



Center *for* Research Libraries
GLOBAL RESOURCES NETWORK

The Center for Research Libraries scans to provide digital delivery of its holdings. In some cases problems with the quality of the original document or microfilm reproduction may result in a lower quality scan, but it will be legible. In some cases pages may be damaged or missing. Files include OCR (machine searchable text) when the quality of the scan and the language or format of the text allows.

If preferred, you may request a loan by contacting Center for Research Libraries through your Interlibrary Loan Office.

Rights and usage

Materials digitized by the Center for Research Libraries are intended for the personal educational and research use of students, scholars, and other researchers of the CRL member community. Copyrighted images and texts may not be reproduced, displayed, distributed, broadcast, or downloaded for other purposes without the expressed, written permission of the copyright owner.

Center for Research Libraries

Identifier: af538965-e716-4f82-99a1-696c369caefe

Range: Scans 001 - 039

Downloaded on: 2022-05-24 00:16:28

P A P E R S

RELATING TO

THE CAPTURE OF THE SHIP

“ *REQUIN*,”

IN THE RIVER GARONNE,

MARCH, 1814.

Ordered, by The House of Commons, to be Printed,
19 *June* 1823.

Returns to Orders of the Honourable House of Commons,
dated 12th June 1823;—for

- N^o 1.—Account of the several Items which composed the sum of 2,200,000 *francs* paid by France under a Convention dated at Paris, 1st September 1817;* in discharge of the Claims for Property captured at Bourdeaux - - - - - p. 3.
- N^o 2.—Account of the Application of the net Proceeds of the said sum of 2,200,000 *francs*, as remitted to the Treasury by Mr. Drummond, the commissioner of deposits at Paris - - - - - p. 6.
- N^o 3.—Extract of a Dispatch from the Duke of Wellington to Earl Bathurst, dated Samatan, 25 March 1814, inclosing Report from Mr. Commissary Ogilvie, relative to the capture of the “Requin.” - - - - - *ibid.*
- * *Ibid.* N^o 4.—Copy of a Letter dated 1st September 1817*, from the British Ambassador Sir Charles Stuart to Lord Castlereagh; reporting the termination of the discussion on the claims of the Army, and his opinion of Mr. Ogilvie’s conduct on that occasion - - - - - p. 5.
- N^o 5.—Copy of the Memorial presented by Mr. Ogilvie to the Treasury stating the particulars of his case; (with Enclosures) - - - - - p. 7.

Appendix:

- (N^o 1.)—Copies of Memorial of Deputy Commissary-General Ogilvie, to the Lords of the Treasury;—of Report of the King’s Proctor thereon, dated 23d July 1816;—of Letter from the Commissary in Chief, of 24 July 1816, with copy of a Letter from D. C. G. Ogilvie, covering his Memorial;—and, of Treasury Minute, dated 26 July 1816, thereon - - - - - p. 12.
- (N^o 2.)—Copy Treasury Minute, dated 11th November 1817, upon a Memorial of Mr. Ogilvie, respecting the “Requin” - - - - - p. 16.
- (N^o 3.)—Letter from Messrs. Ogilvie and Eckersley to His Grace the Duke of Wellington (enclosed in His Grace’s despatch of the 27th July 1814,) reporting their Proceedings relative to American ships captured at Bourdeaux;—with Treasury Minutes relating thereto - - - - - p. 18.
- (N^o 4.)—King’s Proctor, on Memorial of Mr. Ogilvie, praying grant of the whole or part of £.17,000, estimated value of the “Requin” - - - - - *ibid.*
- (N^o 5.)—Letter from D. C. G. Ogilvie, furnishing an explanation relative to the capture of the ship “Requin” - - - - - p. 23.
- (N^o 6.)—Copies of Letter from Deputy Commissary-General Ogilvie, dated 6th March 1819, to the Treasury;—and, of Treasury Minute, dated 29th December 1819, thereon - - - - - p. 26.
- (N^o 7.)—Copies of Letter from Mr. Ogilvie, April 1820, claiming Remuneration for seizure of an American Corvette in 1814;—of Treasury Minute, 18th April 1821, referring same to Mr. Herries, for explanation;—of Letter from Mr. Herries, of the 29th April 1820, with the above explanation;—of Letter from Mr. Ure, dated 13th April 1820, enclosing futher documents in support of Mr. Ogilvie’s claim; and Treasury Minute of the 30th May 1820, thereon - - - - - p. 29.
- (N^o 8.)—Memorial of D. C. G. Ogilvie, dated 8th April 1821, further on the subject of his claim to reward for the capture of a Ship in 1814;—and Treasury Minute dated 19th June 1814, thereon - - - - - p. 35.
- (N^o 9.)—Letter from D. C. G. Ogilvie, transmitting Protest further, respecting his claims on account of the capture of the “Requin” American Corvette - - - - - p. 36.

Whitehall, Treasury Chamber, }
18 June 1823.

J. C. HERRIES.

P A P E R S

Relating to the Capture of the Ship “*Requin*,” in the River Garonne, March 1814.

N° 1 and N° 4.

N° 1.

ACCOUNT of the several Items which composed the sum of 2,200,000 *francs* paid by France under a Convention dated at Paris, 1st September 1817*, in discharge of the Claims for Property captured at Bourdeaux.

* Stated in the Order 1814; should be 1817.

Paris, le 27 Août 1817.

LE Commissaire Français soussigné a l'honneur de prévenir Messieurs les Commissaires Anglais que si la convention dont le projet est ci-joigné ne pouvait être signé avant le huit Septembre prochain, le 1^{er} terme de paiement stipulé par ce projet au 1^{er} Octobre prochain, serait indispensablement reporté au 1^{er} Novembre suivant, et qu'ainsi les payemens subsequentes se trouveraient reculés dans la même proportion; le trésor royal devoit être officiellement prévenu un mois d'avance avant d'effectuer ses payemens.

(signé) *Lechat.*

A true copy.
(signed) *J. Ogilvie.*

Monsieur,

Paris, le 22 Juillet 1817.

DANS la lettre que vous m'avez fait l'honneur de m'écrire hier, vous me demandez sur quels points vous pourriez faire porter les sommes à ceder, si, comme vous le présumez, vous vous trouviez obligé, par votre Gouvernement, de vous reduire à 2,200,000 francs, afin de terminer un arrangement avec le Gouvernement Français sur les propriétés capturées à Bourdeaux par l'armée Anglaise.

Je pense, que dans l'état actuel des choses, vous pourriez faire l'application des 2,200,000 francs approximativement ainsi qu'il suit, savoir :

1. Pour la valeur des tabacs 300,000 francs seulement, à cause de la détérioration qu'ils ont nécessairement éprouvée depuis près de trois ans et demi, à	f. 300,000
2. Pour la valeur des sels saisis dans les magasins de la marine 10,000 francs, seulement à cause de semblable détérioration	10,000
3. Pour la valeur des marchandises consignées antérieurement par l'administration des douanes, et saisies dans les magasins, 20,000 francs seulement, aussi à cause de la détérioration, à	20,000
4. Pour les droits sur les sels en entrepôts 500,000 francs	500,000
5. Pour les droits de consommation sur les denrées coloniales, jusqu'au traité de paix 1814, la somme de 50,000 francs	50,000
6. Pour le montant du prêt, fait par l'ancien gouvernement, sur des vins 980,000 francs	980,000
7. Enfin, pour la valeur de la corvette <i>Le Requin</i> , avec ses provisions de mer, ses armes, munitions, appareils de toute espèce, 340,000 francs, suivant l'évaluation des exports Anglais du 8 Juillet 1814, portée au <i>minimum</i> à 17,000 <i>l.</i> sterling comptées 20 francs seulement, qui était le cours d'alors, à	340,000

Total somme égale - - - f. 2,200,000

Si vous manquez l'arrangement, et que le Gouvernement Français refusât de racheter les diverses propriétés qui en sont l'objet, il est très possible que le Gouvernement Britannique perdit davantage, principalement sur les tabacs, sur les sels de magasins de la marine, et sur les marchandises confisquées par la douane, comme prohibée en France. Vous seriez réduit à la nécessité de faire emporter toutes ces choses en Angleterre, ou de les vendre pour l'étranger ; car personne ne pourrait les acheter pour être consommées en France, d'après nos lois prohibitives, que j'ai citées dans ma consultation.

Enfin elles peuvent être détériorées maintenant à un point que vous auriez peut-être de la peine à trouver des acheteurs en aucun lieu et pour aucun prix, après avoir fait de grandes frais de transport.

Je pense qu'il n'y a rien à diminuer du prêt fait sur les vins, ni des droits sur les sels *en entrepôt*, dûs à l'extraction des salines.

Mais il n'en est pas de même des droit de consommation des denrées coloniales, qui ne sont dûs qu'à la sortie de l'entrepôt pour la consommation, et qui, comme je l'ai prouvé dans ma consultation, n'ont dû être perçus par le Gouvernement Britannique que jusqu'au traité de paix du 30 Mai 1814 ; il est certain, d'ailleurs, que la France étant couverte de troupes étrangères, le commerce est demeuré dans une grande stagnation, et qu'il est très probable que les 50,000 francs que j'applique à cet article, surpassent la recette effective.

Enfin l'évaluation de la corvette ayant été portée par les exports Anglais à 17 ou 18,000 L. sterling, c'est le *minimum* au lieu du *maximum* qu'il faut prendre, et ne compter les 17,000 L. sterling *qu'au cours* de 20 francs, comme je l'ai encore démontré dans ma consultation, ainsi que dans l'état comparatif que je fis après le grand projet de note en réponse aux deux notes officielles de M. Lechat.

Dans mon opinion, voilà Monsieur, les meilleures bases que vous puissiez adopter pour le nouveau projet d'arrangement que je crois encore avantageux au Gouvernement Britannique.

J'ai l'honneur, &c.

(signé)

Godard,

Conseil Legal de l'Ambassade Britannique.

M. Ogilvie,
Commissaire du Gouvernement Britannique à Paris.

Les soussignés chargés de suivre les réclamations relatives aux propriétés saisies à Bourdeaux par l'armée Anglaise.

Savoir : M. Lechat, Maître des Requêtes au Conseil d'Etat du Roi, de la part du Gouvernement Français ; et Messieurs Pennell et Ogilvie de la part du Gouvernement Britannique, voulant, conformément aux intentions de leurs Gouvernements, régler d'une manière amicale et définitive, et par voie de transaction les dites réclamations, et après l'échange de leurs pouvoirs à cet effet lesquels ont été donnés, savoir, à M. le Commissaire Français par S. E. M. le Ministre Secrétaire d'Etat des Finances de France, aux termes de son arrêté du 17 Fevrier dernier, et à Messieurs les Commissaires Anglais par M. Lushington, Secrétaire de Messieurs les Commissaires de la Trésorerie de la Grande Bretagne, aux termes de sa lettre du 31 Juillet 1817, sont convenus de ce qui suit :

Art. I.—Il sera payé par le Gouvernement Français la somme de deux millions deux cents mille francs à laquelle ont été évaluées, amiablement et d'un commun accord, toutes les réclamations relatives aux propriétés saisiés à Bourdeaux au mois de Mars 1814 par les troupes Anglaises.

Art. II.—Le paiement de la somme ci-dessus stipulée sera effectué dans l'espace d'une année à partir du premier Septembre prochain, et aura lieu par douzièmes de mois en mois, à raison de cent quatre-vingt-trois mille trois cents trente francs, trente-trois centimes, par chaque mois, en sorte que le premier de ces payemens s'effectuera le premier Octobre prochain, et que les autres continueront ensuite le premier de chaque mois jusqu'à l'entier paiement des dits 2,200,000 francs.

Le paiement des dites deux millions deux cents mille francs, aura lieu au moyen de la remise par le trésor royal de France de bons de la caisse de service, payable aux échéances ci-dessus indiquées et sans intérêt.

Cette remise sera faite après la ratification de la présente convention sur la quit-tance de Messieurs Pennell et Ogilvie autorisés à cet effet par la lettre susdatée de M. Lushington,

M. Lushington, laquelle restera en conséquence annexée en original à la quittance de Messieurs les Commissaires Anglois.

Art. III.—Au moyen des payemens ci-dessus stipulés sont et demeurent éteintes toutes demandes et prétentions, quelconques élevées, au nom de l'armée Anglaise, à raison des propriétés capturées à Bourdeaux en 1814; en conséquence, Messieurs les Commissaires Britanniques, soussignés, ont renoncé et renoncent formellement, tant au nom de leur Gouvernement qu'en celui de l'armée Anglais, aux demandes et prétentions.

Art. IV.—Messieurs les Commissaires du Gouvernement Britannique, soussignés, donnent dès à présent main-levée entière et absolue de tous séquestres apposés par les agens de l'armée Anglaise sur toutes les propriétés, denrées et objets quelconque, saisis à Bourdeaux; ils consentent en conséquence que tous scellés qui pourraient être mis, soient levés pour que tous les dits objets puissent être immédiatement laissés à la disposition des agens du Gouvernement Français qui ne sera tenu d'aucuns frais relatifs aux dits séquestres et scellés.

Art. V.—Messieurs les Commissaires Anglais consentent que toutes sommes provenant soit de la vente des propriétés, denrées et objets ci-dessus désignés, soit des droits perçus sur les dites propriétés, denrées et objets, et dont le montant a été déposé, soit dans la caisse aux deux clefs, soit entre les mains du Receveur-Général de Bourdeaux, soit tout autre part, soient immédiatement remises à la disposition du trésor royal de France. La seconde clef de la caisse, qui doit être encore dans les mains d'un agent Anglais, sera remise à la personne que désignera S. E. le Ministre au département des Finances.

Dans le cas où il aurait été disposé de quelques unes des dites sommes par les agens du Gouvernement Britannique, Messieurs les Commissaires Anglais soussignés s'engagent, au nom de leur Gouvernement, à les faire rétablir entre les mains des agens Français.

Art. VI.—Messieurs les Commissaires Anglais cèdent aux Gouvernement Français, tant au nom de leur Gouvernement qu'en celui de l'armée Anglais, toutes les prétentions qui pouvait avoir la dite armée sur toutes les propriétés, denrées et objets quelconques, saisis et séquestrés par les agens, et notamment sur le navire la Jeanne et le Requin, les dits Commissaires s'engagent à faire remettre sans frais à la personne qui leur sera désignée par S. E. M. le Ministre au département des Finances, tant l'obligation souscrite par les S. Balquerie et Compagnie de Bourdeaux, relativement au navire le Requin, que les titres, actes, pièces et papiers concernant le S. Lewis.

Art. VII.—Il est expressement entendu entre les soussignés, qu'il ne pourra en aucun cas être tiré de la présente transaction aucune induction tendant à établir contre le Gouvernement Français une reconnaissance quelconque expresse ou tacite, des prétentions qui ont pu être élevées au nom de l'armée Anglaise relativement aux propriétés capturés à Bourdeaux, la présente transaction ayant lieu sur l'ensemble des demandes de la dite armée et non sur aucun objet pris séparément.

Art. VIII.—La présente convention sera ratifiée savoir, pour le Gouvernement Français par S. Ex. Monseigneur le Duc de Richelieu, Ministre, Secrétaire d'Etat des Affaires Etrangères, Président du Conseil des Ministres; et pour le Gouvernement Britannique, Son Ex. Sir C. Stuart, Ambassadeur de S. M. Britannique, près la cour de France.

Les ratifications en seront échangées dans le délai de huit jours, ou plutôt, si faire si peut.

En foi de quoi les Commissaires respectifs l'ont signés.

Fait double à Paris, le

N° 4.

COPY of a Letter, dated 1st September 1817, from the British Ambassador, Sir Charles Stuart, to Lord Castlereagh, reporting the termination of the discussion on the claims of the Army, and his opinion of Mr. Ogilvie's conduct on that occasion.

My Lord,

Paris, September 1st, 1817.

I HAVE received from Mr. Ogilvie the projet which I have the honour to enclose, containing the agreement by which His Majesty's Government are to receive the sum of 2,200,000 francs, in lieu of the different articles which fell into the hands of His Majesty's troops at the time Bourdeaux was captured by the army under the command of the Duke of Wellington.

469.

I have

I have to observe, that the time of payment agreed upon in this convention is not fixed exactly in conformity to the instruction your lordship was pleased to transmit me on the 5th August. The British commissioner, however, appears to have made a concession on this point before the arrival of your lordship's letter, from which he could not, with consistency, propose to the French commissioner to depart.

The legal opinion of the counsel I employed upon this occasion, will show that in this arrangement an approximate value is equitably affixed to every article which is comprised under the head of captured property at Bourdeaux, and that the agreement is drawn up consistently with the forms of French law.

As the accompanying note explains that the treasury must have a month's notice to enable them to effect the payments, I have thought it expedient that the agreement should be executed without further delay.

It has accordingly been signed by the several commissioners, and will be immediately ratified by the Duke de Richelieu and myself.

I have, &c. (signed) *Ch. Stuart.*

N° 2.

ACCOUNT of the application of the net proceeds of the sum of 2,200,000 *frs.* as remitted to the Treasury by Mr. Drummond, the Commissioner of Deposits at Paris.

THIS sum was paid to Mr. Drummond, at Paris: the balance was remitted to England, and thereout the sum of 1,000 *l.* was directed to be paid to Mr. Ogilvie, but for which he has not yet applied. The remainder of the money was appropriated in part payment to the Portuguese army, in lieu of their share of the prize taken during the Peninsular war.

Whitehall, Treasury Chambers,
18th June 1823.

N° 3.

EXTRACT of a Dispatch from the Duke of Wellington to Earl Bathurst, dated Samatan, 25th March 1814, enclosing Report from Mr. Commissary Ogilvie, relative to the capture of the Requin.

“ I ENCLOSE a Report from Mr. Deputy Commissary-General Ogilvie, reporting the mode in which he seized an American privateer in the Garonne, which is highly creditable to him.”

Sir,

Bourdeaux, 18th March 1814.

I HAVE the honour to report to you that I went yesterday down the river in a boat to Louna, for the purpose of making a list of the vessels lying in the river opposite to that village, and that I discovered a private ship of war at anchor on the outside of the merchantmen. Upon inquiry I learned that this vessel was the Requin of twenty-two guns and thirty men, which had been reported the day before to be moored at Bec d'Ambes, and I summoned the captain by a man of the village to surrender. Whilst I was waiting afloat for the return of the messenger, I discovered a man leaping into a boat a little above me, and I rowed upon him and discovered him to be the armourer of the Requin; I took him prisoner, and he told me that they had few men on board. Upon which I ordered my boat, which was manned by Frenchmen only, to row down upon the privateer, which I determined to board; and I concluded, from the confusion of this man, that the crew was panic-struck. In getting alongside, I demanded, with a loud voice, whether they would fight or surrender, (*voulez-vous vous rendre ou vous battre,*) and without waiting for or receiving an answer, I boarded her; and the crew, consisting of eleven men, a boy, two mates, and an officer, surrendered to me; and I instantly marched them over the ship's side into my own boat, with the exception of the officer and the mate, and sent them to the British guard at the Marine Magazine, from whence a party of English soldiers was sent to me to keep possession of the ship; and this party was reinforced at about nine o'clock by a subaltern and twenty men,

men, to prevent the partizans from retaking her. I took the crew completely by surprize, as my summons had not reached the ship, and I had them in my boat before they discovered the description of its crew. When I got on board I found the men occupied in pulling a set of sails out of the forecastle, and shipping them into a boat which lay alongside, and the officer at dinner in his cabin.

The Requin is a new vessel, ship rigged, pierced for twenty-two guns, and mounting ten eighteen pound carronades, and four guns of twelve pounders, and said to have both French and American papers, a French and an American commander, and a mixed crew.

I am, &c.

(signed)

J. Ogilvie, D. C. Genl.

N^o 5.

COPY of the Memorial presented by Mr. Ogilvie to the Treasury, stating the particulars of his Case; (with Enclosures.)

To the Right honourable the Lords Commissioners of His Majesty's Treasury;

The Memorial of James Ogilvie, Deputy Commissary-General of the British Army, and principal commissary of Lord Hill's corps, in the Peninsula, in Belgium, and in France,

Humbly showeth,

THAT your Memorialist, with a boat's crew under his orders, on or about the 16th March 1814, captured in the river Garonne, the American corvette, called the Requin, having actually on board at the time of capture an officer, twelve men, and a boy; the remainder of the crew having gone on shore an hour before the capture, with the intention of returning.

That your Memorialist, at the time of this capture, was on duty at a distance from the army; and there was not either a British soldier in sight, nor a British ship in the river, or on that part of the coast, to intercept her at the time of the capture; and the Requin was actually manned and preparing to put to sea by the next tide, when your Memorialist, by his own personal exertions, boarded and captured her.

That, at the time of the capture, there was an English prize brig moored near the said corvette, and under the protection of her guns, that a detachment of the British army was dispatched early the next morning to capture the said brig, but she escaped in the night-time; and here your Memorialist begs to refer to the enclosed deposition of one of the seamen of the Requin.

That your Memorialist immediately reported the capture officially to Marshal Lord Beresford, under whose orders your Memorialist was serving; and on the night of the capture personally reported to Lieutenant-General Lord Dalhousie, then commanding at Bourdeaux, the circumstances of the capture, and at the same time, and in presence of several British field officers, introduced to his Lordship the officer who commanded the corvette, (his boat having delivered over the crew as prisoners to the first British guard, and took a receipt for them) when his Lordship, after conversing on the subject, took the officer's parole to return in writing, and ordered him to wait upon his Lordship again next morning, when his Lordship went into the particulars of the capture; and having done so, sent his aid-de-camp Lieutenant-Colonel Cooper to your Memorialist to say, that his Lordship considered the nature of the capture to be such, that if your Memorialist wrote an official letter upon the subject, his Lordship would send it to the Duke of Wellington, for the purpose of being inserted in the British Gazette.

Your Memorialist informed Lieutenant-Colonel Cooper that he had addressed an official letter with the details to Lord Beresford, (who would forward it to the Duke of Wellington) which had gone off by the military post of that morning; and to this report, which his Grace must have forwarded to Lord Bathurst, your Memorialist begs particularly to refer; and at the same time to state, that he is ready to collect and lay before your Lordships, or a court of justice, full evidence and proof of the capture.

Captain Sparrow, another aid-de-camp of Lord Dalhousie, having been sent to head quarters on duty about the time that information could be received from
England

England on the subject of the capture, was informed by Colonel Waters (then acting adjutant-general) that your Memorialist was to receive 10,000*l.* for the capture; and he reported this information in presence of Lord Dalhousie, and the other officers of the staff at Bourdeaux; and on this occasion his Lordship congratulated your Memorialist, and assured him that whatever part of the capture his Lordship might be entitled to (as commanding at Bourdeaux), your Memorialist would be heartily welcome to.

Lord Combermere, the first general officer who arrived at Bourdeaux from head quarters, reported that the corvette was considered both in England and at head quarters as a droit of the crown.

That his Grace the Duke of Wellington, when at Bourdeaux, and when the other ships were given up, was pleased to state, that he "had seen and heard the persons claiming the ship; that he considered this capture as fair a one as ever was made, and that the ship never should be given up." His Grace said this to Sir Robert Kennedy, whom your Memorialist requested to ask his Grace whether this vessel was to be given up with the other shipping.

That your Memorialist's conduct in the general management of the affairs at Bourdeaux was uniformly approved of by Lieutenant General Lord Dalhousie, and begs to refer to the enclosed letter from his Lordship, on the subject of the captured property, and to observe, that in 1814 he was seven months in constant communication with the council of the Duke d'Angoulême, and the consuls, merchants, and shipowners.

Your Memorialist was ordered to proceed to Bourdeaux in September 1816, to receive and remit the amount of the property left there by the army, and your Memorialist begs to observe, that if he had not been sent, his Majesty's Government could not, in his opinion, have recovered above half the sum which by his perseverance and firmness he gained in the discussion with the French commissioner; and that no more than the sum of 31,000 francs, if any sum at all, would have been recovered for the Requin, for which the sum of 340,000 francs, or 17,000 *l.* sterling has been obtained, as appears by the enclosed opinion and report of the counsel of the British embassy at Paris, detailing the particulars of the legal composition of 2,200,000 francs, paid by the French Government in full of all claims for property captured at Bourdeaux.

That your Memorialist has been a year anxiously and arduously employed in realizing the claim of the British Government, and during that period has incurred considerable expense.

Your Memorialist on receiving his instructions to proceed to Bourdeaux, for the purpose of recovering this property, was told that he should have his ship (the Requin) if he managed the business well; and it was then calculated that 50,000*l.* at the most would be recovered, whereas your Memorialist actually paid over to the British commissioners of deposits at Paris 93,000 *l.* in addition to the 17,000 *l.*

Here your Memorialist begs to observe, that although upon half-pay, he would not have separated himself from his family and his friends, after eight years service in the Peninsula and France, on the prospect of half the commission on the *uncertain* result of a foreseen struggle for the captured property, had he not been led to expect the value of this ship, in the pursuit of which, and the just claim of the British Government, he experienced such extraordinary difficulty and vexation as would have induced many men to have abandoned both.

Your Memorialist refrains from quoting to your Lordships the names of some commissaries, pursers and others, who for inferior services in prize matters have been largely rewarded; but in justice to himself he must observe, that although he has been a commissary and traversed the Peninsula, Belgium and France, with the British army for eight years, and was the principal commissary of that separate part of the force which was successively and successfully commanded by Lieutenant-Generals Lords Hill and Beresford, that he was not able either to save money professionally, nor has he for his long and painful services in these prize matters ever clearly gained 1,000*l.*; and he begs that your Lordships in judging your Memorialist's claim, will drive from your minds those impressions which so generally prevail and operate to the prejudice of every man who is designated a commissary; and that your Lordships will consider that your Memorialist was not attached to Lieutenant-General Lord Dalhousie as his commissary, but especially asked for by his Lordship from the Duke of Wellington, for the management and administration of the prize matters and others at the city of Bourdeaux, and at a very trying and important period.

That

Nos. 2 & 3.

No. 4.

That your Memorialist was a willing party to the liberal and political measure of giving up the French shipping to the French royalists, and that it was your Memorialist who pointed out the grounds (which were never before touched upon either by British or French) which might be pleaded to justify that measure. His Grace the Duke of Wellington, when entering on the subject, having evinced a disposition to give up the ships; and here your Memorialist begs to refer to his Grace's letter on that occasion to Lord Bathurst.

That it was by your Memorialist's sole and distinct exertions and inquiries, and also at his private expense, that the wine on which the 49,000*l.* was lent by Buonaparte was discovered and taken possession of, and that the whole of this sum has been recovered.

That your Memorialist was informed at Paris, that a letter was actually written to the Marquis d'Osmond, the French Ambassador, by His Majesty's Secretary of State for Foreign Affairs, in which the sum of 2,000,000 francs was to have been accepted in full of all demands for captured property, which letter, on receipt of your Memorialist, and the British Ambassador's report of the terms having been settled at 2,200,000, was cancelled; and it appears, that by your Memorialist's special activity in reporting the terms and termination of the discussion at that particular period, he saved to the British Government the sum of 200,000 francs.

Your Memorialist was not only in the actual *possession* of this ship, but likewise considered the sole owner of it, as he was refused a guard for it by the Adjutant-General at Bourdeaux, on the plea of its being your Memorialist's private property, and this fact your Memorialist can prove by reference to his papers, or by the oath of his clerks.

When this ship was given up on security and put into possession of Frenchmen, in consequence of the petition of certain claimants, no notice was given by Mr. Penel, the consul, to the prize-master, who kept the invoice of her arms and stores, and was left by your Memorialist as his servant in charge and *possession* of this ship; and when the bills were given by the French Government in discharge of the British claim, for all the property captured at Bourdeaux, the value of this vessel came into the separate hands of your Memorialist, and he might have retained it on the principle; that every man has a right to pay himself, but in obedience to an order which he unexpectedly received from your Lordships, he deposited the whole sum of 2,200,000 francs with Mr. Drummond, His Majesty's Commissioner at Paris, fully relying on your Lordship's future justice.

Your Memorialist is advised, that the Crown has the legal right to dispose of this vessel and stores according to its own discretion, as your Memorialist had no prize commission, and that it is the invariable custom of the Crown in such cases to reward the captors.

Your Memorialist therefore humbly prays that your Lordships will be pleased to recommend to the Prince Regent to grant to him the whole, or such part of the 17,000*l.* being the estimated value of the said ship, and forming part of the 2,200,000 francs received from the French Government, as to your Lordships may seem just.

(signed) J. Ogilvie.

(Enclosure 1.)

DECLARATION of Joseph Auguste, Sailor on board the Duchess d'Angoulême, formerly on board the Requin.

THAT the Requin run aground at Bec d'Ambes on or about the 10th or 11th March 1814, and was aground there a day and half:

That she lighted herself by putting chests of small arms on board a small privateer American brig:

The American brig put to sea:

Another brig was moored astern, called the prize brig:

This brig came up the river, and got off (or away) the night the Requin was taken:

Don't know the name of the brig, she was always called the prize brig:

When the Requin, the small privateer, and the other brig were at Bec d'Ambes, they had all three American colours flying:

The Requin had plenty of men, her deck was full; all could speak English, eight men could speak French:

The men that spoke English were *Americans*.

Joseph
his ✕ mark
Auguste.

Sworn before me at Bourdeaux,
this 8th day of February 1817.
W. Thompson, Vice Consul.

Witness, *F. Hiret*,
Secretary.

(Enclosure 2.)

My dear Sir,

Coulstown, 29th August 1815.

I RETURN you a thousand thanks for your goodness in sending me the papers on the subject of the prize money. I confess to you I never had any idea that the claims would have amounted to any thing like that sum, or that Government would have listened to them.

I know very well the indefatigable industry and perseverance with which you stuck to it at Bourdeaux; and by your papers I can imagine the trouble you have taken in pushing these claims at home. I consider the army as indebted to you principally, if not to you *alone*, for this prize money, whatever may be the amount. That is a justice due to you, and what I shall be always ready to acknowledge as an individual, or as having had the means of knowing in command there.

I have this morning your note of the 21st; you may rest assured that the papers are as safe and secret in my possession as if I had put them in the fire; but I think them too interesting to destroy, and will not do it unless you desire.

I had at one moment a hope of having joined you, and was for a month in perfect readiness to start at a moment's notice, but your last letters were so well and conclusively laid in, that I sunk again into my quiet retirement.

I don't much envy your duties in the Bois de Boulogne; it was very well for a while, but I think now must be tiresome.

I don't believe all that our newspapers tell us of France, but still I am satisfied the country must be kept quiet by the allied armies for this winter at least.

You have had a most brilliant and eventful campaign; and I think you will do me the justice to believe, that, without envy at the good fortune of those who have shared in it, as a late brother in arms I do regret very much that I had not been with you in this last, and to crown all, most glorious of all the former campaigns of the British army.

I beg you will offer my kindest remembrance to Lord Hill, and believe me always,
Your's most sincerely,

Mr. Ogilvie.

(signed)

Dalhousie.

(Enclosure 3.)

EXTRACT of Letter from Lieutenant-General the Honourable W. Stewart, commanding the 2d Division of the British Army, to Mr. Ogilvie, dated October the 13th, 1815.

YOUR prospect of receiving justice, as stated by your letter of the 25th, has gratified me, my dear Ogilvie, much, but I shall not be satisfied until I hereafter learn that this same justice has been amply rendered to your merit, and I will add high spirit at Bourdeaux, and wherever else you have served; it is difficult in this world to get what is simply *due* to one, that one's patience and philosophy is often to the test.

A true extract.

William John Dennison.

Enclosure N° 4.

Monsieur,

Paris le 22 Juillet 1817.

DANS la lettre que vous m'avez fait l'honneur de m'écrire, vous me demandez sur quels points vous pourriez faire porter les sommes à ceder, si, comme vous le presumez, vous vous trouviez obligé, par votre Gouvernement, de vous réduire à

2,200,000

2,200,000 francs, afin de terminer un arrangement avec le Gouvernement Français sur les propriétés capturées à Bourdeaux par l'armée Anglaise.

Je pense que dans l'état actuel des choses, vous pourriez faire l'application des 2,200,000 francs approximativement ainsi qu'il suit, savoir :

1. Pour la valeur des tabacs 300,000 francs seulement, à cause de la détérioration qu'ils ont nécessairement éprouvée depuis près de trois ans et demi, à - - - - - C ^r	f.	300,000
Rapport de l'autre part - - - - - C ^r		300,000
2. Pour la valeur des sels saisis dans les magasins de la marine 10,000 francs seulement, à cause de semblable détérioration, à - - - - - C ^r		10,000
3. Pour la valeur des marchandises confisquées antérieurement par l'administration des douanes, et saisies dans ses magasins 20,000 francs seulement, aussi à cause de la détérioration, à - - - - - C ^r		20,000
4. Pour les droits sur les sels en <i>entrepôt</i> , 100,000 francs, à - - - - - C ^r		100,000
5. Pour les droits de consommation sur les denrées coloniales, jusqu'au traité de paix de 1814, la somme de 10,000 francs, à - - - - - C ^r		10,000
6. Pour les montant du prêt, fait par l'ancien gouvernement, sur des vins 980,000 francs, à - - - - - C ^r		980,000
7. Enfin, pour la valeur de la corvette le <i>Requin</i> , avec ses provisions de mer, ses armes, munitions, appareils de toute espèce, 340,000 francs, suivant l'évaluation des exports Anglais, du 8 Juillet 1814, portée au <i>minimum</i> à 170,000 l. sterling, comptées à 20 livres seulement, qui était le cours d'alors, à - - - - - C ^r		340,000
Total somme égale - - - - -	f.	<u>2,200,000</u>

Si vous manquez l'arrangement, et que le Gouvernement Français, refusât de racheter les diverses propriétés qui en sont l'objet, il est très possible que le Gouvernement Britannique perdit davantage, principalement sur les tabacs, sur les sels des magasins de la marine, et sur les marchandises confisquées par la douane, comme prohibées en France, vous seriez réduit à la nécessité de faire emporter toutes ses choses en Angleterre, ou de les vendre pour l'étranger; car personne ne pourrait les acheter pour être consommées en France, d'après nos lois prohibitives, que j'ai cités dans ma consultation.

Enfin elles peuvent être détériorées maintenant à un point que vous auriez peut-être de la peine à trouver des acheteurs en aucun lieu et pour aucun prix, après avoir fait de grandes frais de transport.

Je pense qu'il n'y a rien à diminuer du prêt fait sur les vins, ni des droits sur les sels en *entrepôt*, dûs à l'extraction des salines.

Mais il n'en est pas de même des droits de consommation des denrées coloniales, qui ne sont dûs qu'à la sortie de l'*entrepôt* pour la consommation, et qui, comme je l'ai prouvé dans ma consultation, n'ont dû être perçus pour le Gouvernement Britannique que jusqu'au traité de paix du 30 Mai 1814; il est certain, d'ailleurs, que la France étant couverte de troupes étrangères, le commerce est demeuré dans une grande stagnation, et qu'il est très probable que les 10,000 francs que j'applique à cet article, surpassent la recette effective.

Enfin l'évaluation de la corvette ayant été portée par les exports Anglais à 170,000 ou 180,000 liv. c'est le *minimum* en lieu du *maximum* qu'il faut prendre, et ne compter les 17,000 l. sterling, qu'au cours de 20 francs, comme je l'ai encore démontré dans ma consultation, ainsi que dans l'état comparatif que je fis, après le grand projet de note en réponse aux deux notes officielles de M. Lechat.

Dans mon opinion, voilà Monsieur, les meilleures bases que vous puissiez adopter pour le nouveau projet d'arrangement, que je crois encore avantageux au Gouvernement Britannique.

J'ai l'honneur, avec une haute considération, Monsieur,

Votre très obeissant serviteur,

(signé) *Goddard*,

Consul Légal de l'Ambassade Britannique.

Appendix, (N^o 1.)

COPIES of Memorial of Deputy Commissary-General Ogilvie, to the Lords of the Treasury;—of Report of the King's Proctor thereon, dated 23d July 1816;—of Letter from the Commissary in Chief, of 24th July 1816, with copy of a Letter from Mr. Ogilvie, covering his Memorial;—and, of Treasury Minute, dated 26th July 1816, thereon.

MEMORIAL of Deputy Commissary-General Ogilvie, to the Lords of the Treasury.

To the Right honourable the Lords Commissioners of His Majesty's Treasury;

The Memorial of James Ogilvie, Deputy Commissary-General of the Army, late under the command of Field Marshal his Grace the Duke of Wellington, in the Peninsula and France,

Most respectfully sheweth,

THAT your Memorialist, with a boat's crew under his orders, on or about the 16th March 1814, captured in the river Garonne, the American corvette, called the Requin, of twenty-two guns and fifty-two men; and having actually on board at the time of the capture an officer, twelve men, and a boy, the remainder of the crew having gone on shore not an hour before the capture; and that the Requin was the day before forty-five miles down the river, near the sea; and had run up the river to avoid having her guns taken out of her by a French gun-boat, for the purpose of supplying the French fort Patte, in the Gironde.

That your Memorialist at the time of making this capture was on duty at a distance from the army, and there was neither a British soldier in sight, or a British ship in the river, or on that part of the coast, at the time of the capture; and the Requin was actually manned and armed, and preparing to put to sea when your Memorialist bore down upon her, boarded, and carried her.

That your Memorialist immediately officially reported the capture to Marshal Sir William Carr Beresford, under whose immediate orders your Memorialist was at that time serving, and who forwarded the said report to Field Marshal his Grace the Duke of Wellington.

That your Memorialist also, on the day of the capture, personally reported to Lieutenant-General Lord Dalhousie, then actually commanding at Bourdeaux, the circumstances of the capture, and introduced to him the officer who commanded the ship as his prisoner.

That his Grace the Duke of Wellington, when afterwards at Bourdeaux, and upon a full statement of the circumstances, was pleased to pronounce that the capture was as fair a one as ever was made.

That the value of this ship forms an item in the account of the captured property at Bourdeaux.

That your Memorialist has been informed that the balance of such captured property is to be granted to the navy for their co-operation with the army, and the aid afforded in capturing the naval part of such property; and that a warrant is now preparing to grant the said balance, viz. 116,000*l.* to Admiral the Right honourable Lord Viscount Keith for distribution.

That your Memorialist having by his own personal exertion captured the said vessel, and thereby secured her as part of the said captured property, as the said ship would otherwise have escaped, as there was at that moment no naval force off the mouth of the river to intercept her, has been advised, and humbly conceives, that he has a just claim and right to such capture.

Your Memorialist also humbly conceives, that unless such his right is recognized in the said grant and warrant, that he may be prejudiced, and possibly be ultimately wholly defeated in such his just claim.

Your Memorialist therefore humbly prays, that provision may be made in the said warrant for securing to your Memorialist the value of the said ship so captured by him, as part of the captured property in respect of which such balance has arisen and grant is to be made, subject to the share and claim thereon of Admiral the Right honourable Lord Viscount Keith, as Admiral commanding in chief.

(signed) *J. Ogilvie, D. C. G.*

THE Lords Commissioners of His Majesty's Treasury are pleased to refer the foregoing memorial to His Majesty's Procurator General, who is to consider the same and report to my Lords a state of the case, together with his opinion what is fit to be done therein.

Whitehall, Treasury Chambers, }
the 10th day of July 1816. }

(signed) *Geo. Harrison.*

COPY of Report of the King's Proctor on Memorial of Deputy Commissary-General Ogilvie, that provision may be made for securing to him the value of an American Corvette captured by him in the river Garonne.

To the Right honourable the Lords Commissioners for executing the office of Lord High Treasurer of the United Kingdom of Great Britain and Ireland;

May it please your Lordships,

IN obedience to your Lordships commands, signified to me by George Harrison, esquire, one of your Lordships secretaries, I have perused the annexed memorial of James Ogilvie, esquire, Deputy Commissary-General of the army late under the command of Field Marshal his Grace the Duke of Wellington, in the Peninsula and France, setting forth, That the Memorialist, with a boat's crew under his orders, on or about the 16th March 1814, captured in the river Garonne the American corvette called the Requin, of twenty-two guns and fifty-two men, and having actually on board at the time of the capture an officer, twelve men, and a boy, the remainder of the crew having gone on shore not half an hour before the capture; and that the Requin was, the day before, forty-five miles down the river, near the sea, and had run up the river to avoid having her guns taken out of her by a French gun-boat, for the purpose of supplying the French fort Patte in the Gironde: That the Memorialist, at the time of making this capture, was on duty at a distance from the army, and there was neither a British soldier in sight, nor a British ship in the river, or on that part of the coast, at the time of the capture; and the Requin was actually manned and armed, and preparing to put to sea, when the Memorialist bore down upon her, boarded, and carried her: That the Memorialist immediately officially reported the capture to Marshal Sir William Carr Beresford, under whose immediate orders the Memorialist was at that time serving, and who forwarded the said report to Field Marshal his Grace the Duke of Wellington: That the Memorialist also, on the day of the capture, personally reported to Lieutenant-General Lord Dalhousie, then actually commanding at Bourdeaux, the circumstances of the capture, and introduced to him the officer who commanded the ship as his prisoner: That his Grace the Duke of Wellington, when afterwards at Bourdeaux, and upon a full statement of the circumstances, was pleased to pronounce that the capture was as fair a one as ever was made: That the value of this ship forms an item in the account of the captured property at Bourdeaux: That the Memorialist has been informed, that the balance of such captured property is to be granted to the navy for their co-operation with the army, and the aid afforded in capturing the naval part of such property, and that a warrant is now preparing to grant the said balance, viz. 116,000 *l.* to Admiral the Right honourable Lord Viscount Keith for distribution: That the Memorialist having by his own personal exertion captured the said vessel, and thereby secured her as part of the said captured property (as the said ship would otherwise have escaped, as there was at that moment no naval force off the mouth of the river to intercept her), has been advised and humbly conceives, that he has a just claim and right to such capture; the Memorialist also humbly conceives, that unless such his right is recognized in the said grant and warrant, that he may be prejudiced, and possibly be, ultimately, wholly defeated in such his just claim: The Memorialist therefore humbly prays, that provision may be made in the said warrant for securing to your Memorialist the value of the said ship so captured by him, as part of the captured property in respect of which such balance has arisen and grant is to be made, subject to the share and claim thereon of Admiral the Right honourable Lord Viscount Keith, as Admiral commanding in chief.

And your Lordships having been pleased to refer the said memorial to me to consider the same, and report to your Lordships a state of the case, together with my opinion, what is fit to be done therein, I laid the same before His Majesty's Advocate General, and attended and consulted with him on the subject, and under his advice I do most humbly report to your Lordships, that it might be material

to be ascertained, if it was necessary to decide positively on the interest of this vessel, first, whether the resolution of the House of Commons purports to grant the sum specified as the proceeds of booty, including that taken at Bourdeaux? and, secondly, whether this ship was part of the booty there taken? There is reason to think that doubts exist on this point, and in the mind of the Duke of Wellington. If these points were established, and the value of the ship could be received by His Majesty's Government, the Petitioner would still have to show on what grounds he is to be rewarded, to the exclusion of the other British forces at Bourdeaux. As the matter now stands, as the sum intended to be granted to the navy has been declared, and payment is to be made, as it is presumed, not specifically out of the proceeds of any booty, including that taken at Bourdeaux, but from funds provided by Parliament, it would not be expedient to insert any clause in the warrant relative to this claim, or to defer the grant on that account.

All which I do most humbly submit to your Lordships wisdom.

Doctors Commons, }
23d July 1816. }

(signed) *Iltid Nicholl.*

COPY of Letter from the Commissary in Chief, of 24 July 1816, with Copy of a Letter from Mr. Ogilvie, covering his Memorial.

Sir,

Commissary in Chief's Office, 24th July 1816.

HEREWITH I have the honour to enclose copy of a letter from Deputy Commissary-General Ogilvie, covering a Memorial addressed to the Lords Commissioners of His Majesty's Treasury, setting forth a claim on account of the capture of an American Corvette, in the Garonne, in March 1814.

I have the honour to be, Sir,

George Harrison, Esq.
&c. &c. &c.

Your obedient servant,

(signed) *J. C. Herries.*

Sir,

91, Wimpole street, 14th July 1816.

I HAVE the honour to lay before you the copy of a memorial which I have addressed to the Lords Commissioners of His Majesty's Treasury, and I earnestly request you will be pleased to afford it your support at their Lordships Board.

The Duke of Wellington supported the claim of the army, and Lord Melville the memorial of the navy, and I trust you will feel disposed to lend me your aid on this occasion.

During eight years war with the armies commanded by the late Sir John Moore, and by the Duke of Wellington, I pretend to have done my duty with vigour and economy; and to have exerted every effort, both of my body and of my mind, to promote the success of the operations of the army, and the interests of my country.

I pretend also to have in some degree rendered the British commissariat as distinguished for its justice, by great attention to the claims of the Peninsular peasantry, as our army was for the conduct of its generals and its own gallantry.

If therefore, Sir, you believe this (and I can appeal to every intelligent officer of any rank who has served in the field for the truth of it), you will not, I am certain, fail to give my just claim your cordial support.

To J. C. Herries, Esq.
Commissary in Chief.

I have, &c.

(signed) *J. Ogilvie, D. C. G.*

To the Right Honourable the Lords Commissioners of His Majesty's Treasury;

The Memorial of James Ogilvie, Deputy Commissary-General of the Army, late under the command of the Duke of Wellington, in the Peninsula and France

Most respectfully sheweth,

THAT your Memorialist, with a boat's crew under his orders, on or about the 16th March 1814 captured in the river Garonne the American corvette called the "*Requin*," of twenty-two guns and fifty-two men; and having actually on board at the time of capture, an officer, twelve men, and a boy, the remainder of the crew having gone on shore but an hour before the capture; and that the "*Requin*" was the day before forty-five miles down the river, to avoid having her guns taken out of her

14 July 1816.

1 Enclosure.

her by a French gun-boat, for the purpose of supplying the French port Patte in the Gironde.

That your Memorialist, at the time of making this capture, was on duty at a distance from the army, and there was neither a British soldier in sight, nor a British ship in the river, or on that part of the coast, at the time of the capture; and the "*Requin*" was actually manned and armed, and preparing to put to sea, when your Memorialist bore down upon her, boarded, and carried her.

That your Memorialist immediately reported the capture officially to Marshal Sir William Carr Beresford, under whose immediate orders your Memorialist was at that time serving, and forwarded the said report to his Grace the Duke of Wellington.

That your Memorialist also, on the day of the capture, personally reported to Lieutenant-General Lord Dalhousie, then actually commanding at Bourdeaux, the circumstances of the capture, and introduced to him the officer who commanded the ship as his prisoner. That his Grace the Duke of Wellington, afterwards at Bourdeaux, and after a full statement of the case, was pleased to pronounce that the capture was as fair a one as ever was made.

That the value of this ship forms an item in the account of the captured property at Bourdeaux.

That your Memorialist has been informed, that the balance of said captured property is to be granted to the navy for their co-operation with the army, and the aid afforded in capturing the naval part of such property, and that a warrant is now preparing to grant the said balance, viz. 116,000 *l.* to Admiral the Right honourable Viscount Keith for distribution.

That your Memorialist having by his own personal exertions captured the said vessel, and thereby secured her as part of the said captured property; as the said ship would otherwise have escaped, and as there was at that time no naval force off the mouth of the river to intercept her, has been advised and humbly conceives that he has a just claim and right to such capture.

Your Memorialist also humbly conceives, that unless such his right is recognized in the said grant and warrant, that he may be prejudiced, and possibly ultimately wholly defeated in such his just claim.

Your Memorialist therefore humbly prays, that provision may be made in the said warrant for securing to your Memorialist the value of the said ship so captured by him, as part of the captured property, in respect of which such balance has arisen, and grant is to be made, subject to the share and claim thereon of Admiral the Right honourable Lord Viscount Keith, as admiral commanding in chief.

A true copy,

(signed) *J. Ogilvie, D. C. G.*

COPY Treasury Minute, dated 26th July 1816.

READ Report of the King's Proctor, dated 23d instant, on Memorial from Commissary Ogilvie, praying to share in the proceeds of the American corvette "*Requin*," captured in the river Garonne, wherein the King's Proctor reports that it will not be expedient to insert any clause in the warrant relative to this claim, or to defer the grant on that account.

11,938.

Read also a letter from the Commissary in Chief, with copy of a letter from Deputy Commissary-General Ogilvie, covering his memorial, praying special grant of the proceeds of the *Requin*.

11,978.

Write to the party, acquainting him that my Lords cannot comply with his request.

Appendix, (N° 2.)

COPY Treasury Minute, dated 11th November 1817, upon a Memorial of Mr. Ogilvie, respecting the "Requin."

19,690.

Memorial presented to the Treasury in Oct. 1817.

READ Memorial from Deputy Commissary-General Ogilvie, praying for further remuneration on account of the capture of an American corvette in the Garonne in March 1814.

My Lords resume the consideration of the letter of Sir H. Bunbury, of the 10th August 1814, transmitting a letter from his Grace the Duke of Wellington, with sundry papers and documents relative to the property captured by the army under his command, among which is the schedule of the American vessels taken at Bourdeaux, signed by Mr. Ogilvie and Mr. Eckersley, comprizing the "Le Requin" among other vessels, and upon which Sir Henry Bunbury stated, that the papers, in regard to those vessels, were under the consideration of the Court of Admiralty, who would determine the legality of this part of the claim of the Duke of Wellington's army.

My Lords also resume the consideration of the Report of the King's Proctor, of the 23d July 1816, upon an application of Mr. Ogilvie, in regard to this vessel, in which, among other observations, the King's Advocate states that the Petitioner would have to show upon what grounds he claims to be rewarded, to the exclusion of the other British forces at Bourdeaux.

Upon a consideration, therefore, of all these papers, my Lords are pleased to direct Mr. Ogilvie's present Memorial to be returned to him, acquainting him that the particulars stated therein appear to be very inaccurately represented, or at least that my Lords do not admit the authority upon which those statements are made; and they therefore desire he will explicitly state by whom he was informed, upon proceeding to Bourdeaux, that he should have the ship Requin; as my Lords gave no authority for such an assurance, and expressly stipulated that he and Mr. Pennel jointly should receive five per cent as commission upon such property as they might recover, without adverting in the least to the ship in question; they also conceive he must have made a mistake in stating that he had paid over the sum of 93,000 *l.* to the British Commissioner at Paris, in addition to the sum of 17,000 *l.* which he estimates as the value of the ship; as the whole sum paid over, inclusive of the commission of five per cent was, at the rate of 24 francs to the pound sterling, less than 92,000 *l.* My Lords are also totally at a loss to understand upon what principle he assumes that he might have retained in his own hands the estimated value of this vessel, or upon what grounds he calls the order an unexpected one, which directed him to pay the whole amount received to Mr. Drummond. In short, as my Lords do not agree with his statement of the circumstances within their knowledge, they naturally doubt the statements of circumstances of which they have no cognizance, nor can they admit his statement of the opinion of any other persons whatever, however accurately quoted, to influence their decision in a matter of this description. The only ground upon which he could have the slightest claim for a grant of any portion of the value of this vessel, would be if the nature of the capture was such as to give him any rights separately from the army in which he was serving; and if that army was entitled or could have claimed to share in the capture, in case the vessel had been condemned and proceeded against as prize; my Lords do not think that he has any separate claim for remuneration, since he has shared in the sum granted by Parliament to the army as an equivalent for all prize or booty to which they might otherwise be entitled; and their Lordships have now before them a schedule of property captured at Bourdeaux, signed by himself and Mr. Eckersley, in which this vessel is expressly included, and which is accompanied by a letter from his Grace the Duke of Wellington, claiming the property for the army; and it is also stated in some of the papers accompanying this letter, that the claim of the army to the vessels captured, was under the consideration of the Court of Admiralty; it would therefore clearly appear that neither himself nor the army did at that time consider he had any exclusive claim to this vessel; but if he will present to their Lordships a Memorial, disincumbered of all the statements having no reference whatever to the merits of the question, and detailing only the facts of the capture, and the grounds upon which he supposes himself to have a right separately from that of the army with which he was serving, supported by any documents which he may think it necessary to produce, my Lords will have the same under consideration.

Copies of papers referred to, N° 3.

Appendix, (N° 3.)

LETTER from Messrs. Ogilvie and Eckersley to his Grace the Duke of Wellington, (inclosed in his Grace's Dispatch of the 27th July 1814,) reporting their proceedings relative to American Ships captured at Bourdeaux.

My Lord Duke,

Bourdeaux, July 10th, 1814.

WE beg to report to your Grace, that we have transmitted to England all the papers relative to the American ships captured at Bourdeaux, to be laid before the Admiralty Court, and it is our intention to take security from the owners for the delivery of them, should they be condemned as prize to the army.

All that can be arranged at present by us, in the other matters, has been already done, and we wait your Grace's orders for our further proceedings.

Lieutenant-General the Earl of Dalhousie has suggested the propriety of naming a representative, or leaving a proper person in charge of the property; from which we infer that it is his Lordship's intention that we should leave this place with the last part of the army; but we wish to be honoured with your Grace's orders before we leave Bourdeaux.

We have the honour to be,

Your Grace's most obedient humble servants,

(signed) *J. Ogilvie.*

N. Eckersley.

To Field Marshal his Grace the Duke of Wellington,
&c. &c. &c.

ESTIMATE of the Value of American Ships captured at Bourdeaux on the 12th March 1814, and reported upon to the Court of Admiralty, in England.

No. of Voucher.		£.	s.	d.
A.	Ship of war - - - - -	18,000	-	-
B.	Merchant ships - - - - -	4,048	-	-
		<u>£. 22,048</u>	-	-

(signed) *J. Ogilvie.*

N. Eckersley.

N. B. This sum is the sixth item in the Schedule annexed to the Memorial presented to Parliament on the 16th June 1815 by Sir William Robe, Sir Colin Campbell, and Mr. Campbell, the agent for the army.

American built Ships for the Merchant Service, and taken Possession of by the British Army.

NAMES.	No. of Tons.	Remarks.
Nuestra Señora del Carmen - - -	236	
Courier d'Elbing - - - - -	200	
The Jane - - - - -	70	
Total Tonnage - - - - -	506	

Estimated at eight pounds per ton, equal to - - - £.4,048.

(signed) *N. Eckersley.*

J. Ogilvie.

American Ships of War.

Le Requin, Corvette, pierced for 22 guns, and 16 on board, coppered and copper-fastened, Stores, Arms and Tackle complete.

Estimated at - - - - - £. 18,000.

(signed) *N. Eckersley.*
J. Ogilvie.

COPY of a Letter from D. C. G. Ogilvie, enclosing Certificate from Head Quarters of British Army, from Major Eckersley.

Sir, 75, Seymour Place, Bryanstone-square, 20th Feb. 1818.

I BEG to transmit to you a certificate which I have received from the head quarters of the British army, from Major Eckersley, assistant quarter-master-general, and late commissioner for the property captured by the British and Portuguese armies in France; and I request you will be pleased to direct the same to be annexed to and considered as a further certificate in verification of my memorial to the Lords Commissioners of His Majesty's Treasury.

I have the honour to be, Sir,

Your most obedient and humble servant,

To William Harrison, Esq. &c. &c. &c. (signed) *J. Ogilvie, D. C. G.*
Treasury Chambers.

Paris, 12th February 1818.

HAVING been one of the commissioners to ascertain the value of the shipping and other property which was captured at Bourdeaux, by a division of the British and Portuguese army in March 1814, I feel myself enabled, from a perfect recollection of the circumstances which came to my knowledge, as well as of the general impression of the army at that time, to say, without hesitation, that the capture of the Requin, French corvette, in the Garonne, was owing entirely to the very spirited conduct and judgment of Mr. Deputy Commissary-General Ogilvie, under whose entire control the vessel remained during the whole period of my residence there as a commissioner; nor was that vessel included in the general estimate of booty carried to the profit of the army; consequently, whatever compensation was made to it on account of such booty, could not have any reference to the value of that ship, the proceeds of which I always considered to belong to him as captor, and that the British Government would convey it to him in the manner usual in such cases.

(signed) *N. Eckersley,*

Major, Assistant Quarter-Master-General, late one of the Commissioners for the property captured by the British and Portuguese army in France.

COPY Treasury Minute, dated 17th March 1818.

3.450.

READ a letter from Deputy Commissary-General Ogilvie, with a certificate from Major Eckersley, assistant quarter-master-general in the British army, and late commissioner for property captured by British and Portuguese armies in France.

Transmit to the King's Proctor for his information, with reference to the former papers on this subject, which are now before him.

(Appendix, N° 4.)

KING'S PROCTOR on Memorial of Mr. Ogilvie, praying grant of the whole or part of £. 17,000, estimated value of the "Requin."

To the Right Honourable the Lords Commissioners of His Majesty's Treasury;

The humble Memorial of James Ogilvie, Esq. Deputy Commissary-General of the British Army, and principal commissary of the corps under the command of the Right honourable Rowland Lord Hill, K. G. C. B. in the Peninsula, Belgium, and France.

Sheweth,

THAT some time since your Memorialist presented a memorial to your Lordships, praying, that, under the circumstances therein set forth, you would be pleased to recommend to His Royal Highness the Prince Regent to grant to him the whole,

or

or such part of the sum of 17,000 *l.* the estimated value of the American corvette *Requin*, captured in the *Garonne* on or about the 16th of March 1814, as to your Lordships should seem just.

That in reply to this Memorial, a letter was received by your Memorialist from George Harrison, Esquire, dated the 17th of November last, in which, amongst other things, he states, that if your Memorialist would present a memorial to your Lordships, detailing only the facts of the capture, and the grounds upon which your Memorialist concludes himself to have a right, separately from that of the army with which he was serving, and supported by any documents which your Memorialist might think it necessary to produce, your Lordships would take the same under your consideration; your Memorialist will therefore, in obedience to these directions, proceed to state the facts, which he humbly trusts will satisfy your Lordships that he is exclusively entitled to remuneration for services in which the army had no participation.

Soon after the allied armies entered Bourdeaux, in the month of March 1814, your Memorialist being then attached as Deputy Commissary-General to the centre column of the British army commanded by Lord Beresford, went to the Bureau de la Marine and demanded and received from some of the clerks who remained (the Commissary having fled), a return of all the armed vessels then in the river. Having obtained this information, on the 13th day of the said month of March, your Memorialist fitted out the long boat of the dock-yard, and having hired ten or twelve French seamen as a crew, proceeded to examine all the merchantmen at Bourdeaux, taking down their names, and such other descriptive particulars as were considered necessary to enable him to make out satisfactory returns.

About two o'clock P.M. on the 17th, having finished this duty at Bourdeaux, your Memorialist was informed by Mr. Savery, a French subject whom he had engaged to act as his clerk, that there were generally some vessels lying at the anchorage off Lormont, and suggested the propriety of looking at them, if they could get down the river safely. At this time the left bank of the *Garonne* was occupied by the British, though there was not a man further down than the city of Bourdeaux; the right bank was entirely in the possession of the French; videts of French infantry, gens d'armes, and a corps of irregular cavalry, being then stationed and in the vicinity of Bourdeaux, and a corps of cavalry, commanded by a Monsieur Floreau, quartered in the village of Lormont. Off this village the *Requin*, which forms the subject of this memorial, had come to anchor early that morning, with an English merchant-brig, captured by her, under her stern, and in her custody; having been chased up the river by French gun boats, who wished to take her guns out and mount them on Fort Paté, in the centre of the *Gironde*, the river formed by the confluence of the rivers *Garonne* and *Dordagne*. One of these gun-boats was taken the next day, as your Memorialist best recollects, by a detachment of the King's German Legion, and this gun-boat, and the money found on board of her, were given to that detachment by order of the Duke of Wellington and Lord Dalhousie.

At about two o'clock on the 17th your Memorialist rowed down the river, and having arrived at the angle of the river and near the anchorage, the crew of the boat observed to your Memorialist that there was a ship of war, your Memorialist therefore deemed it prudent to row off to get out of reach of her guns; and having done so, he shortly afterwards observed a man walking on the right side of the river, who, upon inquiry, informed him that the vessel was the *Requin*, and commanded by Captain Perou of the legion of honour; upon which your Memorialist instantly asked him if he would deliver a message to Captain Perou from him, as he was come down to take her? he said no, I will not; your Memorialist then said, will you if you are well paid? he said, provided your Memorialist will put what he had to say in writing, and he was paid well, he would undertake to deliver it; that your Memorialist then tore a blank leaf out of a pocket-book and wrote the following summons, viz.

Captain Perou,

Voulez-vous vous rendre à moi,

J. Ogilvie, Deputy Commissary-General.

Your Memorialist then ordered the men to row towards the shore, and going himself to the head of the boat, gave the man the note, repeating the promise of paying him well, and immediately rowed off; but waited at a little distance for the answer to the summons, all the men and your Memorialist standing up in the boat

to make as great a show of strength as possible ; that after your Memorialist had waited about half an hour a man was discovered leaping into a boat with some others and putting off from a creek overhung with trees, a little above the boat in which your Memorialist was ; your Memorialist ordered the men to row on the boat, and coming up with it, one of the men in your Memorialist's boat observed that the man with the bundle under his arm was the gunner of the ship of war, upon which your Memorialist ordered him to come into his boat, and on his doing so, told him he was his prisoner, and desired he would tell your Memorialist how many men he had left on board, to which he replied, that he did not know ; and it was not till your Memorialist had used many threats, that he said he did not think there were twenty ; your Memorialist immediately determined to attempt to capture her by boarding, and accordingly took the helm of the boat into his own hand, and putting it well down gave the boat's side to the stream, the tide having by this time turned ; your Memorialist then endeavoured to animate the crew and encourage them to row hard, and shortly afterwards the boat approached the *Requin* undiscovered, and when she had got alongside your Memorialist went to the boat's head, laid hold of a rope, and hollowed out (*voulez-vous vous rendre ou vous battre*) ; at this time a man on board, hearing the boat strike, seized the rope and endeavoured to haul it from him ; but your Memorialist, without waiting for or receiving an answer, boarded her alone, and took his stand against the capstan ; then seizing an axe he ordered those on board, consisting of one officer, two mates, eleven men and one boy, instantly into his boat, which order they obeyed, with the exception of the American mate, who wished to go down for his trunk. At the time your Memorialist leaped on deck, one of the crew clapped his hands and cried out, "*Voilà les Anglais, nous sommes perdu !*" and ran (as your Memorialist thought for arms to shoot him) towards the cabin, on which the officer came up without his hat, and your Memorialist, in a loud and stern voice, desired him not to advance if he had not surrendered ; upon which he said, " I surrender ;" and your Memorialist replied, " then if you have surrendered, order this man" (pointing to the American mate) " to get into my boat immediately, I pledge my honour for his trunk ;" he ordered him and another man, who was stubborn, to get into your Memorialist's boat, which they accordingly did ; your Memorialist then desired Mr. Savery to shove off, and give the men over to the first guard, and to bring a guard to keep possession of the ship ; when the boat went off it was past three o'clock, and Mr. Savery did not return until it was nearly dark, and during his absence your Memorialist walked the deck with the officer, who often pressed him to go down and take some refreshment, but he not only refused to do so, but refused to allow him to go below ; the hatches were open, and your Memorialist was apprehensive that there might be men below, and that he should be put to death, particularly after the officer had informed him that he had not received any summons, and that he was eating his dinner when he heard your Memorialist ask him whether he would fight or surrender ; and added, that they were completely surprised, and were busy in hauling some sails from one end of the ship to the other when your Memorialist leaped on deck.

When the guard, consisting of a serjeant and twelve men, arrived, your Memorialist got into the boat with the officer, and returned to Bourdeaux, and on arriving at Lord Dalhousie's quarters, brought his prisoner into his Lordship's presence.

Your Memorialist briefly stated the circumstances attending the capture, but referred Lord Dalhousie to the officer that he might tell his own story ; on which occasion there were several field officers present, and particularly the Honourable Colonel Frederick Ponsonby, who commanded the British cavalry, and Lord Dalhousie, by the latter of whom many questions were asked of the prisoner respecting what had passed.

To Lord Dalhousie and Colonel Ponsonby your Memorialist begs to refer your Lordships for a verification of this memorial.

Your Memorialist reported this capture to Lord Beresford, not as a capture made by the army, nor as a matter in which the army could have any concern, but because, being under his Lordship's orders, he deemed it his duty to give him a full account of all his proceedings : your Memorialist always considered it as a capture effected by himself alone, and on which no other claim could equitably attach.

Your Memorialist begs leave further to state, that the *Requin* was an American ship of war, fully armed and equipped, and the value of her, as paid into the hands of the British Commissioner of Deposits at Paris, amounts to the sum of 17,000*l.* ; and he humbly hopes that your Lordships will think that such a service ought not

to go unrewarded. Your Memorialist at this time was serving as deputy commissary-general to the army; he received no orders whatever as to the capture of this vessel; but finding an enemy within his reach, he deemed it his duty to his country to attempt the capture at all hazards.

Your Lordships cannot fail to have observed the imminent peril which your Memorialist encountered in this undertaking, with a single boat manned with Frenchmen only, who were unarmed, on whose co-operation it was impossible for him to place the slightest reliance: he attacked a vessel of war, in which success, except by surprize, was hopeless, and defeat almost certain destruction; assistance of any sort was neither within reach, or indeed within expectation; for not a single British soldier was in sight, or within any distance so as by possibility to have afforded aid in any emergency. In this capture, therefore, the army in no degree whatsoever co-operated, and still less so the navy; for at the time of the capture there was not a single British vessel of war either in sight or on that part of the coast. Your Memorialist therefore humbly submits, that to his sole exertions is to be attributed the capture of this valuable prize; and begs further to observe, that had he not seized that opportunity the vessel would never have fallen into British possession; for, shortly before the capture, no less than twenty-seven sail of American vessels had escaped out of the Garonne, and the Requin was at the time of capture actually preparing to put to sea the next tide.

In praying your Lordships to remunerate these services, your Memorialist apprehends he is sanctioned by strict analogy to all former precedents. Your Memorialist submits, that this vessel is a droit of admiralty, and that had the usual course been adopted she ought to have been condemned to the Crown in the high Court of Admiralty, as a capture made at sea by a non-commissioned captor: the legal title to the ship would have vested in the Crown; but upon all similar occasions His Majesty has been pleased very liberally to reward the captors out of the proceeds of the property; and your Memorialist humbly hopes that your Lordships in your wisdom will think the service he had the good fortune to perform well deserves your favourable recommendation. And in verification of what is hereinbefore set forth, your Memorialist prays leave to refer to the exhibits hereto annexed, marked (A.) and (B.)

Your Memorialist therefore humbly prays, that your Lordships will take the premises into your consideration, and that you will be pleased to recommend His Royal Highness to grant the aforesaid estimated value of the said corvette, or such proportion thereof, to your Memorialist, as he shall in his wisdom deem meet.

12th February 1818.

(signed) *J. Ogilvie.*

(A.)

London, Feb. 10th, 1818.

Dear Ogilvie,

I HAVE read your memorial, and perfectly well recollect the circumstances under which the capture was made; with respect to the relative position of the French and English troops, I can, of my own knowledge, say that they are correctly stated in the memorial; and as to the facts attending the capture, they accord exactly with the statement which was given at the time, and I have no doubt of their truth. It was my opinion, and indeed that of all who heard the circumstances, that you were entitled to the profits of this capture; and that it required a great deal of courage and enterprise, the success attending it not justifying your exposing yourself so much.

Yours ever,

(signed) *F. Ponsonby,*

J. Ogilvie, Esq.

Colonel and Lieut-Col. 12th Dragoons.

(B.)

APPEARED personally James Ogilvie, of No. 75, Seymour Place, Bryanston-square, in the county of Middlesex, Esquire, and referring to the memorial hereto annexed, made oath, that the whole series or contents of the said memorial to which he hath subscribed his name, were and are true according to the best of the deponent's knowledge and belief.

(signed) *J. Ogilvie.*

12th day of February 1818:

The said James Ogilvie was duly sworn to the truth of this affidavit.

Before me, *Herbert Jenner, Sur.*

COPY of Treasury Minute, dated 24th February 1818.

3,012.

READ memorial of Commissary Ogilvie, dated 12th instant, further praying grant of the whole or part of the sum of 17,000 *l.* the estimated value of the American corvette "Requin," captured on the Garonne in 1814.

My Lords resume the consideration of the memorial of Mr. Ogilvie, of the upon this subject, and read the minute of this Board of the 11th November last thereon.

Transmit all the papers, together with copy of the said minute of the 11th November to the King's Proctor, and desire that he will consider the same, and report to my Lords thereon, with reference to the principle laid down in the same minute, upon which principle only, it appears to my Lords, Mr. Ogilvie can have any claim.

King's Proctor on Memorial of Mr. Ogilvie, dated 14th April 1818, praying grant of the whole or part of £. 17,000 estimated value of the "Requin."

To the Right honourable the Lords Commissioners for executing the Office of Lord High Treasurer of the United Kingdom of Great Britain and Ireland;

May it please your Lordships,

I WAS duly honoured with Mr. Harrison's letter of the 9th of March last, signifying to me, that your Lordships having had under your consideration the memorial of Commissary Ogilvie, of the 12th of February, praying grant of the whole or part of the sum of 17,000 *l.* the estimated value of the corvette Requin, captured on the Garonne in 1814; and that your Lordships having resumed the consideration of Commissary Ogilvie's former memorial on the same subject, he had it in command to transmit all the papers, together with copy of the minute of your Lordships Board, of the 11th of November last, on this subject; and to desire that I would consider the same, and report to your Lordships thereon, with reference to the principle laid down in the said minute, upon which principle only, it appears to your Lordships, Mr. Ogilvie can have any claim.

In obedience to such your Lordship's commands, I have perused and considered the said memorial and the several other papers transmitted, and have laid the same before His Majesty's Advocate General, and attended and consulted with him in respect thereto; and under his advice I do most humbly report to your Lordships, That the memorial of Mr. Commissary Ogilvie contains a statement of facts relating to the seizure of the Requin, that may be considered as highly meritorious with respect to the personal enterprize by which it was effected, and might probably have obtained for him some distinguishing remuneration from the Commander in Chief, if the distribution of this part of the booty had been made separately and with reference to the rules of military expeditions only; as it appears from what is stated in the memorial now referred, of the 11th February 1818, respecting the grant of a gun-boat, &c. to a detachment of the King's German Legion, not to have been unusual to give special articles of booty or special interests therein to the particular takers. But His Majesty's Advocate is of opinion, that this ship cannot legally be considered in any other light than as part of the general booty; and even if it was to be assimilated to cases of ships seized as droits of admiralty, your Lordships have in such cases also directed the rewards given to parts of garrisons so seizing as non-commissioned persons, to be divided amongst the whole garrison. The only ground on which Mr. Commissary Ogilvie can be entitled to prefer any private claim on his own behalf, appears to be, that consideration of special personal enterprize which has been before adverted to; whether any such consideration will be deemed by your Lordships fit to be applied to this case, and in what extent, is humbly submitted to your Lordships to determine. It is proper further to observe, with respect to the statement in some of the papers, that the claim of the army was under the consideration of the Court of Admiralty; that there are not any proceedings depending in the Court of Admiralty relative to this ship; and that no such proceedings were instituted; as it was advised, that the seizure was so intimately connected with the general booty, as the act of an army acting without any connection with maritime operations, that it would not be a proper case to be brought to adjudication in the Court of Admiralty, and more particularly as to the distinction by which it was attempted

attempted to show that this was American property, and on that account distinguishable from the general booty; that there was no evidence on that point, if such a distinction could have availed.

All which I do most humbly submit to your Lordships wisdom.

(signed) *Iltid Nicholl.*

Doctors Commons, 14th April 1818.

Appendix (N^o 5.)

LETTER from D. C. G. Ogilvie, furnishing an Explanation relative to the Capture of the Ship "Requin."

Sir, 75, Seymour Place, Bryanston-square, 5th May 1818.

I HAVE the honour to acknowledge the receipt of your letter of the 17th November, returning to me my memorial to the Lords of the Treasury, that I might disincumber it of all other matter than the bare detail of the facts of the capture of the ship, for which I prayed for remuneration; accordingly I sent in a subsequent memorial containing a brief statement; but it has since appeared to me advisable to offer some additional observations for their Lordships consideration.

I do most solemnly assert that there is not a single averment contained in any of my representations to their Lordships which is not founded in the strictest truth; though it is possible that from the lapse of time, and the hurry and confusion in which many of these affairs were transacted, positive truth could not now be obtained. I am asked by whom I was informed, upon proceeding to Bourdeaux, that I should have the ship Requin; I answer, that in the interviews I then had with Mr. Herries, at that time Commissary in Chief, I was told by him that if I managed the business satisfactorily, the ship I had captured should not be taken from me.

I do not mean to state that this was an official promise, or that Mr. Herries assumed to himself the power of disposing of this property; but looking to the high rank that gentleman held in the department, I did consider this observation as a clear indication of his own opinion, an opinion which I apprehended would have the greatest weight with His Majesty's Government.

In full confidence that my claims would be thus powerfully supported, I mentioned the circumstance to the British Ambassador, and to his Excellency's Counsel.

With respect to the remuneration for the duties to be performed at Bourdeaux, it was stated in my written orders, that the British Consul and myself were to have five per cent between us on such property as we might recover, as a commission, and in payment of all our expenses; and at that time it was the opinion of the Commissary in Chief, founded on the report of the Consul, that we should experience no difficulties, and that the business would be soon settled; whereas I was engaged a whole year under very trying circumstances, and subjected to great expenses, I travelled to Bourdeaux, and from Bourdeaux to Paris, and to England, receiving half pay only; hence the emoluments were not more than my full pay would have produced.

I submit to their Lordships that I am perfectly correct in my statement, that I recovered and paid over to the British Commissioner of Deposits the sum of 93,000 *l.* in addition to the 17,000 *l.* received for the ship; the rate of exchange will explain the apparent difference, when the estimate was made in 1814, the exchange was at 20 francs to the pound sterling, and this was the rate at which the claim was discussed.

Had I not arrived in France 1,200 *l.* would have been accepted as the value of the ship; and a much less sum for the public property than was afterwards realized, as the measures I adopted seemed to His Majesty's Government the more ample compensation for the property ceded.

It is not for me to discuss here the grounds on which I may be entitled to remuneration for the capture, as their Lordships will, I trust, take such information on that subject as will enable them to administer justice on the prayer of my Memorial.

I shall only observe, that this vessel was considered as booty by His Majesty's Advocate, and the Advocate of the Admiralty, who were of opinion, that the acts of the army, and of the commissioners of the Duke of Wellington, regarding booty, could

could not be impeached in the Court of Admiralty; and it is expressly declared by Major Eckersley, (one of those commissioners on the part of the army) in the certificate annexed to my memorial, "that this vessel was not included in thy general estimate of the booty carried to the profit of the army, and consequently, whatever compensation was made to it, on account of such booty, could not have any reference to the value of that ship, the proceeds of which he always considered as belonging to me as captor, and that the British Government would convey it to me in the manner usual in such cases.

With respect to the small share of prize money I received in common with the army, as my share of the money granted by Parliament to the army in lieu of *property applied to the public service*, I beg to observe, that I had a right to that share in common with the army for their ordinary services, having served with it from the Rock of Lisbon to the Garonne in France, during seven years and twelve general actions.

My claims for special remuneration from the proceeds of this property are founded upon the extraordinary peril I encountered in wresting it from the power of the enemy; perils which no British officer or soldier participated in: thus was the property acquired to the Crown as booty; and in all similar cases, I am advised, the Crown has been pleased, in the exercise of its discretion, liberally to reward those who, at the hazard of their lives, have thus despoiled their enemies. Had the distribution been left, as often has occurred, to the judgment of the general officers commanding in the British army, confident I am that their decision would have amply rewarded me.

You have stated, that their Lordships have now before them a schedule of property captured at Bourdeaux, signed by Major Eckersley and myself, in which this vessel is included; and that it is accompanied by a letter from the Duke of Wellington, claiming this property for the army; and that it appears, by some other papers, that the claim of the army to the vessels captured was under the consideration of the Board of Admiralty, and that it would therefore appear, that neither myself nor the army did at that time consider that I had any exclusive right to that vessel.

When this capture was made, I reported it to Marshal Beresford, then at Toulouse, under whose orders I was serving as commissary. I did so, not as recognizing any right to exist in any one, but from a desire to conduct myself in the whole transaction openly and avowedly; certainly it never entered into my mind that my fair claims could be compromised by such a measure.

Soon after this report was made, but not before a reply to it could have been received from England, Major Sparrow, Aid-de-Camp to Lord Dalhousie, went to head quarters with dispatches, and brought back intelligence that Colonel Waters, then Acting Adjutant-General there, had told him, that I was to have 10,000 £. for capturing the corvette, upon which I was congratulated by Lord Dalhousie and the staff officers present.

About this time I had reason to suspect that an attempt might be made to run away with this ship in the night time, and I applied for a guard, when the answer given by the Adjutant-General, Colonel Sir J. Doyle, was, that the ship was my private property, and that no guard could be given for her. If I cannot find the letter containing this reply, I can prove it by the oath of more than one of my clerks. Soon after this the Duke d'Angoulême wished to have the use of this ship, and Lord Dalhousie addressed a letter to me individually, requesting I would lend it to the Duke d'Angoulême, for the purpose of hoisting the Bourbon flag.

When the army was embarking for America and England, at Bourdeaux, I hired forty seamen, and Mr. Warner, master, of the royal navy, and who commanded the *Mary*, dispatch-boat, to assist me in taking this ship beyond Fort Blaye out of the river Garonne; but in proceeding down the river, the French Commissary of Marine sent a party of gens d'armes to order the French pilot on shore, which order he obeyed, and landed; and the vessel very soon grounded, as the naval officer who was on board with me was not acquainted with the navigation of the river.

Before this period I had sent the papers of this ship to England to Mr. Potts, of Serjeant's-Inn, who was at that time my solicitor, with instructions to lay them before an officer of the Admiralty Court, and to proceed against this ship separately, in my name.

These proceedings were stopped, and the papers withdrawn: it being the opinion of the King's Advocate, that proceedings should not be instituted against any of the ships in that Court.

With

With respect to the return (not schedule) sent to the Duke of Wellington, and by his Grace to Lord Bathurst, I have only to state, it was his Grace's orders that returns and estimates of all the property taken should be made out and sent to his Grace. It was at that time uncertain whether His Majesty's Government would permit either the army or individuals to retain any part of the property captured at Bourdeaux, to avoid discussions of a very delicate nature, alluded to in the opinion of His Majesty's Advocate General; and the only return which Major Eckersley or myself ever sent to the Duke of Wellington, under an impression that it would be acted upon as an application for money, was the return of the property and shipping actually given up.

It is also necessary particularly to observe, that the returns in question, and which are pleaded against me, are not those on which his Grace's agents made a specific application for money to Government, and that neither their memorial nor the account which accompanies it are signed either by Major Eckersley or by me; and I beg to remark, that the propriety of taking the American ships out of the hands of the captors, and to consolidate their value with the other heads of the account, is suggested to Government by those gentlemen who sign it; but this measure was never adopted, and I remained three years in possession of this ship, and until she was paid for.

Had the gentlemen who signed this account and memorial exhibited them to Major Eckersley and to me before they were given in, I certainly should have taken care to explain in a note, that 18,000*l.* of the account was the estimated value of a ship captured and held by me; but it was not shown to me, and on the 16th of June 1815, the date it bears, I was in the Bois de Boulogne, in charge of British, Hanoverian and Belgian infantry, under the orders of Lieutenant-General Lord Hill.

In July or August 1815, having heard that the sum of 800,000*l.* had been voted to the army by Parliament as compensation for prize-money in the Peninsula and France, I lost no time in applying to his Grace the Duke of Wellington for the 10,000*l.* which I was led to understand, as before mentioned, I was to receive as an equitable remuneration for the capture of the *Requin* corvette; and his Grace stated in reply, "that the ship was never given up by his Grace, or by his order."

Soon after the receipt of this order I applied for leave of absence to go to England, chiefly with a view of prosecuting my claim to the value of the ship.

My application for leave was referred to the Commissary in Chief in England, and I was refused it; whereupon I instructed my solicitor to do what appeared necessary in the case, and after he had made some inquiries he informed me, that no effectual steps could be taken until I returned to England.

In June 1816, I was ordered home; and on my arrival in London, I was told by the prize agent for the army, that the Chancellor of the Exchequer was about to give the balance of the prize account of the army, in which my ship was included, to Lord Keith and the navy; and I lost no time in taking legal advice on the subject; and I presented a memorial both to the Lords of the Treasury and to Lord Keith, claiming the value of the ship captured by me; and the reply which I received from you to that memorial was, that their Lordships could not comply with the prayer thereof.

In obedience to their Lordships orders communicated to me by you, I have presented a memorial, detailing only the facts of the capture, by which document and the certificates in support of it, I think I have clearly proved, that this ship was captured by me alone, without the co-operation of the army; and I trust it will appear to their Lordships, from the facts detailed in this letter, explanatory of the measures which I adopted, and the communications and orders by which I was governed, that both myself and the army did at the time of the capture, and ever since, consider that I had an exclusive and undisputed claim to this vessel.

I have now only to add, that Lord Dalhousie has declared that he considered the army indebted to me alone for all their prize-money in the French territory; and the Government may, consequently, be considered to be so indebted for 93,000*l.* recovered by me at Paris, as the proceeds of this property exclusive of the ship.

That for 49,000*l.* recovered for the loan on wine, &c. forming a part of the above sum they are entirely indebted to me, as well as for the 200,000 francs saved by my expeditious communication reporting the terms on which I closed the discussion at Paris, in which my own services in the Bourbon interest had a very

powerful effect, advantageous both to the claim of the Government, and most particularly so to my own, for the value of this ship.

I humbly trust that the explanation now furnished will seem satisfactory to their Lordships.

I have the honour to be, Sir,

Your most obedient humble servant,

Geo. Harrison, esq.
&c. &c. &c.

(signed) J. Ogilvie.

Extracts from the Votes of Parliament.

26th June 1815.

Resolved,—That a sum not exceeding eight hundred thousand pounds be granted to His Majesty, to be distributed to the officers, non-commissioned officers, and privates, serving in the British army, under the Duke of Wellington, in Portugal, Spain, and France, during the years 1809, 1810, 1811, 1812, 1813, and 1814, for captures taken from the enemy and appropriated to the public service; and that the said sum be issued and paid without any fee or other deduction whatever.

18th June 1816.

Resolved,—That a sum not exceeding one hundred and sixteen thousand four hundred and fifty pounds be granted to His Majesty to be distributed to the officers, petty officers, seamen, and marines, serving under the command of Admiral Lord Keith, while Commander in Chief on the coasts of Spain and France, for captures taken from the enemy and appropriated to the public service; and that the said sum be issued and paid without any fee or other deduction whatever.

Appendix, (N° 6.)

COPIES of Letter from Deputy Commissary-General Ogilvie, dated 6th March 1819, to the Treasury;—and, of Treasury Minute, dated 29th December 1819, thereon.

Copy of Letter from D. C. G. Ogilvie, further respecting his claims.

Sir,

75, Seymour Place, Bryanston square, 6th March 1819.

HAVING had the pleasure of serving with your brother on Lord Beresford's staff, both in the Peninsula and France, and being very desirous that either the Lords of the Treasury or the House of Commons may come to an early decision on my long pending claim, I take the liberty of enclosing to you a paper containing a narrative of my proceedings in the recovery of the value of the ship which I captured, with my earnest request that you will be pleased to assist my views.

As I know how very valuable your time is, I beg you will not go on to read this letter, or the paper which accompanies it, until you can do so with perfect convenience.

Your former diplomatic habits eminently qualify you for judging in such a case as this, or indeed in any question of right, which you know must be decided (in order to give satisfaction) either by the laws of the country, or by custom, founded on precedents in similar cases.

This capture according to the maritime law is a droit of the Crown.

According to the rules of military expeditions it is a separate capture, and belongs to the separate captors, agreeably to the precedents which I have quoted in the enclosed paper.

I rest my claim to the full proceeds of this capture to the "legal equitable right," which I humbly conceive I have established by the case and vouchers already in the Treasury; and I consider my right strengthened by the trouble and vexation which I experienced in the recovery of the full value of this ship.

I beg to call your particular attention to the following facts, viz. that beyond the sum of 14,000 *l.* which I thus recovered for my ship, I also recovered 76,000 *l.* for Government, when my colleague would have accepted 50,000 *l.* in full of all demands.

That

That 49,000 *l.* of this sum was *bonâ fide* recovered for a loan made by Buonaparte on wine, and that wine was found out by extraordinary measures adopted by me individually.

At the close of the discussion at Paris I saved, by my vigilance and activity, the sum of 200,000 francs to Government; and I may add, that the public are indebted to me for the whole sum I recovered from the French Government:

When this ship was taken I was told that I should have 10,000 *l.* for that hazardous enterprise, and I was thereby thrown off my guard; otherwise I certainly would have *then* accepted 8,000 *l.* which the claimants offered me to compound the capture.

I have now only to add, that I trust when my claim and right are fully considered by the Lords of the Treasury, that they will direct Mr. Drummond, the Commissioner of Deposits at Paris, to give back to me the 340,000 francs, the proceeds of this ship, which I was *unexpectedly* ordered to pay into his hands.

I have the honour to be, Sir,

Your most obedient and most humble servant,

To the Right hon. C. Arbuthnot, M.P.

(signed) J. Ogilvie.

Narrative :

WHEN the army entered Bourdeaux, there were twenty-eight American ships in the river Garonne.

Twenty-seven of these escaped, and the twenty-eighth was intercepted by Mr. Ogilvie, in the manner stated by him in the case now in the Treasury.

That case is supported by certificates of the capture, signed by Colonel the Honourable Frederick Ponsonby, and by Major Eckersley, of the Royal Dragoons, and by the latter as Commissioner for the allied army.

Neither the *British, Spanish, or Portuguese* armies ever disputed Mr. Ogilvie's right to this corvette, as appears by the certificate of Major Eckersley.

All joint captures belonged, by a special agreement, in certain specified proportions, to these three armies.

All *separate* captures were given to the *separate* captors.

As neither of these armies disputed Mr. Ogilvie's right to this corvette, there was no reason to suppose that Government would have claimed the proceeds, unless this capture was considered as a *droit* of the Crown.

And in cases of *droits* the captors have generally been rewarded by a grant of two-thirds or three-fourths of the proceeds.

By the 54th of George the Third, the Crown cannot retain the proceeds of any capture (*droits* excepted); therefore, if the proceeds of this ship is not given to Mr. Ogilvie, it must be given to *Spaniards or Portuguese*, the claims of the British army being already satisfied.

Mr. Ogilvie, in 1814, tried to take this vessel away to England; but having no pilot she ran aground; and if he had succeeded, the navy would, in all probability, have seized her in the hands of a non-commissioned captor, and put in a claim to a share of the proceeds.

In 1815 the British Ambassador and Mr. Ogilvie endeavoured to prevail on the French Government to allow her to be taken to England.

In 1816 he was going to Bourdeaux, under the advice of counsel, to compound the capture with the American owners of the ship.

He was instructed to recover for Government the value of the property captured by the army from the Crown of France, and was told, that if he managed the business well, he should have his ship.

It was calculated that he might recover 50,000 *l.* for the Government claim; but he recovered 92,000 *l.* at the exchange of 20 francs to a pound sterling, or 76,000 *l.* at the exchange of 24 francs.

He was a fortnight at Bourdeaux before he ascertained that the ship had been valued at 1,200 *l.* only, and given up by the British Consul, in consequence of orders from the British Government, dated *antecedently* to his departure from England.

He protested against this valuation, and the owners, finding that he had done so, endeavoured to run the ship out of the river.

Mr. Ogilvie ordered his prize-master to prevent them, and went on board to inform them that the ship was not theirs, that she was undervalued, that the valuation was protested against, and that if they took her away, they should do so at their peril.

For having done this, he was accused of a violation of the law of nations, and a complaint preferred against him by the French Ambassador in London.

The British Minister for Foreign Affairs, however, ordered the ship to be revalued, and an action was brought by the British Consul for the sum of 201,000 francs against the American owners.

Mr. Ogilvie had to employ counsel to watch the progress of this action, and to prevent a decision being given in the case, as there was strong reason to believe that it was intended to declare this ship a re-capture on the interregnum of Buonaparte; and this decision would have affected *all the other property*.

Mr. Ogilvie was six months at Bourdeaux, expensively and perilously employed in opposition to the owners of this privateer, and to the measures of the counsel; and he was insulted in his walks by people whom he considered as hired by persons interested in this vessel.

By removing the cause by appeal, from one court to another, the decision was put off until the claim for the value of the ship was settled diplomatically, when the French Government allowed the sum of 340,000 francs (the minimum of the estimate made of the ship in 1814), and stipulated by a *separate article* on the convention on *prize property*, that the security taken by the Consul, and all the papers connected with the action, *should be given up*.

In discussing the right to the full value of this ship, Mr. Ogilvie informed the French Commissioner that the ship was captured by a boat under his orders; and that he was to have the benefit of the sum which should be recovered for her.

He pleaded his services to the Bourbon Government at Bourdeaux in 1814, and the loan of this ship to the Duke d'Angoulême to hoist the French flag; and thus he recovered for himself 14,000*l.* as the value of this ship (which the Consul had given up for 1,200*l.*) under the most trying, difficult, and vexatious circumstances; and he, therefore, considers it hard that the proceeds thus recovered should not be restored to him.

*And the more so as he recovered 93,000*l.* when his colleague, the Consul, would have accepted 50,000*l.* in full of all demands; and as he saved in a peculiar manner the sum of 200,000 francs at the termination of the discussion; and as he feels he would be justified in asserting, that Government, on certain grounds, are indebted to his fidelity and activity for the whole sum of 93,000*l.* recovered for prize property.*

Precedents :

In 1808: The 18th Light Dragoons captured a convoy of carts laden with wool, which was given to the regiment which captured it.

In 1812: Lieutenant-Colonel Macdonald, royal artillery, found a bag of gold in the field at Vittoria, and it was given to him.

In 1812: Sir John Byng's brigade took a convoy of carts laden with supplies; the value was given to this brigade.

In 1814: A small detachment of the German Legion took a gun-boat in the river Garonne; and the gun-boat and some money found in it was given to this detachment.

(signed) J. Ogilvie.

COPY Treasury Minute, dated 29th December 1819.

4,633-

READ letter from Deputy Commissary-General Ogilvie, dated 6th March 1819, praying further compensation for an American corvette, captured in the Garonne, in the year 1814.

My Lords resume the consideration of the several former papers upon this subject.

Write to Mr. Ogilvie, acquainting him that my Lords cannot admit that he is entitled, either of right or by custom, to a grant of the whole or any part of the proceeds of the vessel in question; nevertheless, as his services on the occasion when this vessel was detained appear to have been meritorious, my Lords will direct Mr. Hill, of this office, to pay to him the sum of 1,000*l.* out of the proceeds, as a mark of their approbation of those services.

Give directions to Mr. Hill to pay the same, charging the amount against the sum paid into the indemnity chest at Paris, as arising from the liquidation of the claims in respect of the prize property at Bourdeaux, and to deduct this sum out of the money remitted from France on account of this property.

Appendix, (N° 7.)

COPIES of Letter from Mr. Ogilvie, dated April 1820, claiming Remuneration for seizure of an American Corvette in 1814;—of Treasury Minute, 18th April 1820, referring same to Mr. Herries, for explanation;—of Letter from Mr. Herries, of the 29th April 1820, with the above explanation;—of Letter from Mr. Ure, dated 13th April 1820, enclosing further documents in support of Mr. Ogilvie's claim; and Treasury Minute of the 30th May 1820, thereon.

COPY of Letter from Mr. Ogilvie, claiming Remuneration for seizure of an American Corvette, in the year 1814.

My Lord,

75, Seymour Place, Portman-square.

I VERY reluctantly intrude on your Lordship's time with a statement of my claims to a remuneration from His Majesty's Government for my services in the capture of an American corvette at Bourdeaux in the year 1814.

Your Lordship is apprised that an application from me on that subject has already been under the consideration of the Lords of the Treasury; the answer to that application, as communicated by Mr. Harrison, has been, that their Lordships have awarded me the sum of 1,000*l.* only; from this decision I beg leave most respectfully to appeal to your Lordship, as the first Minister of the Crown.

I apprehend that the real state of facts on this subject has not hitherto been accurately understood; I will very briefly recal them to your Lordship's notice.

At the close of the campaign of 1814 I was detached, by the orders of the Commander in Chief, his Grace the Duke of Wellington, to Bourdeaux; while in that city, I succeeded in capturing the ship in question, with the assistance only of the men under my own immediate command.

I reported this capture to the Commander in Chief, his Grace the Duke of Wellington, but did not receive directly from him any instructions for my guidance; I have, however, strong grounds to believe that his Grace publicly stated, at head quarters, at Toulouse, that I was entitled to 10,000*l.* part of the proceeds of this vessel; and that he made to Lord Bathurst, as War Secretary of State, an official communication to the same effect.

That I was induced to believe this to have been the intention of his Grace is not however a matter of doubt; Lieutenant-Colonel Sparrow, not long after the capture, returned to Bourdeaux with dispatches from the Duke of Wellington, and stated at that place, in the presence of Lord Dalhousie and several staff officers, that his Grace's determination to reward my services in the manner I have mentioned, had been publicly declared by the Acting Adjutant General of the army, Colonel Waters.

I acted upon this information. The reputed owners of the ship frequently offered me 8,000*l.* to release her; and I should have accepted their offer had I not considered myself bound in duty to secure, for the benefit of the army in general, the difference between the 10,000*l.* to which I conceived myself entitled, and 18,000*l.* the estimated value of the ship.

The opinion as to my interest in the capture was not confined to myself; Lord Dalhousie and the Adjutant General at Bourdeaux refused to grant me a military guard for the vessel, expressly on the ground that she was my private property, and not the property of the public at large.

Neither was this opinion confined to military men; in the year 1816, when I was proceeding on public service to Bourdeaux, Mr. Herries, the Commissary in Chief, told me that "if I managed the business well I should have my ship." This gentleman was at the head of the department in which I served, the proper official medium through which alone I communicated with His Majesty's Government; I humbly conceive that I was perfectly justified in regarding such an assurance from him as an engagement on the part of the Government itself; in that light I assuredly did regard it.

But the opinion that the proceeds of this ship were chiefly applicable to my remuneration, was entertained, not by military and civil officers only, but by the highest legal authority; His Majesty's Advocate, in his Report to Lord Bathurst of the 10th of May 1814, stated, that this capture was to be regarded as booty, and not as

maritime

maritime prize; and he has since given it as his opinion, that if the distribution of the proceeds had been made under the direction of the Duke of Wellington, I should have received "a distinguishing remuneration."

To this body of concurrent opinions no single judgment is opposed, but that of the Lords of the Treasury.

My claim was never disputed by the British army, on the contrary, Major Eckersley, as one of the commissioners named by the Duke of Wellington on the part of the army, gave me a certificate of the capture signed by him in his official capacity; the Spanish army have never advanced any claim hostile to mine, nor have my pretensions been disputed by the army of Portugal; on the contrary, Lord Beresford, the Commander in Chief of that army, distinctly stated to me, "that he would never touch my ship."

I do not presume to contend that all these concurrent authorities are conclusive; but I may be permitted respectfully to suggest, that they at least raise a strong presumption against the soundness of the opposite conclusion to which their Lordships have arrived.

I cannot pretend to much personal knowledge of maritime or military law, and am not, therefore, prepared to argue, that my claims to the proceeds of this ship are supported by any clear and decisive legal authority; I would even, for the sake of argument, concede that point, and yet confidently insist that I am entitled, *ex debito justitiæ*, at least to that share of the proceeds which I understand the Duke of Wellington to have allotted me.

The ordinary habits and usages of the British army, if they do not in strictness form the legal rules by which questions of this nature are to be decided, do unquestionably form the rules with a view to which military men regulate their own conduct and expectations. Thus it was the invariable practice of the Duke of Wellington's army to allot to any individual the whole amount of the booty which, in any insulated affair, might have been acquired by his own exclusive personal exertion. I forbear to quote examples of a practice which no man familiar with the habits of that army will dispute. The rule itself was no less wise than liberal. It provides a stimulus to enterprize, and encouraged men to engage in services of the highest importance, in opposition to the most formidable dangers. They who ventured their lives upon the faith of expectations thus excited, might reasonably have complained had their hopes been disappointed.

In the particular case under consideration, I can truly affirm, that the danger incurred by myself was most imminent. At the time the capture was made, the French occupied the whole right bank of the river, nor was there a single soldier of the allied army beyond the city of Bourdeaux.

Further, I submit, that the faith of Government was virtually pledged to me on the subject of this property. I say *virtually*, because I am willing to admit that no positive promise was given me by the Lords of the Treasury, the only organ of Government strictly entitled to represent the Crown in matters of revenue. But, in the first place, I should submit, that this was not originally a question of that nature; the property was, at first, booty distributable according to the discretion of the Commander in Chief, he being bound to exercise that discretion with reference to the ordinary practice of his army. The control of the Treasury over this subject arose out of a convention, in which the interest of the army was sacrificed to that of the nation at large. For this sacrifice a compensation was made by the public; and consequently the Treasury became the medium through which that compensation was to be distributed. I submit, however, that these circumstances could not vary the interests of the different members of the army in relation to each other, but that my claims remained in the same situation as if the captured property in specie had not been restored.

The public declaration, therefore, of the Duke of Wellington at head quarters, and his communications to Lord Bathurst, were, I apprehend, an engagement by which, in justice, His Majesty's Government was bound; still more clearly do I conceive, that an obligation to remunerate my services by the whole, or a great part of the proceeds of this vessel, was contracted by the assurance given me on that subject by the Commissary in Chief. He was my official superior. He had every opportunity of ascertaining the intentions of Government; and I had no reason to distrust the performance of his promise; I acted on the faith of it, and incurred great and unusual labour in the performance of the duties which he had assured me would be remunerated by the whole of the proceeds. I can say, with perfect confidence, that in the

the discharge of the duty confided to me by the Commissary in Chief, I conducted myself with the greatest possible assiduity, and with no common success. By my individual exertions 49,000*l.* was recovered on account of a loan made by Buonaparte on wine. I closed the discussions at Paris, by obtaining the sum of 2,200,000 francs, and Lord Castlereagh received my report to that effect in time to prevent his finally accepting 2,000,000 francs on account of the same claims. His Lordship, as I understood, had actually prepared a letter accepting that sum.

I am aware that it is objected, in answer to this statement, that I was compensated in prize matters by my commissions. On this point, however, I must beg leave to observe, that my commission was two and a half per cent only, whereas in similar cases, a commission of five per cent is usually allowed. I resided twelve months in France for this object. During this time my labours were unintermitted; during the whole period, I was continually engaged in heavy legal expenses; I was compelled to take long and expensive journies; to provide a clerk; and many other expenses incidental to my peculiar situation. In effect, the two and a half per cent commission little more than compensated the difference between my full pay as a Deputy Commissary, and the half pay which I received while thus employed.

It is also objected, that I have participated in the general prize-money of the army, and that the proceeds of this ship was computed when the amount of that prize-money was calculated. In answer to this, I can only say, that I did not receive my proportion of prize-money under any representation or understanding that it was to be a compensation for my own peculiar claim in respect of this ship; and that it would be hard to visit me with a consequence of my participation, which I neither did nor could foresee.

Respecting my own personal services, it may not perhaps become me to say much; nor, in truth, is the question of general service much involved in the particular subject to which this letter refers. Your Lordship will, however, allow me shortly to state, that I served with the British army throughout the whole of the campaigns in the Peninsula, in Belgium, and in France, during a period of nine years; that I have been thirteen years in the service; and that I was principal Commissary of Lord Hill's corps at Waterloo, Paris and Cambray. I venture to state with confidence, that during the whole of this period of service, I have discharged my official duties with fidelity, and have saved large sums to the British Government.

Under these circumstances I very respectfully submit to your Lordship, that I am entitled, if not in a strict legal sense, yet on every ground of justice and public faith, to the remuneration which I claim; that is, either the whole proceeds of the vessel captured by myself, or at least 10,000*l.* the proportion originally stated by the Duke of Wellington as my share.

I have the honour to be, with the greatest respect, my Lord,
Your Lordship's most obedient and most humble servant,
(signed) *J. Ogilvie.*

P. S. I beg your Lordship will do me the favour to peruse the accompanying certificates of Colonel Ponsonby, and Major Eckersley, the letter of Lord Dalhousie, &c.

J. O.

To the Right hon. the Earl of Liverpool, K. G.
&c. &c. &c.

N^o 1.

Sir,

London, 10th February 1818.

I HAVE received your letter and the memorial, which I have read; I perfectly well recollect the circumstances under which the capture was made; and I always thought that you were as much entitled to the profits arising from it, as of any other legal capture that ever was made; indeed it was the opinion of those who heard the circumstances, that it required a great deal of courage and enterprize, and the success attending it could scarcely justify you for exposing yourself so much; and I believe such were the feelings of those who were present at Bourdeaux when the circumstances were made known.

(signed) *Frederick Ponsonby,*
Colonel and Lieut.-Colonel 12th Dragoons.

To James Ogilvie, Esq.

N° 2.

Paris, 12th February 1818.

HAVING been one of the Commissioners to ascertain the value of the supplies, and the property which was captured at Bourdeaux, by a division of the British army, in March 1814, I feel myself enabled, from a perfect recollection of the circumstances which came to my knowledge, as well as of the general impression of the army at that time, to say, without any hesitation, that the capture of the Requin, French corvette, in the Garonne, was owing *entirely* to the very spirited conduct and judgment of Mr. Deputy Commissary Ogilvie, under whose entire control the vessel remained during the whole period of my residence there as a Commissioner; nor was the vessel included in the general estimate of the booty carried to the profit of the army; consequently, whatever compensation was made to it on account of such booty, could not have any reference to the value of that ship, the proceeds of which I always considered as belonging to him as captor; and that the British Government would convey it to him in the manner usual in such cases.

(signed) *N. Eckersley,*

Late one of the Commissioners for Property
captured by the British and Portuguese Army in France.

N° 3.

Coulstown, 29th August 1815.

My dear Sir,

I RETURN you a thousand thanks for your goodness in sending me the papers on the subject of the prize-money; I confess to you I never had any idea that the claims would have amounted to any thing like that sum, or that Government would have listened to them.

I know very well the indefatigable industry and perseverance with which you stuck to it at Bourdeaux; and by your papers I can imagine the trouble you have taken in pushing these claims at home. I consider the army as indebted to you principally, if not to you *alone*, for this prize-money, whatever may be the amount; that is a justice due to you, and what I shall always be ready to acknowledge as an individual, or as having had means of knowing in command there.

I have this morning your note of the 21st, you may rest assured that the papers are as safe and secret in my possession as if I had put them in the fire; but I think them too interesting to destroy, and will not do it unless you desire.

I had at one moment a hope of having joined you, and was for a month in perfect readiness to start at a moment's notice; but your last blows were so well and conclusively laid in, that I sunk again into my quiet retirement; I don't much envy your duties in the Bois de Boulogne, it was very well for awhile, but I think now must be tiresome; I don't believe all that our newspapers tell us of France; but still I am satisfied that the country must be kept quiet by the allied armies for this winter at least.

You have had a most brilliant and eventful campaign; and I think you will do me the justice to believe, that, without envy at the good fortune of those who have shared in it, as a late brother in arms, I do regret very much that I had not been with you in this last, and to crown all, most glorious of all the former campaigns of the British army.

I beg you will offer my kindest remembrance to Lord Hill; and believe me always,

Your's most sincerely,

(signed)

Dalhousie.

Mr. Ogilvie.

EXTRACT of a Letter from Colonel Harvey, Military Secretary to his Grace the Duke of Wellington, to Deputy Commissary-General Ogilvie, dated Paris, August 27th, 1815.

“THE vessel alluded to was never given up by his Grace, or by his order to any body.”

Note of Mr. Ogilvie.

Does it not appear from this reply to my memorial to the Duke of Wellington for the ten thousand pounds, which I was led to expect, that his Grace considered the vessel as mine?

J. O.

Great George-street, Tuesday, 10th September.

THE Commissary in Chief presents his compliments to Mr. Ogilvie and encloses for his perusal several papers which have been referred to him by the Lords of the Treasury, and Mr. Herries will be glad to receive from Mr. Ogilvie, verbally, any information that he may be enabled to afford upon the subject; Mr. Ogilvie will have the goodness to call here about twelve o'clock to-morrow for this purpose.

To Deputy Commissary General Ogilvie.

Dear Sir,

Great George-street.

Mr. Herries wishes that you will bring your report yourself to-morrow about eleven o'clock; I think it probable that you may have a trip to Bourdeaux upon this business.

Yours very truly,

To D. C. G. Ogilvie.

(signed)

T. Archer.

COPY Treasury Minute, dated 18th April 1820.

READ letter from Deputy Commissary-General Ogilvie, without date, claiming further remuneration for his services in the seizure of an American corvette in the year 1814.

Transmit to Mr. Herries, for any explanation which he may think fit to offer to their Lordships, in regard to the promise alleged by Mr. Ogilvie to have been made by him respecting the proceeds of the vessel in question.

COPY of Letter from Mr. Herries on the subject of Mr. Ogilvie's Claim on account of the Seizure of an American Corvette in 1814.

Sir,

Treasury Chambers, 29th April 1820.

IN reply to your letter of the 24th instant, desiring me by command of the Lords Commissioners of His Majesty's Treasury to furnish you with such explanation as may deemed necessary on the subject of a promise stated by Mr. Ogilvie to have been given by me to him relative to his claims upon the ship *Requin*, I have to request you will inform their Lordships that very long since, when I was first made acquainted with the circumstance of this promise or assurance having been attributed to me, I took the earliest opportunity of a personal communication with Mr. Ogilvie, distinctly to deny that I ever did give any such promise to him, and at the same time to afford him every explanation which appeared to me to be requisite for removing from his mind an impression which he had so erroneously, and, to me, so unaccountably conceived. I endeavoured to show him how absurd and improper it would have been in me if I had given him any assurances such as he had imputed to me, by reminding him that he did not receive through me, nor through my recommendation, the commission with which he was entrusted at Bourdeaux; that he was, consequently, in no degree responsible to me for the good or ill execution of that service; that I had no knowledge, except from his own statements, privately given to me, of the grounds of his claim to the ship *Requin*; that I had no control nor influence in any department where the validity of that claim was to be determined; and that it was therefore hardly to be comprehended how I could have given him an assurance, that if he managed well a business which I had no part in directing, he should have a ship which I had no right nor power to ascertain his title to.

Having thus stated what I have repeatedly and long since declared and explained to Mr. Ogilvie on this subject, it only remains for me to express my surprize that he should have renewed the allegations which are the subject of your letter; and also my concern, that he should have continued to urge them without doing me the justice even to advert to my positive, distinct, repeated, and explicit disavowal of the grounds of them.

I have the honour to be, Sir, your obedient humble servant,

To George Harrison, Esq.

(signed)

I. C. Herries.

&c. &c. &c.

COPY of Letter from Mr. M. Ure, transmitting documents in support of D. C. G. Ogilvie's claim for remuneration for the capture of the "*Requin*," in 1814.

Sir,

8, Lower Grosvenor-street, 13th April 1820.

I TAKE the liberty of requesting your attention to the claim of Mr. Deputy Commissary-General J. Ogilvie, in respect of a capture made by him at Bourdeaux in March 1814.

The

The circumstances of the case have, I understand, been for some time before the Lords of the Treasury, but I am informed that a more detailed statement has lately been laid before their Lordships, accompanied by most important documents.

That you may perfectly comprehend the subject to which I refer, I beg leave to enclose copies of two of those documents. To these, and the others which have been laid before their Lordships, I hope it may be in your power to bestow every attention and the most favourable consideration, to the claims of a gentleman who, by the concurrent testimony of all concerned, deserves so well of His Majesty's Government, for his zeal and exertion in the cause of his country.

I have the honour to be, Sir,

Your very obedient humble servant,

To the Right hon. Nicholas Vansittart.
&c. &c. &c.

(signed) *Masterton Ure.*

N^o 1.

Sir,

London, 10th February 1818.

I HAVE received your letter and the memorial, which I have read ; I perfectly well recollect the circumstances under which the capture was made ; and I always thought that you were as much entitled to the profits arising from it, as of any other legal capture that ever was made ; indeed it was the opinion of those who heard the circumstances, that it required a great deal of courage and enterprize, and the success attending it could scarcely justify you for exposing yourself so much ; and I believe such were the feelings of those who were present at Bourdeaux, when the circumstances were made known.

(signed) *Frederick Ponsonby,*

To James Ogilvie, Esq .

Colonel and Lieut.-Colonel 12th Light Dragoons.

N^o 2.

Paris, 12th February 1818.

HAVING been one of the Commissioners to ascertain the value of the supplies, and the property which was captured at Bourdeaux by a division of the British army in March 1814, I feel myself enabled, from a perfect recollection of the circumstances which came to my knowledge, as well as of the general impression of the army at that time, to say, without any hesitation, that the capture of the Requin French corvette, in the Garonne, was owing entirely to the very spirited conduct and judgment of Mr. Deputy Commissary Ogilvie, under whose control the vessel remained during the whole period of my residence there as a Commissioner ; nor was the vessel included in the general estimate of the booty carried to the profit of the army ; consequently, whatever compensation was made to it on account of such booty, could not have any reference to the value of that ship, the proceeds of which I always considered as belonging to him as captor ; and that the British Government would convey it to him in the manner usual in such cases.

(signed) *N. Eckersley,*

Late one of the Commissioners for Property captured
by the British and Portuguese army in France.

COPY Treasury Minute, dated 30th May 1820.

7.565. READ letter from Mr. Masterton Ure, dated 13th ultimo, relative to the claim of Deputy Commissary-General Ogilvie, on account of the seizure of an American corvette at Bourdeaux in March 1814.

7.555. Read also a Report from Mr. Herries of the 29th ultimo, on a letter addressed by Mr. Ogilvie to Lord Liverpool upon this subject.

Write to Mr. Ogilvie, acquainting him that my Lords cannot but view with great dissatisfaction the statement transmitted by him to the Earl of Liverpool, and submitted by him to their Lordships consideration. This statement, so far as it regards the assurances which he alleges he received from Mr. Herries, and upon which he mainly rests his claim, my Lords cannot but be convinced has arisen from some misapprehension on his (Mr. Ogilvie's) part, inasmuch as Mr. Herries had no power whatever to give any such assurances. My Lords have also reason to believe, that his statement in regard to the declaration imputed to his Grace the Duke of Wellington, that he was entitled to 10,000*l.* part of the proceeds of this vessel, is also founded upon a misconception. His statement, that the vessel was never claimed

or considered as the property of the army, is also incorrect; as a document was signed by himself and Major Eckersley, in which this vessel among others was included; and which document was the foundation of a part of the claim submitted on the behalf of the army to Parliament, and upon which the grant of Parliament to the army was made; and my Lords can only suppose that Major Eckersley, having no immediate personal interest in the transaction, must have forgotten this circumstance when he gave the certificate dated the 12th February 1812.

Under these circumstances, my Lords see no ground to alter their former determination by assigning to him any larger reward; but on the contrary, they are of opinion that the amount directed to be paid to him is a very ample remuneration for his services.

Appendix, (N^o 8.)

MEMORIAL of Deputy Commissary-General Ogilvie, dated 8th April 1821, further on the subject of his Claim to reward for the Capture of a Ship in 1814;—and Treasury Minute, dated 19th June 1821, thereon.

COPY of Memorial of Deputy Commissary-General Ogilvie, further on the subject of his claim to reward for the Capture of a Ship in 1814.

To the Right honourable and honourable the Lords Commissioners of His Majesty's Treasury;

The Memorial of Deputy Commissary-General Ogilvie,

Most humbly showeth,

THAT your Memorialist, tired out with applications, petitions, and mortification, in the pursuit of an equitable reward for his enterprize in the capture of a ship in 1814, begs leave, once more, most respectfully and most earnestly to recal your Lordships attention to his claim.

And in addition to all the facts and arguments already urged, to state,

That the Requin corvette, captured by him and his boat's crew, was an American ship:

That neither the boat nor its crew belonged either to England, Spain or Portugal:

That your Memorialist was the only subject in the boat whose Sovereign was at war with America; and that, therefore, the whole of the reward for the capture must be awarded to him alone, leaving it to him to reward the crew, who must be considered as his servants, and not the servants of the state to which he belongs:

In taking this ship, your Memorialist was doing that for which he was not hired by his commission to do; and the act was of that nature which, by Grotius, is called a private one in war, and by which the captors acquire a right to the thing captured. *Vide* Section on Captures, page 214.

Your Memorialist's case, therefore, was within this principle; if it is not to be decided upon by the recorded rule for separate capture in the army of the Duke of Wellington, or the rule in maritime cases, which gives the equitable share of two-thirds or three-fourths to the captors.

Your Lordships Memorialist begs to call your Lordships particular attention to the open recognition of his exclusive right to this capture by the accredited Commissioner of the Duke of Wellington, named by virtue of orders of Lord Bathurst, as Minister at War.

This certificate is given by an upright and intelligent officer, who knew the full merits of the case, the custom of the army, and the feelings and opinions of all the general officers of that army on the question; and from the date of this document, he considers his right to this ship almost impregnable, adding to it the weight of the enclosed reply of the Duke of Wellington to his application in 1815 (for her value); and the hopes created, when he was sent by the Treasury and Commissary in Chief to Bourdeaux and Paris, where in lieu of 50,000*l.* he recovered for Government 76,000*l.*; and where for himself he recovered 17 or 14,000*l.* for this ship; and where the weight of his individual conduct and claims on the

Bourbon Family and Government aided the claim of the Government, as well as his own, and where he, in a singular manner, at the close of the diplomatic discussion, saved the sum of 200,000 francs. Your Lordships Memorialist, as a motive for administering liberal justice in this case, might here plead his extra official services at Lisbon in 1808; at Oporto in 1809; at Truxillo in the same year; his successful services at St. Ander, and his extra personal expenses of his table there in 1813; and finally, his conduct and services at Bourdeaux (even in a political point of view) where, under trying and delicate circumstances, he contrived to keep up the spirits and hopes of the royalist merchants and shipowners, and at the same time to increase, rather than diminish, the interests and claims of the army; and here your Memorialist begs leave to declare that it was in consequence of an opinion given by M. Laine, the Minister of the Interior of France in 1817, to the French Commissioner M. Lechat, that "he had been *very just at Bourdeaux* in 1814," that the way was paved for the successful termination of his own claims and the claims of the Government.

Your Memorialist begs leave also to state, that it was the hope and wish of Lord Dalhousie, of his Royal Highness the Duke of Angoulême, of the Duke Damas, as President of his Council, and of the Prefects, M. Lainé and Baron Velsousné, and of the Mayor, Count Lynch, and of all the authorities and respectable merchants, that he should have received some *great reward* for his services in that celebrated city, at such an important and eventful period.

Your Memorialist, with wounded, sorrowful, and mortified feelings, begs to close this Memorial by observing, that he pretends to have done more in the great cause in which Europe was engaged, and received less in proportion for his services, than any officer of any army engaged in it; but he trusts your Lordships will reconsider his case, and administer liberal justice in your Lordships decision on his claim to the whole or part of this capture.

All which is most respectfully and humbly submitted,

London, 8th June 1821.

J. Ogilvie.

EXTRACT of a Letter from Colonel Harvey, Military Secretary to his Grace the Duke of Wellington, to Deputy Commissary-General Ogilvie, dated Paris, August 27th, 1815.

"The vessel alluded to was never given up by his Grace, or by his order to any body."

COPY of Treasury Minute, dated 19th June 1821.

10,789. READ memorial from Deputy Commissary-General Ogilvie of the 8th instant, further relating to the capture of the American corvette Requin.

Write to Mr. Ogilvie, acquainting him that their Lordships, having already so often communicated to him their opinion upon his applications in regard to this vessel, can only now refer him to the determination conveyed to him by those communications; from which they see no reason to depart.

Appendix, (N° 9.)

LETTER from D. C. G. Ogilvie, transmitting Protest further, respecting his Claims on account of the Capture of the "Requin" American Corvette.

Sir,

London, 29th May 1821.

In the absence of Mr. Harrison, I beg to inclose you a protest, in form of a memorial, on the subject of my *equitable* claim to a share of the proceeds of the American corvette captured by a boat under my orders; and I beg you will do me the favour, as head of the commissariat, to support my pretensions, and to call the attention of their Lordships to my claim, on which the interest of myself and my family so very much depend.

I have the honour to be, Sir,

Your most obedient and humble servant,

J. Ogilvie, D. C. G. 2d Corps.

To William Hill, Esq. &c. &c. &c.
Treasury.

To the Lords Commissioners of His Majesty's Treasury ;

The humble Protest of Deputy Commissary-General James Ogilvie,

Most respectfully sheweth,

THAT your Memorialist having accidentally heard that the claims of the Portuguese army for prize-money is to be forthwith satisfied, he is advised respectfully to protest against the grant to that army of any part of that equitable share of the 17,000 *l.* proceeds of the Requin American corvette, which your Memorialist solicited in his letter of appeal of the 29th day of March 1820, and to which he rests his claim, on the grounds stated in the said letter.

Your Memorialist further most humbly begs to leave to protest against the alienation of the said equitable part of the proceeds of the said vessel to the army of Portugal, because all separate captures in the army of the Duke of Wellington were given to the separate captors ; but more especially because Portugal was not at war with America, and her army could not have taken, or assisted in taking, a ship of that nation.

Because the capture is one of peculiar and unprecedented circumstances.

Because the boat which he commanded did not belong to England, nor the foreigners who manned it belong to Spain, Portugal, or England.

Because the Commissioners named by the Duke of Wellington, by virtue of the order of Lord Bathurst, considered me entitled to the ship, as declared in his certificate already before your Lordships.

Because Lieutenant-General Lord Dalhousie, who commanded at Bourdeaux, has stated that he considers the army indebted to me chiefly, if not to me alone, for all its prize-money.

Because my services as Field Commissioner, or Agent to booty, has not been in any way adequately rewarded.

Because civil officers of the navy and army, for far inferior services, have received on the amount of captures (the estimates of which have been made and signed by them) commissions of two per cent, two and a half per cent, and five per cent ; and I have received little more than my expenses and difference between full and half pay.

Because Deputy Commissary-General Kennedy (now Sir Robert) received for shorter and less arduous and extensive services 10,000 *l.* and was made Commissary-General after nine years services Your Memorialist is fourteen years in the service, and served from the Rock of Lisbon to the river Garonne, and from Waterloo to Paris.

All which, as a protestation and memorial, is most humbly and respectfully submitted.

J. Ogilvie, D. C. G.

PAPERS

RELATING TO

THE CAPTURE OF THE SHIP

“REQUIN”

IN THE RIVER GARONNE,

MARCH 1814.

Ordered by, The House of Commons, to be Printed,
19 June 1823.
