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II.

FURTHER PAPERS

RELATING TO

THE SLAVE TRADE:

VIZ.

COPY OF THE REPORT of the House of Representatives of the United States of *America*, in their last Session of Congress: relative to the mutual exercise of the right of Search, by *Great Britain* and *America*, with a view to the Suppression of the SLAVE TRADE.

Ordered, by The House of Commons, to be Printed,
21 *March* 1822.

II. FURTHER PAPERS RELATING TO

COPY OF THE REPORT of the House of Representatives of the United States of *America*, in their last Session of Congress ; relative to the mutual exercise of the right of Search, by *Great Britain* and *America*, with a view to the Suppression of the SLAVE TRADE.

REPORT of the Committee to which was referred so much of the President's Message as relates to the Slave Trade.

February 9th, 1821 ;

READ, and ordered to lie upon the Table.

THE Committee to which is referred so much of the President's message as relates to the Slave Trade, and to which are referred the two messages of the President, transmitting, in pursuance of the resolution of the House of Representatives of the 4th of December, a Report of the Secretary of State, and inclosed documents, relating to the negotiation for the suppression of the Slave Trade,

REPORT,

THAT the Committee have deemed it advisable, previous to entering into a consideration of the proposed co-operation to exterminate the Slave Trade, to take a summary review of the constitution and laws of the United States relating to this subject. It will disclose the earnestness and zeal with which this nation has been actuated, and the laudable ambition that has animated her councils, to take a lead in the reformation of a disgraceful practice, and one which is productive of so much human misery; it will, by displaying the constant anxiety of this nation to suppress the African Slave Trade, afford ample testimony that she will not be the last to persevere in measures wisely digested to effectuate this great and most desirable object, whenever such measures can be adopted in consistency with the leading principles of her local institutions.

In consequence of the existence of Slavery in many of the States, when British Colonies, the habits and means of carrying on industry could not be suddenly changed; and the constitution of the United States yielded to the provision, that the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808.

But, long antecedent to this period, Congress legislated on the subject wherever its power extended, and endeavoured, by a system of rigorous penalties, to suppress this unnatural trade.

The act of Congress of the 22d of March 1794, contains provisions, that no citizen or citizens of the United States, or foreigner, or any other person coming into, or residing within the same, 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 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, under the penalty of the forfeiture of any such vessel, and of the payment of large sums of money by the persons offending against the directions of the act.

By an act of the 3d of April 1798, in relation to the Mississippi territory, to which the constitutional provision did not extend, the introduction of Slaves, under severe penalties, was forbidden, and every Slave imported contrary to the act, was to be entitled to freedom.

By an act of the 10th of May 1800, the citizens or residents of this country were prohibited from holding any right or property in vessels employed in transporting Slaves from one foreign country to another, on pain of forfeiting their right of property, and also double the value of that right in money, and double the value
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of their interest in the Slaves; nor were they allowed to serve on board of vessels of the United States, employed in the transportation of Slaves from one country to another, under the punishment of fines and imprisonment; nor were they permitted to serve on board of foreign ships employed in the Slave Trade. By this act, also, the commissioned vessels of the United States were authorized to seize vessels and crews employed contrary to the act.

By an act of the 28th February 1803, masters of vessels were not allowed to bring into any port (where the laws of the State prohibited the importation) any negro, mulatto or other person of colour, not being a native, a citizen, or registered seaman of the United States, under the pain of penalties; and no vessel having on board persons of the above description, was to be admitted to an entry; and if any such person should be landed from on board of any vessel, the same was to be forfeited.

By an act of the 2d March 1807, the importation of Slaves into any port of the United States was to be prohibited after the 1st of January 1808, the time prescribed by the constitutional provision. This act contains many severe provisions against any interference or participation in the Slave Trade, such as heavy fines, long imprisonments, and the forfeitures of vessels. The President was also authorized to employ armed vessels to cruise on any part of the coast where he might judge attempts would be made to violate the act; and to instruct the commanders of armed vessels to seize and bring in vessels found on the high seas contravening the provisions of the law.

By an act of the 20th April 1818, the laws in prohibition of the Slave Trade were further improved. This act is characterized with a peculiarity of legislative precaution, especially in the eighth section, which throws the labour of proof upon the defendant, that the coloured persons brought into the United States by him had not been brought in contrary to the laws.

By an act of the 3d of March 1819, the power is continued in the President to employ the armed ships of the United States to seize and bring into port any vessel engaged in the Slave Trade by citizens or residents of the United States; and such vessels, together with the goods and effects on board, are to be forfeited and sold, and the proceeds to be distributed in like manner as is provided by law for the distribution of prizes taken from an enemy, and the officers and crew are to undergo the punishments inflicted by previous acts. The President, by this act, is authorized to make such regulations and arrangements as he may deem expedient, for the safe keeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes or persons of colour as may have been brought within its jurisdiction; and to appoint a proper person or persons, residing on the coast of Africa, as agent or agents for receiving the negroes, mulattoes or persons of colour delivered from on board of vessels seized in the prosecution of the Slave Trade.

And in addition to all the aforesaid laws, the present Congress, on the 15th of May 1820, believing that the then existing provisions would not be sufficiently available, enacted, that if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel engaged in the Slave Trade, or any person whatever, being of the crew or ship's company of any ship or vessel owned in the whole or in part, or navigated for or in behalf of any citizen or citizens of the United States, shall land from any such ship or vessel, and on foreign shore seize any negro or mulatto, not held to service or labour by the laws of either of the states or territories of the United States, with intent to make such negro or mulatto a slave; or shall decoy, or forcibly bring or carry, or shall receive such negro or mulatto on board any such ship or vessel, with intent as aforesaid, such citizen or person shall be adjudged a pirate, and on conviction *shall suffer death*.

The immoral and pernicious practice of the Slave Trade has attracted much public attention in Europe, within the last few years; and in a Congress at Vienna, on the 8th of February 1815, five of the principal powers made a solemn engagement, in the face of mankind, that this traffic should be made to cease; in pursuance of which, these powers have enacted municipal laws to suppress the trade. Spain, although not a party to the original engagement, did soon after, in her treaty with England, stipulate for the immediate abolition of the Spanish Slave Trade to the north of the Equator, and for its final and universal abolition on the 30th of May 1820. Portugal likewise, in her treaty in 1817, stipulated that the Portuguese Slave Trade on the coast of Africa should entirely cease to the north-

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ward of the Equator ; and engaged that it should be unlawful for her subjects to purchase or trade in Slaves, except to the southward of the Line : the precise period at which the entire abolition is to take place in Portugal does not appear to be finally fixed ; but the Portuguese ambassador, in the presence of the Congress at Vienna, declared that Portugal, faithful to her principles, would not refuse to adopt the term of eight years ; which term will expire in the year 1823.

At this time, among the European states, there is not a flag which can legally cover this inhuman traffic to the north of the Line : nevertheless, experience has proved the inefficacy of the various and rigorous laws which have been made in Europe and in this country ; it being a lamentable fact, that the disgraceful practice is even now carried on to a surprising extent. During the last year, Captain Trenchard, the commander of the United States sloop of war, the *Cyane*, found that part of the coast of Africa which he visited lined with vessels, engaged, as it is presumed, in this forbidden traffic ; of these he examined many, and five which appeared to be fitted out on American account, he sent into the jurisdiction of the United States for adjudication ; each of them, it is believed, has been condemned, and the commanders of two of them have been sentenced to the punishment prescribed by the laws of the United States.

The testimony recently published, with the opinion of the presiding judge of the United States court of the southern district in the state of New York, in the case of the schooner *Plattsburg*, lays open a scene of the grossest fraud that could be practised to deceive the officers of government, and conceal the unlawful transaction.

The extension of the trade for the last twenty-five or thirty years must, in a degree, be conjectural ; but the best information that can be obtained on the subject, furnishes good foundation to believe, that during that period, the number of Slaves withdrawn from Western Africa, amounts to upwards of a million and a half ; the annual average would be a mean somewhere between fifty and eighty thousand.

The Trade appears to be lucrative in proportion to its heinousness ; and, as it is generally inhibited, the unfeeling Slave-dealers, in order to elude the laws, increase its horrors : the innocent Africans, who are mercilessly forced from their native homes in irons, are crowded in vessels and situations, which are not adapted for the transportation of human beings ; and this cruelty is frequently succeeded, during the voyage of their destination, with dreadful mortality. Further information on this subject, will appear in a letter from the Secretary of the Navy, inclosing two other letters, marked 1 and 2, and also by the extract of a letter from an officer of the *Cyane*, dated April 10, 1820, which are annexed to this Report. While the Slave Trade exists, there can be no prospect of civilization in Africa.

However well disposed the European powers may be to effect a practical abolition of the Trade, it seems generally acknowledged, that for the attainment of this object, it is necessary to agree upon some concerted plan of co-operation ; but unhappily, no arrangement has as yet obtained universal consent.

England has recently engaged in treaties with Spain, Portugal and the Netherlands, in which the mutual right of visitation and search is exchanged ; this right is of a special and limited character, as well in relation to the number and description of vessels as to space ; and to avoid possible inconveniences, no suspicious circumstances are to warrant the detention of a vessel ; this right is restricted to the simple fact of Slaves being on board.

These treaties contemplate the establishment of Mixed Courts, formed of an equal number of individuals of the two contracting nations, the one to reside in a possession belonging to His Britannic Majesty, the other within the territory of the other respective power. When a vessel is visited and detained, it is to be taken to the nearest court, and if condemned, the vessel is to be declared a lawful prize as well as the cargo, and are to be sold for the profit of the two nations ; the Slaves are to receive a certificate of emancipation, and to be delivered over to the government on whose territory the court is which passes sentence, to be employed as servants or free labourers ; each of the governments binds itself to guarantee the liberty of such portion of these individuals as may be respectively assigned to it. Particular provisions are made for remuneration, in case vessels are not condemned after trial ; and special instructions are stipulated to be furnished to commanders of vessels possessing the qualified right of visitation and search.

These powers entertain the opinion, that nothing short of the concession of a qualified right of visitation and search can practically suppress the Slave Trade ; an association

association of armed ships is contemplated, to form a species of naval police, to be stationed principally in the African seas, where the commanders of the ships will be enabled to co-operate in harmony and concert.

The United States have been earnestly invited by the principal Secretary of State for Foreign Affairs of the British Government, to join in the same, or similar arrangements; and this invitation has been sanctioned and enforced, by an unanimous vote of the Houses of Lords and Commons, in a manner that precludes all doubts as to the sincerity and benevolence of their designs.

In answer to this invitation, the President of the United States has expressed his regret that the stipulations in the treaties communicated, are of a character to which the peculiar situation and institutions of the United States do not permit them to accede.

The objections made are contained in an extract of a letter from the Secretary of State, under date of the 2d November 1818, in which it is observed, that "in examining the provisions of the treaties communicated by Lord Castlereagh, all the essential articles appear to be of a character not adaptable to the institutions, or to the circumstances of the United States. The powers agreed to be reciprocally given to the officers of the ships of war of either party, to enter, search, capture, and carry into port for adjudication, the merchant vessels of the other, however qualified and restricted, is most essentially connected with the institution, by each treaty, of two Mixed Courts, one of which to reside in the external or colonial possession of each of the two parties respectively. This part of the system is indispensable to give it that character of reciprocity, without which the right granted to the armed ships of one nation, to search the merchant vessels of another, would be rather a mark of vassalage than of independence. But to this part of the system the United States, having no colonies either on the coast of Africa, or in the West Indies, cannot give effect. That, by the constitution of the United States it is provided, that the judicial power of the United States shall be vested in a supreme court, and in such inferior courts as the Congress may from time to time ordain and establish. It provides that the judges of these courts shall hold their offices during good behaviour; and that they shall be removable by impeachment, on conviction of crimes and misdemeanors. There may be doubts whether the power of the government of the United States is competent to institute a court for carrying into execution their penal statutes beyond the territories of the United States; a court, consisting partly of foreign judges, not amenable to impeachment for corruption, and deciding upon statutes of the United States without appeal.

"That the disposal of the negroes found on board of the Slave trading vessels, which might be condemned by the sentence of these Mixed Courts, cannot be carried into effect by the United States; for, if the Slaves of vessels condemned by the Mixed Courts, should be delivered over to the government of the United States as freemen, they could not, but by their own consent, be employed as servants or free labourers. The condition of the blacks being, in this union, regulated by the municipal laws of the separate states, the government of the United States can neither guarantee their liberty in the states where they could only be received as Slaves, nor control them in the states where they would be recognized as free. That the admission of a right in the officers of foreign ships of war, to enter and search the vessels of the United States in time of peace, under any circumstances whatever, would meet with universal repugnance in the public opinion of this country; that there would be no prospect of a ratification, by advice and consent of the Senate, to any stipulation of that nature; that the search by foreign officers, even in time of war, is so obnoxious to the feelings and recollections of this country, that nothing could reconcile them to the extension of it, however qualified or restricted, to a time of peace; and that it would be viewed in a still more aggravated light if, as in the treaty with the Netherlands, connected with a formal admission, that even vessels under convoy of ships of war of their own nation, should be liable to search by the ships of war of another."

The Committee will observe, in the first instance, that a mutual right of search appears to be indispensable to the great object of abolition; for, while flags remain as a cover for this traffic, against the right of search by any vessels except of the same nation, the chance of detection will be much less than it would be if the right of search was extended to vessels of other powers; and as soon as any one nation should cease to be vigilant in the discovery of infractions practised on its own

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code, the Slave-dealers would avail themselves of a system of obtaining fraudulent papers, and concealing the real ownership under the cover of such flags; which would be carried on with such address as to render it easy for the citizens or subjects of one state to evade their own municipal laws; but if a concerted system existed, and a qualified right of mutual search was granted, the apprehension of these piratical offenders would be reduced to a much greater certainty; and the very knowledge of the existence of an active and vigorous system of co-operation would divert many from this traffic, as the unlawful trade would become too hazardous for profitable speculation.

In relation to any inconveniences that might result from such an arrangement, the commerce of the United States is so limited on the African coast, that it could not be much affected by it; and, as it regards economy, the expense of stationing a few vessels on that coast, would not be much greater than to maintain them at any other place.

The Committee have briefly noticed the practical results of a reciprocal right of search, as it bears on the Slave Trade; but the objection as to the propriety of ceding this right remains. It is with deference that the Committee undertake to make any remarks upon it; they bear in recollection the opinions entertained in this country, on the practice of searching neutral vessels in time of war; but they cannot perceive that the right under discussion is, in principle, allied in any degree to the general question of search; it can involve no commitment, nor is it susceptible of any unfavourable inference on that subject; and even if there were any affinity between the cases, the necessity of a special agreement would be inconsistent with the idea of existing rights; the proposal itself, in the manner made, is a total abandonment, on the part of England, of any claim to visit and search vessels in a time of peace, and this question has been unequivocally decided in the negative in her Admiralty courts.

Although it is not among the objections, that the desired arrangement would give any colour to a claim or right of search in time of peace, yet, lest the case in this respect may be prejudiced in the minds of any, the Committee will observe, that the right of search in time of peace is one that is not claimed by any power as a part of the law of nations; no nation pretends that it can exercise the right of visitation and search upon the common and unappropriated parts of the sea, except upon the belligerent claim. A recent decision in the British Admiralty Court, in the case of the French slave ship *Le Louis*, is clear and decisive upon this point. The case is annexed to this Report.

In regard then to the reciprocal right wished to be ceded, it is reduced to the simple inquiry, whether in practice it will be beneficial to the two contracting nations. Its exercise, so far as it relates to the detention of vessels, as it is confined to the fact of Slaves being actually on board, precludes almost the possibility of accident or much inconvenience.

In relation also to the disposal of the vessels and Slaves detained, an arrangement perhaps could be effected, so as to deliver them up to the vessels of the nation to which the detained vessel should belong. Under such an understanding, the vessels and Slaves delivered to the jurisdiction of the United States, might be disposed of in conformity with the provisions of our own act of the 3d March 1819, and an arrangement of this kind would be free from any of the other objections.

An exchange of the right of search, limited in duration, or to continue at pleasure, for the sake of experiment, might, it is anxiously hoped, be so restricted to vessels and seas, and with such civil and harmonious stipulations, as not to be unacceptable.

The feelings of this country on the general question of search, have often been roused to a degree of excitement that evince their unchangeable character; but the American people will readily see the distinction between the cases; the one, in its exercise to the extent claimed, will ever produce irritation, and excite a patriotic spirit of resistance; the other is amicable and charitable; the justness and nobleness of the undertaking are worthy of the combined concern of Christian nations.

The detestable crime of kidnapping the unoffending inhabitants of one country, and chaining them to slavery in another, is marked with all the atrociousness of piracy; and, as such, it is stigmatized and punishable by our own laws.

To efface this reproachful stain from the character of civilized mankind, would be the proudest triumph that could be achieved in the cause of humanity. On this subject, the United States having led the way, owe it to themselves to give their influence and cordial co-operation to any measure that will accomplish the
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great and good purpose ; but this happy result experience has demonstrated, cannot be realized by any system, except a concession by the maritime powers to each other's ships of war, of a qualified right of search ; if this object was generally attained, it is confidently believed that the active exertions of even a few nations would be sufficient entirely to suppress the Slave Trade.

The Slave-dealers could be successfully assailed on the coast upon which the trade originates, as they must necessarily consume more time in the collection and embarkation of their cargoes, than in the subsequent distribution in the markets for which they are destined ; this renders that coast the most advantageous position for their apprehension ; and besides, the African coast frequented by the Slave ships, is indented with so few commodious or accessible harbours, that notwithstanding its great extent, it could be guarded by the vigilance of a small number of cruisers. But if the Slave ships are permitted to escape from the African coast, and to be dispersed to different parts of the world, their capture would be rendered uncertain and hopeless.

The Committee, after much reflection, offer the following Resolution :

RESOLVED, by the Senate and House of Representatives of the United States of America in Congress assembled, THAT the President of the United States be requested to enter into such arrangements as he may deem suitable and proper, with one or more of the maritime powers of Europe, for the effectual abolition of the African Slave Trade.

SIR,

Navy Department, February 7th, 1821.

I HAVE the honour to transmit to you such information as this department affords upon the subject of the Slave Trade, in answer to your letter of the 30th of January last.

The inclosed copy, N° 1, of a circular to the United States district attornies and marshals has been answered, generally, that no Slaves have been brought into their respective districts, with the exception of Maryland, South Carolina and Georgia ; answers have not been received from Louisiana.

There appears to have been partial captures made upon the coast and in the neighbourhood of Georgia, by the public vessels of the United States ; the Slaves in some cases have been bonded out to individuals until adjudication.

The Slave Trade has been checked by our cruisers upon the southern coasts of the United States, and no great attempts appear to have been made to introduce Slaves through illicit channels.

There are now in charge of the marshal of Georgia two hundred and forty-eight Africans, taken out of a South American privateer, the General Ramirez, whose crew mutinied, and brought the vessel into St. Mary's, Georgia ; sixty more are in the custody of the marshal, detained and maintained in the vicinity of Savannah ; forty or fifty more have been sent out of that state, under what orders it is not known.

The ships cruizing on the coast of Africa, during the last year, captured the following vessels engaged in the Slave Trade, but having no Slaves on board at the time ; viz.

Schooner Endymion	Schooner Esperanza, and
D° - Plattsburgh	Brig - Alexander.
D° - Science	

These vessels have been condemned in the District Courts of New York and Massachusetts, and their commanders sentenced to fine and imprisonment, under the acts of Congress*.

The most detailed information that has been communicated to this department, in relation to the Slave Trade, will be found in the inclosed copy, N° 2, from the late United States agent, then resident in Africa, but since deceased.

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

(signed) *Smith Thompson.*

To the Hon. Joseph Hemphill,
Chairman of the Committee on the Slave Trade,
House of Representatives.

* The information contained in this paragraph is not derived from any official source ; it is nevertheless believed to be correct.

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No. 1.

SIR, Navy Department, 13th January 1821.
I DULY received your letter of 25th November last, an answer to which has been delayed by the urgency of public business.

I request you will be pleased to inform me what disposition has been made of the two hundred and fifty-eight Africans, mentioned in your letter; and what expense, if any, has been incurred for their safe keeping. It is very desirable to save further expenses by an early decision of their case.

I wish also to be informed upon the cases of all others within your jurisdiction, and coming within the execution of the laws for prohibiting and suppressing the Slave Trade.

I am, &c. &c. &c.

(signed) *Smith Thompson.*

John H. Morel, Esq.

Marshal of the District of Georgia, Savannah.

No. 2.

EXTRACT OF A LETTER from the Rev. Samuel Bacon to the Secretary of the Navy, dated

Campelar (Sherbro' Island), 21st March 1820.

“ THE Slave Trade is carried on briskly in this neighbourhood. Had I authority so to do, I could take a vessel lying within the floating of one tide, say twenty-five miles from us, in the Shebar, under American colours, taking in a cargo of Slaves. Their policy is to come with a cargo of goods suited to the market, deliver it to a Slave-factor on shore, and contract for Slaves. They then lie at anchor in the river, or stand out to sea for a specified number of days, till the Slaves are all procured and brought to the beach, and placed under a hovel or shed prepared for the purpose, all chained two and two. At the appointed time, or on a concerted signal, the vessel comes in and takes her Slaves on board, and is off in an hour. This is rendered necessary, as they cannot be seized unless they have Slaves on board; and they are watched by the cruisers, so as to be taken when they have Slaves with them. The *Augusta*, (the schooner I purchased,) is a vessel of one hundred and four tons, a swift sailer, and was intended to take a cargo of one hundred. She has a camboose fitted to boil rice in large quantities; Slaves receive one pint each per day.”

United States Ship *Cyane*, off Sierra Leone, April 10th, 1820.

DURING our stay at Sierra Leone, the European gentlemen who were residents at the place treated us with the utmost respect, striving who should be most forward in attention and hospitality. A party was formed by those gentlemen to show our officers the interior settlements; and from their report, on their return, I learned the extent of the colony, and the benevolent philanthropy of the British nation in alleviating the miseries of the oppressed and ignorant Africans. Not less than six thousand captured Africans have been landed at this settlement by the British ships of war. On their arrival, those of a proper age are named, and sent to the adjacent villages. A house and lot is appointed to each family, and they are supported one year by government, at the expiration of which they are obliged to look out for themselves. The captured children are also sent to the villages, where they are kept at school till married, which is always at an early age. At the head of each village is a missionary, who receives his annual support from the government, and who acts in the double capacity of minister and schoolmaster.

Lieutenant Cooper and myself walked through the villages situated to the westward of Sierra Leone. We landed at King Town, the former residence of King Tom. The house in which the king resided is in ruins, and almost hidden from view by a shrubbery. From thence we proceeded to Krow Town, a small village inhabited by about five hundred Krow men. The British ships of war on this station have each from twenty-five to seventy of these men on their books. The trade of this place is considerable. Several vessels entered and sailed during our short stay; many of them were loaded with ship timber, which is somewhat like our white oak. The other articles of trade are ivory, cam wood, wax and palm oil. We sent a boat from Sierra Leone for Mr. Bacon, who came up and remained with us two days. He has already settled himself with his followers, (until after the rains,) on Sherbro' Island. I fear this island will not answer his wishes; it is low, unhealthy, difficult of access for ships, and is not very fertile.

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There are many places to leeward possessing greater advantages, one of which I hope he will select for a permanent settlement.

After remaining nine days at Sierra Leone we sailed for the Gallinas, a place of resort for Slave vessels; since which we have made ten captures, some by fair sailing, others by boats and stratagem. Although they are evidently owned by Americans, they are so completely covered by Spanish papers that it is impossible to condemn them. Two schooners, the *Endymion* and *Esperanza*, we sent home. We shall leave the coast in the course of three or four days, for Port Praya, from whence we shall proceed to Teneriffe for provisions.

The Slave Trade is carried on to a very great extent. There are probably not less than three hundred vessels on the coast, engaged in that traffic, each having two or three sets of papers. I sincerely hope government have revised the law giving us more authority. You have no idea how cruelly these poor creatures are treated by the monsters engaged in taking them from the coast.

CASE of the French Slave Ship *Le Louis*; extracted from the 12th Annual Report of the African Institution, printed in 1818.

THIS vessel sailed from Martinique on the 30th of January 1816, on a Slave-trading voyage to the coast of Africa, and was captured near Cape Mesurado by the Sierra Leone colonial vessel of war the *Queen Charlotte*, after a severe engagement which followed an attempt to escape, in which eight men were killed and twelve wounded of the British; and proceedings having been instituted against *Le Louis*, in the Vice-admiralty court of Sierra Leone, as belonging to French subjects, and as fitted out, manned and navigated for the purpose of carrying on the Slave Trade, after the trade had been abolished both by the internal laws of France and by the treaty between that country and Great Britain, the ship and cargo were condemned as forfeited to His Majesty. From this sentence an appeal having been made to the High Court of Admiralty, the cause came on for hearing, when the Court reversed the judgment of the inferior Court, and ordered the restitution of the property to the claimants.

The judgment of Sir William Scott was given at great length. The directors will advert to such points of it as are immediately connected with their present subject. "No doubt," he said, "could exist that this was a French ship intentionally engaged in the Slave Trade." But, as these were facts which were ascertained in consequence of its seizure, before the seizer could avail himself of this discovery, it was necessary to inquire whether he possessed any right of visitation and search; because, if the discovery was unlawfully produced, he could not be allowed to take advantage of the consequences of his own wrong. The learned Judge then discussed, at considerable length, the question, whether the right of search exists in time of peace? And he decided it without hesitation in the negative. "I can find," he says, "no authority that gives the right of interruption to the navigation of states in amity, upon the high seas, excepting that which the rights of war give to both belligerents against neutrals. No nation can exercise a right of visitation and search upon the common and unappropriated parts of the sea, save only on the belligerent claim." He admits, indeed, and with just concern, that if this right be not conceded in time of peace, it will be extremely difficult to suppress the traffic in Slaves. "The great object, therefore, ought to be to obtain the concurrence of other nations, by application, by remonstrance, by example, by every peaceable instrument which men can employ to attract the consent of men. But a nation is not justified in assuming rights that do not belong to her, merely because she means to apply them to a laudable purpose."

"If this right," he adds, "is imported into a state of peace, it must be done by convention; and it will then be for the prudence of states to regulate, by such convention, the exercise of the right with all the softenings of which it is susceptible."

The judgment of Sir William Scott would have been equally conclusive against the legality of this seizure, even if it could have been established in evidence that France had previously prohibited the Slave Trade by her municipal laws. For the sake of argument, however, he assumes that the view he has taken of the subject, might, in such a case, be controverted. He proceeds therefore to inquire how far the French law had actually abolished the Slave Trade at the time of this adventure. The actual state of the matter, as collected from the documents before the Court, he observes, is this: "On the 27th of July 1815, the British Minister at Paris writes a note to Prince Talleyrand, then minister to the King of France, expressing a
desire

desire on the part of his court to be informed whether, under the law of France as it then stood, it was prohibited to French subjects to carry on the Slave Trade. The French Minister informs him in answer, on the 30th of July, that the law of the usurper on that subject was null and void, (as were all his decrees,) but that His most Christian Majesty had issued directions, that, on the part of France, ‘the traffic should cease from the present time, every where and for ever.’ In what form these directions were issued or to whom addressed, does not appear; but, upon such authority, it must be presumed that they were actually issued. It is, however, no violation of the respect due to that authority, to inquire what was the result or effect of those directions so given; what followed in obedience to them in any public and binding form. And I fear I am compelled to say, that nothing of the kind followed, and that the directions must have slept in the portfolio of the office to which they were addressed; for it is, I think, impossible that if any public and authoritative ordinance had followed, it could have escaped the sleepless attention of many persons in our own country, to all public foreign proceedings upon this interesting subject; still less would it have escaped the notice of the British resident minister, who at the distance of a year and a half is compelled, on the part of his own court, to express a curiosity to know what laws, ordinances, instructions, and other public and ostensible acts, had passed for the abolition of the Slave Trade.

“ On the 30th of November, in the same year (1815,) the additional article of the definitive treaty (a very solemn instrument, most undoubtedly) is formally and publicly executed, and it is in these terms: ‘The high contracting parties sincerely desiring to give effect to the measures on which they deliberated at the Congress at Vienna, for the complete and universal abolition of the Slave Trade; and having each, in their respective dominions, prohibited, without restriction, their colonies and subjects from taking any part whatever in this traffic, engage to renew conjointly their efforts, with a view to ensure final success to the principle which they proclaimed in the declaration of the 8th of February 1815, and to concert, without loss of time, by their ministers at the court of London, the most effectual measures for the entire and definitive abolition of the traffic, so odious, and so highly reprovèd by the laws of religion and nature.’

“ Now, what are the effects of this treaty? According to the view I take of it, they are two, and two only; one declaratory of a fact, the other promissory of future measures. It is to be observed, that the treaty itself does not abolish the Slave Trade; it does not inform the subjects that that trade is *hereby* abolished, and that, by virtue of the prohibitions therein contained, its subjects shall not in future carry on the trade; but the contracting parties mutually inform each other of the fact, that they have in their respective dominions abolished the Slave Trade, without stating at all the mode in which that abolition had taken place.

“ It next engages to take future measures for the universal abolition.

“ That, with respect to both the declaratory and promissory parts, Great Britain has acted with the *optima fides*, is known to the whole world, which has witnessed its domestic laws as well as its foreign negotiations. I am very far from intimating that the government of this country did not act with perfect propriety, in accepting the assurance that the French government had actually abolished the Slave Trade, as a sufficient proof of the fact; but the fact is now denied by a person who has a right to deny it, for though a French subject he is not bound to acknowledge the existence of any law which has not publicly appeared; and the other party, having taken upon himself the burthen of proving it in the course of a legal inquiry, the Court is compelled to demand and expect the ordinary evidence of such a disputed fact. It was not till the 15th of January in the present year, (1817) that the British resident minister applies for the communication I have described, of all laws, instructions, ordinances, and so on: he receives in return what is delivered by the French minister as the ordinance, bearing date only one week before the requested communication, namely the 8th of January. It has been asserted in argument, that no such ordinance has yet, up to this very hour, even appeared in any printed or public form, however much it might import both French subjects and the subjects of foreign states, so to receive it.

“ How the fact may be, I cannot say; but I observe, it appears before me in a manuscript form, and by inquiry at the Secretary of State’s office, I find it exists there in no other plight or condition.

“ In transmitting this to the British government, the British minister observes, it is not the document he had reason to expect, and certainly with much propriety; for

for how does the document answer his requisition? His requisition is for all laws, ordinances, instructions, and so forth. How does this, a simple ordinance, professing to have passed only a week before, realize the assurance given on the 30th July 1815, that the traffic 'should cease from the present time, every where and for ever?' or how does this realize the promise made in November, that measures should be taken, without loss of time, to prohibit not only French colonists, but French subjects likewise, from taking any part whatever in this traffic? What is this regulation in substance? Why, it is a mere prospective colonial regulation, prohibiting the importation of Slaves into the French colonies from the 8th January 1817.

"Consistently with this declaration, even if it does exist in the form and with the force of a law, French subjects may be yet the common carriers of Slaves to any foreign settlement that will admit them, and may devote their capital and their industry, unmolested by law, to the supply of any such markets.

"Supposing, however, the regulations to contain the fullest and most entire fulfilment of the engagement of France, both in time and in substance, what possible application can a prospective regulation of January 1817, have to a transaction of March 1816?

"Nobody is now to be told that a modern edict which does not appear, cannot be presumed; and that no penal law of any state can bind the conduct of its subjects, unless it is conveyed to their attention in a way which excludes the possibility of honest ignorance. The very production of a law professing to be enacted in the beginning of 1817, is a satisfactory proof that no such law existed in 1816, the year of this transaction. In short, the seizer has entirely failed in the task he has undertaken, in proving the existence of a prohibitory law enacted by the legal government of France, which can be applied to the present transaction."

FURTHER PAPERS
RELATING TO
THE SLAVE TRADE,
VIZ.

COPY OF THE REPORT of the House of Representatives of the United States of *America*, in their last Session of Congress; relative to the mutual exercise of the right of Search, by *Great Britain and America*, with a view to the Suppression of the Slave Trade.

*Ordered, by The House of Commons, to be Printed,
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