro, and furnished with a passport from him, declaring Cunha to be a subject of Portugal. Such passport being "visé-ed" by the Brazilian Minister, Manoel Antonio Galvao, who also entrusted him with despatches for the Imperial Government.

In April, 1838, Cunha despatched the "*Ganges*" with a cargo to Goa, embarking in her himself as captain; and, in the month of October following, she re-entered this port in ballast, consigned to that individual, having proceeded—not to Goa, but to Quilimane.

It does not appear, by the documents before the Court, with what papers she was navigated on this her first voyage from Rio de Janeiro; but, sailing again immediately for Quilimane, with a very valuable cargo, she received, at the Portuguese Consulate General in this city, the document professing to be a provisional registry, of which a copy and translation are annexed. The captain, at the same time, signed an engagement in the Consulate not to ship any slaves on board his vessel.

Leaving Quilimane in February, 1839, the "*Ganges*" was furnished with a passpoart from Joao da Costa Havier, governor of that captaincy, declaring her to be bound to Angola; her manifest also declares the same, stating her cargo to be 270 colonists.

On the 7th April, 1839, the "*Ganges*" was detained by Her Majesty's brig of war, "Grecian," William Smyth, commander, in lat. 22° 57′ south, long. 40° 24′ west, with 419 slaves on board.

On the 11th April, Mr. Mowle, prize master, brought into Court the papers belonging to the "*Ganges*," and the declaration of Commander Smyth being ratified by him on oath, and the usual monition having issued, according to the forms of this country, five witnesses were examined.

*First Witness.*

Jozé Ribeiro Costa, master, swore that he is a subject of Portugal, born at Lisbon; that he was appointed to the command by the agent of the brig at Quilimane, Romao Jozé da Silva, that he did

not know who was the owner, but understood that he resided at Angola, where he now was waiting the arrival of his vessel; that his (Costa's) destination was to take colonists from Quilimane to Angola; that, having joined the brig only at Quilimane, he knew nothing of any anterior transaction; that he came first to Brazil, from Lisbon, in 1833; that, in the same year, he went to Rio Grande Sul, and from thence to Moçambique, where he remained till last December; that he had no certificate of registry on board, having never heard before that such a document was necessary, and that no papers of any kind were thrown overboard before capture.

*Second Witness.*

Joao Jacinto da Silva swore that he is a subject of Portugal, native of St. Michael's; that he is boatswain of the "*Ganges*;" that he sailed in her from this port last year, in the month of April, to Quilimane; that Antonio Gomes da Cunha is her owner, with whom he made his agreement for the outward and home voyages; that Gomes also went in her as captain; that, on arriving at Quilimane, he despatched the brig, in ballast, for this port, and proceeded himself to Angola; that she arrived here in October, and was re-despatched in November, and that the captain, whose name he did not remember, remained at Quilimane; that the cargo taken from hence was exchanged for goods of the country; and that the brig came back here in ballast; that he did not know whether the Africans now on board were bought or not; that they were to be delivered at Angola to the owner, who was waiting for them; and that he, the deponent, had no concern or interest in them whatever; that he came to Brazil, for the first time, in 1831, from Oporto, in this brig, then rigged as a lugger; that from hence he went in her to Quilimane, after she became the property of Cunha, and since then he had made two voyages in her to that place and back; that the agent of this vessel, at Quilimane, was Antonio Joaquim de Andrade, and that no Brazilian had any interest in this adventure; that they made Cape Frio from want of water and provisions; that Romao Joze da Silva was town major at Quilimane, but that he had no concern in this vessel.

*Third Witness.*

Antonio Rodriguez de Sa Viarna swore, that he is a subject of Portugal; that he does not know who is the owner of this vessel; that he agreed for his passage as passenger with the captain; that he had no knowledge of the vessel, or of any belonging to her, or whether she was the property of any person resident in this city, having only embarked in her on account of being very ill; and the brig "*Adamastor*," in which he had sailed from this port in September 1838, as captain, not being to be re-despatched; that goods which he had taken out with him from hence (and of which an invoice is among the papers found on board), he had employed in legitimate commerce, and that none of the slaves on board the "*Ganges*" belonged to him; that he came to this country for the first time in 1826; that he had married, and had kept a shop in this city up to the year 1833, when he went to Angola, and that from that time to the present, he had been engaged in voyages to Monte Video, the coast of Africa, and Rio de Janeiro, always in the same brig "*Adamastor*," sometimes as captain, sometimes as passenger, the brig belonging to a resident at Angola; but that, on his voyage from hence in September last, he made his agreement with an individual living in this city, to go as captain.

*Fourth Witness.*

Bernardino Dias Pereira swore that he was a native of Vianna; that he is a subject of Portugal, and his profession the sea; that Antonio Gomes da Cunha is the owner of this vessel; that he bought her in this port; that Cunha was here when she sailed from hence on her last voyage to Quilimane, and that it was by him, when the vessel was on the eve of sailing for Angola, that he (Pereira) was appointed captain; that he was also the principal agent in the transaction, the object of which was the purchase of oil and ivory; that before quitting Rio he signed an engagement at the Portuguese Consulate not to ship any slaves on board his vessel; that he did not return in the "*Ganges*" as captain, on account of some disagreement with the consignees, in consequence of which he made over the whole to the person who was to act in his absence, and that he agreed for his passage to Angola, for which place he was told the brig was despatched; that, on the outward voyage, he took specie and goods from hence, consigned to himself, to be disposed of at Quilimane, but not to be employed in the purchase of slaves; that he knew Romaõ Jozé da Silva and Antonio Joaquim de Andrade, who were established at Quilimane; that he came to Brazil for the first time in 1828; that he had made several voyages to different countries, but that this was the first to the coast of Africa.

Among the papers found on board the "*Ganges*," was the draft of a contract, without date, between three individuals, named Bernardino Dias Pinheiro, Romaõ Jozé da Silva, and Antonio Joaquim de Andrada, to buy the Portuguese brig "*Ganges*," for the purpose of shipping slaves, and landing them in Brazil. Subjoined is a translation of the same. The last two persons are proved to be the agents for the "*Ganges*" at Quilimane, and it appears that the former sailed from Rio de Janeiro about the same time last year as that vessel. Indeed the impression on the mind of the Court was, that the master of the vessel, Bernardino Dias Pereira, and Benardino Dias Pinheiro, the latter avowedly a Brazilian, were one and the same person.

The individual, however, now calling himself Bernardino Dias Pereira, denies this, and swears that Pinheiro sailed hence in another vessel, and died at Quilimane; he also denies all knowledge of any such contract.

Another paper found on board is a letter, dated Rio de Janeiro, 26th November, 1838, addressed to "Bernardino, Captain of the '*Ganges*,'" remitting to him a sum of money to be employed in the purchase of three barrels of "alcatraõ macho," *male tar*.

On being questioned respecting that letter, Bernardino Pereira swore that the writer of it was a shopman in this city; that he paid no attention to it, and delivered the money to the person to whom he gave over the whole concern at Quilimane.

A fifth witness was examined, Manoel Gomes da Cunha, brother to the owner of the "*Ganges*," and in business in this city.

He denied all partnership with Antonio Gomes da Cunha, and the object of his evidence, which was volunteered on the part of the defence, was to show that the Invoice and Bills of Lading, on

which this case mainly rests, had been left in blank by his brother, and that the latter was not in Brazil, when the "*Ganges*" was fitted out here in November last."

The Court gave no credit to that statement, or to a protest made on board, on the 25th March, 1839, alleging contrary winds as the cause of the "*Ganges*" making the coast of Brazil; and, on the 31st May, 1839, sentence was passed by the Court, emancipating the surviving slaves to the number of 386, and condemning the vessel and cargo, as good prize to Her Majesty's brig of war "Grecian," to be sold by public auction for the profit of the two governments.

(Signed) GEO. JACKSON,
FRED. GRIGG.

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Annex, No. 1.

(Translation.) (Provisional Register.)

I, Bernardo Ribeiro de Carvalho, Chancellor of the Consulate-General of Her Most Faithful Majesty at Rio de Janeiro, certify that the certificate of registry of the Portuguese lugger "*Maria*," made in the Department of Marine, in the city of Oporto, and by which it appears that this vessel, built in the town of Conde, and the property of the Portuguese subject Antonio José de Souza, Junior, there residing, was delivered to the captain thereof, it having become invalid by the fact of the said lugger having been sold in this city to the Portuguese subject Antonio Gomes da Cunha, who changed her rig to that of a brigantine, and her name to that of "*Ganges*," a provisional register being given to him in this case, the contents of which are as follows:—

Register of the Portuguese brig "*Ganges*," of which Bernardino Dias Pereira is captain, and Antonio Gomes da Cunha owner, both subjects of Her Most Faithful Majesty.

(Here follow the dimensions.)

This vessel must not change her master, owner, name, or rig, without this title being altered, or without the necessary remarks being made therein.

Given on this 22nd day of November, 1838, and nothing more can I certify in this respect: in faith of which I have passed this present, sealed with the Royal Seal of this Consulate-General, 19th April, 1839.

(Signed) BERNARDO RIBEIRO DE CARVALHO.

(A true translation.) (Signed) JOHN BAPTISTE COSMELLI,
Interpreter, *ad hoc*, to the Mixed Commission.

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Annex, No. 2.

(Translation.) (Draft of Contract.)

Bernardino Dias Pinheiro has contracted with Romao José da Silva and Antonio Joaquim de Andrade to buy the Portuguese brig "*Ganges*," in case the owner should choose to sell her, with a view to her navigating for account of the three contractors, under the articles hereby declared:—

1st, That the said brig be bought by the contractor, Pinheiro, who shall make all repairs, fit her, and purchase the goods to be agreed upon for the success of the adventure.

2nd, The said Pinheiro shall furnish the necessary funds for this purpose, without, however, charging any interest on the advances which may be requisite.

3rd, The contractors, Silva and Andrade, shall be obliged to have the adventure ready by the time of the arrival of the said brig in this port, that there may be no delay.

4th, The contractors, Silva and Andrade, shall be obliged to prepare the said adventure, not exceeding 25 dollars for each slave to be shipped, selecting them from among the best, and never to be fewer than 400 on account of the contractors; and all goods shipped on account of the three contractors shall be free of duties to the contractor Pinheiro.

5th, The said brig shall be bought in the names of Antonio Joaquim de Andrade and Romao José da Silva, or in that of one contractor only, there being a document to that effect, in case of whatever may happen, for which purpose the said contractors shall give a power of attorney in favour of whomsoever they shall think fit, or the aforesaid brig shall be sold in this port if requisite.

6th, The said contractors, Silva and Andrade, shall be bound, in the sinister event of the loss of the said brig on her return hither, to pay the share belonging to each contractor, as well on account of the hull and appurtenances as of the invoice which the contractor Pinheiro shall have shipped for account of himself and the other contractors; and this on presentation of the invoice or account which he shall deliver.

7th, The said contractor, Pinheiro, shall be obliged to select officers capable of fulfilling their duties, and to give an account of the commission entrusted to them, following always a letter of order which the officer shall receive from the said Pinheiro.

8th, The contractor Pinheiro shall remain in Rio de Janeiro and select the point of disembarkation, for which he shall give a plan, and have everything arranged, with the necessary precautions for the success of the adventure.

9th, None of the contractors shall charge any commission on the purchases, or on the sales, nor any interest in money advanced for the success of the adventure; nor shall they be allowed to ship anything in the name of any other person; and in case either of the contractors shall be unable to complete the number of slaves to be shipped by him, he shall pay freight for those wanting.

10th, In case, however, of either contractor wishing to relinquish his share in the said adventure and vessel, he may do so; the vessel being valued; and either of the other contractors may remain with the share of the party so relinquishing.

11th, In case, however, either of the contractors shall act with bad faith, usurping the rights of the others, he shall be bound to pay all losses which he may cause, or have caused.

12th, The aforesaid Andrade and Silva shall be bound to observe the Fourth Article of this contract; that is, if there shall be any excess beyond the contents of the said articles, it shall fall upon those two contractors; and the contractor Pinheiro shall not bear any share of it, but shall have a right of claim in regard to such excess.

13th, All the contractors shall be bound to co-operate for the common interest, for which purpose three contracts of the same tenor have been passed and signed by them, each keeping one signed by the three.

Done and signed at Quilimane.

(A true translation.) (Signed) JOHN BAPTISTE COSMELLI,
Interpreter, *ad hoc*, to the Mixed Commission.

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No. 140.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, June 5th*, 1839.
(*Received August* 17.)

MY LORD,

IN our preceding Despatch of the same date, we thought it best to confine ourselves to the transmission of the sentence and report of the brig "*Ganges*," and to reserve, for a separate Despatch, certain points arising out of it, to which we would more particularly draw your Lordship's attention.

Firstly, The right assumed by the Portuguese Consulate in this city, to give a provisional register to vessels bought by Portuguese subjects, before the promulgation of the decree of 16th January, 1837, enforced by the Despatch of 2nd March, 1838, from the Portuguese Secretary of State to the Portuguese Minister of Marine.

Secondly, To an assertion made on the part of the claimant, (represented in this as in every other case, by the nominal master or captain of the detained vessel), that the Government of Portugal had acquiesced in the circular of the late Marquess of Aracaty, when Governor of the Portuguese possessions on the eastern coast of Africa, suspending the decree of the 10th December, 1836.

Of this circular, dated 11th November, 1837, your Lordship has long been in possession. We do not, therefore, think it necessary to subjoin here a copy of it; but Her Majesty's Commissary Judge deemed it expedient to call on the claimant for authentic information on these two points, and we have the honour of enclosing herewith a translation of the answer returned by him.

With regard to the first point, it is to be observed that, even supposing the Consul-General to have been authorised to give such a provisional register, it should have been done immediately on the purchase of the vessel in January, 1838, before she proceeded on any voyage whatever; instead of which it was not furnished till after the "*Ganges*" had made a voyage to the Portuguese possessions on the eastern coast of Africa, where, moreover, the register might have been regularly obtained, according to the mode prescribed by the Portuguese decree.

With regard to the second point, the circular of the Marquess of Aracaty, it is clear that, even could such a document have been deemed admissible, it was invalidated according to its very terms, by the fact that a much greater number of Africans were found on board the "*Ganges*" than it was pretended that any duty had been paid for; the number declared in the manifest being only 270, and that of Africans found on board amounting to 419, to say nothing of the absurd contradiction of levying a duty on the exportation of slaves on Africans professing to be colonists.

In his argument on this head, the proctor for the claimant sacrificed his clients, engaged in adventures on the western coast of Africa, to the interests of those whose cause he was now defending; admitting that the former were carried on by contraband, and urging the difference arising out of the supposed license which the present case presented.

Another point which we should not omit to mention, is the protest made by the claimant against the instructions transmitted to this Commission in 1834 and 1835 on the subject of temporary residence, which, wanting the acquiesence of the Portuguese Government, the claimant contended could be no authority for this Court.

A further novelty in this case is, there having been found on board a considerable amount of specie. At first this money was supposed to be the

private property of Bernardino Dias Pereira, and, as such, not liable to confiscation; but it appearing, from a petition presented to the court, that it was remitted by Romao Jozé da Silva, of Quilimane, to an individual at Rio, as the balance of his account, and that Bernardino passed a receipt for the same, in which the Commission, he was to receive on the freight thereof, was specified, the Court held that the specie in question must be considered as part of the cargo, to be sold for the profit of the two Governments.

In this case of the "*Ganges*," we might also comment on the barefaced perjury of the witnesses, but this unfortunately is of too frequent occurrence to call for especial notice, except where such perjury may have a direct influence on the decision of any case.

In the present instance it was more particularly practised by the boatswain of the "*Ganges*," Joao Jacinto da Silva, who, among other falsehoods of a nature to destroy all credit that might have been given to his testimony, swore that Romao Jozé da Silva, who appears both as one of the parties to the projected contract, and as shipper of this specie, had no concern in this vessel.

We have, &c.

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## Enclosure in No. 140.

*Translated Extract from the Reply of the Proctor for the Claimants in the case of the* "Ganges."

BEING ordered by you, gentlemen, to present documents to prove,—

1st. The authority of the Consul-General of Her Most Faithful Majesty at Rio de Janeiro, to grant provisional registers to Portuguese ships; and,

2dly. The acquiesence of the Portuguese Government in the circular of the Marquess of Aracaty, Governor of the States of Moçambique, Quilimane, and Rios de Senna, refusing to put in force the decree of the 10th December, 1836;

I proceed to comply with your order.

Having required from the Consul-General of Her Most Faithful Majesty the proof of his authority to grant provisional registers, I was answered that such authorities were not certified, nor even attested, but that the Consul-General had received such from his Government, to be practised with regard to vessels of Portuguese build, and belonging to Portuguese which in this port, or in any other, might pass from the ownership of one Portuguese subject to that of another, which provisional register served as a document of property till changed for another, passed in the department of registry established in the ports of the Portuguese crown, conformably to the decree of 17th December, 1836, and that certainly if he had not been authorised by his Government—the only competent authority to direct him—he should not do so: the Consul added that he had made the same declaration privately to Mr. Hesketh, Her Britannic Majesty's Consul, and Proctor for the Captors, when he, in the name of his clients, required of him the same which I now required of him by your order. Moreover that such were the instructions of his Government, that he held himself responsible for their execution, and that he would maintain that provisional register to be legal and as authentic as that of the departments, inasmuch as he passed the same, being duly authorised, having no other Government to be answerable to but that of Her Most Faithful Majesty, whose orders he executed, and would cause to be put in execution.

The proof of the acquiesence of the Portuguese Government in the circular of the Marquess of Aracaty, Governor of Moçambique, is shown by the conduct of the same Government towards that governor, who continued in that post till his death, without either being dismissed or called to account, as he would have been, if the Government had not thought fit to assent to the principle laid down in his circular, and to the non-execution of the decree of the 10th December, 1836.

The Government not having called the Governor to account, not having dismissed him, having maintained him in his post till his death, eulogising always his conduct, his probity, his administration, and his good services,—publicly showed that it agreed to the non-execution of its decree, prohibiting the traffic. How, moreover, could the receipt of 10 per cent. per head for each exported African, as was paid by the "*Ganges*," continue, if such traffic were there prohibited?

Further, so truly was this measure approved by the Government at Lisbon, that on the decease of the Marquess of Aracaty, a new Governor of Moçambique (the present) being appointed, he has continued to act in the same way as his predecessor, *id est*, he does not execute the decree of the 10th December, and continues to levy duties on exportation of Africans, declaring the number of the shipment in the manifest.

## No. 141.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, June 10th,* 1839.
(*Received August,* 17.)

My Lord,

The present appearing to be a fitting opportunity for again bringing under the consideration of the Imperial Government, the several points of detail, referred to in our Despatch of 30th June, 1838, we addressed the letter to Her Majesty's Chargé d'Affaires, a copy of which we have the honour to enclose herewith; and we cannot but express our earnest hope, that your Lordship will be pleased to give such instructions to Her Majesty's Mission as may secure the concession of these several particulars, if not previously arranged.

We have, &c.
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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### First Enclosure in No. 141.

*Her Majesty's Commissioners to Mr. Ouseley.*

Sir,

*Rio de Janeiro, 8th June,* 1839.

We read to you, at the time, a Despatch which we considered it our duty to address to Viscount Palmerston, in June last, suggested by a recent communication from his Lordship, on the subject of the alterations and arrangements which we deemed essential towards giving this Commission the requisite efficiency; as also a representation entered by Her Majesty's Commissary Judge, on the same subject, on the Minutes of the Court.

Under present circumstances, we think it may be useful to furnish you with official extracts from these papers; adding that, if such were our views, at the date of above-mentioned Despatch, they have been only more and more confirmed by everything which has since occurred.

The impediment to business which the determination of all Brazilians, however subordinate their duties, not to forego the privileges arising in this country out of the frequent Saints' Days, you are well aware of, and have, indeed, in a recent instance personally witnessed; but, as this Commission has now, for the first time, been officially recognised by the Brazilian Minister for Foreign Affairs, in his late report to the Chambers, to be an exceptional tribunal, without the sphere of the ordinary tribunals of the country, the Imperial Government may now, perhaps, be induced to admit the inapplicability, to this Commission, of the general rule of Brazilian law, cited in the "Portaria," signed on the 5th July, 1838, by the then Minister for Foreign Affairs, as rendering our proposal to transact business on holidays as impracticable.

The weight due to the observations with respect to the subordinate officers of the Commission, presses more upon us every day, as the business before the Court increases; the want of a permanent and efficient interpreter, of the officer styled marshalman, and of other subordinates, has been the cause of great inconvenience and delay. The present messenger, Jeronimo Jozé Puppe Corra, is superannuated, and very frequently in the hospital, and thus the time of the door-keeper, an individual who ought never to be absent from the ante-chamber, so as to be answerable for the safety, &c., of the archives, and for his regular duty, is taken up in a way altogether incompatible with its due discharge.

The messenger, as before observed, is very old, and is, moreover, wholly dependent, we believe, on his stipend for his daily bread, and he is apprehensive of being left without any provision, if he were to resign: but, surely, this is a just ground of consideration for the Imperial Government, and should not be allowed to interfere with the wants of the Commission.

We have, &c.
(Signed) GEORGE JACKSON.
FRED. GRIGG.

*W. G. Ouseley, Esq.,*
*&c. &c. &c.*

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## No. 142.

*Her Majesty's Commissoners to Viscount Palmerston.*

*Rio de Janeiro, June 22nd,* 1839.
(*Received August* 17.)

My Lord,

On the 31st ultimo and 3rd instant, the papers belonging to the barque "*Maria Carlota,*" and to another vessel called "*Recuperador,*" both under Portuguese colours, detained by Her Majesty's brig "Grecian," were offered

to the Court by Commander Smyth, with a Declaration in each case, extracts from which we subjoin.

For what has taken place on this occasion, we beg leave to refer your Lordship to the enclosed copy of an official letter addressed by us to Her Majesty's Chargé d'Affaires, to the translated extracts from the Minutes of the Court, entered on those days, in which the question of these detained vessels has come before it, and which we give *seriatim*, that your Lordship may see, day by day, the course which the business has taken, and to the opinions of the respective Commissary Judges, together with the Despatch from the Minister for Foreign Affairs to Senhor Joao Carneiro de Campos; which three papers, though, in strictness, forming part of the enclosed Minutes, we have thought it better, as a more convenient form, to enclose separately.

We were in hopes that we might be able to report, by this packet, the decision of the Imperial Government on this, as we conceive, most important point of the Slave Question between Great Britain and Brazil; but as, up to the present date, our Brazilian colleague professes to be without further instructions, and is continuing what appears to us the very irregular course of examination of the papers of the vessels in question, prescribed to him by the Despatch of the 14th instant, from the Miniser for Foreign Affairs, thus making of the Mixed Commission rather an office of Police than a Court of Judicature, we can only express our hope that the course hitherto pursued by us in this business will be approved of by Her Majesty's Government.

We have, &c.,

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## First Enclosure in No. 142.

(Extract.) *Captor's Declaration.*

I, WILLIAM SMYTH, Commander of Her Britannic Majesty's sloop "Grecian," hereby declare that, on the 29th day of May, 1839, being 10 or 12 miles S.E. by E. of Raza Island Light, I detained the barque named the "*Maria Carlota*," sailing under Portuguese colours, armed with one gnn, commanded by Antonio de Barros Valenet, who declared her to be bound from Rio de Janeiro to Quilimane, with a crew consisting of 22 men, a supercargo, and no passengers, whose names, declared by him, are inserted in a list at the foot hereof, and having on board the following articles, which render the vessel in every respect equipped for traffic in slaves, viz.:—

First. Having her hatchways fitted for open gratings, and iron bars for securing them (not in use at the time of detention), these hatchways being *larger and more numerous* than are used in merchant ships, and such as are in use only on board slave vessels.

2nd. Having on board a slave deck, *partly actually fitted and laid*, and with sufficient quantity of spare plank ready for its completion.

3rd. Having on board a very large number *of iron shackles and bolts for securing slaves.*

4th. Having on board an unreasonable number of large water casks, much more than sufficient for the use of the crew, and no certificate being produced by the master, from the custom-house, of the purpose for which they are intended.

5th. Having on board a greater number of mess-tubs and kids, than are requisite for the use of the crew.

6th. Having on board *two large boilers*, of an unreasonable size, stowed in the hold, and of a size such as are only used on board slave vessels, and not contained in the manifest.

7th. Having on board an unreasonable quantity of rice, farinha, and Indian corn, far beyond any probable requisite provision for the use of the crew, and such not being entered in the manifest as part of the cargo for trade.

8th. Having on board the small tin pipes used by slaves in drinking, by suction, from water casks, numerous pumps, and other articles for the use of slaves.

I do further declare that the said vessel appeared to me expressly, and most effectively and completely, equipped for the illicit traffic in slaves, and I have no doubt but that, when her hold is unstowed, considerably more gear will be found appertaining to the traffic in slaves.

(Signed) WILLIAM SMYTH, Commander.

Witnesses.—(Signed) JAMES ANDREW, Lieutenant.
JOHN MUNRO, M.D., Surgeon.

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## Second Enclosure in No. 142.

(Extract.)

*Captor's Declaration.*

I, WILLIAM SMYTH, Commander of Her Britannic Majesty's sloop "Grecian," hereby declare that, on the 28th day of May, 1839, being S.W. of Cape Frio about 30 miles, I detained the schooner named the "*Recuperador*," sailing under Portuguese colours, armed with three guns, two short six-pounders and (as far as I am able to judge) one long nine-pounder, commanded by Sebastiaõ da Fonseca, who declared her to be bound from Rio de Janeiro to Angola and Banguella, with a crew consisting of 17 men, no supercargo, and two passengers, whose names, declared by them respectively, are inserted in a list at the foot hereof, and having on board the following articles, which render the vessel in every respect equipped for traffic in slaves:—

Boiler, not in use by the crew of the vessel, and places fitted for the same, with ladles, &c. &c. complete.

Irons for the security of slaves.

Hatchways larger than a vessel of that size ought to have, as a merchant vessel, and fitted for gratings with iron bars, such as are always in use on board slavers.

Leagers 17, and two hogsheads, containing very much more water than necessary for the crew and passengers for the voyage to Benguela.

Farinha and rice, a very much greater quantity on board than could possibly be used by the crew of the vessel, and which is not mentioned in the manifest as part of the cargo.

Gunpowder, 250 barrels, of which no mention is made in the manifest.

Cooper's tools, in a much larger quantity than any vessel, employed in commerce, would require, besides staves and bull-rushes for setting up water-casks.

Medicine chest, one very large one quite complete, and a second containing medicinal herbs, &c. &c.

Sweeps, and sweep-holes in the vessel's sides, not used in any vessels employed in commerce.

Spare top-masts and other spars.

Muskets, seventeen cases (which, as they have not been opened, I am unable to say how many each case contains); no mention of these cases appears in the manifest.

Tubs, two large tubs, such as are used on board slave-vessels.

Hand-pumps, several, and such as are used on board slave-vessels for pumping the water out of the leaghers under the slave-deck.

Wood, an immense quantity on board, and very much more than such a vessel employed in a regularly lawful trading voyage would require, or have on board.

Shot, a large quantity of grape and cannister.

I do further declare that the said vessel appeared to me *expressly* and *most effectively* and *completely* equipped for the illicit traffic in slaves; and I have no doubt but that, when her hold is unstowed, the slave-deck, with all the other gear appertaining unto that traffic, will be found.

(Signed) WILLIAM SMYTH, Commander.

Witnesses.—(Signed) A. HESELTINE, Lieutenant.
JOHN MUNRO, M.D., Surgeon.

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## Third Enclosure in No. 142.

*Her Majesty's Commissioners to Mr. Ouseley.*

*Rio de Janeiro, 6th June,* 1839.

SIR,

ON the 31st ultimo Commander Smyth, of Her Majesty's brig "Grecian," presented, for the consideration of the court, the papers belonging to the bark "*Maria Carlota*," accompanied by a declaration, of which the enclosed is an extract.

The minutes of the court, of which we also subjoin an extract, from that day to the 5th instant, will put you in full possession of what has passed on this occasion. The opinions of the two Commissary Judges have been submitted to the Imperial Government, on whose decision must now depend the difference between them; and it will be for you, Sir, to determine, after maturely considering the grounds on which Her Majesty's Commissary Judge vests his opinion, how far you may consider them well founded, and how far you may, in that case, think proper to support them with the Government to which you are accredited.

Her Majesty's Commissary Judge must, at the same time, observe that this opinion is no new idea, taken up with a view to meet only the exigencies of the present case (as you may indeed have collected from the tenor of the Despatch of Her Majesty's Commissioners, dated January 22nd, 1839, of which a copy was communicated to you), but that it was distinctly brought forward by him in a memorandum which he had personally the honour of submitting to Viscount Palmerston in February 1837.

If he be wrong in this opinion he can only say it is the error of a conscientious mind, which has long and sedulously applied itself to the consideration of the subject; if right, the advantages derivable from the course, which would be its natural consequence, in promoting the great end which our country and Government have so earnestly at heart, are too obvious to require to be pointed out, striking, as it would, at the very root of the evil.

That the traffickers would not, in time, find means to elude or counteract even this obstacle, we are not sanguine enough to suppose; but that it would act as a very great discouragement, and even, for a long time, as a serious impediment to their speculations, there can be little doubt.

We have only to add, that though Her Majesty's Commissary Judge thought it essential, as a matter of

precedent, not to forego his claim to arbitration, yet that we are by no means desirous that the question should be so decided; on the contrary, the anomaly which having recourse to it in this instance might eventually give rise to might be productive of serious inconvenience.

We have, &c.
(Signed) GEORGE JACKSON.
FRED. GRIGG.

P.S.—We should add, that on the 3rd instant an officer belonging to Her Majesty's brig "Grecian," brought in a second declaration of Commander Smyth (of which we also enclose an extract), relating to another vessel, called the "*Recuperador*," detained by him under similar circumstances; the proceedings in which case must naturally equally await the pending decision of the Brazilian Government.

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## Fourth Enclosure in No. 142.

*Minute of Session*, 31*st May*, 1839.

COMMANDER WILLIAM SMYTH, of Her Majesty's brig "Grecian," appeared, and presenting to the British Commissary Judge his declaration, in writing, respecting the detention of the bark "*Maria Carlota*," with the papers relating thereto, which sailed lately from this port for the coast of Africa, required that the same should be taken cognizance of; upon which the Brazilian Commissary Judge observed that he could not admit that this case should be submitted to the cognizance of the Commission, not considering it comprehended in the stipulation of the Conventions, by which this Commission is guided, and required that the question be adjourned till to-morrow, to which the British Commissary Judge agreed, having first stated some reasons in favour of the admission of the papers, for the purpose of considering the question.

*Session of the* 1*st June*, 1839.

THE Brazilian Commissary Judge re-producing and corroborating his reasons against admitting the question of the examination of the papers respecting the detention of the bark "*Maria Carlota*," agreed to present, in writing, his opinion on the subject; to which the British Commissary Judge replied that he had no objection to the presenting of such opinion, to afford him an opportunity of combating it, but that he should insist on the question being referred to arbitration, in case of difference of opinion between them.

*Session of the* 3*rd June*, 1839.

THE Proctor, on behalf of Roderigo de Abreu Machado, presented a protest against Commander Smyth, as captor of the Portuguese bark "*Maria Carlota*," which sailed from here on the 29th ultimo, for Quilimane, requiring her release, the business not being within the competence of the Commission to take cognizance of.

At the same time a similar protest was made against Commander Smyth, by Joze Francisco de Souza, the owner of the patacho, "*Recuperador*," for her capture by the same, on her leaving this port for Lonada, requiring also her release.

Both petitions were laid on the table.

The Brazilian Commissary Judge read his opinion in the case of the bark "*Maria Carlota*," being as follows:

"The Brazilian Commissary Judge is sorry," &c.—*Vide* Enclosure 5.

The British Commissary Judge replied, after some discussion, that he would also give his opinion in writing, repeating his reasons why cognizance should be taken of the bark in question.

The Prize Master presented to the Brazilian Commissary Judge the papers of the patacho "*Recuperador*," detained, on leaving this port, by the Commander of Her Majesty's brig of war "Grecian," which were laid on the table, it not being possible to enter upon this question till after the decision respecting the bark "*Maria Carlota*."

*Session*, 5*th June*, 1839.

THE British Commissary Judge read his vote in reply to that of his colleague, being as follows:—

"The British Commissary Judge is of opinion," &c.—*Vide* Enclosure 6.

*Session*, 15*th June*, 1839.

THE Brazilian Commissary Judge read the following Despatch:—

"Acknowledging the receipt," &c. *Vide* Enclosure 7.

And declared, that being desirous of carrying the same into effect, he wished to know whether his colleague concurred in such examination, to enable him to furnish the information which he was instructed to give. To which the British Commissary Judge replied, that conceiving the examination of the papers in question to involve the principle, that the Commission possesses the right to institute proceedings, and at once to take cognizance of the detention of the prizes referred to, he was ready to go into such examination immediately; but that his colleague not being of the same opinion, but, on the contrary, confining his wish to examine the papers, to the sole object of giving the information required of him, he (the British Commissary Judge) would take no part in the affair; at the same time that he should make no objection to his colleague proceeding therein as he might think fit.

And Mr. Hesketh, the proctor of the captor, Commander Smyth, being present, he was asked by the Brazilian Commissary Judge if he was opposed, or not, to his examining the said papers with a view to give his Government the information required, as already stated; and on the reply of the former that he had no objection whatever, it was determined to commence the examination on Monday, the 17th instant, and Mr. Hesketh was invited by the Brazilian Commissary Judge to be present at the Act.

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## Fifth Enclosure in No. 142.

*Opinion of he Brazilian Commissary Judge.*

*Rio de Janeiro, 3rd June*, 1839.

THE Brazilian Commissary Judge is sorry not to be able to agree in opinion with his colleague, the British Commissary Judge, in admitting before this Commission the papers relative to the Portuguese bark "*Maria Carlota*," detained by Her Britannic Majesty's brig of war "Grecian," William Smyth, commander, near Ilha Raza, on the 29th day of the preceding month, on which she left this port for that of Quilimane; there having been found on board of her, as is stated, utensils for the traffic in slaves.

The grounds of the objection of the aforesaid Commissioner are, that there not existing any article in the Convention between Brazil and Great Britain to authorise the detention of vessels, unless with slaves on board, or on proof that, having shipped them, such vessels had already landed them, nor even any agreement with Portugal on this subject, he cannot recognise the right to visit and detain the barque in question, and still less to bring it before this Commission, because, for the reasons already given, the instructions of 1835 cannot be applicable to it.

It being an unquestionable principle of public law, that no vessel can, in time of peace, be visited or detained on its voyage on any pretext whatever, unless there exist a special agreement to authorise such visit, it is clear that the bark in question not having been duly detained, for want of such agreement, the Commission cannot enter upon the examination of the papers relating to her, nor interfere in any way with respect thereto.

He is equally unable to admit that, in the difference of opinion between him and his aforesaid colleague, the measure established by the third article of the regulations of this Commission can be put in practice, because, it being applicable only to the questions that may arise on subjects tending to the decision of any process already commenced, the same cannot take effect in the present case in which there is no process, and where, on the contrary, the whole question turns upon the incompetency (illegality) of such process before this Commission.

(Signed) JOAO CARNEIRO DE CAMPOS.

(A true copy.) (Signed) BRAZ MARTINS COSTA PASSOS, *Secretary.*

(A true translation.) (Signed) JOHN BAPTIST COSMELLI, *Interpreter*, ad hoc, *to the Mixed Commission.*

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## Sixth Enclosure in No. 142.

(Translation.) *Opinion of the British Commissary Judge.*

*3rd June*, 1839.

THE British Commissary Judge is of opinion that this Commission is competent to take cognizance of the case of the "*Maria Carlota*," detained and brought before it by the Commander of Her Britannic Majesty's brig of war "Grecian," on suspicion that the "*Maria Carlota*," though covered with the Portuguese flag, is in reality a Brazilian adventure. The grounds of this opinion are as follows:—

The first article of the Convention of the 23rd November, 1826, declares that, at the expiration of three years from the exchange of the ratifications of the said Convention, it shall not be lawful for the subjects of the empire of Brazil to be concerned in the carrying on of the African Slave Trade, under any pretext, or in any manner whatever.

In virtue of the fourth article of the same, this Mixed Commission was appointed for the execution of the purposes which the said Convention had in view.

The second article adopted and renewed, till the time of the final abolition of the African Slave Trade, the several previous treaties and instruments subsisting between Great Britain and Portugal on that subject.

By the third article, it was further agreed that all matters and things contained in these treaties, &c., should be applied, *mutatis mutandis*, to the Convention with Brazil.

Thus, till the final abolition of this trade by Brazil, the stipulations of the Portuguese treaties were renewed in full, and whether of a nature to facilitate or to restrict the right of visit, and of detention, they equally fixed that right as regarded Brazilian vessels, as they had done before with respect to those of Portugal. After such abolition, however, the *mutatis mutandis* took effect, that is, these stipulations were renewed and adopted as far as they were applicable to the new order of things; the execution of the purposes of the last Convention being confided to this Mixed Commission, whose procedure, as well as that of the cruisers, was subjected to the regulations and instructions annexed to the original treaty between Great Britain and Portugal, so far as the adaptation of the same might be compatible with the total abolition agreed upon.

To suppose the adoption of the Portuguese Convention to go beyond this,—to extend such adoption to the renewal of the restrictive clauses therein contained,—far from confirming, and from giving full effect to the treaties already subsisting, as the preamble of the Convention of 1826 declares to be its purpose—would be to narrow its operation, to establish a complete contradiction between them, and thus to involve the absurdity of clogging a general and unlimited concession, mutually agreed upon, with restrictive and even counteracting clauses.

But the Brazilian Commissary Judge admitting the expediency of the interpretation, and right of visit, contended for, says that such can only be the result of some new arrangements between the respective Governments, and that in default of such this Commission has no jurisdiction whatever in the present case, not even to the extent of examining the papers relating thereto. And in support of this opinion he appeals to the first of the Supplementary Articles signed by Senhor Alves Branco, and by the late British Minister, Mr. Fox, as proof (these articles not being yet ratified) that no such right exists.

The British Commissary Judge makes the same appeal, but in proof that the Convention of 1826 gives the right in question, the article above cited, declaring that every merchant vessel, Brazilian or British, which shall be visited by virtue of the treaty of the 23d November, 1826, may lawfully be detained, if equipped in the manner prescribed. Here then is a recognition that the power of visit was granted by that Convention. That of detention is altogether different. It has hitherto depended on the judgment of the Court. The precise definition of the term "clear and undeniable proof," used in the additional article signed at Lisbon in 1823, was equally liable to diversity of opinion. And the criminal code of this country declaring that no presumption, however strong, shall be sufficient to cause the infliction of punishment, it became still more desirable that the circumstances necessary to establish a *primâ facie* evidence of the actual employment of a vessel in the Slave Trade, and thus to bring her within reach of the penalties of the Convention of 1826, should be clearly and unequivocally defined and specified. Hence the utility of the Supplementary Article now before the Imperial Legislature.

That this is the correct view of the case, it is only necessary to remind the Brazilian Commissary Judge, that all the vessels that have of late been condemned by this Court were taken to the south of the Line.

On what authority, then, but that of the Convention of 1826, was the adjudication of any one of those vessels admitted? His colleague says that the abolition of the Slave Trade by Brazil being total and universal, the clause prohibiting detention to the south of the Line is virtually abrogated. But if this be so (and that it is, forms the gist of the argument of the British Commissary Judge) why,—the Convention of 1826 being general, and making no single exceptive declaration—are the other restrictive clauses to remain in force?

The same principle which cancels the restrictive clauses with regard to locality must, surely, equally be held to annul the stipulation which requires, as justification of the capture of any vessel, the actual existence of slaves on board, or at least proof that a slave had been shipped on board for the purpose of illegal traffic in the particular voyage on which the vessel may be captured.

In fact, in the four cases which have been entertained in this Court, of vessels detained without having slaves on board, the right was exercised by it, not so much in virtue of the additional article signed at Lisbon in 1823, as in virtue of the Convention of 1826, which indiscriminately prohibits Brazilian subjects from taking any part or concern whatever in the traffic in slaves And the British Commissary Judge is of opinion, that any infraction of the first article of the same Convention may be dealt with in conformity with what is therein stipulated, under whatever circumstances the detention may be made, provided only that it be on the high seas.

The general principle of public law advanced by his colleague is fully admitted; but, inasmuch as it has been shown that the exception which he requires to modify that principle, viz., a special engagement, actually exists in the Convention of 1826, it appears that in the present case the captor was bound to bring his prize before this Commission.

What has been said relates solely to Brazilian adventures, and proceeds upon the assumption that the present case may prove to be such.

With this argument the instructions of 1835, referred to by the Brazilian Commissary Judge, have no concern. The applicability of those instructions would necessarily be the subject of ulterior investigation.

For the present, the claim advanced by the Commissary Judge is confined,—

First,—To the competency of this Commission to take cognizance of the "*Maria Carlota*," and to enter on an examination of her papers; the question of the legality or illegality of the detention to be decided, of course, by such examination, and by the evidence to be adduced.

Second—To his right to refer the difference of opinion between his colleague and himself to arbitration, in virtue of the first, second, and third articles of the Regulations; the latter of which declares, that in the event of the Two Commissary Judges not agreeing as to the legality of the detention, or any other question resulting from the stipulations of the Convention, they shall draw, by lot, the name of one of the two Commissioners of Arbitration, &c.

(Signed) GEORGE JACKSON.

(A true copy.) (Signed) BRAZ MARTINS COSTA PASSOS,
*Secretary.*

(A true translation.) (Signed) JOHN BAPTISTE COSMELLI,
*Interpreter*, ad hoc, *to the Mixed Commission.*

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## Seventh Enclosure in No. 142.

(Translation.) *M. de Oliveira to M. Campos.*

*June* 14*th*, 1839.

ACKNOWLEDGING the receipt of the Despatch which you addressed to me, under date of the 6th instant, enclosing copies of your opinion, and of that of the British Commissary Judge, respecting the detention made by her Britannic Majesty's brig-of-war "Grecian," of the barque "*Maria Carlota*," and of the schooner "*Recuperador*," I have to acquaint you, that as the examination of the papers before the Mixed Brazilian and British Commission, is by no means to be understood as involving any responsibility respecting the question which has arisen between you and the British Commissary Judge, touching the competency of the same Commission to take cognizance of the aforesaid vessels, the Imperial Government consequently authorizes the Mixed Commission to proceed to the reading of the papers referred to, giving on your part a circumstantial account of their contents to this department, which becomes the more necessary, as her Britannic Majesty's

Chargé d'Affaires asserts, in a note which he has addressed to me, that there exists on board of the above-named vessels 250 barrels of powder and 17 cases of muskets, which are not included in their manifests.

God preserve, &c.
(Signed) CANDIDO BAPTISTA DE OLIVEIRA.

Senhor Joao Carneiro de Campos.

(A true Copy.) (Signed) BRAZ MARTINS COSTA PASSOS, *Secretary.*

(A true Translation.) (Signed) JOHN BAPTIST COSMELLI.
*Interpreter,* ad hoc, *to the Mixed Commission.*

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No. 143.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, June 20th,* 1839.
(*Received August 17th.*)

MY LORD.

REFERRING your Lordship to our Despatch of the 20th of April last, enclosing the declaration of Commander Smyth, of her Majesty's brig Grecian, detailing the circumstances under which he detained the brig "*Leal,*" sailing under Portuguese colours, we have now the honour to state, that the court, having examined only two of the witnesses belonging to that vessel, when the disturbances of the 22nd April occurred, it was not till the 23rd May, that the proceedings in the case of the "*Leal*" were resumed.

This delay was occasioned by the apprehension felt by this government of a renewal of the disturbances, should any fresh witness be brought to the house where the court holds its sittings, which is at a considerable distance from the landing-place, and by the difficulty of removing the court to any other spot not liable to the same objection. And it was only on the 18th May that a communication was received from the Foreign department, stating that the Inspector of the Marine Arsenal would place a room of his at the disposal of the Court, for this *one time,* for the purpose of examining the remaining witnesses of the "*Leal.*"

The Easter holidays were now commencing, and thus the business could not be resumed till the 23rd.

On that and the following days the Arsenal being accessible by water without passing through any street, the proceedings were resumed without the slightest interruption or the least tumult; and we have the honour to transmit herewith the sentence of the Court, given on the 17th instant, condemning the "*Leal*" as Brazilian; declaring the owner, captain, and pilot, to have incurred the penalty of the First Article of the Convention of 23rd November, 1826; and emancipating the surviving slaves to the number of 319, together with our report of the case.

We have, &c.,
(Signed) GEORGE JACKSON.
FREDERICK GRIGG.

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

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First Enclosure in No. 143.

(Translation.) *Sentence.* *Rio de Janeiro, 17th June,* 1839.

THE present proceedings respecting the detention of the brig "*Leal,*" by her Britannic Majesty's brig-of-war "Grecian" William Smyth, Commander, on the 11th April last, Cape Frio distant N N.E. 15 miles, on account of there having been found on board 364 Africans, being examined, it is ascertained that this brig is precisely the Brazilian brig "*Leao*" which sailed from this Port on the 3rd June, 1838, for Angola, carrying as captain, Luiz da Costa Ferreira, a Brazilian subject, because, although the claimant alleges that this is another brig, with the same denomination, sold in Angola on the 30th October last, by the same Luiz da Costa Ferreira, as agent for Joze Antonio Gonçales Agra, a Portuguese subject, residing at Rio de Janeiro (though he is said by the same, on his deposition, to be living at Rio Grande de Sul), to Domingos Jozé de Almeida, also a Portuguese subject, residing at Loanda, who, changing her name from "*Leao,*" under which she had

till then sailed, to that of "*Leal*," which she now bears, despatched her from Loanda to Ambriz. and from thence to Moçambique, to touch at Rio de Janeiro, supporting this allegation with a certificate of registry, which, although it would have been sufficient, aided by the documents in proof, to establish the particulars and nationality of the vessel, yet the above register, in the present instance, is not only not corroborated by any other document, but, on the contrary, all those found on board of this vessel, as well as those that have been since presented, tend to place in the clearest light the simulation and fraud with which the aforesaid register was made, eluding the good faith of the authorities which passed it; and moreover, the bill of sale, which is said to have been made to Domingos Jozé de Almeida, being, as it is, wanting, without the presentation of which the ownership and possession cannot be ascribed to him; and on the other hand, it being clearly proved by the certificàtes produced by the captor, and particularly by the last, and even by those which the proctor for the claimant has offered, that the detained brig is precisely the Brazilian brig "*Leao*," which, as already stated, sailed from this port on the 3rd June, 1838: all such certificates agreeing as to the external and internal marks of the above brig; recognized to be the same by the admeasurer in his official information, as also by her tonnage, with a trifling difference resulting from the manner of measuring; the declaration of the registry as to the brig in question being another brig, and Portuguese property, before the 30th October, 1838, in which it is pretended to have been sold to the aforesaid Almeida, by Luiz da Costa Ferreira, as agent for Agra, is fully proved to be simulated and false; since by the clearances it is irrefragably ascertained that her owner at Rio is not the said Agra, but Antonio Jozé de Abreu Guimaraens, a Brazilian subject: in addition to which, completely to nullify the effects of the register, two important circumstances occur.

1st. That the tonnage is therein declared to be 120 tons, whereas, as is seen by the admeasurements, that of this brig exceeds 220.—2ndly, That the pretended purchaser, Almeida, appears as giving bond for the vessel, without declaring himself the owner, as he could not be at one and the same time both owner and security.

Seeing then, what has been proved from the evidence and investigation of the respective documents, and by the examination of the depositions; the contradictions, inconsistencies, and even indecencies of which are beneath notice, the necessary conclusion is, that the brig mentioned in the register is not that whose detention forms the subject of the present proceedings, but that she is the very same Brazilian "*Leao*" above mentioned, which, having sailed from hence, and having touched at Bahia, reached Angola, and there changed her name, in order thus to cover the illicit adventure for which she was destined, and which she effected; not only her proper captain, Luiz da Costa Ferreira, who sailed in her as such from hence, although he now figures as passenger, but also the pilot and other individuals returning in her.

It being then proved, on the one hand, that the detained brig is the identical brig "*Leao*," the ownership of which is yet vested in Antonio Jozè de Abreu Guimaraens; and, on the other, that he fitted her out from this port, and destined her for the prohibited traffic in slaves, intending to introduce them into Brazil by contraband, for which purpose he shipped in this port goods to the value of 15,196,000*rs.*, as appears by a letter among the papers found on board. Whether such goods be the property of the individual, Renende, signing that letter, or some other person, which is not material to verify, inasmuch as to justify a sentence, the concurrence of the two essential facts suffices, namely, the Brazilian national character of the brig, and the existence of the Africans on board of her, the Commissary Judges of the Mixed Commission declare the detention of the said brig to be lawful, adjudge her to be a good prize to her Britannic Majesty's brig-of-war "Grecian," and condemn her, with whatever cargo may be on board, conformably to the Convention of the 23rd November, 1826, excepting the surviving Africans, to the number of 319, whom they declare to be free and emancipated, to be placed at the disposal of the government of his Majesty the Emperor, in virtue of the 7th Article of the Regulations annexed to the Convention of 1817, as also that the Brazilian citizens, Antonio José de Abreu Guimaraens, owner of the brig, Luiz da Costa Ferreira, captain, and Manuel dos Santos Lara, pilot of the same, have incurred the penalty of the 1st Article of the Convention of the 23rd November, 1826.

(Signed) JOAO CAMEIRO DE CAMPOS.
GEO. JACKSON.

(A true Copy.) (Signed) BRAZ MARTINS DA COSTA PASSOS, *Secretary.*
(A true Translation.) (Signed) JOHN BAPTIST COSMELLI,
*Interpreter*, ad hoc, *to the British Mixed Commission.*

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## Second Enclosure in No. 143.

*Rio de Janeiro*, 20*th June*, 1839.

*Report of the Case of the Brig* "Leal," *condemned, as Brazilian, on the* 17*th June*, 1839.

THIS vessel, in spite of the grossest perjury and trickery, resorted to to make her appear to be the property of a Portuguese subject residing at Loanda, (Domingos Jozé de Almeida,) was proved to be the same vessel which, in June, 1838, sailed from this port with clearances for the Açores, by way of Angola, declaring her to be Brazilian, and to be the property of a Brazilian subject, named Antonio Jozé de Abreu Guimaraens.

From Rio de Janeiro, it appears that she went to Bahia; from whence, after a stay of two or three months, she proceeded direct to Angola, and, in the month of November, 1838, obtained a certificate of register, (of which a copy and translation are annexed,) as also a passport from the Ex-Governor Vidal, for a voyage to Moçambique, touching at Rio.

Her manifest declares her to be in ballast of 32 pipes of salt water.

On the 11th April, 1839, she was detained by Her Majesty's brig "Grecian, William Smyth, commander, sailing under Portuguese colours, 15 miles N.N.W. of Cape Frio, having on board 364 slaves.

On the 20th of the same month, Lieutenant Andrew, as prize-master, brought the papers of the "*Leal*" into court, and having duly certified them on oath, and the usual monition having issued, according to the forms of this country, five witnesses were examined.

*First Witness.*

Feliciano Jozé Ribiero, master of the "*Leal*," swore that he is a native of Braga, subject of Her Most Faithful Majesty, and his profession the sea; that the owner of this vessel is Domingos Jozé de Almeida, of Angola; that, when he made his agreement, it was to proceed to Cabinda, to receive there the Africans, and to carry them to Moçambique for sale; that he left this port for Angola, last year, in the brig-schooner "*Maria Primeira*," as passenger, and that he understood that this vessel entered the latter port under the Portuguese flag; that, up to the month of November, when he again left Angola,—although the certificate of registry given to this vessel cited the Portuguese decree,—he knew nothing of the Portuguese Government having prohibited the traffic in slaves, and that, Moçambique being also a Portuguese colony, he supposed that the transport of Africans from the one colony to the other was not prohibited; that he came to this country, for the first time, in 1835, and that he had from that period been engaged in voyages to different ports of this empire, and to the coast of Africa, sometimes as passenger, sometimes as pilot and captain, and that he does not know that any person residing in this city has any interest in this vessel.

[This witness being questioned as to the existence of any bill of sale, showing this vessel to be the property of Domingos Jozé de Almeida, of Angola, could only speak to his belief that such sale had been made; and, on being referred to a clearance found among the papers on board this vessel, dated Bahia, in June last, proving the "*Leao*" to have then sailed as Brazilian, declared that he knew nothing of this, not having been at Bahia.]

*Second Witness.*

Manoel dos Santos Lara swore, that he is a native of Ilha Grande; that he is a Brazilian subject, his profession the sea, and now serving as pilot on board of this vessel; that he does not know for certain who is her owner, having made his agreement with the captain, and having had no intercourse with the owner; that he left this port ten months ago in another brig, a Brazilian, called the "*Leao*," for Angola, which put into Bahia, having sprung a leak, and from thence proceeded for Angola; that two individuals on board of this vessel, named Jozé Peixoto da Costa Braga, and Manoel Jozé de Rezende, were passengers, and said to be Portuguese, and that he had no knowledge of their being concerned in the brig or cargo; that, when he made his engagement with the captain, he told him that the object of the voyage was to take on board, at Cabinda, ivory and other merchandize, for Moçambique, and that he only knew of the blacks when he saw them on board; that he had no interest himself, nor as agent of any other person, in the cargo of this vessel; that he was not concerned in exchanging goods at Cabinda (where he was very ill) for blacks, and that he had not been employed in any such traffic.

*Third Witness.*

Manoel Jozé de Rezende swore, that he is a native of Portugal, subject of Her Most Faithful Majesty; that he is married, and has a family at Pernambucco; that he gains his livelihood by commerce; that he came in this vessel as passenger, having embarked in her at Cabinda; that he did not know the reason why, with a passport from Loanda to Moçambique, to touch at Rio, she should have gone to Cabinda, but that such was the fact; and that, when he went on board, he found the Africans already shipped, but that he did not know at what place they had been received; that he himself went to Cabinda for purposes of licit commerce, and that it is true that he bought there seven blacks, to be sent from thence to Angola on his account; that he went from Angola to Cabinda in a launch, having previously agreed with the captain to receive him there as passenger; that he left this port for Angola in the brig "*Leao*," which put into Bahia, and that he now returned in the brig "*Leal*," not being able to certify whether this brig is the same brig "*Leao*" in which he sailed from hence, nor whether Luiz da Costa Ferreira is the same individual who sailed in the "*Leao*" as captain; that she left this port under Brazilian colours, and that the pilot on board the "*Leal*" sailed in her with the same character; that he, deponent, came to Brazil in 1826, and had no fixed establishment in the country, but went about as a travelling merchant, from one port to another, and that, on quitting Angola for Cabinda, he left the "*Leao*" at the former place.

Among the papers found on board, is a letter from this witness, dated Rio de Janeiro, 21st May, 1838, stating that he had shipped goods, to the value of 15,196 rix-dollars, in the brig "*Leao*," which he intended to dispose of on the coast of Africa, in such sort of goods as he could turn to best account, directing his correspondent, in case of his death, to deliver the whole, of whatever it might consist, to an individual named Pusso, residing in the province of Rio de Janeiro.

This letter is addressed to Joao Peixoto da Costa Braga, who, it is to be observed, sailed in company with him, in the "*Leao*," from this port, in June, 1838. In his deposition he explains this by saying that it was only a contrivance to prevent the property falling into the hands of the local authorities in the event of his death, and that the above-mentioned Pusso had, in fact, no concern or interest whatever in this adventure.

*Fourth Witness.*

Joao Peixoto da Costa Braga swore, that he is a native of Braga, subject of Portugal, living by commerce; that he came in this vessel as passenger; that he did not sail from hence in her, but in the Brazilian brig "*Leao*;" that he put into Bahia, and from thence proceeded to Angola, for purposes of licit commerce, and that he had no interest whatever in this vessel, or in the adventure.

This witness perjured himself so grossly, that the Brazilian Commissary Judge threatened to apply to the Brazilian authorities to commit him for perjury. He denied the identity of Luiz da Costa Ferreira with the captain of the "*Leao*," as also the existence on board the "*Leal*" of any officers which had belonged to the former, and declared that he could not tell whether these two were one and the same vessel.

*Fifth Witness.*

Luiz da Costa Ferreira swore, that he was born in Oporto, but that he is a Brazilian citizen, having resided in Brazil prior to her independence, and having sworn to the constitution of the empire; that he is married, and that he has a family in this city; that he left this in the Brazilian brig "*Leao*," the property of Guimaraens, with whom he made his agreement; that the "*Leao*" went on freight to Angola, from whence she might perhaps be sent to the Cape Verds; and that the brig he is now in is not the same; that the "*Leal*" was Portuguese, belonging, at the time when he sailed from hence, to

a Portuguese subject of the name of Agra, residing in Rio Grande do Sul, and that, after he had been at Angola about a month, he received a power of attorney from Agra to sell the same, which he did to Domingos Jozé de Almeida, of the city of Loanda; which power, with the letter of orders, was lost at the moment of capture; that he came back in her simply as passenger, being very ill, and there being no good medical advice to be had where he was, but that he had no concern in this adventure.

There being no doubt in the mind of the Court that the "*Leao*" and "*Leal*" were one and the same vessel, belonging to persons resident in Brazil, and that she had taken out the cargo mentioned in Rezende's letter (written, be it remembered, under circumstances when there was no cause for concealment) to be bartered for slaves, the Commissary Judges, on the 17th instant, pronounced sentence of condemnation on the "*Leal*" as Brazilian, in virtue of the Convention of 23rd November, 1826—condemned the vessel and cargo as good prize to Her Majesty's brig of war "Grecian"—declared her owner, master, and pilot, to have incurred the penalty of the 1st Article of the same, and emancipated the surviving slaves, to the number of 319, to be placed at the disposal of His Majesty the Emperor, conformably to the 7th Article of the Regulation annexed to the Convention of 1817.

GEORGE JACKSON.
FREDERICK GRIGG.

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*Annex to the Report of the Case of the* "Leal."

(Translation.)

Certificate of Register of the Brig "*Leal*," given by the Secretary of the Governor at Loanda, on the 10th November, 1838:—

At page 4, and following, of the book which serves in this Department-General of Government for registry of Portuguese merchant vessels, conformably to the Decree of the 17th November, 1836, ordered to be observed by the "Portaria" of the Government-General of the province of the 2nd June of the present year, is the following entry:—

"Brig '*Leal*,' 120 tons, as appears from the certificate of admeasurement of the same, of the 3rd instant:

"Owner, Domingos Jozé de Almeida, resident in this city of Loanda. Portuguese built. Was sold in this city, under the name of '*Leao*,' by Luiz da Costa Ferreira, as agent for Jozé Antonio Gonçalves Agra, Portuguese subject, residing in Rio de Janeiro, as appears by the bill of sale passed on the 30th October last; all which is proved by the respective documents in the archives of this department, by which all the requirements of the law have been satisfied."

The above register, to which I refer, contained nothing further. In faith of which I have caused the present certificate to be passed.

Department-General of the Government of Angola and its Dependencies, 10th November, 1838.

(Signed) PEDRO BAPT. LOBATO PIRES.

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## No. 144.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, June 22nd.*
(*Received August* 17, 1839.)

My Lord,

On several recent occasions, after vessels have been condemned by the Court, claims have been preferred by individuals, professing to have no concern in the vessel, cargo, or adventure, for slaves serving on board such vessels, as sailors.

The decision of claims of this nature has been hitherto left to the Brazilian tribunals, to be dealt with according to their own municipal laws, after it had been proved, to the satisfaction of the Court, that such slaves were truly entered on the muster-roll, and had been the *bonâ fide* property of the persons claiming them, prior to the promulgation of the law of the 7th November, 1831.

These claims are now sure to be made, in any case of capture; and the question becomes of importance, both as regards the Slaves themselves, and their owners.

At present the sentence of the Court can have no action upon the slaves, either with a view to emancipation or to punishment; the one, the want of free agency precludes, and, to grant the other, the Commission has no power.

To convict the owners of being concerned in carrying on the African slave-trade, solely on the ground of their having slaves belonging to them, serving as sailors, in vessels taken with slaves on board, for purposes of traffic, would be exceedingly difficult; and, in case of any re-construction of the Prevention Treaties, we would suggest, both as a boon to the slave, and as a great discouragement to the traffickers, that the Commission should be empowered to emancipate all slave-sailors belonging to vessels condemned for being engaged in the traffic.

We have, &c.
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

No. 145.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August 20th,* 1839.

I HAVE received your Despatches of the 29th of April, and of the 8th of May, 1839, respecting the sale of slave vessels, condemned in the Mixed Commission Court at Rio de Janeiro.

I have referred those Despatches, and other communications upon the same subject, to Her Majesty's Advocate-General, and I have now to acquaint you, in accordance with his opinion, that under the Convention between Great Britain and Brazil, authorising the establishment of the Mixed Court of Commission, the vessels condemned by the Court of Mixed Commision, "must be sold by public sale for the benefit of the two Governments;" and, consequetly, the officer in command of Her Majesty's ships on the station has no right to retain the possession of such vessels, and thereby to prevent the sale of them: he may, however, of course, with the approbation of Her Majesty's Government, purchase such vessels for the public service, when they are exposed for sale.

With reference to the low price at which some of the condemned vessels are stated to have been sold, I have directed Her Majesty's Chargé d'Affaires to take such measures as he shall judge best calculated to ensure a fair sale of such vessels, and I have to desire that you will give him any assistance in your power in this matter.

I am, &c.
(Signed) PALMERSTON.

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

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No. 146.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, August 25th,* 1839.

CIRCULAR transmitting an Address upon Slave Trade from the House of Peers.

(See No. 4., page 3.)

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No. 147.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August 31st.* 1839.

I HEREWITH transmit to you, for your information and guidance, the copy of a letter which, under my directons, has been addressed from this office to the Admiralty, containing the opinion of Her Majesty's Advocate-General upon the case of the "*Hazard,*" a vessel met with by one of Her Majesty's cruisers, and detained on a charge of being concerned in Slave Trade, although bearing the flag of a State which has not conceded to Great Britain the right of search.

I am, &c.
(Signed) PALMERSTON.

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

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Enclosure in No. 147.

*Mr. Strangways to the Secretary to the Admiralty, August* 29, 1839.

(See Enclosure in No. 39, page 56..)

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No. 148.

*Viscount Palmerston to Her Majesty's Commissioners.*

(Extract.) *Foreign Office, August* 31*st*, 1839.

I REFERRED to Her Majesty's Advocate-General your Despatch of the 22nd of January, 1839, asserting the competency of the Mixed Court of Commission at Rio de Janeiro, to take cognisance of Brazilian slave vessels which might be detained, either with or without slaves on board, under the the Convention of the 23rd of November, 1826, between Great Britain and Brazil.

The construction which you give to the Convention is certainly in accordance with the intention of the Contracting Parties thereto; which was, to put down and to confiscate all the Slave Trade of Brazil.

You will therefore do right to obtain the concurrence of the Brazilian Government to that construction of the Convention.

I am, &c.
(Signed) PALMERSTON.

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

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No. 149.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, September* 3*rd*, 1893.

Circular sending Act of Parliament for the suppression of Slave Trade.

(See No. 6, page 3.)

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No. 150.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, September* 13*th*, 1839.

I HAVE had under my consideration your Despatch of the 10th June, 1839, enclosing copy of a letter which you addressed to Her Majesty's Chargé d'Affaires, recommending certain amendments in the organisation of the Mixed Court of Commission at Rio de Janeiro.

I have also had under my consideration a Despatch from Her Majesty's Chargé d'Affaires at Rio de Janeiro, enclosing a copy of a representation which he received on the same subject from Her Majesty's Consul at that place.

I have to instruct you to co-operate in regard to these matters with Her Majesty's Chargé d'Affaires, in endeavouring to persuade the Brazilian Government to exempt the Mixed Commission from the necessity of observing in the courts of law the holidays which are kept by Brazil.

In consequence of the recent increase in your correspondence, I am willing to allow you to employ a person to act as clerk to Her Majesty's Commissioners, at a reasonable allowance, and the amount of that allowance may be charged in that portion of the contingent expenses of the Commission which is borne by Her Majesty's Government.

If the business of the Mixed Court should continue to increase, and the Brazilian Government should represent to you that the Registrar needs help, and if you should agree in that opinion, Her Majesty's Government will not object to the appointment of a person to act as assistant to the Registrar. Such person should be appointed by Her Majesty's Commissioners and by the Brazilian Commissioners jointly, and the expense of the appointment should be charged in that part of the account of the expenses of the Mixed Court which is borne in equal shares by the two Governments. You will be careful

not to incur any unnecessary expense with respect to these arrangements.

I have already authorised you to engage an interpreter and a meirinho for the Mixed Court, and I have instructed Her Majesty's Chargé d'Affaires to confer with the Brazilian Government with respect to the messenger, and to suggest the appointment of some fit person in the room of the present messenger, who appears not to do any duty. Her Majesty's Government will consent to allow the present messenger one year's wages in advance, as a gratuity on his retirement, and the amount may be charged in the contingent expenses of the Commission.

I trust that these arrangements will be satisfactory, as affording to the Court the additional assistance which they may need for despatching the increased business of the Commission, and that there will be no further grounds for such complaints as those which have been made to me, of delay in the adjudication of cases.

I am, &c.,
(Signed) PALMERSTON.

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

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No 151.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, September* 14, 1839.

WITH reference to your several Despatches upon the subject of the "*Carolina*" and "*Especulador*" condemned by the Mixed Court, of which you are members, for being engaged in the Slave Trade, I herewith transmit to you copies of a Despatch, and of its enclosures, from Her Majesty's Envoy at Lisbon, by which you will learn that the Portuguese subjects who formed part of the crews of those vessels, and who were sent to England by the Commander-in-Chief of Her Majesty's Naval Forces on the Brazilian station, have been made over to the Government of Her Most Faithful Majesty.

I am, &c.,
(Signed) PALMERSTON.

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

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Enclosure in No. 151.

*Lord Howard de Walden to Viscount Palmerston, Lisbon, August 26th,* 1839.

(See Class B.)

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No. 152.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, July* 20*th,* 1839.

MY LORD, (*Received September* 21*st.*)

WE have waited till the last moment, before the departure of this packet, to address your Lordship, further, on the subject of the barque "*Maria Carlota,*" and the patacho "*Recuperador,*" in the hope that the Court would, ere this, have proceeded to take cognisance of them; but as in this we are disappointed, we must content ourselves with enclosing for your Lordship's information, extracts, in original and translation, of the Minutes of the Court of the 28th June and of the 4th July last, detailing the particulars of what has passed on this subject, since the date of our last Despatch, as far as our knowledge of it extends.

With whatever else may have occurred, your Lordship will, doubtless, be made acquainted by Her Majesty's Chargé d'Affaires.

To that gentleman we did not fail to communicate an extract of the former of these minutes, showing the determination of the Brazilian Commissary Judge to take no further step whatever with his Government in the question. And, on the 4th instant, an application was made to the Court by Mr. Hesketh, as appears by the second of the extracts, at the desire of Mr. Ouseley, to allow Mr. Gordon attached to the Mission, to examine the papers belonging to the two vessels in question.

The reply of the two Commissary Judges is recorded in the latter enclosure; and to her Majesty's Mission we beg leave to refer your Lordship for the extent and result of such examination.

Acting upon the principle from the first laid down by him, Her Majesty's Commissary Judge has uniformly declined taking any part in any other than a judicial examination of those papers; but, should the Imperial Government ultimately decide against the adjudication of the "*Maria Carlota*" and "*Recuperador*," by this Court, we shall then feel ourselves not only at liberty but bound to put your Lordship fully in possession of the very important and extraordinary disclosures, which an investigation of their papers will, we are persuaded, present.

We have, &c.

(Signed) GEORGE JACKSON,
FRED. GRIGG.

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

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## First Enclosure in No. 152.

(Translation.) *Extract of Minutes of Session of the 28th June*, 1839.

THE British Commissary Judge inquired of the Brazilian Commissary Judge if he had already received any decision respecting the question of the two detained vessels, the barque "*Maria Carlota*" and patacho "*Recuperador*;" to which he replied that he had received no answer whatever, and that, on this subject, he had nothing further to submit to his Government; adding that his colleague, if he thought fit, could address himself to the British Mission at this Court, to obtain, through that channel, the information which he might think necessary.

(A true copy.) (Signed) BRAZ MARTINS COSTA PASSOS,
*Secretary.*

(A true translation.) (Signed) JOHN BAPTIST COSMELLI,
*Interpreter*, ad hoc, *to the Mixed Commission.*

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## Second Enclosure in No. 152.

(Translation.) *Extracts of Minutes of Session of the 4th July*, 1839.

MR. HESKETH, proctor of Commander William Smyth, captor of the barque "*Maria Carlota*" and of the patacho "*Recuperador*," appeared, and stated that he had communicated to Her Britannic Majesty's Chargé d'Affaires at this Court the delay which had occurred in the decision of the Imperial Government respecting taking cognizance of the detention of the above vessels, and that the said Chargé d'Affaires was desirous, in consequence, that Mr. Gordon, attached to the Mission, should examine the papers belonging to them; and Mr. Hesketh requested that such examination might be allowed. To which the British Commissary Judge replied that, though he was persuaded that the examination already made by his colleague the Brazilian Commissary Judge, as well as that now required, was irregular, yet that he did not oppose its being made, in the same way as he had not opposed the other. The Brazilian Commissary Judge answered that, on his part, he had no objection to the examination, which it was wished to make; and it was, accordingly, fixed to take place to-morrow.

(A true copy.) (Signed) BRAZ MARTINS COSTA PASSOS,
*Secretary.*

(A true translation.) (Signed) JOHN BAPTIST COSMELLI,
*Interpreter*, ad hoc, *to the Mixed Commission.*

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No. 153.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, July 20th,* 1839.
(*Received September* 21.)

My Lord,

Having seen the working of the instructions respecting the distribution of the Africans, from on board the vessels lately captured by Her Majesty's cruisers, issued by the present Minister of Justice, and communicated in our Despatch of 22nd April last, we must beg leave, at the risk of appearing tedious, again to state our conviction of the total failure of the present system in fulfilling the humane intentions of Her Majesty's Government, and in affording any return for the great expense incurred by it, with a view to the benefit of the negroes.

In the recent distribution the different departments of Government and the various public works, whether carried on in this capital or at a distance, have been allowed to select the able-bodied of either sex, leaving the young and sickly to be given out among private individuals. The separation of children from their parents is not the only evil resulting from this course. The remnant, whose tender age or debility made them of present trifling value, have been given into hands, from which, for the most part, they have little chance, even if they survive, of ever receiving either their wages or their liberty.

Indeed, the objection to tolerating free blacks in this country is becoming stronger every day, from the influence which their existence might have on the slave population. This feeling is so strong that we are persuaded that, even among those most hostile to the traffic, and most ready to oppose the introduction of new Africans into this country, we can never look for any real, cordial co-operation in securing liberty to such as may once be imported.

We have, &c.
(Signed) GEORGE JACKSON,
FRED. GRIGG.

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

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No. 154.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, July 29th,* 1839.
(*Received September 25th.*)

My Lord,

A discussion took place, last week, in the Chamber of Deputies, on the presentation of the Naval Estimates, which, though involving, on the part of one of the speakers some confusion on collateral points, yet affords, on the whole, so accurate an insight into the feeling of parties on the Slave Question, and shows so clearly how little we can expect any effective co-operation from the Brazilian Marine or other authorities, that we have made a free translation of certain extracts from what passed, which we have the honour to enclose herewith.

The Deputy, with whom this discussion originated, is one of the three brothers Andrade, who were formerly the warm adherents of the late Emperor, and the eldest of whom was the first to raise the cry of Brazilian independence.

He may be considered as the individual, in the whole Chamber, most hostile to the traffic, yet even he looks more for its suppression to the exertions of Great Britain, than to any steps taken, or capable of being taken, by this country.

The other speakers are the late and the present Minister of Marine, and the fourth Senhor Carneiro Leao, though not a member of the late administration, was, perhaps, its stanchest and most forward supporter, as he is one of the ablest of the Deputies. Under the First Regency he was Minister of Justice.

We have, &c.
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## Enclosure in No. 154.

(Extract.)

SENHOR ANDRADA MACHADO, Deputy for St. Paul's, speaking of the principles of the present administration, said,—" With respect to the policy on the question of slavery, I hope something better from this than from the late administration, because I see in the report of the Minister" (Candido Baptista de Oliveira), " a severe anathema against this shameful anti-christian traffic, and I must suppose that the entire Ministry shares in the same ideas; but can the Ministry at once give effect to this policy? I think not yet; the Ministry is not complete; and they do not well know the ground they tread upon. I know the reason why this traffic continues: no cruises are made; where is the naval officer willing to undertake such a cruise, and to capture slave-vessels? We see that it cost 'Mamede,' and another officer, 'Veiga,' dear, being too forward in taking slave-vessels; this shameful traffic is protected by influential persons in the country; few are the honourable exceptions; but it is protected generally, and shamefully, because it is wished to maintain it. Thus, it is necessary that the Ministry should be more secure in power to enable them to encounter so powerful an enemy. I hope this from them; I do them justice."

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Senhor Torres, Deputy for Rio de Janeiro, and late Minister of Marine :—

" The Member for St. Paul's declared, that it was difficult to suppress the contraband traffic in Africans, because no naval officer would undertake the commission to cruise for the purpose of capturing vessels employed therein: from these expressions it could only be inferred that the noble Deputy intended to censure the administration which deprived the officer, Mamede, of his command, or acted otherwise unfavourably towards him, in consequence of his having captured vessels with Africans, saying that the Ministry could not resist this contraband, seeing it was protected by high authority. I speak on this subject the more impartially, as the facts cited did not occur during my administration."

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Senhor Carneiro Leaõ, Deputy for Minas Geraes, a stanch supporter of the late administration, and formerly Minister of Justice.

" I will now speak respecting the contraband of Africans, which the noble Deputy represented as being protected by high authority. This he explains to mean, the proprietors and the rich class of society, and that this it is which protects it; but I think that the noble Deputy did not well express himself, putting this class above the Ministry. I certainly think that the landed proprietors, interested in this traffic, might take a position different from that in which they stand; but, then, it should be said, that the Brazilian landed proprietors have contented themselves with good wishes, that the legislators should take proper measures to meet the evil which we, unfortunately, are sustaining, but (to justify the censures directed against them) that they have not yet interposed between the authority of Ministers to prevent the execution of the laws for impeding the traffic, unless the noble Deputy wishes somehow to point out to them that they ought to imitate what took place in the United States. In the years 1835 and 1836, the rage of the abolitionists increasing in that country, the slave-holding States opposed themselves to it, and the people of the non-slave-holding States, considering the interest of the former to be threatened, thought that it was their duty not to be mere spectators, but to take the *initiative* in punishing the abolitionists. The insurrections in New York, Philadelphia, and other non-slave-holding States are well known.

" It is, therefore, unjust to accuse persons as interposing with the Ministry to prevent their suppressing the contraband by all means in their power. It is true that the landed proprietors of Brazil have confined themselves to wishes and representations, and to entirely peaceful means. I will say also, however, that, when called to act as jurymen, they have not shown themselves very zealous in punishing this sort of crime."

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Senhor Jacinto Roque Minister of Marine, in asking for an increase of force, said :—

" The Government require additional force to fit out cruisers for the suppression of the traffic, which do not now exist, because the vessels had been employed on services of greater importance. He was afraid to employ naval officers on these cruises, not from a fear of their not fulfilling their duties, but because the influence they talked of might seduce them, and then Brazil would have prevarications corrupted and, possibly, venal officers. He thinks, therefore, that this is not to injure, but, on the contrary, to preserve the naval body. But if it is necessary to establish cruisers, it is right that the Government should arm some vessels for this purpose."

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Senhor Andrade Machado in reply, said :—

" That he did not know under what Ministry the facts alluded to by him, respecting the two naval officers, had occurred; but it was certain that they had no longer a command. With respect to the cruises, that he did not know how the Minister of Marine could fail to establish such, being bound thereto by treaty. That he was well aware that the Commission was a dangerous one, not because he thought that the naval officers would yield to the temptations, but because it is never well to expose any one to such, the more so, as the officers are almost all very poor. He therefore thought that the Minister was right in not wishing to expose the officers to temptation, but he did not know how he could help fulfilling the treaty."

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## No. 155.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, July 30th,* 1839.
(*Received September* 25.)

MY LORD,

WE have the satisfaction to enclose to your Lordship herewith, in original and translation, the copy of an "Aviso" from the Minister for Foreign

Affairs to the Brazilian Commissary Judge, directing him to proceed, in concert with his British colleague, in the adjudication of the two vessels lately detained by Her Majesty's brig of war "Grecian," the "*Maria Carlota*," and the "*Recuperador*."

By the next opportunity we may probably have it in our power to report further. At present, we can only state, that the Brazilian Commissary Judge, having presented this Aviso to the Court, late in the day yesterday, the preliminary steps towards adjudication have already been taken by the Court, and that the cases will now proceed without further delay.

We have, &c.

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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Enclosure in No. 155.

(Translation.)

*Aviso.* *Palace, 27th July,* 1839.

By order of the Regent, in the name of the Emperor, before whom I laid the reasons alleged by you in your Despatch of the 6th June last, for considering the Mixed Brazilian and English Commission, of which you are a member, incompetent in the cases of the barque "*Maria Carlota*," and the schooner "*Recuperador*," lately captured by Her Britannic Majesty's brig of war "Grecian," I proceed to reply to you, as follows, for your Government. The principal argument which you adduce being the circumstance that the existence on board these vessels of Africans destined for the traffic—as is expressly required by the Fifth Article of the Additional Convention of the 28th July, 1817, to warrant capture in the mode stipulated in the above Convention—cannot be supposed, seeing that both vessels had just sailed from this port, it is indubitable that such an allegation can only operate towards rendering the capture illegal, after proceeding to adjudication in the form laid down in the said Convention, and in the instructions thereunto annexed, and can never establish the incompetence of the Mixed Commission; since, as to it, under every hypothesis, it appertains to try captured vessels, the captor will necessarily be responsible for the losses and damages in the event of a sentence declaring the capture to be illegal.

In consequence of the above it is proper that you, jointly with your colleague, do proceed to take cognizance of the cases in question, in conformity with the stipulations and instructions in force.

God preserve, &c.

(Signed) CANDIDO BAPTISTA DE OLIVEIRA,

*To Senhor Joao Carneiro de Campos.*

(A true copy.) (Signed) BRAZ MARTINS COSTA PASSOS,
Secretary.

(A true translation.) (Signed) JOHN BAPTIST COSMELLI.
Interpreter, *ad hoc*, to the Mixed Commission.

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No. 156.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, October 9th,* 1839.

WITH reference to your Despatch of the 31st of May 1839, in which you state that Her Majesty's ship "Grecian" had met with a vessel under Brazilian colours, having on board 70 or 80 negroes, said to belong to an Englishman named Platt, residing at Rio de Janeiro, and bound to an estate of his at Brazil, I have to acquaint you, that I considered it proper to take the opinion of the law officers of the Crown, as to whether Mr. Platt would be liable to prosecution in a British court for a breach of law against Slave Trade, if the facts abovementioned could be proved.

The law officers have reported it to be their opinion, that if Mr. Platt was importing the negroes in question from Africa or elsewhere into the Brazilian territory, with a view to their being dealt with as slaves, he would certainly be liable to be prosecuted for felony in a British Court, under the express provisions of the 5th Geo. IV. cap. 113, sec. 10; but that the facts stated in your Despatch are not sufficient to enable the law officers of the Crown to say whether Mr. Platt would, in the particular case in question, be liable to prosecution in a British court for a breach of law against Slave Trade.

I am, &c.,

*Her Majesty's Commissioners, &c. &c. &c.* (Signed) PALMERSTON.

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No. 157.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, October 12th,* 1839.

ON the 16th ultimo the *Correiro* of Lisbon, published in the Portuguese language, two notes which Lord Howard de Walden was instructed some months ago to present to the Portuguese Government on the subject of the African Slave Trade, carried on under the flag of Portugal.

I transmit to you herewith one copy of the *Correiro,* and I have to desire that you will cause the two notes to be reprinted, and to be circulated as extensively as possible.

I am, &c.
(Signed) PALMERSTON.

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

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No. 158.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, October 12th,* 1839.

I LATELY received a note from the Baron de Moncorvo, Her Most Faithful Majesty's Minister at this Court, enclosing the copy of a circular note which has been addressed by the Portuguese Minister for Foreign Affairs, to the Courts who were parties to the Treaties and Conventions which were concluded at the Congress of Vienna in 1815.

The object of that circular is to complain of certain measures which the Parliament and Executive Government of Great Britain have recently determined to take, with a view to put down the Slave Trade hitherto carried on under the flag of Portugal; and the Portuguese Government represents the conduct of Great Britain towards Portugal in this matter as unprovoked, oppressive and unjust, and as being a flagrant violation of the law of nations, and a direct attack upon the rights of an independent state.

Her Majesty's Government have deemed it expedient to communicate to the Courts to which the Portuguese note has been addressed, copies of the papers which contain the substance of the negotiation between Great Britain and Portugal on this matter; and I transmit for your information a copy of M. Moncorvo's note to me, and of my note to the ministers accredited to this Court by the Powers who were parties to the Treaties of the Congress of Vienna in 1815.

I am &c.,
(Signed) PALMERSTON.

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

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No. 159.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, August* 8, 1839.
(*Received October* 14.)

MY LORD,

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 28th of May, transmitting a copy of one from Her Majesty's Consul at Lisbon, enclosing a translation of an Instruction 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.

We have, &c.
(Signed) GEORGE JACKSON.
FREDERICK GRIGG.

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

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No. 160.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, October* 16, 1839.

WITH reference to former correspondence upon the subject of the want of accommodation for the negroes and crews of vessels brought into Rio de Janeiro for adjudication by the Court of which you are members, I herewith transmit for your information and guidance, copies of the correspondence which has passed on this subject between Her Majesty's Government and Her Majesty's Legation at Rio de Janeiro, by which you will learn that Mr. Ouseley's conduct, in hiring a receiving-ship, for the reception of the sick negroes and sailors, has been approved of, and that Her Majesty's Government has decided that a proportion of the expenses incurred by that measure is to be paid out of the proceeds of sale of each condemned vessel, the negroes or crew of which shall have been accommodated on board the receiving-ship.

I am, &c.
(Signed) PALMERSTON.

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

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Enclosure in No. 160.

*Mr. Ouseley to Viscount Palmerston, Rio de Janeiro, April* 23, 1839.
*Viscount Palmerston to Mr. Ouseley, Foreign Office, July* 2, 1839.
*Viscount Palmerston to Mr. Ouseley, Foreign Office, October* 16, 1839.

(See Class B.)

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No. 161.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, November* 2, 1839.

WITH reference to my Despatches, marked "Slave Trade," of the 25th of August, and of the 3rd of September last; the first enclosing copies of an Address upon Slave Trade from the House of Peers to Her Majesty, and Her Majesty's most gracious Answer thereto; and the second enclosing a copy of an Act of Parliament, recently passed for the Suppression of the Slave Trade; I have to acquaint you that the Queen has been pleased to command, that orders should be given to the Commanders of Her Majesty's cruizers to detain vessels engaged in Slave Trade, and sailing under the flag of Portugal, wherever met with; and also to detain vessels engaged in Slave Trade, but hoisting no flag, and destitute of any papers proving their nationality.

Orders have also been given to establish British Courts of Vice-Admiralty, at any places within Her Majesty's dominions and Colonies abroad, where such Courts may be requisite for the adjudication of vessels, detained as before mentioned.

Thirdly, orders have been given, that the crews of Portuguse slave vessels so detained, shall be sent to that port of the Portuguese dominions to which it may be most convenient to convey them; in order that they may there be delivered up to the Portuguese authorities.

Fourthly, orders have been given that negroes found on board such detained vessels shall be landed at the nearest British port or settlement; and shall there be placed under the care of the Governor, or other officer in command.

And, fifthly, orders have been given to the Governors of Her Majesty's forts and settlements abroad, to make the necessary arrangements for the care and support of the negroes, who may be landed and set free under these orders.

The officers commanding Her Majesty's cruizers, employed for the suppression of the Slave Trade, have, at the same time, been acquainted that nothing contained in the before-mentioned Act of Parliament is intented to confer upon British cruizers any new right of search, as to any vessel, sailing under the flag of a State with which Great Britain has no Treaty granting a mutual right of search: and

that, with respect to vessels sailing under the flag of a State with which Great Britain has a Treaty, granting a mutual right of search, that Act of Parliament is not intended to authorise Her Majesty's naval officers to visit and search such vessels, in any other way than that which is prescribed by such Treaties, and by the instructions annexed thereto.

I am, &c.
(Signed) PALMERSTON.

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

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No. 162.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, August* 31, 1839.
(*Received November*, 14.)

My Lord,

We have the honour to acknowledge the receipt of your Lordship's Despatch of the 29th of June, 1839, transmitting, for our information, five copies of two series of Papers relating to the Slave Trade, which had been presented to both Houses of Parliament by Her Majesty's command.

We have, &c.
(Signed) GEORGE JACKSON.
FREDERICK GRIGG.

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

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No. 163.

*Sir G. Jackson to Viscount Palmerston.*

*Rio de Janeiro, September* 16*th*, 1839.
(*Received November* 14.)

My Lord,

Your Lordship's Despatch of the 8th May last reached me in due course, and I have allowed myself to delay my answer thereto somewhat longer than I should otherwise have done, in the expectation that possibly the completion of some general arrangement with regard to the destination of Africans, liberated under sentence of the Mixed Commission, might enable me to reply to your Lordship's instructions on this occasion more satisfactorily than I am at present enabled to do.

In the first place, I do not distinctly understand whether your Lordship intended that those instructions should have a retrospective operation. Had, however, any arrangement for the reception of such individuals in any of Her Majesty's colonies been concluded, I should not have hesitated in giving at once the utmost latitude to your Lordship's directions, and in including those now in my family in that arrangement; but I own, when I consider what would be the almost certain fate of these beings were I to relinquish their possession without any such security for their future welfare, and the length of time which they have been with me; that they entered my doors in an almost dying state, so much so, that my medical attendant advised me not to receive them; and that some have now infants belonging to them, that I cannot bring myself, without previously stating these particulars to your Lordship, to take a step which would be equivalent to cancelling the period of apprenticeship they have already served, and reducing them to a state of hopeless slavery.

Actuated by the motives, and under the impression explained in the concluding part of my Despatch of the 14th February last, I had made application for, and obtained the promise of, other emancipated Africans belonging to the recent prizes, before the receipt of your Lordship's Despatch of the 8th May.

These, of course, I have not thought it right to keep myself, but have intrusted them, provisionally, to persons on whom I can depend, to await your Lordship's final determination.

I have, &c.,
(Signed) GEORGE JACKSON.

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

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## No. 164.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, September* 23, 1839.
(*Received November* 15.)

MY LORD,

REFERRING your Lordship to our Despatch of the 22nd of June, in which we had the honour to enclose a copy of Commander Smyth's declaration, in the case of the "*Maria Carlota*" (omitting only the list of the crew), we now beg leave to forward herewith a copy of the sentence pronounced on the 13th instant, and our report of the case, reserving for another Despatch the several particulars attending it.

By these papers, your Lordship will perceive, that the two Commissary Judges, not agreeing on the sentence to be pronounced, lots were drawn, in conformity to the third article of the Regulation, and that the lot falling on her Majesty's Commissioner of Arbitration, that gentleman eventually concurred in the opinion of the British Commissary Judge, and that a final sentence of condemnation was pronounced accordingly; our Brazilian colleague signing himself, according to the usages of this country, on such occasions, "dissentient."

We have, &c.

(Signed) GEORGE JACKSON.
FREDERICK GRIGG.

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

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## First Enclosure in No. 164.

*Sentence.*

(Translation.) *Rio de Janeiro, September* 13*th*, 1839.

THE present proceedings respecting the detention of the Portuguese barque, "*Maria Carlota*," by Her Britannic Majesty's brig-of-war, "Grecian," William Smyth, commander, on the 29th May last, ten or twelve miles south-east by east of Raza Island Light, on suspicion of her being engaged in the traffic in slaves, being examined, it is seen that the "*Maria Carlota*," built at Oporto in 1835, although belonging to a Portuguese subject, Rodrigo de Abreu Machado, a merchant established in that city, and sailing with Portuguese passport and other Portuguese papers, was, in the year 1836, placed under the direction and control of his agent, a Brazilian subject, and resident merchant in this city, by name Joaõ Antonio Pereira, who, having employed her from her first arrival in this port, in that year, in more than one voyage from hence to Angola, freighted her, on the 21st March last, in virtue of a power of attorney granted to him by the said Rodrigo de Abreu Machado, to Joaõ Pedro Marques, for a voyage from this port to that of Quilimane, or Moçambique, and back, the said Joaõ Pedro Marques binding himself, by the terms of the agreement, signed by each of the contracting parties, to ship on board of the said barque five hundred and fifty bales paying to the said Pereira one hundred and five milreis for every one who should be landed, wheresoever the disembarkation might take place, and also to reserve to the said Pereira room for bed planks between decks for twenty (additional) bales. By the declaration of the captor, it appears that this vessel was in every respect equipped for the traffic in slaves, in the manner described by him therein; and though the existence of this *primâ facie* evidence be attempted to be accounted for, by alleging that such equipment (comprising the very articles enumerated in the Portuguese decree of the 10th December, 1836, as those to be considered as indications of the employment of a vessel in the slave trade), had been prepared for the purpose of bringing colonists from the Azores to this port, in the year 1836; yet, to say nothing of the absurdity of applying such equipment to the transportation of colonists, this pretence is moreover altogether destroyed, by the fact of the "*Maria Carlota*" having, in the interim, made more than one voyage to Angola and back, and having on such voyages entered this port in ballast.

The continuance, therefore, of such equipment, far from weakening the presumption against this vessel, tends to strengthen it yet more, as proving that she has been constantly employed in this traffic since her first arrival in this port in 1836.

The destination of this vessel for the traffic is further confirmed, by the circumstance that the captain, the pilot, and the supercargo, of the "*Maria Carlota*" are proved to have been, all three, in the habit of making voyages to the coast of Africa and back, in vessels notoriously engaged in the traffic, and by the existence of a letter dated Rio de Janeiro, 14th May last, addressed to the pilot, Anacleto Luiz Seya, in which the writer points out the estate, and even the exact spot on that estate (with other signs to prevent any mistake, or deception,) on which to land the slaves, on the return of this vessel to the coast of Brazil. This spot is therein described as a day and a half's journey from this city, and as possessing good warehouses, a good house, ready buyers, and all clever people.

The residence and nationality, shewn by his own deposition, of the agent, who gave the vessel that destination, and who shipped his own nephew on board, as second pilot, is evidence sufficient that this adventure is essentially Brazilian; if further proof were wanting, it is to be found at almost every page of these proceedings, particularly at pages 69, 70, and 71, where is found a bill of lading for 833 half doubloons, shipped by the Brazilian House, Faro, Verguciro, and Company, on their own account and risk, deliverable to the freighter of the "*Maria Carlota*," Joaõ Pedro Marques, or to Anacleto Luiz Seya, the pilot of the same; a second bill of lading, for a like sum, shipped on account and risk of whoever might be the owner thereof, deliverable to the same two persons, by Manoel Ventura Rodrigues'

nephew, and employed in the firm of, Joaõ Ventura Rodrigues, an established merchant in this city: and, further, a third bill of lading, precisely to the same amount, and in the same specie, shipped on account and risk of whoever may be the owner thereof, by Joaõ Pedro Marques, the supercargo of the "*Maria Carlota*," and, possibly, the agent of some house in this city, whose name is concealed, deliverable to himself, or to the aforesaid pilot Seya.

Such being the case, it is the less necessary to advert to the irregularity of the ship's papers, with which the "*Maria Carlota*" left this port; but, as a proof of the fraud which marks this transaction, it is proper to notice, that the only passport which she has exhibited, is one professing to be from the council of government of the province of Angola, dated the 5th January, 1839, for a voyage from thence to Moçambique, touching at Rio de Janeiro,—that she has no certificate of register, and that this passport, which, on the face of it, bears marks of an alteration of date, is "*viséed*," on the 27th May, 1839, by the chancellor of the Portuguese consulate in this city, "*no impedimento*" of the consul-general, who, at that date, was no longer recognised in that capacity by the Imperial Government, although a letter addressed by him to the administrator of the Custom-house at Quilimane, enclosing the manifest of cargo of the "*Maria Carlota*," is signed by him, under the same date, as consul-general.

In this passport the master is declared to be Joaquim Pinto de Souza, whilst, in the muster-roll, passed by the same authority, the names of the present master, and of an entire new crew, are given; the "*Maria Carlota*" having, in the interim, entered this port, in ballast, and shipped another cargo for Quilimane; yet none of these circumstances are noticed in the Consular Visa above referred to.

Seeing what is here set forth, the Commissary Judges cannot doubt that the "*Maria Carlota*" was engaged in slave traffic, at the date of capture, and, being so employed, by a Brazilian subject, that she has violated the treaty engagements between Great Britain and this empire. And they hesitate not, therefore, to declare her to have been lawfully detained by, and to be a good prize to, Her Britannic Majesty's brig-of-war, "Grecian," and condemn her, as well as all her cargo, of whatever description it may be, in virtue of the convention of the 23rd November 1826,—of the preceding treaties which that convention adopted, and of the instructions of 1835, and in conformity to the seventh article of the regulations annexed to the convention of 1817. And they further declare the individuals, Joaõ Antonio Pereira, Joaõ Antonio Pereira, nephew; Anacleto Luiz Seya, Jozé Gonçalves da Silva, Antonio Jozé Gomes Moreira, Luiz de Queiros Monteiro, Regadas, and Izidoro Correa Pereira, to have incurred, as Brazilian subjects, the penalty of the first article of the convention of the 23rd November, 1826.

If the names of the parties to the first two bills of lading, above cited, be not included in this list, it is not that the Commissary Judges have any doubt that the aforesaid parties have incurred the penalty of the first article of the said Convention of 1826, but solely from the want of legal proof sufficient to confirm the well-founded, and almost unavoidable presumption of the real object of the shipments in question,—the pretence set up by the House of Faro, Vergueiro, and Company, in their representation, on the 5th August, 1839, being not only unworthy of any attention, but refuted by the testimony of the second pilot of this vessel.

(Signed) GEO. JACKSON,
FRED. GRIGG.

JOAO CARNEIRO DE CAMPOS, Dissentient.

A true Copy. (Signed) BRAZ MARTINS COSTA PASSOS, *Secretary*.

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## Second Enclosure in No. 164.

*Report of the Case of the* "Maria Carlota."

THIS vessel was built at Oporto, in 1835, by Rodrigo de Abreu Machado, a Portuguese subject, and established merchant in that city, who despatched her, in the following year, to Rio de Janeiro, under the direction of Joaõ Antonio Pereira, a Brazilian merchant, residing here, with orders to touch at the Azores. to ship colonists, whom she landed in the same year at this port.

Whether the latter individual was really only agent, or whether the "*Maria Carlota*" actually became his property on this occasion, does not appear, but from that time she has not returned to Europe, but has been constantly engaged in voyages from hence to Angola and back, avowedly under the direction only of the aforesaid Joaõ Antonio Pereira, and on account of her reputed owner, Rodrigo de Abreu Machado.

The "*Maria Carlota*" had no other pasport than one dated 5th January, 1839, but bearing marks of having been altered as to date, from the Council of Government of the Province of Angola, for a voyage from thence to Moçambique, touching at Rio de Janeiro, and visited by the Portuguese Consulate in this city for a voyage to Quilimane, and as "good only to the port of her destination, where she is to provide herself with the documents required by law." This Visa is signed "*no Impedimento*" of the Consul General, by the Chancellor of the Consulate, who, also, in the same manner, signed her Manifest of cargo, Muster Roll and other Ship's Papers.

The letter to the Administration of the Custom House at Quilimane, conveying this Manifest, is signed by the late Consul General himself, Joaõ Baptista Moreira, and bears date, as do the other aforementioned documents, the last days of May of this year.

The "*Maria Carlota*," though sailing with a passport from the authorities at Angola, dated the beginning of the present year, had no certificate of register. On the 29th May, 1839, she was detained by Her Majesty's brig of war, "Grecian," William Smyth, Commander, ten or twelve miles S. E. E. of Raza Island light, as "being expressly and effectively, and completely equipped for the illicit traffic in slaves," but having no slaves on board.

On the 31st of the same month, Commander Smyth brought the papers belonging to the "*Maria Carlota*" into Court, with a declaration to the above effect, and, having duly ratified the same on oath, prayed that the Court would proceed to adjudicate in the case.

The Brazilian Commissary Judge refusing to allow the "*Maria Carlota*" to be submitted to the cognizance of the Commission, on the grounds that there did not exist any article, in the Convention between Great Britain and Brazil, to authorise the detention of vessels, unless with slaves on board, or on proof that, having shipped them, such vessels had already landed them; nor even any agreement with Portugal on this subject; all proceedings were necessarily suspended, notwithstanding a different opinion on the part of Her Majesty's Commissary Judge, till the decision of the Imperial Government was made known.

This was not received till the 29th July, when the Brazilian Commissary Judge laid before the Commission an Aviso, dated 27th of that month, directing him, in concert with his British Colleague, to take cognizance of the cases of the "*Maria Carlota*" and the "*Recuperador*," which had been submitted to the Court.

On this, the usual monition was immediately issued, according to the forms of this country, and, on the 30th July, the examination of the witnesses, five in number, commenced.

On the same day, a claim which had been previously offered, on the 3rd June, by the agent of the owner of the "*Maria Carlota*," but which, in consequence of the course taken by the Brazilian Commissary Judge, had been laid on the table, was received and filed.

In this claim the agent declares the "*Maria Carlota*" to be a Portuguese vessel, and the property of a Portuguese subject, and protests against her detention as illegal and contrary to the Treaties between Great Britain and Portugal, and requires her immediate restitution and indemnification for all losses, injuries, and prejudice which may result therefrom.

First witness.—Antonio de Barres Valente, master, swore that he is a native of Portugal and subject to Her Most Faithful Majesty; that his profession is the sea, and that he is master of the barque "*Maria Carlota*;" that he had heard that the owner thereof was one Machado, of the city of Oporto, but that he made his agreement with Joaõ Antonio Pereira, at this place, to embark in the barque, as master; that her destination was Quilimane, and that the supercago, Joaõ Pedro and Marques, told him that the object of the adventure was to buy ivory, oil, &c., and that, in case that should not answer, to proceed to the ports of Asia; that the "*Maria Carlota*" was not destined for the traffic in slaves, and that the articles found on board, which might induce such a suspicion, were precisely those which had been used for the bringing of colonists; that he did not know who were the parties to this adventure, and only knew the supercargo; that this latter, as well as the person who freighted the vessel to him, Joaõ Antonio Pereira, were both Portuguese; that he himself came to Brazil eighteen months ago, since when he sailed as a pilot, on a voyage to Angola, and returned as Captain, ten months ago, remaining in this city from that period to that of his embarking in the "*Maria Carlota*," which barque he had known from the moment of his first arrival at Rio de Janeiro. That the passport with which he was about to sail in her was that which had been given to her on the 5th of January of this year, at Angola. That he delivered up all the papers to the captor, but does not know whether the certificate of registry, which, however, he acknowledges to have known to be necessary, was among them. Nor does he remember to have received it, when making his agreement to go in this vessel as master. That the Portuguese Consular Visa, which is affixed to the passport, was not given to him, but to the agent who cleared out the vessel, who subsequently delivered it to him. That he signed the customary papers in the Portuguese Consulate, but that he does not remember the nature of them, nor whether he signed any bond not to receive any slaves on board of this vessel.

Second witness.—Joaõ Pedro Marques swore that he is a native of Portugal, and a Portuguese subject; that he gains his living by commerce, and is now supercargo of the barque "*Maria Carlota*;" that he freighted her from Joaõ Antonio Pereira, the agent of the owner of the same, at Oporto, on an adventure of his own, without any other person being interested therein; that he came to Brazil in 1827, and was a partner in a shop in this city, which partnership ceased in January, 1835, and that, from that date till 1837, he had remained in Rio de Janeiro, trading on his own account. That he since made a voyage to Angola, as passenger, in 1837, and returned in the same year; that the object of the present adventure to Quiliman, was to trade in ivory, oil, and tortoise shell; and being questioned in respect to the articles found on board, leading to the suspicion of the vessel being intended for the traffic in slaves, he accounted for their existence in the same way as the preceding witness, declaring that he had no concern with them—that he received a parcel of half doubloons from Mansel Ventura Rodrigues, and another from Faro, Verguciro, and Company, to convey to Moçambique, denying the presumption arising from the fact that a like sum was shipped in his own name; that all three were parties to this adventure, and re-asserted that he had no connection therein with them, or with any other person. That having left the care of procuring the ship's papers, for this vessel, to the agent thereof, he knew nothing of the passport with which she sailed, nor with respect to the certificate of registry.

In the Agreement signed by Joaõ Antonio Pereira, and this witness, the number of "Bales," to be received on board, was distinctly expressed, thus shewing evidently, that the term "Bales" was only another name for Slaves. This he endeavoured to explain away by saying, that Joaõ Antonio Pereira insisted on a fixed freight for his vessel, which was the reason that the precise number was so expressed.

How little credit was to be given to this witness further appeared from its being proved that he was at Angola in 1835, whereas, he at first deposed, that he had remained at Rio de Janeiro from the time of the dissolution of the partnership, in January, 1835, till the year 1837.

Third witness.—Analeceto Luiz Seya swore that he was a native of Portugal, but an adopted Brazilian subject; that he gained his living by the sea, and was now first pilot of the barque "*Maria Carlota*;" that he made his agreement with Joaõ Antonio Pereira to go as such to Moçambique, being acquainted with that channel, and that he was to settle with the supercargo, if any other ports were to be visited; that the same explanation had been given to him as was alleged by the preceding witnesses, of the articles proper for the traffic, found on board, and, on a letter being shown to him, found among the papers taken, addressed to himself, in which the writer points out the spot near this city where the slaves, on the return of this vessel to the coast of Brazil, were to be landed, he denied ever having received such letter, or having any knowledge of any person besides the supercargo, interested in the adventure of this vessel, or knowing anything further respecting her. That he came to Brazil in 1815 or 1816,

that he had since made several voyages as well to Portugal as to different ports of this empire, and that, in the last two years she had been twice to Angola.

Fourth witness.—Joaõ Antonio Pereira swore that he was a Brazilian subject, and resident merchant in this city; that he was the agent of Rodrigo d'Abreu Machado, of the city of Oporto, where the "*Maria Carlota*" was built in 1835; that, with respect to the passport and other ship's papers, for this vessel, he, not being conversant with such matters himself, had left the care of procuring them to the agent, who cleared her, and that he considered them to be sufficient, the more so as the imperial authorities had not questioned their sufficiency, and had given the necessary license for passing the fort, on her leaving the harbour. That the "*Maria Carlota*" had made two voyages to Angola and back, on freight, and for account of her owner; that on her return from thence the last time, he freighted for a voyage to Moçambique, to Joao Pedro Marques; that he himself was interested only to a small extent in her cargo; that there existed no intention of employing her in the traffic of slaves, as from her equipment, which was prepared at Lisbon and at the Azores, and from the terms of the agreement might be inferred, inasmuch as the articles in question had been used for the purpose of conveying colonists to this city, and the freight had been settled upon a calculation at a rate corresponding to the number of bales to be received. That he had sailed from Lisbon in June 1836, to to touch at those islands, to ship a cargo of colonists for this place, and that, on her return-voyages from Angola, she had entered this port in ballast.

Fifth witness.—Joaõ Antonio Pereira, nephew of the preceding, swore that he was a Brazilian subject native of Rio de Janiero; that he is learning to be a pilot; that his father now residing here had emigrated from Rio Grande, where he kept a store, in consequence of the troubles in that province; that he had made several voyages to foreign parts, and one last year in the "*Maria Carlota*," to the coast of Africa, from whence he returned in another vessel, which entered this port in ballast; that he shipped on board the "*Maria Carlota*," on the present occasion, to learn his profession, making his agreement with his uncle; and that no part of the cargo of this vessel belonged to him, nor had he any interest in the same. That she left this harbour on the 29th, in the morning, and was taken at sun set, the same day, there having been no communication with the shore in the interim.

(Signed) GEO. JACKSON.
FRED. GRIGG.

*Rio de Janeiro, 13th September*, 1839.

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No. 165.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, September* 23, 1839.

(*Received November* 15.)

My Lord,

In our Despatch of the 30th of July last, we had the honour to enclose a copy of the aviso which had been addressed by the Minister for Foreign Affairs to the Brazilian Commissary Judge, directing him to proceed, in concert with his British Colleague, to adjudicate the two vessels recently detained by Her Majesty's brig of war, "Grecian"—the "*Maria Carlota*" and the "*Recuperador*."

We, at the same time, took the liberty of pointing out to your Lordship our understanding of the aviso in question, and ventured to predict the course which our Brazilian Colleague would be likely to follow on this occasion.

Our anticipations have been fully realized. On the 2nd instant the Brazilian Commissary Judge, after a long examination of witness, which he went through with evident reluctance, and during which he more than once declared that its result would in no wise affect his judgment, as expressed in his original vote of the 3rd of June (enclosed in our Despatch of the 22nd June last), definitively declared his opinion that the detention of the "*Maria Carlota*," by Her Majesty's brig of war "Grecian," was illegal.

This decision having been clearly foreseen, the British Commissary Judge had previously sought an interview with Her Majesty's Chargé d'Affaires. At this interview he pointed out the great inconvenience which would result from conflicting sentences, on a fundamental principle like the present, being given in the case of the "*Maria Carlota*," and any other vessel under similar circumstances, an event which would be sure to happen, supposing a coincidence in his opinion on the present question (of which, however, he by no means felt assured) on the part of Her Majesty's Arbitrator, and that the second lot should fall to the Brazilian Commissioner of Arbitration; observed that it seemed to him that it was a point to be decided rather between the two Governments than by the process of arbitration; and suggested the possibility of obtaining a less equivocal instruction from the Imperial Government, to its Judge than that conveyed in the aviso of the 27th of July, the real origin of which appeared to be a consciousness, on the part of the Brazilian authorities, that, only by taking cognizance of the "*Maria Carlota*,"

could any hope be entertained of obtaining indemnification, in the event of her detention being declared illegal.

Mr. Ouseley replied that he was about to see the Minister for Foreign Affairs, and would speak to him on the subject. At first, we were not without hopes of success, but, unfortunately, just at this time, the unfavourable news received from different parts of this empire, and the eventual change of Ministry, disappointed all such hopes (as your Lordship will be much better informed through Her Majesty's Mission), and the moment was at hand, when it became necessary for the British Judge to give his definitive sentence in a case, without precedent, which had caused a great outcry among all connected, however remotely, with the Slave Trade (and your Lordship well knows how large and influential a part of the community that description comprehends), and no inconsiderable sensation among the mercantile body at large—in a case, too, where he had every reason to believe (though uninformed on this point, either one way or the other) that the whole proceeding had no other foundation than our Despatch to your Lordship of the 22nd January, 1839.

Under these circumstances, however little inclined her Majesty's Commissary Judge might be to shrink from any responsibility which might justly attach to him, or however unvarying his opinion in this case, it yet became a matter of very serious consideration how far it would be right for him to give effect to that opinion, to the extent of making it the ground of a solemn sentence of condemnation, while in ignorance of the view which might be taken of the question by your Lordship, and the law advisers of the Crown.

With this feeling strong on his mind, it was that your Lordship's Despatch, transmitting the series of papers presented to both Houses of Parliament, by Her Majesty's command, was received. After a hasty perusal of these very important and interesting papers, the British Judge addressed a letter to Her Majesty's Chargé d'Affaires, a copy of which, as of that gentleman's reply, we have the honour to subjoin herewith.

Before receiving it, however, it became necessary to make up his mind, definitively, on the condemnation or release of the "*Maria Carlota*;" and, although not possessing the advantage of a positive sanction on the part of your Lordship, of the principle he was about to act upon, yet, seeing that our Despatch to your Lordship, together with the correspondence between Her Majesty's Mission and ourselves, in January last, as well as the several other documents to which they had given rise, had all been laid before Parliament, he ventured to consider such communication as a virtual approval of his views, and gave in his vote, as declared in the enclosed paper.

At the same time his Brazilian colleague presented his vote, of which a copy and translation are annexed.

Lots were immediately drawn, and we have the honour to subjoin herewith the opinion of Her Majesty's Arbitrator, by which he declares his concurrence with the British Judge in the sentence to be pronounced accordingly.

Very voluminous written arguments were offered in this case, on the part both of captor and claimant. That of the captor was reduced to three heads:—

1. Was the "*Maria Carlota*" destined for the traffic in slaves?
2. Were the persons concerned in the adventure, Brazilians, or residents in Brazil?
3. Was the vessel legally detained?

The details into which the sentence goes, and the conclusive proof it affords on the first and second of these heads, render it unnecessary to trouble your Lordship with the reasoning of the Proctor on either. The subject of the third was discussed as fully and as forcibly in the two papers given in by Her Majesty's Commissary Judge, on the 5th of June and 2nd of September, as it was in his power to do; but, in conformity with the desire expressed in your Lordship's Despatch of the 22nd of March last, we enclose a translated extract of the argument presented by the Proctor of the captor, on that head, viz., the legality of the detention.

The argument of the claimant turned mainly on the clauses in the Conventions with Portugal, restricting the right of detention, which it would be equally superfluous to cite. That part of it bearing on the indications of the "*Maria Carlota*" being intended for the Slave Trade, which it was attempted to explain away, in the manner mentioned in the sentence, your Lordship will find in the accompanying translation.

A circumstance occurred in the course of the proceedings of the "*Maria Carlota*,"

which it is right not to pass unnoticed, although, as your Lordship will perceive by the translation we have the honour to enclose, of the petition to the Court on this subject, and the answer which it received, the business in question does not strictly form part of this process.

No sooner was the instruction issued to the Brazilian Commissary Judge, to take cognisance of the "*Maria Carlota*," made known, than Joaõ Pereira de Andrade, a Brazilian subject, came forward with a claim, in the nature of a mortgage on this vessel, to the amount of more than twenty contos, which he was desirous of establishing, in despite of any judgment which might eventually be given by the Court.

This pretension, which seemed to Her Majesty's Commissary Judge to be only an expedient to save some of the property, in case of condemnation, was strongly backed by his Brazilian colleague, who insisted on its being admitted, as forming part of the process, as well as on his right to have the point decided by arbitration, if the former should continue to oppose it, which, for the above reason, and because it appeared to him to be entirely foreign to the inquiry before the Court, he persisted to the last in doing. The Brazilian Commissary Judge desisted, eventually, from this pretension, and agreed to the answer to the petition, which appears on the face of it.

Since the promulgation of the sentence, we understand that the question is being prosecuted before the Imperial Government and the law authorities, and that some communication has been made to Her Majesty's Mission on the subject; if so, your Lordship will doubtless be more accurately informed thereon, through that channel.

We have, &c.,

(Signed) GEORGE JACKSON.
FREDERICK GRIGG.

P.S. It has been impossible to get ready, for this conveyance, the enclosures marked F and G, but we shall have the honour of forwarding them by the next which may offer

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

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## First Enclosure in No. 165.

*Sir George Jackson to Mr. Ouseley.*

SIR, *Rio de Janiero, 30th August,* 1839.

No answer to the Despatch of Her Majesty's commissioners of the 22nd January last to Viscount Palmerston, a copy of which was communicated to you on the following day, has yet been received by them; but as I perceive, by the Parliamentary papers, that that despatch was made by you the ground of an instruction or recommendation to Her Majesty's squadron, a proceeding which I take this the first opportunity of saying was in no wise contemplated by me when making the above communication to you, and, least of all, without being consulted on the subject, I beg leave to inquire whether you have received any reply to your despatches to Viscount Palmerston of the 15th January and 1st February of this year, sanctioning the opinion given in the despatch above alluded to, of the 22nd January, in consequence of which it now appears the detention of the "*Maria Carlota*" and the "*Recuperador*" has taken place.

I make this enquiry officially, with a view to the judgment to be given in these two cases, the proceedings in which are now closed, because, however satisfied I may be of the correctness of my interpretation of the Convention of 23rd November, 1826, it must become a question of very serious deliberation with me how far I should be justified in acting upon that opinion, while unsanctioned by Her Majesty's Government, and in the face of the distinct declaration made *in limine* by the Brazilian Commissary Judge, and which I duly informed you of when first made, that he has no power or authority whatever to condemn a vessel on the ground only of her being fitted out for the Slave Trade, and that neither he nor his Government considered the *aviso* of the 27th July, directing him to take cognisance of the two vessels now before the court, as giving such authority.

I am, &c.,

*W. G. Ouseley, Esq.,* (Signed) GEO. JACKSON.
*&c. &c. &c.*

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## Second Enclosure in No. 165.

*Mr. Ouseley to Sir George Jackson.*

(Confidential.)
SIR, *Rio de Janiero, August 31st,* 1839.

IN the letter from the British Commissioners of the 12th January, 1839, the following language is used:—"We can only lament that, under such circumstances (those mentioned in an extract from

the boarding-book of Her Majesty's ship 'Herald') *the 'Feliz Aurora' should not have been detained*, as we have little doubt *of her liability to condemnation* on proof the alleged equipment being given."

In subsequent further correspondence on the 21st and 23rd January, reference was made to the Commissioners, with a view, as I expressed in my letter of the 21st, that there should be no misconception on the part of Her Majesty's naval officers as to the meaning and intentions of the first letter of the Commissioners, regretting that a vessel under circumstances similar to those of the vessel now under adjudication, had not been detained.

In your letter of yesterday's date you seem to imply, that the letter of the Commissioners of the 12th January was intended, as far as you are concerned, not to have been acted upon. I infer from the former letter being only signed by yourself, that Mr. Grigg has not altered his opinion on the matter; nor could any consultation with you separately, at the time, or at present, at all affect the evident and practical meaning of the words already quoted.

I have no hesitation in declaring my complete concurrence at that time, and at the present moment, in the correctness of the views of the Commissioners in the letter of the 12th January. And, although not called upon to express this opinion to you, I take this opportunity of so doing, and of saying that, until instructed by Her Majesty's Government to refrain from such a course, I shall continue to recommend the detention of every vessel under the circumstances of those in question; having no doubt that the spirit, and even letter of the treaties completely authorize such a mode of proceeding.

Nor do I at all regard the expression of the opinion of the Brazilian Commissary, as being by any means to be adopted as a guide, or rule, upon which to form either your judgment or my opinion. On the contrary the Brazilian authorities are, I regret to say, but too apt to take that view of the questions brought before them favourable to the Slave Trade; but I must repeat that I cannot understand why a premature declaration of opinion on the part of the Brazilian Judge, or of the Imperial Government, should effect such a change in the mind of Her Majesty's Commissioners as that the possibility of which you infer in your letter.

In answer to your inquiry, I will state that I have received replies to my despatches up to a much later date than that you mention; and, although I have no separate and positive instructions on the point to which you refer, I do not hesitate to say that the general contents and bearing of the different communications which I have had the honour to receive from Her Majesty's Secretary of State are such as leave no doubt on my mind of the expediency of acting as I have done throughout on this question; and I am of opinion, that I should incur the disapprobation of Her Majesty's Government in not urging upon the officers of Her Majesty's squadron the detention of every vessel under the circumstances of the "*Maria Carlota*" and "*Recuperador*," and that the condemnation of these vessels would be in consonance with the intentions and opinion of Her Majesty s Government.

I am, &c.,

(Signed) W. G. OUSELEY.

*Sir George Jackson, K.C.H.,*
*&c. &c. &c.*

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## Third Enclosure in No. 165.

*Vote of the British Commissary Judge.*

(Translation.) *Rio de Janeiro, 2nd September*, 1839.

The British Commissary Judge has little to add to his argument, presented on the 5th June last.

A cursory review of the several engagements contracted towards Great Britain by the Crowns of Portugal and Brazil, on the subject of the Slave Trade, will best illustrate that argument.

By the Treaty of the 19th February, 1810, the Prince Regent of Portugal declared his determination to adopt the most efficacious means for bringing about a gradual abolition of the Slave Trade, and by the 4th Article of the Treaty of the 22nd January, 1815, it was declared, that it shall not be lawful for the subjects of Portugal to engage in the traffic during the interval which is to elapse before the final abolition shall take effect, except for the purpose of supplying the transatlantic possessions of Portugal.

In the preamble of the Convention of 1817, Portugal, being desirous to fulfil, to their utmost extent, the engagements contracted by the Treaty of the 22nd January, 1815, recognises the obligation to adopt the measures necessary to prevent its subjects from all illicit traffic in slaves, and the 1st Article of the same Convention declares its object to be, on the part of the two Governments, mutually to prevent their respective subjects from carrying on an illicit Slave Trade.

The Alvarà of the 26th January, 1818, entitled, "A Law for punishing those who should carry on the illicit traffic in Slaves," and promulgated in fulfilment of the 3rd Article of the Convention of 1817, declares in its 1st Article:—

"All persons of whatsoever quality, who shall proceed to fit out, or prepare vessels, for the traffic in slaves, shall incur the penalty, &c."

By the total abolition, the term "illicit," wherever it occurs in the above passages, loses its distinctive character, that is, the engagements contracted have become absolute, and there is now no longer for Brazil, any other than an illicit trade; the carrying on the trade, under any pretext, or in any manner whatever, being absolutely prohibited.

The 2nd Article of the Law of the 7th November, 1831, declares, "that the importers of slaves into Brazil will incur the penalty of the 179th Article of the Criminal Code," and the 3rd Article, that importers are—"He who knowingly gave, or received on freight, or by any other title, the vessel intended for the slave trade. All those interested in the adventure, and all those who furnished funds, knowingly or by any mode gave assistance, or favoured, or aided, the disembarkation, or consented to it on their estates. And the Decree of the 12th April, 1832, for carrying the above law into execution, orders, in its 1st Article, that no vessel shall be exempt from being visited immediately before her departure."

Such are the obligations by which Brazil is bound to prevent her subjects from carrying on the Slave Trade; but there is yet another stipulation to which it is very essential to attend, and which the British Commissary Judge invokes, as conclusive, in favour of his interpretation of the Convention of 1826, and of the sense in which the "mutatis mutandis," stipulated therein, must be understood. It is the separate Article to the Convention of 1817, signed on the 11th September of that year, in which the Two Contracting Parties agree to adapt to the new circumstances, to arise out of the total abolition of the Slave Trade, the stipulations of the Convention of the 28th July, 1817.

Could the intention of the contracting parties to this separate Article have been to narrow the operation of the anticipated abolition? Would not such a literal understanding of the "mutatis mutandis," in the 3rd Article of the Convention of 1826, render the total abolition, stipulated in the 1st Article of the same, a complete nullity? Would such an interpretation of this last Article be according to its true intent and meaning and object, and according to the spirit of the stipulations which it is the vigorous duty of this commission to carry into execution? In a word, can a tribunal, specially appointed for the execution of a specific purpose, viz., the regulation, in the first instance, and the total abolition, after the expiration of the three years, of the Slave Trade, be considered incompetent to adjudicate, after such expiration, in the case of a vessel notoriously destined and fitted up for that trade, and in case of sufficient proof being adduced, to proceed to condemnation, merely because a clause, applicable only to another and a past period (and, therefore, *de facto*, cancelled), viz., the interval during which the trade was still partially permitted, forbad the detention of vessels in which neither slaves were found on board, nor proof of any having been shipped during the voyage in which the detention occurred?

The Brazilian Commissary Judge argues, because full powers were given to the respective British and Brazilian Ministers, to sign a Supplementary Article (now before the Legislature for ratification), declaring what should be held to be a *primâ facie* proof of the actual employment of a vessel in the Slave Trade; that, therefore, (such ratification not having taken place) the power to capture vessels without slaves, or without proof of there having been slaves on board, does not exist. The British Commissary Judge has already replied to this objection, and shown that the proposal of this Supplementary Article had for its object the giving greater clearness to engagements already existing, and to obviate the possibility of any such doubts being raised as are now impeding the due execution of the same engagements. But the actual previous existence of the same is not, on that account, invalidated. Moreover, this Article was coupled with another for the breaking up of the condemned vessels, and the two together, being in exact conformity with those signed by other Powers, it was more expedient, for the sake of uniformity, even if involving a redundancy, not to disjoin the one from the other.

The recent case of embargoes may serve as illustration. The British Government had uniformly contended that that resource was contrary to the Treaties: for a long time this was contested by that of Brazil. Suppose that in the interval, the former had proposed to put an end to all uncertainty by a declaratory act, could the accuracy of the original interpretation maintained by Great Britain, and in which, eventually, Brazil acquiesced, have been considered as at all impaired by such a proposal? The Imperial Portaria, doing away with embargoes, without the signature of any additional instrument, is the best answer to this question.

On these grounds the British Commissary Judge must repeat his firm conviction, that this Commission is competent to try, and to condemn, the present prize, exhibiting the most conclusive proofs of being engaged, with the greatest scandal and ramifications, in the traffic of slaves; and he was the less prepared for an opposite decision on the part of his Brazilian colleague, after the Imperial Aviso of the 27th July last, which, if not to be construed as recognising the principle contended for by the British Commissary Judge, was worse than useless, tending, as it did, to mislead those intrusted with this arduous service, to prolong their labours, and to aggravate the consequences of the detention both to the captor and to the captured.

(Signed) GEO. JACKSON.

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## Fourth Enclosure in No. 165.

*Vote of the Brazilian Commissary Judge.*

*Presented on the 2nd September*, 1839.

(Translation.) *Rio de Janeiro*, 31*st August*, 1839.

THE Brazilian commissary judge having declared himself against the admission and examination of the papers relative to the Portuguese barque "*Maria Carlota*," and the Patacho "*Recuperador*," on the ground explained by him, in his vote of the 3rd of June last, and having since, in obedience to the imperial "Aviso," of the 27th of the following July, proceeded to examine the same papers, has now to state the grounds on which he considers the detention of the above vessels to be inadmissible. Considering that these vessels, whether Brazilian or Portuguese property, were captured, or detained by Her Britannic Majesty's brig-of-war "Grecian," the former on the very day (29th May) of her sailing, near the island Rasa, and the latter thirty miles to the south-east of Cape Frio, without any African, shipped for the trade in slaves, having been found in either of them; considering, further, that, by the Convention of the 28th July, 1817, the stipulations of which, in all its parts, are generally and indistinctively embraced in the subsequent Convention between Brazil and Great Britain, of the 23rd November, 1826, it is declared in articles 5 and 6, that the detention of vessels suspected *of carrying on the illicit traffic in slaves can only take place in the sole case of there being found slaves on board*, the power conceded to the cruisers being so restricted and limited, that, though it is permitted to them to visit (vessels) on reasonable suspicion, the discretion to detain any vessel is, nevertheless, not given to them, if slaves be not actually found on board, which is still more imperatively prescribed to them in the first article of their instructions, thus establishing the well-understood distinction between the right of visit and that of detention. Considering further, that so truly is this the restricted and limited understanding of the stipulations of the aforesaid fifth and sixth articles—not to allow the detention of such vessels as shall not actually be found with slaves on board for the traffic,—that the Portuguese and

English Governments judged it necessary to enter, subsequently, into new engagements, to agree and declare, as they did in fact declare, by the additional article of the 15th March, 1823, that the right to detain, and to subject to penalty, should extend also to such vessel as should be proved to have carried on the traffic in slaves, although they should not be found on board at the moment of her being visited —a stipulation this, which, if on the other hand it enlarges the power of detention, extending it to the case of the past, on the other hand, doubtless, confirms the exception of its not being lawful to detain in any prospective case, whatever may be the suspicions or the indications of such a voyage being intended or commenced.

Considering, equally, that there existing no preventive measure, as there does not, in the said Convention of 1817, against vessels which may be destined for the illicit traffic in slaves, and which may be met with, without having committed the crime of having them on board, and the two Governments of Brazil and Great Britain having on this account agreed, on the 27th July, 1835, to amplify the Convention of 1826, with additional articles, permitting the detention of, and subjecting to legal condemnation the vessel which should be proved to be destined to carry on the traffic in slaves,—an article which has not yet been approved by the legislative power, and consequently not yet ratified, it is clear, that this new agreement, fixing the true and genuine understanding of the aforesaid Convention, leaves in force, so long as unaltered, the preceding stipulations by which alone the cases which may occur can be adjudicated, which obtains and operates with so much the more power of reason, as it is certain that, in the adjudication of prizes, the judge ought to limit himself to the precise letter of the treaties.

Considering, finally, on the one hand, that the Convention of the 23rd November, 1826, is applicable only to such Brazilian subjects as, after the expiration of the three years, may carry on the traffic in slaves, or within those three years may have done so in the prohibited ports, without extending its stipulations to those who might attempt to carry it on, as is clearly collected from the terms in which its first article is drawn up and is consonant to the principles of law in the distinction between the attempt and the execution, inasmuch as it would be highly unjust that the simple intention should be put on the same footing as its completion in the consummation of the crime, in order to draw down the same penalty on the one case as on the other; and on the other hand, that it would be absurd to suppose that the stipulations of the Convention of 1817, which form part of that of 1826, are only applicable to the period limited by this latter for the continuation of the traffic, because, admitting this doctrine, this commission would not have been able to take cognisance, as it has hitherto done, of the infractions practised since the period of the cessation of the traffic; since, in such a case, the instructions by which it should regulate itself would be wanting, nor would the cruisers possess them, to enable them to visit and detain.

Seeing, then, what has been set forth, the Brazilian commissary judge, bearing in view, first, the stipulations of the afore cited fifth and sixth articles of the Convention of 1817, which is an integral part of that of 1826, and, secondly, what is prescribed by the second article of the regulations of this commission, which enjoins that the Judges shall judge in conformity to the letter of the existing treaties, and confining himself, as it is his duty to do, to the understanding authentically fixed by the afore cited articles, regrets that it is not in his power to agree with his colleague, the British commissary judge, and judges illegal, and consequently inadmissible, the detention of the said barque, "*Maria Carlota*," and patacho, "*Recuperador*."

(Signed) JOAO CARNEIRO DE CAMPOS.

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## Fifth Enclosure in No. 165.

*Vote of the British Commissioner of Arbitration.*

(Translation.) *Rio de Janeiro, 9th September*, 1839.

HAVING duly considered the proceedings and the allegations in this case, of the barque "*Maria Carlota*," with the respective votes of the commissary judges on the 3rd and 5th June, 31st August, and 2nd instant, as also the imperial decree of the 12th April, 1832, for the special purpose of regulating the execution of the law of the 7th November, 1831, which Decree strictly enjoins, that every outward-bound vessel should be visited immediately before her departure, which cannot have duly taken place in the instance of the barque in question, considering, also, that the treaties and engagements between the two governments in no respect militate against the detaining, for adjudication, of a vessel on her voyage to Africa, under such circumstances, but are rightly applicable to the barque, "*Maria Carlota*," evidently and undeniably equipped for the slave trade, I deem it my duty to concur in the said vote of the British commissary judge in date of the second instant.

(Signed) FRED. GRIGG.

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## Sixth Enclosure in No. 165.

*Argument on the part of the Captor.*

(Extract.)

CAN cruisers capture vessels on board of which strong indications and an attempt at the crime are manifest?—No one has the right or authority to visit vessels in time of peace, unless in virtue of stipulations previously made by Treaty. From this incontestible principle of maritime right, we proceed to deduce the consequence, that the cruisers have the right of visit, in virtue of the stipulations of

the Treaties and Conventions contracted with regard to the subject in question. Our opinion is derived from the nature of the business, and is based in the Conventions respecting it. The object which the two Governments endeavour to attain is solely the entire abolition of the traffic in slaves.

For this purpose they have authorised every means sanctioned by public right, not only to punish the spirit of speculation on the part of men, who, led away by ambition, do not attend to the morality of the means used to acquire riches, but also all means licit and proper to prevent this unworthy speculation, because it is always better to prevent crime, than to wait for its completion to punish it. In this first point of view it is undeniable that the right of visit on the part of the cruisers flows from the very nature of their commission. By the Treaty of the 23rd November, 1826, the Governments of Brazil and Great Britain bound themselves to abolish entirely the traffic of slaves from the coast of Africa under whatever pretext, or in any manner whatever; whoever should carry it on being to be punished as a pirate, as appears in the 1st Article of that Convention. Hence it is evident that the commerce in slaves being in virtue of this Convention prohibited, under whatever pretexts or in whatever manner the right of visiting those vessels that are bound for the coast of Africa, cannot be denied to the cruisers, the contrary would be to authorise in a certain manner the traffic, by permitting vessels to be armed and equipped in the ports of Brazil with every requisite of the same, and letting them sail with impunity for this trade, and without any criminality whatever, waiting for the completion of the crime. Such a doctrine not only involves a violation of the Convention and of the faith of Treaties, but even of every principle of criminal law, which punishes the crime from the very commencement of its execution, which in our penal code is called the attempt; but if the Convention prohibits entirely the traffic in slaves, if it declares that it shall not be admitted under any pretext or in any manner whatever, how can it be said that the cruisers are not authorised to visit vessels? If they can only visit such as have slaves on board, it must be acknowledged that contrary to the Convention it is lawful to carry on the traffic under the single condition that being taken with them on board, punishment shall follow: but is this the object of the Convention? Certainly not; and such a doctrine would lead to the ardent absurdity, that it is lawful to rob, under the condition of being punished if caught with the article robbed in your hands. In public right it is known that whenever the law prohibits any act, such act is inadmissible by any means whatever, and those acts which are essentially preparatory to the crime are equally prohibited; those charged with the execution of the prohibitory law, having the right with a view thereto to avail themselves of all lawful and proper means for that purpose. These general principles of right (and which none will dare to contest) serve to demonstrate the authority which belongs to the cruisers to visit vessels suspected of being engaged in the slave trade; this right is the consequence of their mission, and flows from the nature of their duties, but in the present question, it is further derived from the positive stipulations of the Convention, as we proceed to show. By 2nd Article of the aforesaid Convention of 1826, it is stipulated that all the Articles and provisions of the Treaty concluded between Her Britannic Majesty and the King of Portugal, on this head, on the 22nd January, 1815, and the 28th July, 1817, and the several explanatory articles which have been added thereto, should be considered as included in the Convention word for word; this, however, to regulate the said traffic till the time of its final abolition. In the 3rd Article of the same Convention, it was stipulated that all matters and things contained in the said Treaties, as well as in the Instructions, Regulation, and Instruments annexed to the Treaty of 28th July, 1817, should be applied to the said high contracting parties and their subjects, *mutatis mutandis*, as if repeated there word for word.

From the tenor of these two Articles of the Convention of 1826, it is evident that cruisers in virtue thereof have as well the right of visiting as of capturing vessels destined for the traffic; there would otherwise be a redundancy in the aforesaid Articles of the Convention; because while the 2nd Article adopts, as part of the Convention, the anterior Instructions, Regulations, &c., the same adoption occurs in the 3rd, with the only difference, that they are to be applied *mutatis mutandis;* but considering that the 2nd Article of the Convention of 1826 adopts the preceding Conventions, for the purpose of regulating the traffic during the period, it was yet permitted, and that therefore things were to remain as they were till that precise time, considering that when the 3rd Article adopted the same anterior Conventions, it was to declare that the commerce was then already prohibited, and therefore that the circumstances were not exactly the same, it is seen that the words *mutatis mutandis* do not signify merely a change of name from Portuguese to Brazilian, but a complete change of circumstances; and that thus so long as the commerce was permitted the right of visit conferred by the 8th Article of the Convention of 28th July, 1817, was limited to vessels to the north of the Equator, and to these only when met with slaves on board, whose nation might indicate and prove the violation of the Treaty, by indicating and proving whether they were from prohibited ports. The traffic was not then a crime, but to carry it on in prohibited ports was criminal; and therefore, although the right of visit was authorized, yet the right of capture was limited to the existence of slaves on board, because it was the slaves themselves who were to prove whether they were from prohibited ports; and for this reason, considering the trade in the 2nd Article of the Convention of 1826, as being in its original state, the *mutatis mutandis*, with regard to the preceding Conventions was not enjoined, but they were prescribed in full with a right of visit to the north of the Equator, and with a right of capture limited to having slaves on board; but the case was not the same after the total abolition of the traffic, because from that abolition the crime did not consist solely in being found with slaves on board, but in committing the crime itself, in preparing for and undertaking it, in attempting it and commencing its execution, and thus the preceding Conventions could not apply except *mutatis mutandis;* that is, regard being had to the essential circumstance, of the entire abolition of the traffic, and consequently to the right of visit which was then limited to vessels to the north of the Equator, which the same became by the fact of the total abolition intended to the south, and the right of capture, which was then limited to the case of having slaves on board from the prohibited ports, (which then constituted the crime) became general, even for the attempt of the same, supposing its execution to have commenced, which, by our penal code, constitutes the crime in the same way as in all other civilized nations.

There can be no doubt of the right of visit on any spot whatever, in the actual state of this business; and these principles and facts being incontrovertible, will the capture of vessels be legal? We have already shown the understanding to be derived from the Convention of 1826, and how it applies to the preceding Conventions; but we will add, that if it is sought to limit the right of capture, in the present state of the business, to the sole case of slaves being found on board, then the Convention of 1826 is absolutely violated, because that Convention abolishing entirely the carrying on the traffic in slaves in any manner, or under any pretext whatever, it cannot be admitted, as licit, to arm and navigate for

that trade, which constitutes the real criminality in the same way as the fact of arming and navigating, a vessel without legitimate authority constitutes the crime of piracy, even though no act of depredation should yet have been perpetrated; and thus it is not by the fact of having slaves on board, as was the case previous to the entire abolition of the traffic, that those who have fitted out vessels have incurred the penalty, but by the fact of so fitting them out and navigating them with every requisite for the trade now entirely abolished. And thus the capture of vessels destined and fitted out for the traffic in slaved is lawful, although not having actually slaves on board.

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## Seventh Enclosure in No. 165.

*Argument on the part of the Claimant.*

(Extract.)

And supposing it even to be proved (which I deny) that the object of this vessel was to go in search of Africans, and bring them to Brazils, what law is there in the world to punish intentions? In what country is there a legislation which punishes the thought? I may, in thought, form a thousand criminal plans; and so long as I do not put them into execution, or even if I should begin to do so, if, *proprio motio* I desist, and, changing my intention, abandon such criminal designs, I am not liable to the penalties of the law, nor am I criminal. Such is the spirit of modern laws in all civilised nations. Those of Brazil which were copied from those of France, of Prussia, and of England, only consider crime what is executed against their expressed determination, and the attempt at crime to be the actual commencement of its exeeution, that is, Cod. Crim. 2 dollars 2 cents, where there shall be any overt, and positive acts already stigmatised as criminal, and that the crime be not committed from circumstances independent of the will of its author.

Now, if even the presumption of Commander Smyth were to prevail, that the vessel was destined to bring Africans, how could she be condemned if the crime had not actually been begun to be executed? If such had to this time been her thought, and no overt acts had declared the commencement of its execution, if the vessel was sailing from and leaving Brazil; and here it is right to observe that the attempt at such a crime is only realised when the disembarcation of Africans, on the coast of Brazil, commences, when she has them on board and makes for the shores, and there deliberately intends to land them. But in the absence of this essential condition, *i. e.*, there being no Africans, how can she be possibly accused of the crime? To condemn, therefore, in such a ease on suspicion, is to punish the thought of man, is to pretend to divine it, and to divine it in an evil sense, and the Creator of the world certainly did not endow us with so much discernment to divine the thoughts of others, to discover their intentions without their having actually practised acts which clearly prove it. This principle of criminal justice maintained by modern writers, and adopted and inscribed in all the codes of civilised nations, is founded on the order of physical effects, on the science of nature, and of the moral of man. It is to obviate the commission and perpetration of crime that in some countries a preventive police is established, which hinders its realisation, and at the same time preserves those who attempt to practise it, causing them to draw back in their career, deterring them by the dread of punishment, and saving the public the disastrous and immoral spectacle of crime. This is surely the best and most moral kind of police, the most effectual means of restraining crime.

But the barque had brought colonists from the Azores, for which purpose she had provided herself with the requisite preparations and conveniences, such as boilers, water-casks, pumps, suckers, kiels, and other utensils, which she was not to throw away or destroy, especially as she might undertake again the same negotiation. In the same manner she had made a flush deck, which was not rendered useless or destroyed, inasmuch as it did not interfere with the shipment, and rather served for the better preservation of some part of the cargo which might require more care.

The same may be said with respect to the gratings for the hatchway of the vessel, which, having served on that voyage, remained therein, and were not to be thrown away. Some irons, however, which the vessel carried were to be sold on the coast, where they would fetch a better price than at present they would do here. And as to the meal, corn, and rice, as they were cleared in the Brazilian Consulate, as is proved by the annexed document, it was not necessary to include them in the manifest, because, on arrival at the port of her destination, the quantity intended for consumption would be declared, regard being had to what had already been expended, and what would be required, which is in accordance with Portuguese legislation.

From these indications in their nature fallible, the captor asserts that the detained vessel was bound for the traffic of slaves.

But when did we find the secret of divining intentions? With what key did he enter into the thoughts of others? Would he like, perchance, that another should sit about divining his intentions in this unjust detention, and affirm that he was actuated by a love of sordid interest or by any other reprehensible motive, and not by zeal, however excessive, for the fulfilment of his duty, which in truth was to conform himself to the laws and not to transgress them? And it should be remarked that in the assertion here made by the captor, there was yet a manifest violation of the law and instructions by which he should be guided, while neither on the part of the owner nor of the charterer of the barque is shown any infraction, either of the law or of the regulation, to render them objeets of suspicion. There is great rashness, therefore, in wishing to divine the thoughts of others, because God gave to each the entire property of his soul, and He himself preserves and defends its entrance; but it is always most unjust to pretend to divine them in an evil sense which should never be supposed, unless proved, that is to say, when no doubt can be entertained of its existence; but so to divine them for one's own profit is more than injustice; it is revolting.

To sum up.—The alleged indications (if it is allowable to detain merchant-vessels solely from indications, and before having completed the illicit traffic, and without finding slaves on board, which is what we deny; and what the laws forbid) are not such as prove the criminal intention imputed by the captor, they are not in their nature infallible so as to be considered the immediate cause of the criminal act, *i. e.* of the illicit traffic in slaves.

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## Eighth Enclosure in No. 165.

*Petition and Reply thereto.*

*To the Commissary Judges of the Mixed Brazilian and English Commission.*

(Translation.) *Rio de Janeiro, 31st July,* 1839.

THE Commendador, Joaõ Pereira de Andrade, says that he obtained a judicial order, (a copy of which he presents) in order that the Portuguese barque, "*Maria Carlota,*" should be attached for the payment of the sum of 20,487,885 reis capital, interest, and expenses in the execution; that the said Andradi by the Judge of the 3rd Instance of the civil prosecutes against Joaõ Antonio Pereira, as agent of Rodrigo de Abreo Machado.

And as the said barque is actually arrested and detained by the naval forces of Her Britannic Majesty, anchored in this port, on grounds that are entirely foreign to the petitioner, which arrest and detention are at present submitted to this Commission, to judge of the legality or illegality of the same, the petitioner, therefore, makes this declaration, in order that, whatever may be the sentence, it may not prejudice his rights as mortgagee; declaring moreover, that with a view to the confirmation of the sentence already decreed, the Imperial Government, paying due attention to the representation addressed to it, by the Judge of the 3rd Instance of the civil, ordered a suitable communication to be made to Her Britannic Majesty's Chargé de Affaires at this Court.

The petitioner, therefore, requests that the petition, with the document annexed to it, may be added to this process, that they may appear on record and be duly considered, protesting in due time and place to demonstrate his right, and the preference he is entitled to.

And your petitioner, &c.,
(Signed) JOAO PEREIRA DE ANDRADE.

Inadmissible, leaving to the petitioner to claim his rights from the tribunal that he may judge proper.

(Signed) G. JACKSON.

*Rio de Janeiro, August 1st,* 1839.

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## No. 166.

*Rio de Janeiro, September 24th,* 1839.

MY LORD, (*Received September 15th.*)

ON the 10th instant Commodore Sulivan, C.B., appeared in Court with the enclosed papers, relative to the detention of a brig, called "*Pompeo,*" sailing under Portuguese colours, on the 28th ultimo.

The Brazilian Commissary Judge, apparently under the influence of that apathy and indifference which he has evinced from the first presentation of the Imperial Aviso of the 27th July, made no objection to admitting the case into Court; and Her Majesty's Judge did not consider it expedient or absolutely imperative upon him, under all circumstances, to be the first to start any at the outset; but your Lordship will at once perceive the many irregularities (to which more have been added since the "*Pompeo*" has been brought into this port) with which this case is burthened, and the result of which can only appear on a further investigation, which we shall take the earliest opportunity of laying before your Lordship.

At present the examination of witnesses is still proceeding.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## Enclosure in No. 166.

*Captor's Declaration.*

I, THOMAS BALL SULIVAN, captain of Her Britannic Majesty's ship, "Stag," commodore and senior officer on the Brazil station, hereby declare that a tender attached to Her Majesty's ship under my command, named "Fawn," and cruizing under my orders, and under the command of a lieutenant of said ship, did, on the 28th August last, being then in about lat. 23° 30′ south, and long. 42° 55′ west, detain the brig named "*Pompeo,*" sailing under Portuguese colours, armed with one gun—a six-pounder, commanded by Antonio Ferreira, who declared her to be bound from Rio de Janeiro to Mozambique with a crew consisting of eighteen men, whose names, as declared by them respectively, are inserted in a list at the foot hereof, having no other person on board.

I do further declare the "*Pompeo*" appears to be seaworthy, and has a large stock of water-casks, provisions, and many implements used on board vessels carrying slaves.

(Signed) T. B. SULIVAN.

Witness--W. PRESTON, Commander,
J. BROWN, Master.

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*Affidavit offered by Commodore.*

*Rio de Janeiro, September 10th,* 1839.

OUR Sovereign Lady, Victoria, Queen of the United Kingdom of Great Britain and Ireland, against the brig "*Pompeo*," Antonio Ferreira master; her tackle, apparel, and furniture, and the goods, wares, and merchandise on board the same, taken by the brigantine "Fawn," tender to Her Majesty's ship, "Stag," Commodore Thomas Ball Sulivan, C.B., and brought to Rio de Janeiro.

Appeared personally Commodore Thomas Ball Sulivan, C.B., of Her Majesty's ship, "Stag," with Montague Trely Molesworth, midshipman of the said ship, and officer in charge of the detained brig, "*Pompeo*," duly authorised and empowered, according to the provisions of the Treaty between Her Britannic Majesty and His Imperial Majesty, the Emperor of Brazils, to make seizures of vessels engaged in the slave trade, being duly sworn, maketh oath that, on the 28th day of August, 1839, the "Fawn," tender to Her Majesty's ship, "Stag," being in about latitude 23° 30′ south, and longitude 42° 55′ west, and cruising under the orders of said Commodore Thomas Ball Sulivan, C.B., for the detention of vessels engaged in the African slave trade, seized and detained the said brig, called the "*Pompeo*," whereof Antonio Ferreira is master, having found on board said brig many water-casks and other articles, as hereafter stated, usually found on board vessels occupied in the Slave Trade, contrary to the existing Treaties between Her Britannic Majesty and His Imperial Majesty, the Emperor of Brazils; and the deponent, Montague Treby Molesworth, further maketh oath, that the papers, writings, and documents hereunto annexed, marked from No. 1 to No. 12 inclusive, are all that could be found, after a strict search, and that none others were delivered by the master of the said vessel, and that the same are now brought and delivered up in the same plight and condition as when found by this deponent, without any fraud, addition, subtraction, alteration, or embezzlement whatever, save the numbering and marking thereof.

(Signed) T. B. SULIVAN,
M. T. MOLESWORTH.

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*Further Statement as to Articles found on board the* "Pompeo."

*Rio de Janeiro, September 10th,* 1839.

ALL the cases, bales, and barrels on board the "*Pompeo*" correspond with the marks on the "Manifest," but those cases marked H H, being four in number, one marked H D, and five marked B, contain muskets and swords; and one cask, among the number of those inserted as water-casks, was found to have concealed it in a large copper boiler and ladle; there are, also, two other large ladles, and several small ones, with suckers, similar to those found on board vessels engaged in the Slave Trade.

There are also plank and beams for laying a slave deck, and in some places the cleats are nailed to receive the beams, as also a bag of fore-locks for slave irons, a quantity of burnt bricks for building a fire-place, with mash and smaller tubs, tin pots, &c., used on board slavers.

The casks are laid fore and aft, as in all slave vessels, and filled with water, and the quantity of fire-wood is much greater than would be required for the use of her present crew, clearly indicating every preparation for the reception of slaves.

(Signed) T. B. SULIVAN,
M. T. MOLESWORTH.

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No. 167.

*Rio de Janeiro, September 25th,* 1839.

MY LORD, (*Received November 15th.*)

As soon as the Imperial Aviso, of the 27th July, was received by the Brazilian Commissary Judge, no time was lost in issuing the usual Monition, and taking the other preparatory steps towards adjudicating the case of the "*Recuperador*," the second vessel detained by Her Majesty's brig of war "Grecian," on suspicion of being concerned in the Slave Trade, as reported in our Despatch of 22nd June last, which also covered the declaration in the case made by Commander Smyth.

This vessel was yesterday restored, without recourse being had to arbitration, by the two Commissary Judges, by a sentence, of which the enclosed is a certified copy, in original and translation. The report of the case, and other documents con-

nected therewith, which it is impossible to prepare for the present opportunity, we shall not fail to forward by the next conveyance.

In the grounds on which this sentence is founded, we cannot but hope Her Majesty's Chargé d'Affaires may find an additional argument for pressing on the Imperial Government the expediency of the ratification of the Second Supplementary Article, signed, in 1835, by Mr. Fox, and Senhor Manõel Alves Branco.

With regard to the concurrence of opinion, on this occasion, between the two Commissary Judges, although, of course, no such consideration could at all be allowed to affect their decision, yet we undoubtedly consider it as a fortunate circumstance, that the inconvenience to be apprehended from an opposite sentence being pronounced by the Court, in two precisely identical cases, has thus been obviated.

We have, &c,

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## Enclosure in No. 167.

*Rio de Janeiro, 24th September,* 1839.

(Translation) *Sentence.*

THE present proceedings being examined, it is seen that the brig schooner "*Recuperador*," detained, on the 28th May, 1839, by Her Britannic Majesty's brig of war "Grecian," William Smyth, commander, about 20 miles west of Cape Frio, two days after leaving this port, on suspicion of being engaged in the traffic in slaves, but without having any actually on board, is the same vessel which, under the name of "*Felix*," was captured by the English brig of war "Wizard," on the 27th December, 1838, and condemned by this Court on the 30th January, 1839, under the instructions of 1835, for having on board a cargo of slaves; and which was sold, in virtue of the same sentence, at public auction, by the municipal judges of this city, on the 11th April last, with all the appurtenances belonging to her at the time of her capture by the "Wizard," as certified by the said municipal judge: and that the purchaser, Jozé Francisco de Souza, a Portuguese subject, who came to this country for the first time about a twelvemonth ago, immediately freighted her, first changing her name to that of "*Recuperador*," on the 18th May following, to another Portuguese subject, Antonio Augusto Oliveira Botelho, for a voyage to Angola and back, with an express prohibition on the part of the owner, and accepted by the said Oliveira Botelho, against receiving any contraband whatever on board: that, under such circumstances, the "*Recuperador*" sailed from hence on the 26th May last, having previously provided herself with a certificate, in the nature of a passport, signed by Joaõ Baptista Moreira, as consul-general of Her Most Faithful Majesty in this city, bearing date the preceding day, to the effect that the "*Recuperador*," owned and commanded by the Portuguese subjects, might proceed without impediment on her voyage to Angola, viâ Benguela, there to legalise all her documents, in conformity to the decree of the Portuguese government of the 17th December, 1836; this certificate being accompanied by the muster-roll and manifest of cargo, signed in the Portuguese consulate by the chancellor of the same; and, although in this manifest no mention is made either of 250 barrels of gunpowder or of 17 cases of muskets, found by the captor on board the brig, it is evident that neither the irregularity of the aforesaid documents, nor of this latter circumstance, whatever suspicions they may induce, can form a ground of condemnation with this Court. The only ground on which such a condemnation could proceed would be the suspicion that the vessel was actually engaged in the slave trade by finding on board utensils proper for such traffic; but, inasmuch as, in the present case, the sole evidence on which to raise such a suspicion has been caused by the circumstance of the Court not having the power to order that, on the sale of the vessel, all those articles found on board her at the time of her first capture should not be—as they were—included; and of its having rather tacitly sanctioned their sale by receiving, on behalf of the two governments, the increased price for which, in consequence of the existence of such articles, she was sold, it would be contrary to every principle of justice to lay hold of this circumstance to pronounce as certain that their being found on board the "*Recuperador*" indicated her being destined for the traffic in slaves; because, if, on the one hand, such destination may thence be inferred, on the other, the allegation on the part of the claimant not being refuted, that part of such articles belonging to the preceding voyage had been used for ballast, and part intended to be sold on the coast of Africa, in expectation of the high price they would, under present circumstances, fetch, it would, as before observed, be unjust, even admitting a want of good faith on the part of the charterer of this vessel, supposing him to have contemplated making use of the whole in a manner contrary to his agreement with the owner, to visit this latter with the confiscation of his property, unless there existed proof of connivance on his part in the same want of good faith, such as nowhere appears in these proceedings.

Seeing what has been said, the commissary judges, without stopping to inquire whether this adventure be purely Brazilian, or liable to be considered as bearing that character under the instructions of 1835; and, notwithstanding the difference of opinion between them on the principle of the legality of detention of vessels under circumstances similar to those of this brig—as they have explained in their preceding votes—are yet agreed that, for the above reasons, the principle in question cannot be considered to be applicable to the present case; and that, though in conformity to the 8th article of the regulation annexed to the Convention of 1817, no indemnification can be justly due to the present claimant, the captor having good grounds for supposing this case to be one of illicit traffic; yet that the "*Recuperador*" cannot be adjudged to be a good prize, under the circumstances set forth; and they therefore order that she be forthwith released, and restored to her owner, with whatever remains

of the cargo, in conformity with the 6th article of the before-mentioned regulation; warning, however, the said owner not to allow the continuance on board his vessel of those articles the existence of which gave rise to her detention; as otherwise he will not be relieved, as now, from the penalty he may incur.

(Signed) JOAO CARNEIRO DE CAMPOS.
GEO. JACKSON.

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No. 168.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, November 20th,* 1839.

I HAVE received your Despatch of the 10th of August, 1839, complaining that four Africans included in the sentences of the slave-vessels "*Leal*" and "*Ganges*" were detained by Commodore Sulivan; and I have to acquaint you that the Lords of the Admiralty have been moved to cause inquiry to be made why Commodore Sulivan detained the persons in question.

I am, &c.,

*Her Majesty's Commissioners,* (Signed) PALMERSTON.
*&c. &c. &c.*

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No. 169.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, November 22nd,* 1839.

I HAVE received your Despatch of the 23rd September, 1839, containing a report of the case of the "*Maria Carlota,*" condemned in the Mixed British and Brazilian Court of Commissioners, at Rio de Janeiro, upon a charge of having been concerned in illegal Slave Trade; and I have the satisfaction to acquaint you that Her Majesty's Government approves your conduct in this case.

I am, &c.,

*Her Majesty's Commissioners,* (Signed) PALMERSTON.
*&c. &c. &c.*

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No. 170.

*Viscount Palmerston to Rio Commissioners.*

GENTLEMEN, *Foreign Office, November* 23, 1839.

I HAVE received your Dispatch of the 25th September, 1839, transmitting a copy of the sentence which was signed by the two Commissary Judges of the Mixed British and Brazilian Court, restoring to her owner the vessel the "*Recuperador,*" which had been detained by Her Majesty's brig "Grecian," on a charge of being engaged in Slave Trade.

I have read and considered the case of this vessel as explained in the judgment of the Court, and I feel it right to observe to you, that the argument on which Sir George Jackson concurred in decreeing restitution of the vessel, appears to me to be unsound and untenable.

It appears that the ship had, in a former instance, been taken and condemned for being engaged in Slave Trade. She was sold, together with her equipments; she started again for the coast of Africa with articles on board, which are admitted to be proofs of slave trading, and which are of no use, but only an incumbrance, to a vessel not destined for Slave Trade. The owners put forward the weak and shallow pretence that these articles were carried as ballast, or for sale on the coast of Africa, and upon no better foundation than this the British Commissary Judge concurred with his Brazilian colleague in decreeing restitution of the vessel.

The sentence given in the case is, as it appears to Her Majesty's Government, entirely at variance with that given in the case of the "*Maria Carlota.*" It is inconsistent with the facts of the case, as set forth in the "Judgment" of the Court; and, if acted upon as a precedent, it would give impunity to every vessel seized and brought to trial upon the charge of being equipped for Slave Trade.

Under all these circumstances, I have to acquaint you, that Her Majesty's Go-

vernment disapprove of the sentence of the Court of Mixed Commission decreeing the restitution of the "*Recuperador*."

I am, &c.,

(Signed) PALMERSTON.

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

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No. 171.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, September 28th,* 1839.

(*Received December 14th.*)

My Lord,

Referring to our preceding Despatch (forwarded by Her Majesty's ship "Imogene,") we have now the honour to inclose our report of the case of the brig-schooner "*Recuperador*," detained by Her Majesty's brig of war "Grecian," and restored to her owner by sentence of this Court, dated the 24th instant.

Your Lordship will observe that this sentence proceeds on grounds entirely distinct from the main difference of opinion between the two Commissary Judges respecting the legality of the detention of vessels under circumstances similar to that of the "*Maria Carlota*;" and that whilst they unhesitatingly concurred in the propriety of restoring the "*Recuperador*," they both did so without prejudice to their previous votes on the main question.

With respect to the existence of the articles indicating slave traffic, said to have been bought with the "*Felix*," the first declaration of the municipal Judge, who, as your Lordship knows, is the executor of the sentences of this Commission, not being deemed satisfactory by Her Majesty's Commissary Judge—such declaration being made in very loose terms, and "according" only "to his recollection," the Registrar was instructed to require from him, on the part of the Court, a more precise and official attestation, having before him an accurate list of such articles copied from the declaration of Commander Smyth; the result of this enquiry appears in the certificate annexed to the report of the case.

We have, &c.,

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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Enclosure in No. 171.

*Report of the case of the* "Recuperador."

*Rio de Janeiro, 28th September,* 1839.

This vessel is the same which, under the name of "*Felix*," was captured by the British brig of-war "Wizard," on the 27th December, 1838, with a cargo of slaves on board, and was condemned by this court on the 30th January, 1839, in virtue of the instructions of 1835, and sold under the authority of its sentence, by the municipal judge of this city, at public auction, with everything she had on board at the time of capture, (as shown by the annexed certificate of the registrar of the court,) to a Portuguese subject (Jozé Francisco da Souza), who changed her name to that of "*Recuperador*," and freighted her, for a voyage to Angola and back, to another Portuguese subject (Antonio Augusto Oliveira Botelho), who sailed in her, from this Port, on the 26th May last.

The "*Recuperador*" was detained, two days afterwards, about twenty miles west of Cape Frio, by Her Majesty's brig-of-war, "Grecian," William Smyth, commander, on suspicion of her being engaged in the slave trade, on the grounds stated in Commander Smyth's declaration.

A delay of nearly two months having intervened, owing to the refusal of the Brazilian commissary judge to take cognizance of this vessel, till instructed to do so by the Imperial Aviso, of the 27th July; the usual monition was issued on the 29th of that month, according to the forms of this country, and the examination of witnesses commenced on the 31st of the same.

*First Witness.*

Sebastiaõ da Fonseca swore, that he was a native of Portugal, and subject of Her Most Faithful Majesty; that his profession was the sea, and he was now master of the patacho "*Recuperador*;" that, in sailing from this port for Angola and Benguela he had no passport, but only a certificate from the consul of his nation, declaring this vessel to be Portuguese, and to be bound to Angola, there to obtain the regular documents, conformably to the Queen's Decree of the 17th December, 1836; that the patacho belonged to Jozé Francisco da Souza, who was in this city, when this witness sailed and freighted the vessel to Antonio Augusto Oliveira Botelho, a Portuguese subject, who had resided in Brazil for some few years, with whom he made his agreement to go to Benguela and Angola, and to bring a return cargo of ivory and wax, and that the articles proper for the traffic in slaves, mentioned in the declaration of the captor, were already in the vessel, and bought with her, and were to be sold

on the Coast of Africa; that he himself came to this country, for the first time, in 1836; that he sailed in this vessel, then called "*Feliz*," as pilot, and was returning in her, when taken prisoner last year, (referring to her capture by Her Majesty's brig, "Wizard,") and that he was now going as master in the same vessel, which had been sold at public auction, and was now called "*Recuperador*." That Antonio Augusto Oliveira Botelho, and another Portuguese, Manõel Pinto da Silva, now on board this vessel, to learn his profession, were the persons to whom the goods shipped on board were to be delivered; that the 250 barrels of gunpowder and the seventeen cases of muskets stated in the captor's declaration to be on board, were, it is true, not included in the manifest, but that they had been cleared at the custom-house of this city; that, besides himself, the boatswain, Jozé Joaquim da Silva, and two sailors, slaves, but of whom he does not know, and who were on board of the "*Feliz*," still form part of the present crew.

*Second Witness.*

Antonio Augusto Oliveira Botelho swore that he was a native subject of Portugal, and a travelling merchant; that this vessel belonged to Jozé Francisco da Souza, a Portuguese subject, who had no interest in the adventure, and from whom he had freighted her; that the goods were all his own, with the exception of a small amount belonging to Manõel Pinto da Silva, who was on board; that these goods were intended for lawful trade, with which view he had made an agreement with the owner of this vessel; that, with regard to the articles mentioned by the captor, the owner had not told him of their existence; that he only knew of the irons, when they were taken out from the ballast, and that the copper was a very small one, scarcely suitable for fifteen or twenty persons; that the owner of the vessel had cleared her out, and that the witness supposed the document given by the late Portuguese consul was sufficient; that he came to Brazil, for the first time, in 1830, as passenger, having been employed, in the interim, three years, as book-keeper, and one year as partner in a house at the Porto d'Estrella; that, since 1836, he had been twice at Angola, always as passenger and shipper.

*Third Witness.*

Jozé Joaquim da Silva swore that he is a native subject of Portugal, and now boatswain of the patacho "*Recuperador*; that Jozé Francisco da Souza is her owner; that the deponent made his agreement with the charterer Botelho, to go from hence to Angola only, for which he was to receive two hundred milreis, there to make a fresh agreement for the return voyage, if it suited him; that, with respect to the articles found on board, the boiler was a very small one, fit only for melting pitch; that the irons were bought with the vessel, and served for ballast, and that the seventeen pipes on the deck were precisely what was necessary for the crew; that the above articles were the very same which were on board the vessel when captured on a former voyage, and that the hatchways were new and different from the grated ones with which he then sailed; that he did not know that any person was interested in the adventure of this vessel besides the charterer; that he, deponent, came in 1837 from Lisbon to Angola and Benguela, whence he shipped on board this vessel for the voyage on which she was taken; that he had previously come to Brazil, but was not certain of the precise year, but it was since her independence; that he had made several voyages in Portuguese ships to different ports of this empire, as well as to Monte Video and to Europe.

*Fourth Witness.*

Luiz Manõel Gonçalves swore that he is a native subject of Portugal; that he was engaged in commerce; that he left Portugal in 1827 for Maranham, where he remained till 1833, when he went to Barcelona, staying there till the end of 1837, when he returned to Maranham, and came from thence in September last to this city, stopping, in his way at Pernambuco; that his object in coming to Rio de Janeiro, was to make some arrangements with his relations, uncles, and cousins living in different streets in this city; and that, in October, he went to Angola to trade, returning, in February, with a shipment of wax, ivory, and mats; and that, from that time to his embarking in this vessel, he remained here; that he had not shipped any goods, and only carried with him 574 half doubloons, on his own private account, which, with all his papers, had been taken from him, and that he had no interest in the adventure of this vessel.

*Fifth Witness.*

Jozé Francisco da Souza swore that he is a native subject of Portugal, now residing here, but not established; that he left Portugal for Angola, and came to this city a little more than a year ago; that he was not a merchant in Portugal, neither had he any connexion with any commercial houses there; that he took some goods with him to Angola, bringing from thence to this place wax and ivory; that he had no connexion with any commercial house, nor was employed by, or had any interest in any; that he bought this patacho with funds which he inherited from his father, intending to navigate her, on freight, to Angola, shipping some goods for his own account, but that Antonio Augusto Oliveira Botelho having offered to charter his vessel for four contos of reis, he had let her to him to go on a voyage to Angola and Benguela and back, "which answered his purpose," said Botelho engaging to make all necessary repairs; that, previously, he had no particular knowledge of Botelho, but that, on his offering to freight the vessel, and receiving satisfactory information respecting him, he determined to accept his offer, and drew up the necessary agreement, one copy of which is in the hands of the said Botelho, and the other in the Portuguese consulate; that he had not yet received the sum stipulated, but that two bills, at three and six months, had been given to him, endorsed by Rodrigues Pinheiro de Gusmaõ, living in the Rua Direita; that Gusmaõ was an acquaintance of his family, in whose house he, deponent, was now living as guest, but that he was in no way employed by Gusmaõ, nor interested in his concerns; and that in coming to this city he brought no letters of recommendation, either to Gusmaõ's, or to any other house; that he, deponent, having first visited this vessel, with a master carpenter, bought her; that he had no knowledge either of the decree of the queen of Portugal, with respect to the indications which form *primâ facie* evidence of employment of a vessel in the slave trade, or of that with reference to the nationality of Portuguese vessels; that he was told the vessel was Portuguese, and that papers were given to her as such in the Portuguese consulate, and that the articles, such as irons, &c., found on board, were sold to him with the vessel; that Botelho, who freighted her was the person who engaged the captain and crew; that the clearances, &c., were procured by the agent, and that he had effected no insurance on the vessel.

The material features in this case are—

1st. "The certificate, in the nature of a passport, signed by Joaõ Baptista Moreira, Consul-General of Her Most Faithful Majesty in this city and province of Rio de Janeiro, bearing date the 25th May, 1839, to the effect that the '*Recuperador*,' owned and commanded by Portuguese subjects, and bound on a voyage to Benguela and Angola, had been sold in this city at public auction by the municipal judge, having previously been the schooner '*Felix*,' the property of a subject of Portugal, and that she was proceeding to Angola for the purpose of there legalizing all her documents, in conformity to the decree of the 17th December, 1836, and to the end that no impediment, but rather every assistance of which she might stand in need might be afforded her, that the present document had been passed."

The irregularity of this document is apparent on the face of it, and it becomes still more so, when it is considered that in it, it is not declared why, or in virtue of what authority the "*Feliz*" was sold, and that, at its date, the exequatur of Senhor Joaõ Baptista Moreira had been withdrawn by the Imperial Government.

The second circumstance to be adverted to is, that on board the "*Recuperador*" were found 250 barrels of gunpowder and 17 cases of muskets, not included in the manifest.

These irregularities, it is to be hoped and presumed, will be duly noticed by the respective Governments whose laws may thus have been infringed; but the Commissary Judges were clearly of opinion that they did not come within the competence of this court; and it having been proved, to their satisfaction, that the articles found on board this vessel, indicating her employment in the slave trade, had been included in the sale which, under their sentence, had taken place, they were no less agreed on that account, that, regard being had to the date and place of detention, justice forbad, in this instance, a sentence of condemnation; and they, therefore, on the 24th instant, decreed restitution of the "*Recuperador*" to her owner; without any indemnification, however, whatever; and coupled with an intimation that he should no longer permit those articles to remain on board his vessel, the existence of which had given rise to her detention.

GEO. JACKSON,
FRED. GRIGG.

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(Translation.) *Rio de Janeiro, September* 24, 1839.

I HEREBY certify that the municipal judge of this court has attested in writing, that the following articles were delivered to the purchaser of the brig, "*Feliz*," viz.,—a quantity of irons for safety of slaves, hatchways for gratings, tun butts and pipes for water, small and old medicine chest, topmasts and spars, large tubs, hand-pumps, a large boiler, which, though in good condition, had been already used.

(Signed) BRAZ MARTINO COSTA PASSOS.

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## No. 172.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, October* 16*th*, 1839.
(*Received December* 14.)

MY LORD,

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 3rd August last, acquainting us, with reference to our Despatch of this year, that your Lordship is still of opinion that we should send home, in full, a translation of the deposition made by each witness examined before the Court, together with copies, or translations, of every paper which may, in each case, be laid before the Court, and a statement of the argument given by each member of the Court, in illustration of his view, and in support of his decision.

We shall not fail to pay implicit attention to this instruction, but we fear it may frequently place us under the necessity of soliciting your Lordship's indulgence, from the physical impossibility, unprovided as Her Majesty's Commissioners now are with the services of a Secretary, to prepare the several documents as soon as we could wish.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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## No. 173.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, October* 28*th*, 1839.
(*Received December* 26.)

MY LORD,

REFERRING your Lordship to our Despatch of the 24th ultimo, we have the honour to inform you that the brig "*Pompeo*," has been declared by the Court to have been illegally detained.

The sentence which pronounced this judgment, and ordered the restoration of the vessel and cargo to their respective owners, was signed by the two Commissary Judges, on the 26th instant, and we have the honour to transmit to your Lordship, in this Despatch, the following documents:—

A.—A Paper, subsidiary to those enclosed in our Despatch signed by Commander Preston, two other officers, and twenty-one seamen of Her Majesty's ship "Stag," bearing date the 5th September, 1839, but not actually presented till the 5th instant.

B.—The Minutes of the Court on the 11th and 12th instant, detailing the evidence of Lieutenant Tyssen, (commanding the "Fawn," who had just returned into port), and the explanatory deposition of Commodore Sulivan.

C.—The Sentence of the Court.

D.—A separate Paper, entered at the same time, on the Minutes of the Court, by the Brazilian Commissary Judge, declaratory of the grounds on which he founded his vote in favour of the claimant, in addition to that which alone influenced the opinion of his colleague.

E.—Our Report of the case, with three Annexes thereto.

Reserving for a subsequent Despatch various circumstances arising out of this case, it is sufficient here to observe, that the impossibility of recognising the "Fawn," under the instructions transmitted at different periods to the Courts of Mixed Commission, on the subject of tenders, and more particularly under those given by your Lordship on the 9th August, 1831, was the main ground on which the Commissary Judges agreed on a sentence of restitution in this case.

We have, &c.,

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## First Enclosure in No. 173.

### (A.)

*Statement of Search made on board the* "Pompeo."

We, whose names are hereunto subscribed, Willam Preston, commander, James Brown, master, Lucius R. Curtis, mate, and the undernamed seamen, of Her Majesty's ship "Stag," being present at the search made on board the detained brig "*Pompeo,*" to ascertain if any articles could be found to prove her being engaged in the Slave Trade, declare to the following statement:—

That, on clearing a great part of the hold, by removing the bale goods and cases of muskets and swords, we found two large ladles, new, with handles about three feet long; also a quantity of burnt bricks for a fire-place, some of them apparently having been already used for that purpose.

We declare to the circumstance of finding the hold below the cargo what is termed floored with water-casks, the bung-holes covered with lead, pierced with holes to admit air, exactly the same as those found in vessels engaged in Slave Trading; and being in quantity ten times more than would be required for the crew found on board that vessel, she having already sufficient water on deck for their consumption during her voyage to her destination. Nor is it customary for merchant-vessels engaged in lawful commerce to carry water under the cargo, or usual to have casks (if on cargo) set up, as they evidently take so much more room than they would when in shakes.

Neither do we consider the "*Pompeo*" could require these casks of water as ballast, as she was evidently loaded very deep, and would have been sufficiently so without them.

On the examination of these casks they were all found to contain water, except the foremost cask on the larboard side, it being found (on putting a stick into the bung-hole) to contain something hard, which proved (on staving the cask) to be a large newly-tinned copper boiler, with a new ladle and strainer, also a bag of forelocks for irons, precisely the same as those found on board vessels engaged in the Slave Trade.

We particularly beg to draw your attention to the following articles, in addition to the above, also found in the hold of the "*Pompeo,*" and which are strong evidences of her being intended to receive slaves: viz.,—the great quantity of deck-plank and beams for rafters—certainly sufficient to lay a slave-deck fore and aft; also the circumstance of the water-casks being just high enough to allow of a deck being so placed, and cleats nailed to the vessel's sides in a line with the upper part of the water-casks, to receive the ends of the beams or rafters.

And further, that it is not customary in merchant-vessels of her size to carry more than from ten to twenty such plank; nor do we know any purpose for which burnt bricks are used in vessels engaged in lawful commerce, but in all slave-vessels they are used to protect the wood-work from the fire; moreover, the great number of tubs, large and small, with suckers similar to those used in slave-vessels, are such as could not be required in a merchant-vessel.

There is also a great quantity of farinha and jerked beef, which are not probable to be intended as marketable articles, but as food for the negroes during the intended voyage from the coast.

Class A.

There are also found a number of short pieces of chain, with a bag of forelocks for irons, similar to those used in chaining slaves together.

A great part of the cargo is such as is generally used in bartering for slaves; viz., muskets, swords, trumpets, beads, and brass pots, besides the general cargo of bale goods.

The farinha was stowed in bulk under the cabin floor, which is a proof it was intended to be used from that place, and was not on freight. And we are not aware of anything deficient in the equipment and furniture of the "*Pompeo*" that could be further necessary to prove her being engaged in the illicit traffic in slaves.

And we further declare we are ready, if required, to make oath to the impartiality and correctness of our proceedings, and of this statement.

Given, under our hands, on board the detained brig "*Pompeo*," in Rio Janeiro harbour, this 5th day of September, 1839.

(Signed) WILLIAM PRESTON, Commander.
J. BROWN, Master.
ROGER L. CURTIS, Mate;
And by 21 Seamen of Her Majesty's ship "Stag."

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## Second Enclosure in No. 173.

(B.)

(Translation.)

*Minute of the Court on the 11th of October*, 1839.

APPEARED, by request of the Commission, Lieutenant Tyssen, Commander of the "Fawn," who, having been duly sworn, was asked, through the interpreter to the Commission, by what authority he detained the brig "*Pompeo*;" to which he replied, by authority given to him by Commodore Sulivan. Being asked whether such authority were verbal, or in writing? he answered, in writing. Being asked, if he had such authority with him? he replied in the negative, but that he could produce it. Being asked whether the orders which he received referred to the regulation in virtue of which, according to the Convention between Great Britain and Brazil, ships of war are to regulate themselves in visiting and detaining Brazilian vessels employed in the Traffic of Slaves; and whether such regulation was delivered to him with the orders of Commodore Sulivan, or whether he received, besides the said regulation, specific orders to detain vessels bound from this port to those of the coast of Africa? he replied, that he received his orders from the Commodore, with the printed papers which regulate, according to the Convention between Brazil and Great Britain, the visit or detention, by ships of war, of Brazilian vessels employed in the Traffic in Slaves; and that, with reference to the last question, he would present the orders which he received from the Commodore.

*Minute, 12th October*, 1839.

Appeared Lieutenant Tyssen, in consequence of his having yesterday engaged to present this day the orders which he received for the cruise committed to him; and Commodore Sulivan appearing at the same time, and, being duly sworn, declared that his object in coming forward was in consequence of having been informed by Lieutenant Tyssen that he had offered to present to the Commission the orders which he the Commodore had given him; to which he objected, having previously declared that Lieutenant Tyssen acted under his immediate orders, and having already presented all the documents required by the Act of Parliament. On which the Brazilian Commissary Judge addressed Lieutenant Tyssen as follows: "You having declared that, together with the printed instructions which you received, by which cruisers are to regulate themselves in the detention of vessels engaged in Slave Traffic, you only received from the Commodore your sailing and cruising orders; I wish to know on what grounds the above brig was detained, since the instructions above referred to only authorise you to detain vessels with Africans on board." Lieutenant Tyssen replying, that he considered her as an illegal vessel navigating on the high seas; the same Commissary Judge rejoined, that his answer did not satisfy his inquiry, since, Lieutenant Tyssen declaring that he was cruising conformably to the instructions above referred to, they relate only to vessels engaged in the Traffic of Slaves; to which Lieutenant Tyssen answered, that he detained her in conformity to the orders which he received. On this, the Commodore declared that his orders to Lieutenant Tyssen were to detain all vessels which should be found to be engaged in the Traffic in Slaves, from the finding on board articles indicating such purpose, although no slaves should be actually on board. The British Commissary Judge asked Commodore Sulivan whether he had any objection to presenting the orders in question, given by him to Lieutenant Tyssen: to which the Commodore replied, that he had none, if it should be requisite to do so; and, on being told that it was, he engaged to present them on Monday the 14th instant.

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## Third Enclosure in No. 173.

(C.)

*Sentence.*

(Translation.) *Rio de Janeiro, 26th October*, 1839.

THE present proceedings being examined, it is ascertained that the brig called "*Pompeo*," Antonio Ferreira, master, was detained under Portuguese colours, on the 28th August last, on leaving this port of Rio de Janeiro, for that of Mozambique, to touch at Angola, by the "Fawn," Lieutenant Tyssen, commanding tender to Her Britannic Majesty's ship "Stag," on account of his having found on board water-casks, and a quantity of provisions, greater, in his opinion, than was necessary for the support of the crew, during the voyage, adding thereto in the subsequent declarations offered by the Commodore, commander of the British Naval Forces on this station, the finding also of some wood (planks) in addition to a boiler and other loose articles, such as padlocks, &c., within one of the water-

casks, the result of searches made since the said brig had returned to this port, in consequence of which her condemnation, as engaged in the illicit traffic, is prayed; it being sought to corroborate this last fact with various supplementary documents, and which, moreover, refer solely to the preceding voyages of this brig.

All which being seen, and reflected upon, as well as the allegations on the part of the captured, and the documents presented by them in their defence, the depositions and evidence of the one and other party, and of the consignee of the brig, being compared with the other papers filed, as also from the examinations and analysis of the ship's papers of this vessel, it is impossible to recognise, with the necessary legal certainty, that she is really Portuguese property, inasmuch as besides the illegality of the passport for her present voyage and the want of the register, without which no property can be considered as nationalised, according to the Portuguese laws, it is beyond a doubt, that in default of the proof of the flag, and the same not being complete and fully satisfactory, the vessel must, *primâ facie*, be held to belong to the port from which she sailed, and to which she was in the habit of navigating, particularly as her cargo consists of the produce of this port; the alleged and previous possession of him, who is said to be the owner at Angola, being insufficient to counterbalance these presumptions as a legal induction of the character of the vessel; because no title of acquisition being produced, possession of itself alone (supposed, but not conceded) is not sufficient to vest the property in the holder, on which account this Commission deems itself competent to decide the present case.

And, however, the simple fact of the detention of this brig, without slaves on board, might be sufficient for the Brazilian Commissary Judge to adjudge the said detention to be illegal, as he has already duly protested, still the principle of such right over vessels suspected simply of being destined for the illicit Traffic in Slaves, as has already been determined in the Court, being admitted, it remains to be verified whether the indications arising out of this process be sufficient to establish the presumption of the legality of the detention of this brig, and whether the tender, which so detained her, were duly authorised to capture slave vessels.

It is seen that the search and the finding of the boiler, already adverted to, was an act practised in the absence of all the officers and crew of the brig in question, who were removed to another vessel as soon as they arrived in this port, and without the same being cited or heard, as was indispensable, not only according to all rules of law to legalise such finding (thus giving rise, as it did, to the same being denied by the captured party), but even according to what is enjoined by the Instructions annexed to the Convention of 1817, which form an integral part of the Treaty with Brazil, and which make it imperative upon the cruiser to draw up and give to the party captured an authentic declaration of the state of the ship which pre-supposes the presence of such party: that, finally, the planks provisions, and water-casks, having all been despatched, and the latter being mentioned in the Manifest of the cargo, and a bond having been given for this latter article, as destined for lawful adventure, would be sufficient ground for not considering the present voyage as criminal, if the Brazilian and British Commissary Judges were agreed on these several points; but disagreeing in part, because the simple fact of the existence of the boiler would, in the opinion of the latter, invalidate the bond, and induce him to declare himself in favour of the detention; still, as they both admit that many irregularities were practised on the part of the captor, as well at the time of detention as subsequently thereto, whether by bringing the case before this Commission ten days after entering this harbour, whether by proceeding himself or by the Commodore, to make searches in the vessel, unloading and again loading her, without the captured party being present, as has already been stated; or whether by disregarding the formalities essential for justifying his proceeding—formalities which, moreover, are enjoined in the only instructions which should serve him for guide, namely, those annexed to the Convention of the 28th July, 1817; and ascertaining, finally, that the tender, "Fawn," besides her not having been bought by the express orders of the British Government, and not being, therefore, duly authorised by the Admiralty of Her Britannic Majesty to be employed on the cruise, which she has made, is, in like manner, unfurnished with the instructions given by the Admiralty to all vessels destined to detain ships employed in the illicit Traffic in Slaves, as is seen by the official communication made on this head by the Commodore, commanding the British Naval Forces in this port; the said Commissary Judges being agreed, especially as to this last point, adjudge the detention of the brig "*Pompeo*" to be illegal, and order that she be, consequently, released and restored, with all her cargo, to the respective claimants, in virtue of the 6th Article of the Regulations of this Commission, annexed to the additional Convention above cited.

(Signed) JOAO CARNEIRO DE CAMPOS.
GEORGE JACKSON.

(A true copy.) (Signed) BRAZ MARTINS DA COSTA PASSOS,
*Secretary.*

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## Fourth Enclosure in No. 173.

### (D.)

*Separate Declaration made by the Brazilian Judge.*

(Translation.) *Rio de Janeiro, 26th October*, 1839.

THE Brazilian Commissary Judge having conformed to the declarations made to his colleague, the British Commissary Judge, by the Commodore, commanding the British Naval Forces in this port, respecting the tender "Fawn," in adjudging the detention of the brig "*Pompeo*" illegal, the said tender not being duly authorised, according to the regulations of the British Admiralty, to proceed to such detentions, has further to declare, that, independently of this circumstance, he would never give his vote for the condemnation of the aforesaid vessel, not only on account of the irrelevancy, demonstrated in the sentence of the indications adduced against her present adventure, but also because it is well known, that in the absence or want of legal proofs, the indirect ones, resulting from indications, should be such as, taken all of them together, may combine, without the slightest incongruity, to establish the certainty of the fact, or of the criminal intention, which is wanting in the present case, by the irregularities with which all the examinations, on board of the brig in question, were conducted—irregularities which could never authorise a sentence to the prejudice of a third party.

(Signed) JOAO CARNEIRO DE CAMPOS.

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## Fifth Enclosure in No. 173.

### (E.)

*Report of the Case of the Brig* "Pompeo."

*Rio de Janeiro, 28th October*, 1839.

THIS is the case of a vessel sailing under the Portuguese colours, and detained on suspicion of being engaged in the Slave Traffic.

The "*Pompeo*" had no slaves on board, being on her outward voyage from hence to Angola and Mozambique. She was detained on the afternoon of the 28th August last, the day on which she left this port.

This vessel re-entered this port on the 30th of the same month, and was brought before the court on the 11th September, by Commodore Sulivan, as Captain of Her Britannic Majesty's ship "Stag," who declares that a tender attached to Her Majesty's ship, under his command, named "Fawn," cruising under his orders and under the command of a Lieutenant of the said ship, did, on the 28th August last, being then in about lat. 33° 30′ S., and long. 42° 55′ W., detain the brig named "*Pompeo*," sailing under Portuguese colours, commanded by Antonio Ferreira, who stated her to be bound from Rio de Janeiro to Mozambique; and the said Commodore further declares that the "*Pompeo*" has a large stock of water-casks, provisions, and many implements used on board vessels conveying slaves.

This declaration was accompanied by two papers, the one an affidavit made by the said Commodore, (with Montague Treby Molesworth, midshipman of the "Stag," and officer in charge of the detained brig "*Pompeo*"), duly authorised and empowered, according to the provisions of the Treaty between Her Britannic Majesty and His Imperial Majesty the Emperor of Brazil, to make seizures of vessels engaged in the Slave Trade, in which he maketh oath that the "Fawn," tender to Her Majesty's ship "Stag," and cruising under his orders for the detention of vessels engaged in the African Slave Trade, seized the "*Pompeo*," having found on board said brig the articles before referred to, contrary to the existing Treaties between Her Britannic Majesty and His Imperial Majesty the Emperor of Brazil, and in which the above-mentioned Montague Treby Molesworth further maketh oath that the papers, writings, and documents hereunto annexed, are all that could be found, after a strict search, and that none others were delivered by the master of the said vessel, and that the same are now brought, &c.

The other, a statement signed by the Commodore and Mr. Molesworth, specifying more particularly the state in which the "*Pompeo*" was found, the articles on board indicating the traffic, and declaring, that, on opening one of the water-casks, it was found to contain a large copper boiler.

The principal ship's papers so brought into Court consist—

1st. Of the Manifest certified and signed by the Portuguese Vice-Consul at Rio de Janeiro, 26th August, 1839, of the Portuguese brig "*Pompeo*," bound for Mozambique by the ports of Africa.

2nd. Of the Muster Roll, also signed by the same Vice-Consul, and under the same date.

3rd. Of the Passsport with which this vessel was navigating, viz., an old passport granted on on the 18th July, 1837, by the Governors *ad interim* of Angola, to the Portuguese brig "*Pompeo*," the property of Joao Rodriguez Soares, a subject of Her Most Faithful Majesty, for a voyage from Loanda to Mozambique, to touch at Monte Video and the ports to the north of that city.

This passport is *viséed* by the aforesaid Vice-Consul, on the 26th August 1839, in the same terms as the manifest; declaring her to carry the cargo therein specified, and the number and description of persons named in the muster roll, and further, that the passport, so *viséed*, was to be good only to the first port of her destination, there to be cancelled, and the other documents required by the law to be substituted for it, without, however, noticing the change of captain and of crew, since the date of the original passport, to which the old muster-roll was attached.

4th. Of a bill of health, signed in blank, by the competent Brazilian Authority, but not filled up with the name of the vessel.

This document was also *viséed*, in the same manner, by the Portuguese Vice-Consul.

5th. A certificate, by the same functionary, that the "*Pompeo*" was cleared and despatched, her muster-roll in order, and her manifest of cargo authenticated.

Such are the leading documents filed in this case, among which is to be found a certificate of register, nor any bill of sale or other title, to show that the "*Pompeo*" is the *bonâ fide* property of the reputed owner, Joaõ Rodriguez Soares.

The usual monition, according to the forms of this country, was issued on the 13th September, and the examination of the witnesses, five in number, commenced without delay.

*First Witness.*

Antonio Ferreira deposed, that he was a native of Lisbon and a Portuguese subject, his profession the sea, and now master of the brig "*Pompeo*." That he heard that Joaõ Rodriguez Soares, Portuguese subject, and living at Angola, was the owner of this vessel, but that he did not know him. That he made his agreement with the agent of the same in this city, Joaõ Bernardino de Sà; that the vessel was bound for Mozambique, touching at Angola, and that his agreement was for the voyage, there and back, and to deliver the cargo at Angola. That the whole of the cargo was not owned by Soares, but belonged to different persons, as would be seen by the manifest. That he did not know their names, nor who they were, having signed the bills of lading at the house of the consignee, but that none other than the reputed owner, and the shippers mentioned in the manifest, had any interest in this adventure. That this was the first time he had shipped in this vessel; that he had not known her previously; and that she was navigating with the passport to be found in the process. And, on being called upon to account for the padlocks, the boiler, and other articles for the Slave Traffic, which were found on board her, seeing that the vessel was destined for licit trade, he replied that he did not know of the existence of any boiler on board, and only of four padlocks for the hatchways—an assertion in which he persisted, even on his attention being called to the declaration made by the Commodore on this station, of a copper boiler and spoons, tubes, and other objects, found on board slave vessels, having been concealed within a water-cask. That the planks and beams, for laying a slave deck, also spoken of by the Commodore, were partly included in the manifest and partly the remains of the repairs of the vessel. That, at the moment of being detained, no declaration whatever, on the

part of captor, was delivered to him, and that it was not till after he had been anchored some days in this port, that he received from the Commodore, a declaration of the papers and other objects found on board—no mention being made therein of the boiler and other articles, above referred to—nor to two post-office bags, sealed, and directed for Angola and Mozambique; and that he was not present at any search made on board of this vessel, since she entered this port, having been removed, immediately afterwards, to the hulk—that he came to Brazil, for the first time, six or seven years ago, by the way of Lisbon and Angola, (which was his first visit to Africa) and arrived in the year 1838, from Angola, at Rio de Janeiro, as boatswain of the Portuguese brig "*Desengaño*," in ballast, and that, from that date to the present voyage, he remained ill at Rio de Janeiro, having, before 1838, made several voyages to Portugal and different ports of this empire. That he did not sign any bond in the Portuguese Consulate, nor was any such required of him, not to take slaves on board.

*Second Witness.*

Joaquim Antonio Vieira swore, that he was a Portuguese subject, native of Macao: his profession was that of a pilot, and, as such, he was now on board of the "*Pompeo.*" His testimony as to the ownership and destination of the vessel was precisely the same as that of the preceding witness; adding that he made his agreement here with the agent, Jozé Bernardino de Sá, only to take the vessel to Angola; and that, on his arrival there, he was to make a fresh agreement with the owner, and to learn the object of the voyage to Mozambique. He also denied any knowledge of the boiler, &c., and declared that he had not been present at any search made on board this vessel after her arrival in this port, having been put on board of the hulk. That he came to Brazil in the year 1816, and that, from that time till the present, he had been engaged in different voyages to Europe, Brazil, and Africa; and that he arrived from Mozambique in the same year in which the Independence was proclaimed, but not till after that declaration was actually made. That Jozé Bernardino de Sá had no interest in this vessel, being only consignee; neither had he any himself, nor in the cargo, having only to gain his pay, which was four hundred milries from hence to Angola. That his last voyage from Africa to Brazil was in 1833, in the ship "*Marcial,*" in ballast, from Cape Verds to Bahia (having sailed in the same from this port as pilot), from whence he brought a cargo of salt to this city; and that, from that time to the present, he had sailed as pilot to Buenos Ayres, and different Brazilian ports.

This witness was re-examined in consequence of the proctor for the captor producing official documents, to show that he, the witness, had arrived in January last from, and had sailed again in June for, the coast of Africa, as captain of this brig "*Pompeo,*" whereas he had declared that he had not come in her from the coast of Africa, and that his last voyage from thence to this port was in the year 1833.

In his reply, he reasserted that this was the first voyage he had made in this vessel, and that he had heard that there was another individual of the same name, but that he did not in fact know him, and had only heard it so said.

*Third Witness.*

Lourenço dos Santos, Portuguese subject, native of Lisbon, his profession the sea, and now boatswain of the brig "*Pompeo,*" swore that he did not know who was the owner of the vessel. That he made his agreement with the captain, at twenty milries per month, for a voyage to Mozambique, touching at Angola, to ship at the former port a cargo of oil. That, besides his pay, he was to have no venture in the vessel. That when he shipped on board, in consequence of the discharge of a former boatswain, she was completely laden, and the water-casks were already on board. That he knew nothing of there having been found such articles as the boiler, &c.; nor was he present at any search, having been removed to the hulk immediately after the arrival of the "*Pompeo*" in this port. That this was the second voyage to Africa in which he had been engaged, but that he had made several from Lisbon to this place.

After this witness had closed his evidence the captain, Antonio Ferreira, was summoned for re-examination. On this occasion he denied any relationship with, or knowledge of, one of the shippers by this vessel bearing the same name as himself; and, with reference to his former deposition, that the cargo was to be delivered at Angola, whereas the manifest and certificate of the Portuguese Consulate state it to be destined for Quilimane, he declared that part of the same was to be delivered to the owners thereof at Angola, and the rest to be carried on to Mozambique. That the casks, which appear there in the manifest, without any mark or declaration of their contents, were full of water, and were to bring oil. That they had been cleared at the Custom-house. That a bond to this effect had been given, and that the consignee of the vessel must have the same in his possession. That they were carried from hence, because there was no one in Mozambique who knew how to make them, and that, in the mean time, they served as ballast. That if the planks were not mentioned in the manifest, as he had declared they were, he could not give the reason; but that he knew that they had been cleared, and that he could present the document to prove it. That the detention of the vessel took place at four o'clock in the afternoon of the 28th August last, 13 or 14 miles to the east of Raza Light, or 24 miles to the east of the fort of Santa Cruz. That, on that occasion, he saw no more than three or four bales and a few cases taken out of the hold, after which everything was put back again in the same, the hatchways closed, and the keys and all the papers taken away by the commander of the patacho, who captured them, without any certificate being given to him of the papers and other articles found on board, which was only done dome days after the 30th of the above month, the date of her entering this port; and that no papers were thrown overboard in the act of detention.

*Fourth Witness.*

Jozé Bernardino de Sá (a merchant established in this city) swore that he knew the owner of this vessel was Jozé Rodriguez Soares, a resident in Angola, he having consigned her to him on this voyage; and that the title of such ownership was the passport annexed to this process, and that he knew of no other. That the wood found on board had been cleared. That he could present the documents proving it; and that, if there were any besides, it was perhaps what remained of the repairs of the vessel. That he had no knowledge whatever of the boiler and other articles mentioned as having been found on board; and the less as far from permitting any such, he had recommended to the catpain, in the strongest terms, neither to receive nor to carry anything of the kind. That he could make no answer as to the search made on board, not only for the above reason, but also because such search

was made without the assistance of the captain or of any officer of the brig, as would appear to be indispensable, more especially as such search was made several days after her arrival here, and as she had been unladen and laden a-fresh several times—the whole in the absence of the officers of the vessel. That the casks had been cleared and entered in the manifest. That they were to bring oil, and that a bond had been given to this effect. That the vessel being bound to Mozambique, touching at the ports of (Western) Africa, cargo was received both for Angola and Mozambique; and that, in in such cases, the manifest was always made out for the latter port; and that the captain carries a certificate, from the Custom-house, of such cargo as he unloads in the former. That the bills of lading, without signature, produced, were only for the guidance of the captain, which it was not customary to sign; but that a set, accompanying the goods, were signed, which, together with the respective correspondence, should be forthcoming. That he had no power of attorney from the owner of this vessel, but that he had letters of orders, which he could present. That he did not know how long this vessel had been in this port, but that she had been consigned to him five or six months ago by her owner. That this was the first voyage she had made since so consigned to him, and that she had previously been consigned to the captain, whose name he did not know, but who, the vessel being delayed, had gone away. That the owner, since his acquaintance with him, had always resided at Angola, and that he did not know that he was in the habit of coming to Brazil. That he was not aware that any other person had any interest in the vessel, and that he had none whatever himself. The goods sent being all on account of his correspondents, all which should appear from the correspondence sent by this vessel, of which he would present authentic documents, since it did not exist in this process, as he presumed it would, in consequence of the brig having been captured. That there were other shippers by this vessel, besides himself, whose names he did not know, but which must appear on the ships' papers. That no insurance had been effected by him, either of the vessel or her cargo; but that he could say nothing on this point as regarged the shippers. That he had made the agrement with the captain for the voyage on which this vessel was bound, for 400 milries, but that it might be altered or confirmed by the owner at Angola, on her arrival there, and that the same was practised in regard to other officers; the first pilot having been engaged for a like sum to take the vessel to Angola, and there receive further order from her owner. That he had no previous knowledge of the above individual, and only saw him on occasion of making this agreement

This same witness was re-examined, in consequence of two circumstances:—

1st. That the proctor for the captor produced a Custom-house certificate to show that the brig "*Pompeo*" had arrived here from Zaire on the 11th December last, consigned to her (reputed) owner, Jozé Rodriguez Soares; thus showing that that individual was, at that time, actually in this country, whereas the witness had declared that he (Soares) resided in Angola, and had never, to his knowledge, been at Rio de Janeiro.

And 2ndly. Because it appeared that the first of the two letters from Soares to Sá, which were now offered, as proof of the former being the owner, and the latter only the consignee of this vessel, bears date Loanda, the 18th January, 1839; which date, if the Custom-house certificate were correct, would prove that letter to be fictitious, and written for the purpose of giving a false colouring to the transaction.

To both these observations the witness replied that there was no inconsistency in his previous depositions. That the letter was written from Angola by the owner of the vessel, Soares, as he had stated; and that he engaged to present a document to prove that the said owner was not in Rio de Janeiro in 1838, as might be inferred from the Custom-house certificate; and that the mistake arose from an inaccuracy of the entry therein made, which referred to the captain and not to the owner of the vessel.

*Fifth Witness.*

Juan Garcia Santa Marina, native of the Asturias, and subject of Her Catholic Majesty; his profession the sea, and now second pilot of the brig "*Pompeo.*" That he made his agreement for the outward and homeward voyage, for 400 milreis, with Jozé Bernardino Sá, who told him that he was the consignee of this vessel, whose owner was at Angola, which was all he knew on this point. That he had no knowledge of Jozé Bernadino Sá before going to offer himself as pilot on this occasion. That he had no idea that the "*Pompeo*" was destined for the Traffic in Slaves; on the contray, he was told that she was to bring oil and other merchandise. That he knew nothing whatever of the boiler and utensils indicating the traffic. That this was the first time of his being about to go to the coast of Africa, but that he had made several voyages to Brazil, Asia, and the United States. That he did not know that Jozé Bernardino de Sá had any interest in this vessel, neither was he himself to derive any benefit from the adventure beyond his pay. That he had no acquaintance with any person in this city, except having received from the Spanish Vice-Consul a certificate of his nationality. That he had been here from three to four months, having been shipwrecked off Rio Grande, in the Spanish brig "*Diligente,*" of which he was master, in a voyage from Cadiz to Monte Video.

The first two Annexes to this Report show, in detail, the line of defence taken by the party captured, which, in this instance, differs in form from that adopted on former occasions, chiefly confining itself to establish the legality of the proceedings of the "*Pompeo,*" without, in fact, praying her restitution or damages for her detention.

The points particularly deserving of notice in these two papers are—

First. The bond given (and violated) respecting the water-casks.

Secondly. The irregularities practised by the captor.

With regard to the first point, Her Majesty's Commissary Judge was of opinion that the concealment of a boiler within one of the water-casks entered in the manifest, and for which the bond was given, constituted such a violation of that instrument as completely to violate it; and such as would, of itself, have justified a sentence of condemnation, had the detention of the "*Pompeo*" been legally effected, although the Court had no means either of ascertaining or of enforcing the penalty incurred.

In respect to the second point (viz., the irregularities in the several proceedings of the captor), he considered them to be justly open to animadversion, but to be insufficient of themselves to invalidate the capture.

The third annex, containing the allegations on behalf of the captor, labours principally to prove that the "*Pompeo*" was to be considered, not as a Portuguese, but as a Brazilian vessel; and that she, and

those interested in the adventure, had been for a long time past engaged in Slave Traffic. The former of these points is readily admitted in the sentence; indeed, the conviction of its truth in the minds of the Court was necessary to establish its competency to take cognisance of the case. The latter was mutually urged and denied by the respective parties, but would, probably, have been decided affirmatively had the decision of the case turned upon it. The fact, however, of the "*Fawn*," late the slave-vessel "*Carolina*," condemned by the sentence of this Court, and bought at public sale in pursuance thereof in July last, not being duly authorised to detain slave-vessels, decided this case, and sentence, declaring the detention of the "*Pompeo*" to be illegal, and adjudging the restitution of the brig and cargo to their respective owners, was signed by the two Commissary Judges on the 26th October, 1839.

(Signed) GEO. JACKSON.
FRED. GRIGG.

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## First Sub-Enclosure in Fifth Enclosure in No. 173.

*Annex to the Report of the case of the* "Pompeo."

No. 1. On the part of the Defendants.

*To the Judges of the Mixed Brazilian and English Commission.*

(Translation.) *Rio de Janeiro, 26th October*, 1838.

HAVING to defend, before you, the captain, owner, and shippers, of the Portuguese brig "*Pompeo*," detained by the patacho of war "Fawn," when leaving this port, on suspicion of being employed in the traffic of slaves, I cannot but tremble, and find myself greatly perplexed, in a Court where the guarantees are all in favour of the authors and accusers, and none for the party accused; where all the acts and proceedings which serve for the *corpus delicti*, for the formation of the process, are regulated by the will of the captors, and on their sole affirmation, without those to whom the crime is imputed, being present or heard; where, finally, the least possible time is granted to the latter to defend themselves, without their being allowed to confer with their advocate, in order that they may not have time and means to do so with advantage.

I, now grown old in the forum, and accustomed to witness in the sanctuary of justice those legal forms which, while they serve to adorn, afford, at the same time, a sure support to the accused party, tremble before this exceptional tribunal, where, on the one hand, appears the power of the governments, with their agents and judges, and on the other the weak and forsaken citizen.

Since, however, it behoves me, from the obligation of my noble functions, to make the defence which I have undertaken, even though all hope of obtaining justice should fail me, in fulfilment of this duty, I will narrate the fact; will examine the respective laws, and will draw the suitable inferences.

The Portuguese brig "*Pompeo*," being latterly consigned by her owner Jozé Rodriguez Soares, a Portuguese subject, of the city of Loanda, to Jozé Bernardino de Sá, a merchant of this city, to load her on freight to Mocambique, touching at Angola, as is seen by the annexed letters of orders, having, in pursuance of such orders, been advertised, left this harbour laden, visited and legally despatched for that destination, as is seen by the documents forming part of these proceedings, on the 28th of August last, and was taken on the same day in lat. 23° 30′ S., long. 42° 55′ W., by the tender of war of Her Britannic Majesty, "Fawn," which entered this port with the said prize on the 30th.

As soon as the "*Pompeo*" returned as prize, all the officers were transhipped by the captors to the vessel which serves them as a hulk, and the prize being by the same unloaded and laden afresh, several times; the captors, finally, brought the papers belonging to her, as seemed good to them, before this Commission in the middle of September, to be filed, and to proceed to adjudication.

Such is the fact; let us now see what is the law. The known legislation which must serve as a guide to the captors, in their detentions and captures, and to this Mixed Commission in its judgments, can be no other, it should seem, than the Treaties of 22nd January, 1815, of 28th July, 1817, and the 23rd November, 1826, the Instructions and Regulation annexed to that of 1817, and the additional articles to the same.

But, if we attend to the last Treaty (of 23rd November, 1826) we find that it was signed between His Majesty the Emperor of Brazil, and His Majesty the King of Great Britain; and, consequently, we infer from hence that the stipulations of this Treaty can neither comprehend the subjects of Her Most Faithful Majesty, who was no party thereto, nor render this Mixed Brazilian and English Commission competent to judge, much less to condemn, Portuguese property, which the brig "*Pompeo*', has been for many years passed, and belonging to Portuguese subjects, as is manifest from the enclosed document. And, even should it be attempted to consider the brig "*Pompeo*" as Brazilian property, contrary to the evidence of facts, and to the clear proof of the subjoined documents, even in this (denied) case she could not be detained and adjudged to be a good prize, without violation of that and the antecedent Treaties above referred to. In fact, the Treaty of 1826, in its 1st Article, speaks only of a traffic made, and not of a traffic suspected, or intended; and the Treaties of 1815 and 1817, referred to, together with the Instructions and Regulation annexed to the latter, require very positively that slaves should be found on board, in order to detain the vessel, or capture her, when so found on board.

And, although in the additional Articles to this Convention of 1817, it be declared that a vessel which has made the illicit traffic in slaves, may be detained and captured, although she should not at that moment have the slaves on board, provided it be clearly proved that she had shipped and destined them for the traffic, on the voyage in which she was taken; still this very declaration proves most evidently that the object and intention of the above-mentioned Treaties, as well as their letter, was to punish illicit traffic when made, and, by dread of this punishment, to prevent its continuance, but by no means to make a crime out of suspicion, nor to punish intentions.

If, however, we attend to the Treaties between their Britannic and Most Faithful Majesties, for the extinction of the traffic in slaves, which are those above cited, of 1815 and 1817; the Instructions and Regulation annexed to the latter, the additional Articles signed at Lisbon, the 15th March, 1823, and the Convention of London of the 11th September, 1817, in order by them to judge of this capture, seeing that the vessel is Portuguese, we must, in the same manner, necessarily conclude that her detention is illegal.

The Treaty of 1815 prohibits the traffic to the north of the Line, and in its 4th Article, the Crown of Portugal obliges itself to fix by Treaty the period when this traffic should cease generally. The Con-

vention of 1817, in its 5th and 6th Articles, allows the cruisers of the two nations to detain those vessels only, on board of which slaves are found for the illicit traffic, and expressly forbids the detention, if this *sine quâ non* condition be wanting. The Instructions annexed to the 1st Article equally order the said cruisers, in the most positive manner, not to detain, under any pretext, vessels on board of which slaves destined for the traffic may not be found. Finally, the additional Articles of March, 1823, permit the detention only when it shall be clearly proved that the vessel had slaves on board for the traffic on that very voyage. And since, by the Convention of 11th September, 1817, it was declared that the above-mentioned legislation should remain in force, until the entire extinction of the traffic in the Portuguese dominions, and fifteen years after, it is seen that Portuguese vessels and subjects must now be tried by it, because in Portugal only was the exportation of slaves prohibited generally by the Decree of 10th December, 1836.

Now, as it is manifest, from these proceedings, that the brig "*Pompeo*" sailed from this port for that of Moçambique, to touch at Angola, legally despatched, and with all her papers in proper order to navigate, it is most evident that not only she had no slaves on board for the traffic, but, also, that she could not have had them on this voyage scarcely commenced.

We, therefore, may conclude with the greatest certainty, from this legislation, the only one we know upon this subject, that the brig "*Pompeo*" was unlawfully detained by the patacho of war of Her Britannic Majesty, commanded by Lieutenant Tyssen, as likewise that she cannot be judged a good prize by this Mixed Commission, that owes its existence, and draws all its jurisdiction from that very law that we have mentioned above. And are those, perchance, any articles of unknown legislation to sustain such detention? It is, indeed, hard to comprehend how British cruisers of this station venture to detain vessels against the express determination of the Treaties; and even against the literal and clear disposition of the Instructions that ought to regulate them, without the sanction of their Government, whose servants they are, to practise these arbitrary acts; and this is the more to be feared, seeing this unjust detention patronised and covered with the responsibility of the Commodore, and senior officer of the same station, as appears from his declaration. But if, in fact, the captors have any other rules by which they are guided, in that case we neither know this dark legislation, nor do we understand it, nor can we find any available defence against it.

In fact, if will, sustained by force, is to take the authority of law, no defence can be listened to; but, at the same time, this violence must have a term, and that the sooner in proportion as it is revolting.

Nor can the stipulations of the decree of Her Most Faithful Majesty, of the 10th December, 1836, be adduced to justify this detention, since, in the first place, it is not to the English cruisers that the execution of this decree pertains, nor is it for this Brazilian and British Commission to try its infractions thereof: in the second place, there was nothing on board the "*Pompeo*" which, according to the dispositions of this decree, could cause suspicion that she was destined for the illicit traffic in slaves, as we shall hereafter show in treating of the indications. In the third place, the water-casks which she carried, although they might be thought to be more than were really necessary for the crew, which they were not, as we shall by and bye show, were included in the manifest, and a bond was taken in due form in the Portuguese Consulate that they were intended for oil, as shown by the annexed document. The same of the maize and jerk-beef, which were included in the manifest, and regularly cleared, as is seen by the inclosed document, to be destined for the trade. The "*Pompeo*," therefore, could not be detained in virtue of this decree, even though the detaining vessel had belonged to the Portuguese navy.

Neither may the supplementary articles to the treaty of 23rd November, 1826, agreed upon between the Imperial Government and that of Great Britain on the 27th July, 1835, be brought forward as in point; inasmuch as, in the first place, these articles only include British and Brazilian merchant-vessels, as is expressly therein declared, and by no means those of other nations; secondly, these articles having been laid by the Imperial Government before the General Legislative Assembly for their approbation, and not having to the present time received it, were not yet duly published, nor put into execution; thirdly, the "*Pompeo*" was in neither of the cases foreseen by these articles, even though she were a Brazilian vessel, which she is not, and though these articles were published and in full force and execution, which is not the case. But this point will be more clearly demonstrated in discussing the motives for the capture, or the indications which influenced the captor, which we now proceed to consider.

By the declaration of the Commodore, mentioning all the indications which led the captor to detain this vessel, they appear to be reduced to the following:—1st. That though all the cases, bales, and barrels on board correspond with the marks in the manifest, yet that some cases, which are therein said to have goods, contain muskets and swords. 2nd. That within one of the casks, inserted in the manifest as water-casks, was found concealed a great copper boiler and spoon. 3rd. That there were further found two great spoons and several small ones, together with tubes similar to those met with on board of slave-vessels. 4th. That there were found on board planks and beams for laying a slave-deck. 5th. That there were found a bag of padlocks for slave-irons. 6th. A quantity of burnt bricks for building a fire-place. 7th. Mash and smaller tubs, tin pots, &c., used on board the slavers. 8th. That the casks were laid fore and aft, as in all slave vessels. 9th, And finally, that there was a greater quantity of fire-wood than was necessary for the crew.—We will analyze each of these indications.

The muskets were dispatched, as is shown by the enclosed document, and their being put down in the manifest as goods could give rise to no suspicion, as they really are merchandise, it being certain that such is the common practice, the quality of the goods or merchandise appearing from the clearances or invoices where they are made.

As to the large boiler, said to be concealed in a water-cask, this discovery appears to us somewhat comical. It is the same as an elephant concealed in a drawer; how could a great copper be contained in the small space of a water-cask? What we can affirm respecting it is, that such boiler was not put on board, much less within a water-cask, either by the consignee of the vessel or by her captain or crew, or with their knowledge.

When the "*Pompeo*" was detained no examination was made in the presence of her officers, who were immediately taken on board the hulk, and, in their absence, the "*Pompeo*" was unladen and again laden different times, without those officers, or any person to represent them, assisting. How, then, can they be responsible for the finding such things so many days after they had been removed from the vessel? We do not wish, in saying this, to cast any imputation on any person whatever, but it is our duty to repel imputations not founded on legal proof, and to defend our clients with reference to facts which they deny, and which are not proved to have been practised by them.

The two copper spoons for the boiler, and other small ones, hardly deserve notice, since the crew required to eat their victuals cooked, as also tubes to drink water; and so far is this from being an indication that the vessel is engaged in the traffic of slaves, that it is not mentioned either in the Portuguese Decree of 10th December, 1836, nor in the Supplementary Articles of 1835, which we have already spoken of, and the less so as the Commodore in his declaration does not express the number of these tubes, or spoons, in order to ascertain whether they exceeded the wants of the crew.

Of the planks found on board, their clearance is shown by the annexed document, and though, from forgetfulness, they were not included in the manifest, they were yet regularly dispatched, and were to be added to the same. From hence also no indication of illicit traffic can result; moreover, what might serve as indication would be planks ready cut for use, or for laying another deck, as is specified in the aforesaid Decree and Supplementary Articles, and not rough plank dispatched for commerce: as for the so-called beams, this is no more than an abuse of words, and an amplification of things; there were no beams whatever on board, and merely some bits of wood remaining from the repairs which the vessel had undergone, and which are usually preserved for any case that may occur, especially in an old vessel like the "*Pompeo*," of American build. The same answer may be given respecting the so-called cleats, which are said to be nailed in certain places, which (unless some new work has been added since the detention, which is not to be supposed) cannot exist, unless the name be given to some repairs made in the vessel, which also is an abuse of terms.

A bag with padlocks is also said to have been found, and it is added that they were for slave-irons, but, in the first place, none such existing on board, how could it be logically asserted that these padlocks, if even actually on board, were for such irons? Irons for slaves are chains, handcuffs, and neck-irons; padlocks may be used for other purposes, and are ironware for trade, fit for many and various uses.

As to the bricks, which are also said to have been found, there could not have been many, since they were merely what remained of the fire-place, and which were kept, in case of being wanted on the voyage; nor is there here any indication of illicit traffic, and they are not, therefore, included as such in the number of those specified in the forementioned Decree and Articles. Kids are also said to have been found on board, but how many? In all vessels these exist for the victuals of the crew, and, therefore, it was the more necessary to know the number of them; what is certain is that on board the "*Pompeo*" there were not more than were necessary for the crew.

As to the wood, it not only is used for fire, but also the better to stow and stay the goods, and the captors having unloaded and again laden the vessel, mixing everything together, they added the wood for dunnage to other wood, and thus a greater quantity was found than was necessary for the consumption of the stove. To destroy at once this supposed indication, it would be sufficient to consider that the wood here is dearer than in the ports of the Coast of Africa, and, therefore, it is clear that no one bound for those ports would buy here more than was necessary for the purposes of cooking, of staying, and of stowing the goods.

It remains for us only to speak of the water-casks and the quantity of water: and, first of all, we will remark that the captors, having no good grounds for their arbitrary proceeding, mention circumstances the most insignificant and even puerile; thus they say that the water-casks were laid fore and aft;—and how were they to be laid? It is not only in slave-vessels that they are so, but in all others?

As to the number of water-casks, although it was not excessive for a voyage, such as this to Moçambique, touching at Angola, still a bond was signed in the Portuguese Consulate, as may be seen by the annexed document, in conformity to the above-mentioned Decree, by which some of these casks were to serve for oil; the reason, however, of their being filled with water was not that there is a want of water in the ports of Africa, but that, being full they were the better preserved, and served for consumption.

When the Slave Trade was free (and even, perhaps, since it became contraband) it was the custom for slave-vessels to carry great number of casks in staves, to put them together on the coast.

We have shown that the detention of the Portuguese brig "*Pompeo*" was, according to every principle, illegal and arbitrary, because, according to existing laws, the "*Pompeo*" could not be detained on leaving this port without slaves on board, and without the possibility of having had them on this voyage, which had scarcely commenced; arbitrary, because practised without examination having been made, and because the captors had the vessel a long time in their power, unloading and loading her afresh at their will, without bringing her papers before this Commission; unreasonably violent, because all her officers were immediately taken out of her and transshipped to the hulk, in order, in their absence, thus to unload and load the vessel. But it appears to us necessary to dwell a little on this latter circumstance.

As we before said, it is not our intention to offend any person whatever, nor to wound the reputation of another. We respect all, and we may say that the officers of the English Navy hold a distinguished place in our esteem, but we may, without offence, suppose that the captors suffered themselves to be led away by mere suspicion and by excess of zeal, much beyond their sphere and legal procedure.

The detention of the "*Pompeo*" was effected without proceeding to the necessary examination in the presence of her officers, and, being brought into this port, the latter were immediately taken to the hulk; in their absence the detained vessel was several times unladen and laden afresh, for the purpose of preparing the declaration of the captor; and it was only after the expiration of several days that the papers were brought into court; the declaration itself of the captor is ambiguously worded, without the necessary designations and explanations to illustrate the facts.

All this is illegal; nor is it possible to suppose that English cruisers have instructions to proceed thus: if I could persuade myself of this arbitrary act and violence I would not undertake this defence. A nation like the English, strong and generous, has no need of violence to execute its treaties; the only solution, therefore, I can give to the illegality of this detention, is to affirm that the captor exceeded his instructions, and acted inconsiderately and arbitrarily.

There is yet to be added to all this the surreptitious abstraction of the correspondence on board, which does not appear in this process; while, at the same time, two private letters, having no relation to this vessel or to her voyage, but which speak of two slaves which the writer says he left in Africa, were carefully appended thereto, giving it to be understood that their only care was to annex that which might serve the captor, and nothing which could aid the defence.

After what has been said above, we have little to add in defence of our clients the shippers. The

"*Pompeo*" being advertised for freight, they despatched and loaded the goods required by their correspondents, or on their account, the product to be remitted to them according to their orders; all this in good faith, conformably to the laws of the country, and under the guarantee of the same. They are, therefore, relieved not only from all responsibility, but also from every suspicion of illegal traffic.

I have concluded my defence, which must contain many errors; whether because the very short space of time granted for the examination of the process, and for its presentation, does not allow of my revising and reflecting on what I have written; or because, being unable to confer with the captors, many circumstances to throw light on the fact were necessarily wanting, which, had I had them, would have greatly assisted me.

I expect, however, from the impartiality of the judges, that they will attend to the narrow circle to which an advocate in cases of this nature is limited, and that, supplying these defects, perhaps inevitable, they will do justice.

(Signed) CAETANO ALBERTO SOARES.

(A.)

(Translation.) *Senhor Jozé Bernardino de Sá.*

MOST ESTEEMED SIR, *Loanda*, 18*th January*, 1839.

I AM now going to beg you to become the consignee of my brig, "*Pompeo*," and as she may probably want some repairs to enable her to proceed on her voyage, you will have the goodness to order the same to be made with the greatest possible economy, and when completed, in case of finding a cargo on freight for this place, you will dispatch her for Moçambique, to touch at this port.

I hope you will do your best to let her sail as quickly as possible, and to secure her a good freight to meet the expenses, as delays in port are always prejudical and expensive. The vessel, on her arrival here, will immediately land the cargo she may bring, and proceed to Moçambique for a cargo of oil, which I have ordered to be in readiness. In the same way, I beg you, if you have not already done so, to send me my commission by her, and let me know the prices of oil and wax. I have nothing more to say at present, but to wish you health.

(Signed) JOZE RODRIGUEZ SOARES.

*Senhor Jozé Bernardino de Sá.*

(B.)

MOST ESTEEMED SIR, *Loanda* 10*th April*, 1839.

I HAVE written to you to request the favour of your getting my brig "*Pompeo*" repaired and dispatched for Moçambique, touching here first, in case of your being able to obtain freight for this place. I hope you have done all this, and that, if my vessel has not already sailed, she will very soon do so, and will bring a good freight. It is not necessary for me to recommend that the repairs be made with great care and economy, trusting, as I do, to your zeal and activity. Our friend Fayaõ has been unwell, but is going on better, and I believe writes to you by this opportunity, as I know that he has remitted some goods by the packet to Lisbon, according to your order. I have only, for the present, to offer you my limited services in anything that you may wish to employ me.

I remain, &c.

(Signed) JOZE RODRIGUEZ SOARES.

(B.)

(Translation.)

Jozé Marcelino da Rocha Cabral, Vice-Consul in charge of the Portuguese Consulate at Rio de Janeiro:—I certify that there exist in the archives of this Consulate General the documents by which it appears that the Portuguese brig, at present "*Pompeo*," has been sailing with the same flag since 1834, having always been the property of the Portuguese subject, Jozé Rodriguez Soares.

Given under the consular seal of the Portuguese nation, at Rio de Janeiro, September 25, 1839.

(Signed) JOZE MARCELINO DA ROCHA CABRAL,
*Vice-Consul.*

(C.)

(Translation.)

Jozé Marcelino da Rocha Cabral, Vice-Consul in charge of the Portuguese Consulate at Rio de Janeiro:—I certify that there is found in the archives of this Consulate of Her Most Faithful Majesty, the act of a Bond entered into by the Portuguese brig, "*Pompeo*," bound to the ports of the coast of Africa; the contents of which are as follows:—"Bond given by the captain of the Portuguese brig called '*Pompeo*.' On the 26th August, 1839, in this Consulate-General of Her Most Faithful Majesty at Rio de Janeiro, appeared before the Vice-Consul, charged with the duties of the Consulate-General, Antonio Ferreira, captain of the Portuguese brig, called '*Pompeo*,' at anchor in this harbour, about to sail for Moçambique and the ports of Africa; and by the same captain it was said and declared that he had on board *thirty-two casks, with water, to serve as ballast*, in which, on his return voyage to this or any other port of Brazil, to bring oil of the quality of the countries which he may go to, (his voyage having no other object), and other lawful cargo that it is allowed to bring; which declaration he made in conformity to the stipulations of the decree of 10th December, 1837. And Jozé Moreira de Bassos being present, became his security for all promised by the said captain in this act, to the full value of the brig. All which was attested by the Vice-Consul and the witnesses present.

"Done by me, JERONIMO JOZE DUARTO SILVA.

(Signed) "JOZE MARCELINO DA ROCHA CABRAL,
*Vice-Consul.*
ANTONIO FERREIRA.
JOZE MOREIRA DE BASSOS.

"Witnesses, FRANCISCO XAVIER ALVES,
JOZE RIBEIRO DE CARVALHO."

And nothing further is contained in the above instrument. In testimony whereof the present certificate is by me signed, with the seal of this consulate-general of the Portuguese nation, at Rio de Janeiro, September 25, 1839.

(Signed) JOZE MARCELINO DA ROCHA CABRAL,
*Vice-Consul.*

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## Second Sub-Enclosure in Fifth Enclosure in No. 173.

*Annex to the Report of the Case of the Brig* "Pompeo."

No. 2. On the part of the Defendants.

*Rio de Janeiro, 5th October*, 1839.

(Translation.)

Caetano Alberto Soares, advocate and attorney for Antonio Ferreira, captain of the Portuguese brig, "*Pompeo*," taken on leaving this port, and the proceedings in which case are in this commission for adjudication, represents that the petitioner requires the following certificates:—1st. On what day the captors laid before the commission the papers relating to the same, to be filed. 2nd. On what day the captors presented the allegation to justify the capture. 3rd Whether, after presenting such allegation, the captors brought in further documents to be added to the proceedings; on what day they presented the same, with the date and object of such documents. The whole on behalf of his client, who, being confined on board of the captor's hulk, requires to have full knowledge of what is imputed to him, in order that he may duly defend himself.

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(Translation.)

Having referred to the proceedings in this Mixed Brazilian and British Commission, in respect to the capture of the brig "*Pompeo*," it is seen that the declarations of the captor were filed on the 13th of September last, having been presented on the 11th of the same month. It is also seen that the allegations on behalf of the captor were offered on the 28th of the same month: and further, that by a minute of this day, the 5th of October, a certificate ("We whose names are hereunto subscribed"), dated the 5th of September, relative to the finding of the boiler, in a cask, as referred to in the Report of the capture of this vessel, was ordered to be added to the proceedings, together with two certificates extracted from the books of the "*Consulado*" (export department), of the Custom-house of this port, as to the entries given in at those departments, of the previous voyages of the vessel in question, referred to in the allegations offered on behalf of the captor. In faith of which I have signed the present.

(Signed) BRAZ MARTINS COSTA PASSOS, *Secretary.*

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*Rio de Janeiro, 5th October*, 1839.

(Translation.)

The advocate, Caetano Alberto Soares, proctor for the master and the shippers, by the Portuguese brig "*Pompeo*," represents that, having presented, on the 26th September last, the day fixed by you for the defence of his clients, against the unjust detention and capture of the said vessel by the tender-of-war "Fawn," and having grounded the same on the examination of the process, which, for this purpose, was by you shown to him, in the house of the Sessions of the Commission, had, subsequently, knowledge, by the annexed certificate, that the captors not only presented their allegation and accusation against the captured party, on the 28th of the said month, whereas it ought to have been done on the same day (which was equally fixed for them) as that on which the petitioner presented his, but that, even on the 5th instant, the captors offered new documents, in order to refute the petitioner's defence, and sustained, in spite thereof, their unjust detention; and forasmuch as the petitioner could not advert, in his said defence, to the last-mentioned documents, and that it is not just that his clients should remain undefended, your petitioner begs leave to offer, on their behalf, as follows:—

In the first place, the petitioner laments that, while this Commission barely allows to the defendants a slight examination of the documents of the capture in the ante-room, and in the presence of the messenger and of such individuals as may attend with other petitions, as if to indicate the contempt of the Judges—free entrance is given to the proctor for the captors, who is treated with every attention, received in the apartment of the tribunal, and to whom access is given to everything, and on all occasions, as if he were one of the Judges, or as if they they themselves were interested for the captors. In fact, it is the only tribunal in which the condition of defendant is odious, and that such a revolting distinction is made. Against such an unjust distinction the petitioner ventures to raise his humble voice, not so much on account of the humiliation which results therefrom to the advocate, as of the obvious disadvantage to the defendants.

It was, after having seen the defence presented by the petitioner on behalf of his clients, that the proctor for the captors prepared and sought out new documents for presentation, which were received, and the irregularity and defects of which it is now the duty of the petitioner to insist upon.

The said proctor, therefore, added a document, "We, the undersigned, &c.," as is shown by the certificate already referred to, in regard to the finding of a boiler enclosed in a cask. But, in the first place, as this document was not presented till the 5th September, its falsehood becomes apparent: the brig "*Pompeo*" was detained on the 28th August, as is seen by the declaration; from that time till the 11th September the captors arranged their papers, which, on that day, they brought to this Commission to be filed; if, then, this document were ready, they would have added it; the same term was fixed for them to sustain the detention, as to the defendants (but, for the latter, the period was peremptory—not so for the former, who had two more days allowed them to ground their accusation, with cognizance of the defence), and even so, they did not add it on the 28th September, and, as this document bears the date of the 5th October, how is it to be believed that it was drawn up on the 5th September?

In the second place, on reference to the declaration of the captors, the following precise terms are found:—"And among the casks, described as water casks, was found one in which was concealed a large boiler;" but the petitioner now perceives, by the said certificate, that this document, lately an-

nexed, no longer states that the same was found in a pipe, but in a leaguer, which makes a great difference, and this was done to lessen the force of the argument used by the petitioner in his defence, viz., that it was impossible to conceal a large boiler in the small space of a pipe; and yet it does not advance this part of the accusation, placing in manifest collision and contradiction the new document with that in the process.

In the third place, the captors having removed all the officers from the "*Pompeo*" to the hulk, and, in their total absence, having acted, done, and written just what they chose, what force of proof can be allowed, in a court of justice, to such gratuitous attestations and assertions? Would it not have been easy for the captors to make their researches in presence of the officers and under their signature? Might they not have solicited this examination from this Commission, or from the authorities of the country? What right have they to be believed in judgment on their mere affirmation against the third persons who deny the right, and to whom they are opposed?

By the same certificate, your petitioner sees that two other documents were annexed by the captors; and by the new inquiries put to the consignee of the "*Pompeo*;" he learned that they were intended to show that the owner of the vessel was here in 1838, when she arrived here, and also to infer that the person, who is now the pilot, had even then belonged to her. In respect to the first document, it does not prove what is intended, inasmuch as the clause "consigned to the same," taken from the report of the arrival, refers to the captain, and in no way to the owner, who was not here, and did not come in the same vessel, as is seen in the annexed document. These reports of arrival are made by the agents, who do not always use the fittest terms to obviate doubts, which could not be anticipated at the time; but as, in this report, the name of the owner and that of the captain appear, and, afterwards, the clause above mentioned (the vessel) being consigned "to the same," it is clear that the captain himself was meant.

The other document also proves nothing; for though there might have come, in the same ship, an individual of the same name, as the present pilot, it does not thence follow that it was the same person; on the contrary, if he were the same individual, there would be no motive for his descending from captain to be the mate of the same vessel. Further, the petitioner shows, by the annexed documents, that this Joaquim Antonio Vieira, who went, as mate, on the present voyage of the "*Pompeo*," resided at No. 220, in the street San Pedro of this city, during the whole of 1838 and up to August, 1839, when he embarked in the said brig. Besides, what have these particulars to do with the detention of the brig in question? It appears that the captors, being convinced of the illegality and injustice of their procedure, wish to throw dust in our eyes and to blind us with cobwebs.

Your petitioner, gentlemen, has often manifested his respect for your persons, but it is his duty to impugn proceedings contrary to law and to justice; in this sense only does he submit to your due and impartial consideration what he now alleges, together with the enclosed documents, and requires that the whole be added to the process, with the transcript of the bills of lading which he also presents, to show that those (bills of lading) which are annexed to the process, without the captain's signature, were those which he was taking for his own guidance, and which, therefore, did not require his signature—those having been signed, which remained in the hands of the shippers, and which are now produced, as those also were which were sent by the shippers to their correspondents, which ought to be on board, and which do not appear in the process, at least as far as the petitioner examined the same, when leave to do so was given him by this Commission.

(Signed) CAETANO ALBERTO SOARES, *Proctor.*

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## Third Sub-Enclosure in Fifth Enclosure in No. 173.

*Annex to the Report of the Case of the* "Pompeo."

No. 3. On the part of the Captor.

(Translation.)

HERE we have, gentlemen, one of those criminal speculations that have so scandalously outraged the feeling and honour of the country; and excited the public indignation to show itself to a degree of acrimony against the traffickers.

This vessel is one of the many examples which fraud has given to the public, and one of those causes by which so much corruption, as well as immorality, has arisen. It is not necessary for us here to maintain the right of visit, and of capture, which the captors have, against the detained vessel, by virtue of the treaties and the conventions. This question has been already decided by this commission, in the cases of the "*Maria Carlota*," and even of the "*Recuperador*," although this last was released; because its release did not rest on these grounds, which, had it done so, would have been a contradiction, and, therefore, it being a settled point for this commission, that the right of visit and capture pertains to the captor, we will not now dwell upon this question, it being only necessary for us to show that the vessel we are speaking of was destined for the traffic in slaves, and that she belongs, if not to a Brazilian subject, at least to a person resident in Brazil.

It is an established principle in commerce, that a vessel has always some place to which she belongs, and that she is always considered as belonging to that place which decides her homeward and outward voyages. The brig "*Pompeo*" belongs to Rio de Janeiro, because it is the port where her voyages commenced and terminated.

It will be seen that under her present name she arrived from Angola, having been to touch at Moçambique, on the 31st of October, 1836, her captain being Manoel Antonio de Barros; that she arrived from Cape Verds and Angola on the 13th February, 1837, under the command of Joaquim da Silva Lopez; that sailing again, she arrived from Angola on the 25th January, 1838, under the command of Honorio André; that she sailed for Moçambique on the 4th June of same year, having for captain, Joaquim Antonio Ferreira, returning from Zaire, on the 11th December, commanded by Antonio Vieira, and on this occasion was consigned to Jozé Rodriguez Soares, who now appears as her owner, and that she left for Moçambique on the 28th August, 1839, when she was captured by Her Britannic Majesty's ship, "Stag.

Here, then, by facts which, from their public notoriety are incontestable, we have the proof that this vessel belongs to Rio de Janeiro, not only because she sailed from, and returned to, this port in all

her voyages, (which shows that the speculations and adventures on which she was employed began and ended here), but because, being consigned to Soares at this place, it follows, as a consequence, that the persons interested in her criminal attempt were, and are, residing here; that the individual, even, who figures as owner resides in Rio de Janeiro, because, otherwise, the vessel could not have been consigned to him; and this is the more true, as it is certain that opinion and public report point out Jozé Bernardino de Sá, a merchant in this city, as being interested in, and even the real owner of, the brig: we well know that he deposed to the contrary, but it is necessary to attend to the invariable principle of common right, *nemo se ipsum prodere tenetur;* and, therefore, it is impossible that in a crime so odious, and subject to so rigorous a penalty, the said Sá could accuse himself.

But how will he himself explain these facts? How will he justify the facts of the constant sailing of this vessel for the ports of Africa, and her return hither from thence? How can he account for this in a manner to prove the innocence of the vessel?

From these facts it is incontestable, that not only the owner, but all those interested in the criminal adventure, reside in Rio de Janeiro; and we have seen that the vessel being consigned to Soares, who figures as the owner, it is a consequence, that the same Soares must reside here, or she could not have been consigned to him, and, consequently, this commission is competent to take cognisance of the capture. We will now proceed to examine the criminality of the vessel.

In these cases we are not to look for direct and positive proof to constitute the criminality; such proofs are very difficult to obtain with regard to those crimes, which are the result of an anterior and well-combined plan. In such cases their authors have taken care before-hand to destroy all that connexion which might lead the judge to the discovery of the crime, and, therefore, that they may not go unpunished—that by their impunity, criminals may not be encouraged to perpetrate new crimes, and others, by their example, it is requisite that the judges should not slight whatever may tend to denounce the crime and its author; otherwise the circle of human justice would be very limited, and would become a nullity, because it would always be illuded by the greater ability of the criminal, and, therefore, we must not slight the indirect proofs of a crime, where direct and positive ones do not exit, particularly where the nature of the crime renders the criminal able to destroy all direct and positive proof which might tend to his conviction.

In the present case we see, first, that this vessel was navigating for the Coast of Africa with an old passport, authorised only by a *visâ* of the Portuguese Consul, by which such passport is seen to be positively illegal, and that the vessel was illegally navigated; because in this *visâ* it is said that she was authorised to navigate to the first port, where she might provide herself with the necessary and legal documents. Moreover, this vessel, which has so many times sailed from this port for Africa, and returned to the same, as we have shown, under the Portuguese flag, has not been navigated conformably to the laws of Portugal. She has no register; her passport even from Loanda, and which is authenticated by that illegal *visâ*, does not agree with her muster-roll, because, according to that, the captain and the crew are not the same as those mentioned in the passport, as will be seen by a comparison of these two documents; and this shows that the vessel was continuing her old fraud of sailing from this port with one captain, and returning to it with another, on all her voyages; and these proofs, and these subterfuges, ought not to be overlooked in taking account of this criminal speculation.

In the manifest of cargo appears a declaration of cases of goods, which, when opened, were found to contain fire-arms and swords, and the declaration of 32 casks, without stating their contents; but of these casks 31 were found to be full of water, laid fore and aft, of different sizes, and the leaguer, No. 32, placed in the same way as the others, and its bunghole similarly covered with lead, contained a great copper, some large spoons, tubes, and other utensils proper for the traffic in slaves; also planks and beams fit for making berths, and cleats ready to be nailed, bags with padlocks, bricks, tubs of different sizes, and a much greater quantity of wood than was necessary for the use of the crew, and many other articles, which appear in the inventory, and which demonstrate that the destination of the vessel was the continuation of her old crime,—the traffic in slaves, because these articles are only found on board slave vessels, especially placed as they were on board this vessel.

These proofs are, undoubtedly, more than sufficient for the condemnation of this vessel: in her papers, and in her cargo, we find only the same fraud, the same signs of slave-vessels; and if the persons on board had not taken the precaution to render useless the documents; that is, to destroy the papers when they were obliged to haul down their flag, more direct proofs would be presented to the commission; but they had taken all precautions, and would have destroyed all the other proofs that were met with of their crime, if, perchance, they could have done it at that moment; but it is seen that the captain, in his declaration, denies the existence of the large boiler in the leaguer, as likewise the spoons, &c., but *quid inde.*

The fact is proved; but should that not be sufficient, let the Commissioners hear the witnesses upon the subject, and they will find that this denial of the captain is the effect of his crime, and the dread of the penalty to which he is liable.

Considering all these circumstances, we hope that the said brig, sailing under the Portuguese flag, without showing itself legally to be Portuguese, and destined for the illegal traffic of slaves, will be declared good and lawful prize, in consequence of the proofs in this process.

(Signed) ROBERT HESKETH.

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## No. 174.

### *Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, October 29th,* 1839.

(*Received December* 26.)

My Lord,

From our preceding Despatch your Lordship will see that Commodore Sulivan declared, when he appeared before the Court on the 12th instant, that he would present to it the orders given by him to Lieutenant Tyssen, which

led to the detention of the "*Pompeo.*" Instead, however, of doing so, he sent Mr. Hesketh, on the 14th, to state, in his name, that he had altered his mind, and was no longer willing to produce such orders; in consequence of which Letters, Copies and Translations of which marked A B C are herewith enclosed, passed between that officer and the Court.

To the latter no written answer was given, but on the 17th the Commodore appeared in person. For what then occurred, we beg leave to refer your Lordship to the subjoined Minutes of the Court on that day, marked D.

As the only means of obviating the inconvenience resulting from the course adopted by the Commodore, Her Majesty's Commissary Judge addressed to him the letter, marked E, and on receipt of his Reply, marked F, lost no time in submitting to him the questions conveyed in G, to which, after a lapse of some days, the Commodore returned the answer contained in H: copies of these several letters we have the honour to subjoin.

On the course pursued in this case of the "*Pompeo,*" we have only, My Lord, to remark how very desirable it is that the officers of Her Majesty's ships of war should be impressed, more strongly, with the necessity of adhering strictly to the instructions under which they detain and prosecute slave vessels; and that any steps on the part of the Court, to elicit the real facts of the detention, originate in no wish to throw obstacles in the way of this arduous service, but are as much its bounden duty to take, as it is to sift and to detect the false statements of the other party.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## First Enclosure in No. 174.

(A.)

*The Secretary of the Mixed Court to Commodore Sulivan.*

(Translation.)

SIR, *Rio de Janeiro, 14th October,* 1839.

YOU having declared, in the Session of the 12th instant, that you would this day present the orders which you gave to the commanding officer of the "Fawn," in virtue of which he detained the brig "*Pompeo,*" and Mr. Hesketh having this day appeared before the Court, and declared that he was charged by you to state to it that you were no longer willing to present the before-mentioned orders, as you had previously declared you would do, I am ordered by the Court to request your re-appearance before it to-morrow at one o'clock, if possible, or any other day more convenient to you; impressing, however, upon you, that the decision of the case of the brig in question is suspended till such attendance on your part shall be realised.

God preserve, &c.
(Signed) BRAZ MARTINS COSTA PASSOS, *Secretary.*

*Commodore Sulivan, C.B., &c. &c. &c.*

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## Second Enclosure in No. 174.

(B.)

*Commodore Sulivan to the Secretary to the Mixed Court.*

SIR, *Her Britannic Majesty's ship* "Stag," *Rio Janeiro, 16th October,* 1839.

IN answer to your letter of the 14th instant, I have the honour to acquaint you, for the information of the Commissioners of the Mixed Court in this city, that, upon further consideration of the case, I do not feel I should be justified in producing my orders, or in allowing any to be produced, which I may from time to time issue to the squadron, without instructions to that effect from my Lords Commissioners of the Admiralty; and, having consulted with my proctor, I find there is no necessity for it, having already complied with the Act of Parliament for the suppression of the Slave Trade, in lodging all the documents required by a captor.

I have, &c.
(Signed) T. B. SULIVAN, *Commodore and Senior Officer.*

*Braz Costa Passos, Esq., Secretary to the Mixed English and Brazilian Commission Court.*

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## Third Enclosure in No. 174.

(C.)

*The Secretary of the Mixed Court to Commodore Sulivan.*

(Translation.)

*Rio de Janeiro, 16th October,* 1839.

SIR,

HAVING laid before the Court your letter of this day's date, I am directed by it to intimate to you, that the object of mine of the 14th was to request your attendance before it on whatever day might be most convenient to you, and had no reference to the presentation of orders given by you to the officers of the squadron under your command. The Court, therefore, direct me again to request your attendance before it to-morrow, in your character of captor of the brig "*Pompeo*," conformably to the declarations annexed to the process of the same, on points relating to the above prize, which is the more urgent for the conclusion of the proceedings therein, in consequence of the answer which you have just returned.

God preserve, &c.

(Signed) BRAZ MARTINS COSTA PASSOS, *Secretary.*

*Commodore Sulivan, C.B., &c. &c. &c.*

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## Fourth Enclosure in No. 174.

(D.)

*Minutes of the Court.*

(Translation.)

ON the 17th October, 1839, in this city of Rio de Janeiro, and in the Court of the Mixed British and Brazilian Commission, in the presence of the Commissary Judges, appeared again Commodore Sulivan, by desire of the same Commission; and the British Commissary Judge being about to address to him certain questions, the said Commodore refused to answer any question which might be put to him, declaring that he did not come hither as a witness, and that he had already presented every document in conformity with the Act of Parliament, whereupon the same Commissary Judge pointed out to the Commodore the several irregularities which appear in the declarations given in by him, respecting which irregularities he required explanation from the Commodore, in his capacity of captor, calling his attention more especially to the fact that he, the Commodore, had attested proceedings at which he was not present, and that such declaration should have been made by the officer who detained the brig in question. To which the Commodore replied, that, notwithstanding all those observations, he persisted in not giving any further answer or explanation; and he signed the present minute, with the said Commissary Judges and the Interpreter to the Commission, after hearing the same read, and finding it correct.

(Signed) BRAZ MARTINS COSTA PASSOS, *Secretary.*
T. B. SULIVAN.
G. JACKSON.
CARNEIRO.
JOSE AGOSTINHO BARBOZA, Junior,
*Interpreter to the Commission.*

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## Fifth Enclosure in No. 174.

(E.)

*Sir George Jackson to Commodore Sulivan.*

(Private and Confidential.)

*Rio de Janeiro, 18th October,* 1839.

SIR,

I WOULD fain hope that, on more maturely considering the subject of what passed in Court yesterday, you may have satisfied yourself that you were ill-advised (I need not say that I use the term in the legal sense only) in the course you then adopted. But, at all events, I am induced, from my wish to obviate the risk to which I foresee such course must necessarily expose your case, to take this perhaps somewhat irregular step, and to ask you whether, if in my character as Her Majesty's Commissary Judge, I address to you, as captor of the brig "*Pompeo*," certain inquiries, in an official letter, you will in as formal a manner reply thereto, so as to enable me to ground on such reply my judicial decision of this case.

The "private and confidential" I have put to this letter, is not, of course, meant by me to preclude the communication of it by either of us to our respective departments at home.

I have, &c.

*Commodore Sulivan, C.B.* (Signed) GEO. JACKSON.
*&c. &c. &c.*

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## Sixth Enclosure in No. 174.

(F.)

*Commodore Sulivan to Sir George Jackson.*

(Private.)

*H. M. Ship "Stag," Rio Janeiro, Oct. 19th,* 1839.

SIR,

IN answer to your letter of yesterday's date, I assure you that the course I pursued was by advice of my proctor; and as sailors are not expected to be lawyers, some excuse must be made for it. I certainly have no wish to injure my cause, and as your confidential letter induces me to hope you

feel an interest in its progress, I am not willing to prejudice it by any little formality, or obstruct it by not complying with your request.

I will most readily answer any questions you may address to me, consulting my proctor at the time of doing so.

I have, &c.

*Sir George Jackson, K.C.H.* (Signed) T. B. SULIVAN.
*&c. &c. &c.*

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## Seventh Enclosure in No. 174.

(G.)

*Sir George Jackson to Commodore Sulivan.*

(Confidential).

*Mixed British and Brazilian Court,*
*Rio de Janeiro, 19th Oct., 1839.*

SIR,

ON the 17th instant you appeared before this court, pursuant to an invitation addressed to you by the same in your character of captor of the brig "*Pompéo*;" and you having been advised, according to the declaration made by you on that occasion, to refuse to answer any question which the Commissary Judges might ask of you, or to give any further explanation whatever, declaring that you did not come before the court as a witness, and that you had already presented every document in conformity with the Act of Parliament. I beg leave, in my capacity of British Commissary Jugde of this Mixed Commission, with a view to obviate, if practicable, the inconvenience arising from the course you have advised to adopt, and in order to enable me to judge, and to pronounce, if the "Pompeo" has been justly detained or not, as prescribed by the third article of the "Regulations," to put to you the following queries:—

*First.*—Were you, as Commander-in-Chief of Her Majesty's squadron on this station, provisionally authorised by Her Majesty's Government to purchase the "*Carolina*," now called the "Fawn," or any other vessel, for the purpose of being used as a tender to the ship under your command?

*Second.*—Was the employment or use of such vessel, as tender, sanctioned by any official letter from the Admiralty?

*Third.*—Did you receive from the Lords Commissioners of the Admiralty the signed instructions required by the treaties for the repression of the Slave Trade, in blank, to be filled up with the name of the vessel, as well as with that of the officer commanding her, which, in pursuance of such provisional authority as is contemplated in the first of these queries, might cruise, under your orders, against vessels engaged, or suspected to be engaged, in the traffic in slaves?

*Fourth.*—If so, was the "Fawn" furnished with such signed instructions?

I have, &c.

*Commodore Sulivan. C.B.,* (Signed) GEORGE JACKSON.
*&c. &c. &c.*

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## Eighth Enclosure in No. 174.

(H.)

*Commodore Sulivan to Sir George Jackson.*

(Confidential).

SIR,

*H.B.M. Ship* "Stag," *Rio Janeiro, 23rd October*, 1839.

IN answer to your letter of the 17th instant, in which you have put four questions to me, I beg leave to forward you answers to them, and to which I am ready to declare, conforming to the regulations of the Court.

I have, &c.

(Signed) T. B. SULIVAN, *Commodore and Senior Officer.*

*To Sir George Jackson. K.C.H.,*
*H.B.M. Commissary Judge, Rio Janeiro.*

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*Answers to the Four Questions.*

*First.*—The "*Carolina*" was purchased by directions of the organ of Her Majesty's Government, the Legation, and fitted out and manned from the ship under my command, Her Majesty's ship "Stag," as a tender to be used by me, and attached to the said ship for promoting the different objects of the public service, intrusted to my directions as Commodore and senior officer in command.

*Second.*—The employment of a tender by the Commander-in-Chief on this station has been before resorted to for the convenience of the public service; there is not time yet to receive the sanction of the Lords Commissioners of the Admiralty in respect of the present tender.

*Third.*—I have not hitherto received any instructions in *blank*, to be filled up as pointed out, nor can I expect them, as they are issued solely to vessels regularly commissioned as separate men-of-war, by the Lords Commissioners of the Admiralty, and my tender is not considered in any other light than part of my vessel, the same as a boat or the launch would be; but a tender is more serviceable, protects the crew better against the weather, although at the same time a tender is always as much within my superintendence as such launch or boat would be, and is victualled, officered, and manned from the ship under my command. And moreover as the duties of the station require my constant presence, as well as that of the "Stag," in this harbour, the "Stag's" crew were rendered efficient in also fulfilling the object of their Lordship's orders to cruise after slavers, by thus attaching to Her Majesty's ship "Stag" a tender; and, amongst the objects to be attained by employing a tender, and thereby counteract the injury to the public service, from the "Stag's" being unavoidably stationary in this harbour, was that of cap-

turing illicit Slave Traders, an object especially communicated to the Imperial Government by Her Majesty's Chargé d'Affaires.

*Fourth.*—From the above answer it will be seen, that the tender "Fawn," not being a distinct man-of-war from the "Stag," could not be furnished specially with the instructions given to each man-of-war respectively, but cruises and detains, in virtue of the instructions furnished to the ship to which she belongs, and with which she is in constant communication.

The orders given by me to Lieutenant Tyssen, in command of the "Fawn," tender, were, first, to take charge, second, to detain vessels engaged in the Slave Trade; and, for this purpose he was furnished with the printed instructions regularly issued, in conformity with the existing treaties, to myself, as Captain of Her Britannic Majesty's ship "Stag," being, as I consider, indisputable authority for that officer to act, detached from the ship under my orders.

(Signed) T. B. SULIVAN, *Commodore.*

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No. 175.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, November 4th,* 1839.

(Extract.) (*Received December* 26.)

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 20th August last, communicating to us your Lordship's instructions respecting the sale of vessels condemned by this Court of Mixed Commission, and acquainting us that the officer in command of Her Majesty's ships on this station has no right to retain the possession of such vessels.

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No. 176.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, November 5th,* 1839.

MY LORD, (*Received December* 26.)

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 25th August of this year, transmitting to us four Copies of an Address upon Slave Trade from the House of Peers to Her Majesty, and of Her Majesty's most gracious Answer thereto.

In thanking your Lordship for the communication of this additional proof of the unceasing and earnest desire of the Parliament and Government of Great Britain for the total extinction of the traffic in slaves, we need hardly, we trust, assure your Lordship of our own best endeavours to give effect to this desire so far as may be consistent with the stipulations of the instruments under which we act.

We have, &c.,

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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No. 177.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, 6th November,* 1839.

MY LORD, (*Received December* 26.)

WE have had the honour of receiving your Lordship's Despatch of the 31st August, 1839, transmitting to us, for our information and guidance, the copy of a Letter which, under your Lordship's directions, had been addressed from the Foreign Office to the Admiralty, containing the opinion of Her Majesty's Advocate-General upon the case of the "*Hazard,*" detained by one of Her Majesty's cruisers, on a charge of being concerned in Slave Trade, and we shall not fail to make the report of the Queen's Advocate the rule of our conduct in any case which may be brought before us, to which that report may apply.

We have, &c.,

(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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No. 178.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, November 7th,* 1839.
(Extract.) (*Received December* 26.)

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 31st August, 1839.

Your Lordship is aware of the reasons which, in the absence of positive instructions, induced us to act upon our construction of the Convention, in the case of the first prize brought before us on suspicion only of being engaged in slave traffic: the principle on which the competency of this Commission was contended for, having been conceded, and having now been acted upon in three several instances, we have obtained the concurrence of the Brazilian Commissary Judge to the same, inasmuch as after signing the sentence of the "*Maria Carlota*" as dissentient, he has since declared in that of the "*Pompeo*" that, though his opinion was, and continued to be, decidedly opposed to the principle on which that first sentence proceeded, yet he considered it to be now a settled point and not liable to be disturbed by recourse to arbitration in any future case, we shall continue to act in this sense upon the Instructions now given to us by your Lordship, and we have not failed to communicate our intention, as well as our reasons for so doing, to Her Majesty's Chargé d'Affaires.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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No. 179.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, November 8th,* 1839.
MY LORD, (*Received December* 26.)

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 3rd September last, transmitting for our information four copies of an Act of Parliament which has recently passed for the suppression of the Slave Trade.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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No. 180.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, November 8th,* 1839.
MY LORD, (*Received December 26th.*)

MR. OUSELEY has shown to us your Lordship's Despatch to him, on the subject of the costs of the "*Diligente*" slave vessel.

Our Despatch of the 17th January, 1839, in the first case that of the "*Brilhante,*" where the same circumstance occurred (the substance of which was communicated at the time to that gentleman), contained every information in our power to give upon the question. Your Lordship will recollect that the excess of expenditure over and above the proceeds in that case was claimed by Her Majesty's Commissary Judge on the very grounds submitted in Mr. Rothery's report.

Whether such claim were in consequence of our Letter to Her Majesty's Chargé d'Affaires renewed by him, we know not, but we shall be glad to hear that a principle, in itself so equitable, and on which the British Government has long acted, has been admitted by that of Brazil.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## No. 181.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, November 9th,* 1839.
(*Received December* 26.)

MY LORD,

SOME time since the Brazilian Commissary Judge informed us that a Brazilian vessel, whose name he did not remember, had been taken off and carried into Pernambuco by one of the small Imperial cruisers, on suspicion of having just landed a cargo of Africans, and that orders had been immediately transmitted from hence for her being sent to this port, with the view of bringing her before this Mixed Commission.

Not hearing anything more respecting this vessel, we inquired of our Colleague when she might be expected. He then told us that, prior to the orders abovementioned having been received at Pernambuco, she had been tried by the ordinary tribunals of that province, and had (we need hardly say) been acquitted; but that fresh instructions had been despatched from hence to send her, notwithstanding such acquittal, to this place, if she were still in the waters of Pernambuco.

Your Lordship may, perhaps, already be in possession of more accurate particulars of this case through Her Majesty's Consul at Pernambuco. We ourselves have little expectation of having any further report to make on the subject.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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## No. 182.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, November* 14, 1839.
(*Received December* 26.)

MY LORD,

THE Session of the Legislative Chambers this year, though it has been unusually protracted, has closed, as the last, without the question of the suppression of the Slave Trade, or the disposal of the Africans freed, *de facto*, by the law of 1831, having led to anything beyond casual and valueless discussion.

The enclosed extract of a recent speech made by the Deputy Andrada Machado, whose hostility to the traffic is well known to your Lordship, discloses, in a few words, the predominant feeling on this question in this country.

The immediate subject of debate was the conduct of the late Minister for Foreign Affairs, Senhor Candido Baptista de Oliveira.

If such be the language of one of the warmest and boldest advocates for the suppression of the traffic, in his place, as Deputy, how little sincere and zealous co-operation can Great Britain expect from either this government or country? On her own efforts, and on those alone, can she rely.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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### Enclosure in No. 182.

(Translation.)

THE House must see that the position of the late Minister was a delicate one. He undertook two great projects; the one the change of our financial agents; the other to render effective the law against the traffickers in slaves. These were the two powers that overthrew him; perhaps he ought not to have undertaken these projects at the present time; he did not act very prudently in defying the power of these traffickers, which is a great power in the state. I do not pay much attention to it, but I freely declare that, if the government were to invite me to take office, this would be one of the reasons for my not accepting the invitation; because it would be my endeavour to overthrow this power; and not relying on the support of the authority which appointed me, I would not accept.

No. 183.

*Her Majesty's Commissioners to Viscount Palmerston.*

*Rio de Janeiro, November 15th,* 1839.
(*Received December* 26.)

My Lord,

We have the honour to inform your Lordship that Mr. Charles Wills Mowle, mate of Her Majesty's brig of war "Grecian," William Smyth, Commander, brought into Court, on the 24th ultimo, the papers of the brig "*Dom Joaõ de Castro,*" detained by Commander Smyth, in Marambaya Bay, on the 17th October, on suspicion of being engaged in the traffic of slaves.

The brig was under Portuguese colours, and though no slaves were actually found on board, there seems little doubt but that a cargo had been very recently landed.

This case is now under consideration, and we shall take the earliest opportunity of acquainting your Lordship with the result.

We have, &c.,
(Signed) GEORGE JACKSON.
FRED. GRIGG.

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

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No. 184.

*Viscount Palmerston to Her Majesty's Commissioners.*

Gentlemen,

*Foreign Office, December* 31, 1839.

I have received your Despatch of the 28th September, 1839, enclosing your report of the case of the brig schooner "*Recuperador,*" which having been detained by Her Majesty's brig "Grecian," on suspicion of being concerned in Slave Trade, was restored to her owner by sentence of the British and of the Brazilian Judges of the Mixed Court of Commission, at Rio de Janeiro, on the 24th September, 1839.

On perusing your Despatch, and on considering the case of the "*Recuperador,*" as explained in the judgment of the Court, a copy of which was enclosed in that Despatch, it became my duty to inform you, that Her Majesty's Government, for the reasons stated in my instructions to you, disapproved the sentence of the Court, decreeing the restitution of that vessel.

I have now considered the further statement of the case contained in your Despatch.

It appears from that statement, that there were on board the vessel articles which constitute an equipment for Slave Trade. That the ship's papers were incomplete, inasmuch as that 250 barrels of gunpowder and 17 cases of muskets, which formed part of the cargo, were not mentioned in the manifest. And it further appears that the passport which was granted by M. Moreira contained an intimation, that the ship's papers required to be legalised; and the passport itself was not a valid document, because it was issued by a person who had no power or authority to grant that passport, as his exequatur as Consul had been taken away from him by the Brazilian Government before the time when the passport was given.

It appears that you must have been aware of these facts; and the only excuse offered to account for the articles of slave equipment being found on board the vessel was, that those articles had been purchased, together with the vessel, when she was sold by the sentence of the Court which had condemned her for slave trading; an excuse wholly futile and insufficient.

On a consideration of the whole of this matter, I regret to have to state to you, that Her Majesty's Government highly disapprove the conduct of Sir G. Jackson, in having concurred in a sentence so inconsistent with the facts and so little justified by the only reason which is alleged as an excuse for it; and I have further to state to you, that if Sir G. Jackson should again concur in a sentence, so much at variance with the purposes for which the Mixed Commission Court was established, I shall consider it my duty to recommend to Her Majesty that he shall be removed from his situation as Commissary Judge.

I am, &c.,
(Signed) PALMERSTON.

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

No. 185.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, December* 31*st*, 1839.

I HEREWITH transmit to you a copy of a communication from Her Majesty's Treasury on the subject of expenses incurred in the case of the "*Brilhante*," and I have to desire that you will furnish me with any observations which you may have to offer respecting the irregular expenditure, adverted to in the report from Mr. Rothery, inclosed in the Treasury Letter of the 31st of March, 1839.

I am, &c.,
(Signed) PALMERSTON.

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

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Enclosure in No. 185.

*Mr. Pennington to Mr. Strangways, March* 31, 1839.

(See Enclosure in Lord Palmerston's Despatch to Mr. Ouseley, of the 31st December, 1839. Class B.)

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No. 186.

*Viscount Palmerston to Sir George Jackson.*

SIR, *Foreign Office, December* 31, 1839.

I HEREWITH transmit to you a copy of a Despatch and of its Enclosures, which I have received from Her Majesty's Chargé d'Affaires at Rio de Janeiro, and also an official Letter from Her Majesty's Consul at that place, with copies of Letters and Documents forwarded by Captain Smyth, of Her Majesty's brig of war "Grecian," appealing against the decision of the Mixed British and Brazilian Court of Commission at Rio de Janeiro, in the case of the "*Recuperador*."

I have to desire that you will transmit to me in a separate Despatch such observations and explanations as you may wish to offer upon the complaint which is contained in the accompanying papers, and which at first sight appears to involve serious imputations.

I am, &c.,
(Signed) PALMERSTON.

*Sir George Jackson,*
*&c. &c. &c.*

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Enclosure in No. 186.

*Mr. Ouseley to Viscount Palmerston, Rio de Janeiro, October* 20, 1839.

(See Class B.)

# SURINAM.

No. 187.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, June* 29, 1839.

Circular transmitting Papers presented to Parliament.

(See No. 1, page 1.)

No. 188.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, August* 25, 1839.

Circular transmitting Address of the House of Peers.

(See No. 4, page 3.)

No. 189.

*Viscount Palmerston to Her Majesty's Commissioners.*

GENTLEMEN, *Foreign Office, August* 31, 1839.

I HEREWITH transmit to you, for your information and guidance, the Copy of a Letter which, under my directions, has been addressed from this Office to the Admiralty, containing the opinion of Her Majesty's Advocate-General upon the case of the "*Hazard*," a vessel met with by one of Her Majesty's cruisers, and detained on a charge of being concerned in Slave Trade, although bearing the flag of a State which has not conceded to Great Britain the right of search.

I am, &c.,
(Signed) PALMERSTON.

*To the Surinam Commissioners,*
*&c. &c. &c.*

Enclosure in No. 189.

*Mr. Strangways to the Secretary to the Admiralty, August* 29, 1839.

(See Enclosure in No. 39.)

No. 190.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, 3rd September,* 1839.

Circular transmitting Act for the suppression of Slave Trade.

(See No. 6, page 4.)

No. 191.

*Her Majesty's Commissioner to Viscount Palmerston.*

*Surinam, August 22nd,* 1839.
(*Received October* 21.)

MY LORD,

I HAVE the honour to report to your Lordship that his Excellency Rear-Admiral J. C. Ryk, having been appointed Governor-General of His Netherlands Majesty's West India possessions, has this day taken the prescribed oath, and adjourned the office of Dutch Commissary Judge, *ad interim*, in accordance with the stipulations of the existing Treaties between Great Britain and Holland.

I have, &c.,
(Signed) JOHN SAMO.

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

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No. 192.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, October 12th,* 1839.

GENTLEMEN,

I LATELY received a note from the Baron de Moncorvo, Her Most Faithful Majesty's Minister at this Court, enclosing the copy of a Circular Note which has been addressed by the Portuguese Minister for Foreign Affairs to the Courts who were parties to the Treaties and Conventions which were concluded at the Congress of Vienna in 1815.

The object of that circular is to complain of certain measures which the Parliament and Executive Government of Great Britain have recently determined to take with a view to put down the Slave Trade hitherto carried on under the flag of Portugal; and the Portuguese Government represents the conduct of Great Britain towards Portugal in this matter as unprovoked, oppressive, and unjust; and as being a flagrant violation of the law of nations, and a direct attack upon the rights of an independent state.

Her Majesty's Government have deemed it expedient to communicate to the Courts, to which the Portuguese note has been addressed, copies of the papers which contain the substance of the negotiation between Great Britain and Portugal on this matter. And I transmit for your information a copy of M. Moncorvo's note to me, and of my note to the Ministers accredited to this Court by the powers who were parties to the Treaties of the Congress of Vienna in 1815.

I have, &c.,
(Signed) PALMERSTON.

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

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No. 193.

*Viscount Palmerston to Her Majesty's Commissioners.*

*Foreign Office, November 2nd,* 1839.

GENTLEMEN,

WITH reference to my Despatches, marked "Slave Trade," of the 25th of August, and of the 3rd of September last; the first enclosing copies of an Address upon Slave Trade from the House of Lords to Her Majesty, and Her Majesty's most gracious Answer thereto; and the second enclosing a copy of an Act of Parliament, recently passed, for the suppression of the Slave Trade—I have to acquaint you, that the Queen has been pleased to command that orders should be given to the Commanders of Her Majesty's cruisers to detain vessels engaged in Slave Trade, and sailing under the flag of Portugal, wherever met with: and also to detain vessels engaged in Slave Trade, but hoisting no flag, and destitute of any papers proving their nationality.

Orders have also been given to establish British Courts of Vice-Admiralty at any place within Her Majesty's dominions and Colonies abroad, where such

Courts may be requisite for the adjudication of vessels detained as before mentioned.

Thirdly. Orders have been given that the crews of Portuguese slave-vessels, so detained, shall be sent to that port of the Portuguese dominions to which it may be most convenient to convey them, in order that they there be delivered up to the Portuguese authorities.

Fourthly. Orders have been given that negroes found on board such detained vessels shall be landed at the nearest British port or settlement, and shall there be placed under the care of the Governor or other officer in command.

And Fifthly. Orders have been given to the Governors of Her Majesty's forts and settlements abroad to make the necessary arrangements for the care and support of the negroes who may be landed and set free under these orders.

The officers commanding Her Majesty's cruisers, employed for the suppression of the Slave Trade, have, at the same time, been acquainted that nothing contained in the before-mentioned Act of Parliament is intended to confer upon British cruisers any new right of search, as to any vessel sailing under the flag of a state with which Great Britain has no Treaty granting a mutual right of search; and that, with respect to vessels sailing under the flag of a state with which Great Britain has a Treaty granting a mutual right of search, that Act of Parliament is not intended to authorise Her Majesty's naval officers to visit and search such vessels in any other way than that which is prescribed by such Treaties, and by the instructions annexed thereto.

I have, &c.,
(Signed) PALMERSTON.

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

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No. 194.

*Her Majesty's Commissioner to Viscount Palmerston.*

*Surinam, September 25th,* 1839.
(*Received December* 3.)

My Lord,

I am honoured with the receipt of your Lordship's Despatch of the 28th May last, together with its enclosure relating to a Circular Order of the Portuguese Government, which has been addressed to the several Custom-houses of that kingdom, warning them against some foreign vessels suspected of being about to assume the Portuguese flag, for the purpose of engaging in Slave Trade.

It is to be hoped that this measure will prove an effective check to all such nefarious attempts.

I have, &c.,
(Signed) JOHN SAMO.

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

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No. 195.

*Her Majesty's Commissioner to Viscount Palmerston.*

*Surinam, October 1st,* 1839.
(*Received December* 3.)

My Lord,

I have the honour to acknowledge the receipt of your Lordship's Despatch, transmitting five copies of two series of Papers relating to the Slave Trade, which had been presented to both Houses of Parliament by Her Majesty's command.

I have, &c.,
(Signed) JOHN SAMO.

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

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No. 196.

*Her Majesty's Commissioner to Viscount Palmerston.*

*Surinam, October* 14*th*, 1839.
(*Received December* 3.)

My Lord,

My attention has lately been called to a very questionable transaction reating to the sale of a vessel at the Dutch Island of Curaçao.

It appears that a large schooner, which I am informed is American built, called the "*Baron Van Heeckeren*," furnished with Dutch colonial sailing-papers, and owned by one De Hakth, a resident of Curaçao, has been there lately sold to a Spaniard from Porto Rico; that she sailed from Curaçoa, having the purchaser of the vessel on board, under Dutch papers and colours, and on her arrival at the island of Porto Rico; those papers were to be delivered to the person who was sent to navigate the vessel to that port.

It is a matter of notoriety that she has been purchased for the purpose of being employed in the Slave Trade; and another vessel has also been there sold for the like object, but I have not been able to acquire the particulars.

I have this day reported these circumstances in an official note to his Excellency Rear-Admiral Ryk, the Governor-General of the Netherlands' West India possessions; and I have the honour to communicate the same for your Lordship's information.

I have, &c.,
(Signed) JOHN SAMO.

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

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