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SLAVES, CAPE OF GOOD HOPE:  
(PRIZE SLAVES.)

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COPY OF THE MEMORIAL

Of Mr. *Lancelot Cooke* to the Lords of the Treasury (of which a Copy was presented to Lord *Charles Somerset*,) respecting the State of the PRIZE SLAVES at the Cape of Good Hope; and, The REPORT of the Commissioners of Inquiry into the truth of the Statements and Affidavits contained in that Memorial, relative to the manner in which the Collector, Mr. *Blair*, has been in the habit of disposing of the Prize Slaves.

Whitehall, Treasury Chambers, }  
9th December 1826. }

J. C. HERRIES.

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*Ordered, by The House of Commons, to be Printed*  
13 December 1826.

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## P A P E R S

## Relating to Prize Slaves at The Cape of Good Hope.

## — 1. —

Copy of the MEMORIAL of Mr. Lancelot Cooke to the Lords of the Treasury (of which a Copy was presented to Lord *Charles Somerset*) respecting the state of the PRIZE SLAVES at the Cape of Good Hope; and, The REPORT of the Commissioners of Inquiry into the truth of the Statements and Affidavits contained in that Memorial, relative to the manner in which the Collector, Mr. *Blair*, has been in the habit of disposing of the Prize Slaves.

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

The MEMORIAL of Lancelot Cooke, of Cape Town, in  
the Cape of Good Hope, Merchant,—

Respectfully sheweth,

THAT by an Act of Parliament made and passed in the forty-seventh year of his late Majesty King George the Third, intituled, "An Act for the Abolition of the Slave Trade," it was enacted, that all subjects or inhabitants of Africa, unlawfully carried or imported as Slaves into his Majesty's colonies, should be seized prosecuted and forfeited, in the like manner and form as goods and merchandizes unlawfully imported; and that after the condemnation thereof, such subjects or inhabitants should be bound as apprentices for a term not exceeding fourteen years, on such conditions as his Majesty, by an Order in Council, might direct or appoint; and it was further enacted, "That any indenture of apprenticeship, duly made and executed by any person or persons to be for that purpose appointed by any such Order in Council, for any time not exceeding fourteen years, should be of the same force and effect as if the party thereby bound an apprentice had himself or herself, when of full age, upon good consideration, duly executed the same."

And that his Majesty the said King George the Third did, by an Order in Council, afterwards direct that all such subjects or natives of Africa, so seized forfeited and condemned, should be placed out as apprentices by the Collector of Customs.

Also, that in or about the year 1810, the French packet l'Ector, trading from St. Denis to Port Louis, being captured by the English brig Racehorse, one Jean Ellé was found on board thereof, who stated that he was a free man of colour, a native of Bourbon, employed as a seaman on board such packet, but being unable to speak English or Dutch, and the inhabitants of the Cape ignorant of the patois of Bourbon, he could not make himself understood, and was ultimately placed out as an apprentice by Charles Blair, Esq. the Collector of Customs at this port, and after having served two several masters some years, he was removed by the Collector of Customs, and placed with Mr. Samuel Murray, who hired him to Your Memorialist's establishment nearly six years, at the rate of thirty-five rix dollars per mensem; when at the death of the said Samuel Murray, the said Jean Ellé requested

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(A.) p. 79.

(B.) p. 80.

requested Your Memorialist to permit him to continue in his service, alleging that he had only a very short time to serve of his original apprenticeship; to which Your Memorialist consented, from the good opinion he entertained of the man, acquired during his long and faithful service; and he paid his wages to him, until on or about the 21st day of November last, when he received an order from Mr. Blair, to deliver up Jean Ellé to William Wilberforce Bird, Esq. or his order, accompanied by a Note from the said Mr. Bird, who is the Comptroller of the Customs, requiring the man to be sent to the Custom-house.

That he immediately informed the said Jean Ellé of such demand, and requested him to go there, as desired; but on his representing that he had so long served Your Memorialist with fidelity and industry, and hoped he should not be abandoned at the close of his servitude, Your Memorialist replied, that though he was unwilling to force him away, he could not disobey the peremptory order of the Collector of Customs, and requested the man to go as desired; yet he nevertheless refused to do so for some days, until he found he was destined to serve one H. M. Pigou, Esq. the son-in-law of Mr. Wilberforce Bird, the Comptroller of Customs, and that the police were searching to apprehend him for disobedience of orders, when he instantly repaired to the Custom-house.

That a few days before Jean Ellé could be prevailed on to leave the employ of Memorialist and his copartner, Mr. Pigou called at their house, where, witnessing Jean Ellé's reluctance to leave them, he said, if another cook could be recommended to him, he was willing the man should remain where he was; whereupon, after consulting a gentleman in the law, many years acquainted with the arrangements made by Mr. Blair on similar occasions, Your Memorialist subsequently met Mr. Pigou, and stated that he was willing to meet his proposal, and pay the wages of any cook he might hire; when, pretending to be offended, he rudely left Your Memorialist without an answer.

That whilst Jean Ellé was waiting at the Custom-house, Your Memorialist, from a wish never to offend or oppose the constituted authorities of His Majesty, and supposing, from the frequent repetition of a similar interference by Mr. Blair, that he was empowered by law to do so, repaired to the Custom-house, where he saw Mr. Blair on horseback, in company with Mr. Wilberforce Bird, and accosted him respectfully, in the presence of Mr. Roberts, the head clerk of the establishment of Memorialist, for the purpose of informing him, that the man's objection to leave his employ was the cause of the trifling delay; whereon Mr. Blair, in the most violent, loud and insulting manner, holding up his whip or stick in a threatening attitude, said to Your Memorialist, "Damn you, sir, hold your tongue, or, by God, I'll knock you down—God damn you, sir, don't speak a word, or I'll knock you down—If you had said as much to me as you did to my friend Mr. Pigou, I would have blown your brains out; damn and blast you, I would, you scoundrel;" and as he rode away he called Your Memorialist "a damned son of a bitch;" and Mr. Wilberforce Bird, who was in company with Mr. Blair at the commencement of Your Memorialist's attempt to speak, instantly rode off, the moment he perceived Mr. Blair under the natural influence of his temper, that he might neither restrain or be called to bear witness of his brother officer's insolence.

That Your Memorialist having no other wish than to receive such an apology as His Excellency the Governor might think fair, complained of this outrage; when Lord Charles Somerset, ever anxious to discharge his duty with an impartiality befitting the representative of His Majesty, applied to the Collector of Customs; and, as might have been expected, a person capable of descending to such abusive expressions would be sure to contradict them, Mr. Blair did so, though he pretended to glory in one part of his rudeness, as communicated by his Lordship, with the Enclosure from Mr. Blair.

(C.) }  
(D.) } p. 80.

Your Memorialist humbly submits, that this vain-glorious boast of Mr. Blair's carries its own refutation on its face, for, had Memorialist insulted Mr. Pigou as is pretended, it is clear that he was either able to resent it himself or unworthy the aid of a proxy.

(E.) *ibid.*

(F.) }  
(G.) } p. 81.

However, as Your Memorialist conceives that the ipse dixit of Mr. Blair cannot be set against the oath of himself and Mr. Roberts, he annexes depositions, taken before a notary agreeably to the laws of this colony, and also one of Jean Ellé, on which he confidently appeals to Your Lordships for redress.

Your Memorialist further respectfully submits, that when this man was once placed as an apprentice, the legal right of interference in the Collector of Customs ceased, as in the case of a parish apprentice in England, where the master has a chattel interest

interest that devolves on his executors ; and therefore, as Your servant cannot have been actuated by a sense of duty, he feels it imperious on him to draw Your Lordships' attention to the fact, of his having in the first instance put this man out as an apprentice, he being a sailor-cook, and, as he has always declared, a prisoner of war : If Mr. Blair had been influenced by the benevolent spirit of the Abolition Act (and Jean Ellé had been a Slave in reality) when he found him a man near thirty years of age, so good a cook, and so well able to earn the bread of honest industry, he would have satisfied the law, by placing him in some family for a few months, instead of fourteen years ; but this would not satisfy the necessities or the wishes of Mr. Blair, who acquired consequence and credit by disposing of so many Slaves of the most unfortunate order ; and if Your Lordships would afford Your protection against the future oppressions of the officers of Customs, several cases should appear before You of Mr. Blair's privity to such contracts as that offered to Mr. Pigou, at which he expressed such indignation ; to contracts even more corrupt ; some, wherein, when persons have pressed him for payment of his debts, he has promised them greater advantages, which have ended in donations of miserable creatures, thus abandoned to those whom he dare not to assail ; sacrifices to his necessities, victims of his oppressive partialities.

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Cooke.

Hearing of his insolence to Your Memorialist, several persons in Cape Town, of the greatest respectability, highly indignant at such demeanor, came to Memorialist with accounts of the manner in which he had disposed of Negroes to themselves, and are now ready to make oath of these facts ; but Your Memorialist, unwilling to expose them to the powerful vengeance of the Custom-house, wishes first to obtain an assurance of Your Lordships' protection towards them. The English Senate intended to have been the friend and protector of the wretched Negro ; but in this case it has been the greatest misfortune. Here is a man well able to earn thirty-five rix dollars per month as a cook, who, on pretence of being taught a business, is bound, by the ruthless cupidity of His Majesty's servants, to serve the most valuable part of his life to the favourites of the Collector of Customs at Cape Town. Had Jean Ellé been a Slave in fact, and remained so after so valuable a portion of his life spent in the service of his master, the law would have compelled that master to support him in his old age ; but here is a man serving the prime of a valuable life for the advantage of those who in old age will desert him to all the miseries of want.

Your Lordships will feel how inconsistent is such conduct with the philanthropy that abolished Slave-dealing.

Your Lordships will feel how wretched is the state of that Slave, who, under the benign indulgence and protection of Mr. Blair, is cursed with liberty at the end of a cruel, abject and unprofitable slavery of fourteen years, left to starve in the decline of life, after having worn away his strength by the goadings of those who have no interest (like the real Slave proprietor) in well treating these poor people, to make their old age more vigorous.

Your Lordships will feel what sentiment actuated Mr. Blair, when, on a very recent occasion, one William Cousins, who had served him fourteen years, and been a voyage with him to England, on applying for a certificate of the expiration of his apprenticeship, was cruelly told he should never have it, unless he would return to his service.

Your Lordships will feel what is the general tenor of Mr. Blair's character, his humanity, his mildness, and his justice, when you are informed, that this poor man preferred all the horrors of starvation rather than return to a master who had made him so miserable ; and such must have been his fate, so great the terror of the Collector of Customs, had not the benevolence of one of Your Memorialist's acquaintances prompted him, in defiance of the malediction and the denunciations of this great man, to take the poor Negro for his servant.

Your Lordships will feel and appreciate the spirit that urged Mr. Blair, when he saw an unhappy Negro, who had served Your Memorialist, for the benefit of Mr. Sam' Murray, above six years, anxiously soliciting to be continued in the same employ, so callously rejecting every solicitation, although the man becomes free again on the 1st of March next.

Your Lordships will feel whether it was an amiable thing, in a person intrusted with the exercise of His Majesty's benevolence, so relentlessly to separate a master and his servant, whom he saw happy and satisfied in so long a connexion.

And Your Lordships will feel and judge, whether the violence of his language to Memorialist, the indecency of his expression in the letter to the Governor, and

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—1.—  
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Mr. Lancelot  
Cooke.

the unfairness in his conduct in taking Jean Ellé away from Your Memorialist, in violation of every principle of humanity towards the poor man, merely to supply Mr. Bird's son-in-law with a cook, was befitting him who holds an important trust under the King, in which equanimity of temper, humanity, disinterestedness and benevolence of heart, ought to shine in a superlative degree.

Your Memorialist thinks it due to himself to say, that he is not impelled to this complaint from a desire to oppose the servants of His Majesty, or from a vindictive spirit of revenge, for, although no one has possessed a warmer or a better spirit of loyalty, or a more forgiving disposition towards those who have injured or insulted him, yet he owes it to his own rank in society, to call from Your Lordships for justice on Mr. Blair, who has thus trampled on all the decencies of life; and he does this more confidently, knowing that You are most able and most willing to screen gentlemen from the insolence of office.

And he sincerely assures Your Lordships, that whatever may be Your decision, with that decision he will rest most perfectly satisfied.

Wherefore he prays, That Your Lordships will be pleased to cause an inquiry to be made into the conduct of the Collector of Customs towards him, and judge thereon as You may deem meet.

And he will ever pray, &c.

(signed) *Lancelot Cooke.*

—2.—

PETITION and Memorial of Mr. Lancelot Cooke.

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

The PETITION and Memorial of Lancelot Cooke, of Cape Town, in the Cape of Good Hope, Merchant,—

Humbly Showeth,

THAT Your Petitioner is a native subject of His Majesty, but has resided for several years last past at Cape Town, in the Cape of Good Hope, where he carried on the business of a general merchant, until he left that colony, and came to this country upon the occasion hereinafter mentioned.

That about the year 1817, the establishment of Your Petitioner agreed with one Samuel Murray, of Cape Town aforesaid, for the services of a certain apprentice of him the said Samuel Murray, named Jean Ellé, who in consequence remained in the service of Your Petitioner's establishment about six years, and up to the death of the said Samuel Murray in the early part of the year 1823, at which time the period of his apprenticeship had nearly expired.

That the said Jean Ellé had been on board the French packet *Le Victor*, when it was captured in the year 1810 by the English brig of war *The Racehorse*, while trading from St. Denis to Port Louis, and was treated as a prize Slave by Charles Blair, Esquire, the Collector of the Customs at Cape Town, and as such was apprenticed to the said Samuel Murray in pursuance of the provisions of an Act passed in the 47th year of the late King George the Third, intituled, "An Act for the Abolition of the Slave Trade," and of an Order in Council of his late Majesty made thereupon.

That the account which the said Jean Ellé afterwards gave of himself was, that he was a free man, a native of Bourbon, and that he was employed as a seaman on board the said French packet, but at the time of his capture he was unable to speak English or Dutch, and the patois of Bourbon not being understood at the Cape, he could not explain his situation, and was treated in consequence as a prize Slave, instead of having conceded to him the rights of a prisoner of war.

That Your Petitioner merely alludes to this account which the said Jean Ellé gave of himself, as tending, together with his good conduct, to give Your Petitioner a greater interest in his welfare, and a desire that he should have such employment and be in such service as was most agreeable to his own wishes.

That on the death of the said Samuel Murray, the said Jean Ellé requested Your Petitioner to permit him to continue in his service, alleging, that he had

but

but a short time of his apprenticeship to serve; to which Your Petitioner consented, from the good opinion he entertained of the said Jean Ellé, acquired during a long and faithful service.

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Cooke.

That under this arrangement the said Jean Ellé did continue in the service of Your Petitioner for a period of five months, during which Your Petitioner paid him wages, and would gladly have continued so to do, but for the interruption hereafter mentioned.

That in November 1823, Your Petitioner received an order from Mr. Blair, to deliver up the said Jean Ellé to William Wilberforce Bird, Esquire, the Comptroller of the Customs, or his order, accompanied by a Note from Mr. Bird, requiring the said Jean Ellé to be sent to the Custom-house (copies of which Order and Note accompany this Petition and Memorial, in the appendix at the foot hereof.)—That the executors or personal representatives of the said Samuel Murray did not claim the services of the said apprentice, or the benefit of his indentures, but were quite willing that he should remain in the service of Your Petitioner as aforesaid.

That on Your Petitioner informing the said Jean Ellé of the said order or demand, and requesting him to go as directed, the said Jean Ellé expressed the greatest reluctance to leave Your Petitioner, and hoped Your Petitioner would not abandon him at the close of his servitude, which he truly represented had been faithful and industrious; whereupon Your Petitioner, although extremely desirous to retain an old and faithful servant, stated, that he could not disobey the order, and requested him to go as desired.

That it afterwards turned out, that the services of the said Jean Ellé were required for H. M. Pigou, Esquire, the son-in-law of the said William Wilberforce Bird.

That the reluctance of the said Jean Ellé to go into another service, prevented him from complying with the direction given to him, until he learnt that search was making for him on a charge of disobedience, when he instantly repaired to the Custom-house.

That before the said Jean Ellé left the employ of Your Petitioner, Mr. Pigou called, and became so satisfied of the wish of Jean Ellé to remain, and of the hardship of removing him, that Your Petitioner well hoped that some arrangement would have been made between Your Petitioner and the said Mr. Pigou, to that effect; but when Your Petitioner, pursuant to legal advice, offered to pay the wages of any person Mr. Pigou might hire in the situation intended for the said Jean Ellé, the said Mr. Pigou appeared to be offended, and returned no answer to Your Petitioner; that Your Petitioner thought it his duty respectfully to explain to the said Mr. Blair the occasion of any delay in the transfer of the service of the said Jean Ellé, but in so doing received much personal abuse and offensive language from the said Mr. Blair, as stated in the Memorial hereinafter alluded to.

That Your Petitioner was led to inquire into the right of the said Mr. Blair so to interfere, and was advised, and now submits to Your Lordships, that Mr. Blair had no right to resume any control over the said Jean Ellé, and that his conduct was not justified by the said Act of Parliament or his late Majesty's Order in Council, or any other sufficient warrant.

That Your Petitioner, anxious for redress, and solicitous to prevent the recurrence of similar conduct, respectfully prepared a Memorial for the purpose of being submitted to Your Lordships, to which he craves leave to refer, in which Memorial he has stated to Your Lordships the circumstance of the case of Jean Ellé with such observations as appeared to him the case called for and justified.

That Your Petitioner, when he transmitted such Memorial to England to be presented to Your Lordships, thought it a proper mark of respect to His Excellency the Governor of the colony, to lay before him a copy of such Memorial and the accompanying papers, in order that His Excellency might take such steps therein, and make such observations thereon, as he might think proper.

That by some means, Daniel Denyssen, the fiscal of the colony, obtained information of such copy having been laid before His Excellency the Governor, and instead of regarding it as an act of candour and fairness towards the party complained of, and of respect and confidence in the protecting care of the government (as alone Your Petitioner meant it) instituted a criminal prosecution for a libel against Your Petitioner, together with William Edwards, his professional adviser, and John Bernard Hoffman, who had been employed as the amanuensis to transcribe it.

That

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Cooke.

That the only foundation of any such charge of libel was the said Memorial respectfully appealing to Your Lordships—stating to Your Lordships the ground of complaint Your Petitioner conceived he might justly entertain, and respectfully praying for redress.

That the only publication of such supposed libel, was the communicating to the Governor, in the manner and for the reasons aforesaid, a copy of such Memorial.

That Your Petitioner conceives that it is not only the right, but the duty of every British subject respectfully to lay before the competent tribunal or authorities any ground of complaint he may have, it being as injurious to the character of the government as it is contrary to the interests of the people, that any just subject of complaint should remain unredressed.

That, notwithstanding that Your Petitioner claimed his right to complain to Your Lordships, without such his complaint being treated as a crime, Your Petitioner was prosecuted and brought to trial upon such charge, and ultimately, after being put to the necessity of appealing, Your Petitioner was acquitted.

That Your Petitioner humbly begs leave to submit to Your Lordships a printed Report of the proceedings taken on the said trial, respectfully referring Your Lordships thereto.

That Your Petitioner was not only put to great expense in defending himself in the said prosecution, but has also sustained incalculable loss and injury by reason of his coercive detention in the colony, from the 3d February to the 26th March last, to abide the event of the above proceedings, Your Petitioner's private concerns at the time requiring his immediate departure from the colony; and Your Petitioner has been otherwise much harassed by such proceedings against him.

That Your Petitioner, immediately after his acquittal, determined to leave the colony, and repair to England, to lay his case before Your Lordships, and accordingly left the Cape of Good Hope in the month of April 1824, and arrived in this country in the month of June following.

That Your Petitioner most respectfully submits to Your Lordships, that the prosecution instituted against him under the before-mentioned circumstances was in the highest degree illegal, and calculated to (and did) excite the greatest terror and alarm; that Your Petitioner has the most unbounded confidence in the protecting and impartial authority of the British Government, and is anxious to be secured from a repetition of such injurious treatment as he has already experienced; that Your Petitioner has no wish to excite faction, or to raise clamour, but that being desirous to return to the colony, he cannot do so without great apprehension, unless Your Lordships shall give him that redress and afford him that protection which as a loyal subject he trusts he is entitled to.

Your Petitioner therefore most humbly prays, That Your Lordships will be pleased to take his case into Your Lordships' consideration, and grant him such redress, and make such orders as to Your Lordships' wisdom and justice shall seem meet.

And Your Petitioner will ever pray.

*Lancelot Cooke.*

Signed in the presence of  
*Stu<sup>t</sup> P. Pearse,*

Solicitor to the Petitioner, 10 Swithans-lane,  
10th December 1824.

N<sup>o</sup> 1.

[*Appendix above referred to.*]

To Messrs. Cooke & Thompson.—Gent<sup>l</sup>, Be pleased to deliver to W<sup>m</sup> Wilberforce Bird, Esquire, or his order, the Prize Boy in your service, named Jean Ellé, belonging to the late Samuel Murray.

(signed) *Charles Blair*, Collector of the Customs.

N<sup>o</sup> 2.

To Lancelot Cooke, Esquire.—Mr. Wilberforce Bird will thank Mr. Cooke to send the Apprentice Boy (late Mr. Murray's) to the Custom-house.  
Monday morning.

## AT THE CAPE OF GOOD HOPE.

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— 3. —

REPORT of the Commissioners of Inquiry at the Cape of Good Hope;  
dated 22d July 1825.

The Right honourable the Earl Bathurst, K. G. &c. &c. &c.

My Lord,

Cape Town, 22 July 1825.

IN obedience to your Lordship's instructions, dated 30th January last, giving cover to two Memorials of Mr. Lancelot Cooke to the Lords Commissioners of His Majesty's Treasury, and which were received by us on the 29th April, we have proceeded to examine the complaints made by Mr. Cooke, of the conduct of Mr. Blair, the Collector of Customs, in the removal of one Prize Negro from his service, and the disposal of others; and we have also collected information respecting the nature of the proceedings instituted against Mr. Cooke, for writing and publishing a libel against the Collector.

The connexion of these circumstances with two leading subjects of inquiry pointed out to us in your Lordship's general instructions of the 18th January 1823, had induced us to obtain some general information, previous to our departure for the interior districts in November 1823, respecting the disposal and treatment of Prize Negroes in the colony; and the notoriety of the circumstances attending Mr. Cooke's prosecution had also drawn our attention to that subject. His acquittal by the court of justice from the charge of libel, and the appointment, by the Governor, of a committee to inquire into the conduct of the Collector, appeared to us to supersede the necessity of our making any special communication of these subjects to your Lordship, and we are not aware that Mr. Cooke ever addressed any complaint to us, or expressed a wish that either the proceedings instituted against him, or his complaint of the conduct of the Collector, should be taken up as matters of personal or public grievance.

Documents,  
N° 14.

We have lately ascertained, indeed, that Mr. L. Cooke had made an application to the deputy Fiscal, for the institution of a criminal proceeding against Mr. Blair, and that he afterwards withdrew it by the advice (as he said) of Mr. W<sup>m</sup> Edwards, who recommended him to address his complaint by way of memorial to the Lords Commissioners of His Majesty's Treasury.

Documents,  
N° 13.

The Committee appointed to inquire into the conduct of Mr. Blair, summoned Mr. Lancelot Cooke, to afford them information respecting the alleged abuses in the disposal of Prize Negroes, but Mr. Cooke having objected to come forward unless he was allowed to be assisted by counsel, and to cross-examine the witnesses, and, upon the court's overruling this objection, having again declined to bring forward witnesses before the Court of Inquiry, pending the discussion of an important question that had been raised by himself and Mr. Edwards, and which was then before the Court of Appeals, the members of this Court of Inquiry resolved to report to the Governor, that they were thus deprived of the means of strictly examining and inquiring into, or of recording in their proceedings any conclusive opinion respecting the several acts of corruption of which Mr. Blair stood accused in the Memorial of Mr. Cooke.

Documents,  
N° 14.

As one of these transactions took place previous to our return from the country districts, and as we found upon our arrival in Cape Town that Mr. Lancelot Cooke had been acquitted of the libel, and had proceeded to England with an intention of submitting his statements to the Lords Commissioners of His Majesty's Treasury, we did not think it incumbent upon us to do more at that time than to insure the preservation of the evidence upon which we understood that it was Mr. Cooke's intention, and that of his advisers, to have proved the truth of the allegations of his Memorial, if the decision and acquittal of the Court of Justice had not prevented him from resorting to it.

ibid.

With the impression that Mr. Cooke had not been mistaken in the course that he pursued, of presenting a Memorial to the Lords Commissioners of His Majesty's Treasury, respecting the conduct of the Collector of Customs in the disposal of Prize Negroes, and that it belonged to the colonial Government, in the first instance, to institute effectual inquiries into the truth of grave charges preferred against its officers for the abuse of the powers intrusted to them, we forbore to enter fully into the subject until we should have disposed of others that claimed our more immediate attention, or until we completed the general inquiry that we had already commenced into the state and treatment of the Prize Negroes, to our knowledge

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Report of Com-  
missioners of  
Inquiry at the  
Cape of Good Hope.

knowledge of which, the numerous complaints addressed to us by the Prize Negroes themselves were making some new, and frequently important, additions.

Having thus explained our reasons for not making an earlier communication to your Lordship of the nature of the charges preferred by Mr. Cooke against Mr. Blair, and of the judicial proceedings instituted against him, we proceed to lay before your Lordship our report upon the evidence that we have collected upon both these subjects.

Documents,  
N° 10.  
ibid.

We will first proceed to the examination of the case of Jean Ellé, who, it appears, was taken on board the French sloop "Le Victor," on its passage from the Isle of Bourbon to Mauritius, in the year 1810, and condemned as a Slave, to be forfeited to His Majesty, by a sentence of the court of Vice Admiralty in this colony, dated 23d January of the same year.

Document,  
N° 2.

Evidence of  
Mr. Thompson,  
page 129.

Document,  
N° 10.

Having observed in the Memorial of Mr. Cooke, a statement of the grounds upon which Jean Ellé asserted his claim to freedom, and that they had excited in his mind a greater degree of sympathy in his condition, we questioned Jean Ellé upon the subject. The account that he has given us accords with the notarial declaration that he made when Mr. Cooke was preparing his proofs for transmission to the Lords of Treasury; but it differs with that which he appears to have given to Mr. Thompson (the late partner of Mr. Cooke) and who took an equally kind interest in his fate; and it is entirely contradicted by the answers of the master and those of the mate of the ship in which he was taken. A copy of these answers, extracted from the proceedings of the court of Vice Admiralty, we have the honour to annex; and it is there sworn by the first of these two persons, that Jean Ellé, then named Jean Marie, with three other black people, were especially committed to the master's charge, for the purpose of being conveyed from the Isle of Bourbon to their masters, who resided at the Mauritius, and whom he named, and that they were known to be Slaves. The mate swore, that he belived the four people above named to have been Slaves, that they were treated as such on board the ship, although they were there only as passengers.

Considering that the communication between this Colony and the Isle of Bourbon has been open since the year 1815, and that it was competent to Mr. Cooke to have ascertained the truth of Jean Ellé's claim to freedom, by referring to the books of a public establishment in the Island, in which he asserted that the freedom was recorded, we are disposed to doubt the truth of the assertion, more especially as Jean Ellé very lately acknowledged in our presence, that he had no other grounds for believing himself to be free, than that his father had told him so.

Evidence,  
page 127.

After his condemnation as a Slave by the sentence of the court of Vice Admiralty, he was apprenticed to a Dutch inhabitant, but, on account of the ill-treatment that he experienced, was taken by an Englishman, and a civil servant of the Government, and after passing from his service to that of two other individuals, came at length to that of Mr. Samuel Murray, of Cape Town, a merchant who had been unfortunate, and who appears, latterly, to have derived his principal support from the hire of several Prize Negroes, assigned to him by the Collector of the Customs.

Evidence,  
page 154.

The Prize Negro Jean Ellé was hired out in this manner by Mr. Samuel Murray, to Messrs. Knubley and Thompson, merchants of Cape Town, for the sum of thirty-five rix dollars per month, which at first was settled in account between them. Upon the retirement of Mr. Knubley, Mr. Cooke entered into partnership with Mr. Thompson, and they continued to account jointly for the hire of Jean Ellé to Mr. Samuel Murray, until the death of the latter in August 1823.

Evidence,  
page 162 & 156.

Upon an inspection, at the Custom-house, of the Prize Negroes that had been assigned to Mr. Samuel Murray, Jean Ellé was produced, and appears to have attracted the notice of Mr. Blair, who recognised him as a cook, and as living in the service of Messrs. Cooke and Thompson. In a short time afterwards inquiries were made after him, through the officers of the police, and at length orders were received by Messrs. Cooke and Thompson, from the Collector and Comptroller, to send Jean Ellé to the Custom-house. The reluctance of the man to leave their service, his good behaviour in it, and the short period that yet remained of his term of apprenticeship, (which expired in the month of March 1824,) induced them to make strong representations to Mr. Pigou, the intended assignee, of the services of Jean Ellé, accompanied with an offer to provide a substitute for him. Finding themselves unable to accomplish this object, a proposal was made to Mr. Pigou by Mr. Cooke, to receive a monthly payment of Jean Ellé's wages, in substitution of his

Documents,  
N° 15, page 58.

Evidence,  
page 154.

his services. With feelings of indignation at such a proposal, Mr. Pigou communicated it to Mr. Blair, and according to the notarial declaration of Mr. Cooke and the evidence of his confidential clerk before us, Mr. Blair, instead of listening to the explanation intended to have been offered by Mr. Cooke, for the delay that had taken place in complying with the orders for the appearance of Jean Ellé, addressed him in the very vehement and violent terms that are described in Mr. Cooke's Memorial.

For this affront Mr. Cooke applied to the Deputy Fiscal for redress; and in consequence of the advice that he received from Mr. Edwards, and to which we have before adverted, he was induced to withdraw the prosecution, after Mr. Blair had already been summoned to answer in person. Upon these facts we beg leave to observe to your Lordship, that the complaint of Mr. Cooke against the Collector rests upon two grounds, first, that of personal affront and insult to him at a time in which he intended to offer explanation of an apparent inattention to the Collector's orders; and secondly, the removal of the Prize Negro from the service of himself and Mr. Thompson, in which he was happy and contented, to that of Mr. Pigou, a near connexion of the Comptroller of the Customs, for whose service he had manifested the greatest aversion, and at a period when he was perfectly competent to provide for his own support.

Upon the first point we shall submit our opinion when we consider the proceedings instituted against Mr. Cooke. The second point appears to us to depend upon the intention with which the power of apprenticing Prize Negroes has been conferred upon the Collector of the Customs, and to the effect that may be attributed to the sixth clause in the Order in Council, which confines the power of reapprenticing them to cases wherein, by reason of the death or absence of the master or any other cause, they may be thrown out of service before they had acquired knowledge enough to gain their own support.

We apprehend that the general intention of the Order in Council dated 16 March 1808, making provision for the Negroes that should be taken and condemned as forfeited to the Crown under the Acts of Parliament passed for the Abolition of the Slave Trade, was to enable them to acquire such a degree of practical instruction from the masters to whom they were assigned, as would enable them at a future period to support themselves; with this view the extent and duration of the period of their service were to be regulated by a reference to their age, skill and strength, and in case of any contingency happening by which they should be thrown out of service or employment before they had acquired the means of their own support, a power was given to the Collector of the Customs to reapprentice them to some other master in the same trade or calling, for any term which, on being added to that part of the first indenture, should not exceed fourteen years.

It appears to us, therefore, that the power of apprenticing a Prize Negro in the first instance, or of reapprenticing him afterwards to another master, was intended to be conferred on the Collector of Customs for the benefit of the Negro alone. In the first instance it was to be guided by a reasonable calculation of the natural and physical powers of the Negro; in the second instance it was, as we conceive, strictly to be limited by the progress he had made in the useful application of them; if he was found to be competent to provide by his labour for his own support, the interference of the Collector was to cease, and the object of the Act of Parliament, in making him an apprentice, was satisfied.

In applying this reasoning to the facts of the case now under consideration, we beg leave to observe, that at the period of Mr. Samuel Murray's death, the Prize Negro Jean Ellé was and had long been perfectly competent to maintain himself, and that the Collector of the Customs had an opportunity of informing himself of this fact, by the personal inquiries that he made respecting his employment and condition when he was sent to the Custom-house to be inspected with the other Prize Negroes of Mr. Samuel Murray.

In considering the comparative advantage that would accrue in this instance to the Negro, by being allowed to remain in the service of masters to whom he was attached and by whom he had been so well treated, and that of being transferred to the services of an entire stranger, we do not think that any difficulty could exist, more especially as the remaining period of his apprenticeship expired in six months after the transfer, and as he availed himself of the first moment after its expiration to return to the service of his choice, and to quit that which he had been most reluctantly compelled to enter.

Evidence,  
page 153, 154.

Evidence,  
page 154.

Documents,  
N° 15, page 57.

Documents,  
N° 15, page 59.

See Copy of 6th  
Clause.

Document,  
N° 12.

Evidence,  
page 127 and 162.

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missioners of  
Inquiry.

Evidence,  
page 128.

In point of pecuniary advantage, the two services were nearly balanced, for we do not find that Messrs. Cooke and Thompson paid any hire for Jean Ellé after the death of Mr. Samuel Murray, his last master, nor that they made him a larger weekly allowance than that which was given him by Mr. Pigou, who in other respects treated him well.

Without insisting further on the superior advantages of a service, in which the relation of the master and servant is founded upon the basis of reciprocal attachment, and of one wherein it is supported only by coercion and counteracted by a strong sense of hardship and injustice, we cannot but observe, that according to the construction that we think ourselves warranted in giving to the 6th clause of the Order in Council, the Collector of the Customs was not justified in reapprenticing Jean Ellé to Mr. Pigou or to any other person, or in removing him from the service of Messrs. Cooke and Thompson, where, it is undeniable that if he had been a free agent, he would have been able to acquire the same ample means of supporting himself that he enjoys at present (together with his subsistence,) in the receipt of 35 rix dollars per month.

Evidence,  
page 129, 128.

Before we quit this part of the subject, we think it right to observe, that in his answer to the statement of Mr. Cooke that we submitted to the Collector of the Customs as well as to the Comptroller, the former declares that he has not considered himself authorized to remit, under any circumstances, the period of apprenticeship. Without entering into any remarks upon the motives that may have induced the Collector to exclude all consideration of the clause in the Order in Council that we have referred to, we will only add, that the instances are numerous and of daily occurrence, in which Prize Negroes, who are perfectly competent to support themselves, are reapprenticed by the Collector and Comptroller, and become a source of profit in the hands of poor masters, who derive considerable profit, if not their principal subsistence, from hiring out the Negroes to other persons.

Evidence,  
page 156.

We observe also, that the Collector claimed a right of recalling the services of Jean Ellé, in consequence of having been assigned to Messrs. Cooke and Thompson without his knowledge, and in violation of the prohibitory clause in the indenture of this person, in which, as in all other indentures of Prize Negroes, the masters are prohibited from transferring their apprentices to another, without the licence and consent of the Collector. The object of this provision is obviously intended to prevent the Prize Negroes from falling into the hands of improper or cruel masters. But we conceive that in the instance of Jean Ellé, the prohibition was perfectly inapplicable. Upon the death of Mr. Samuel Murray, the Collector ascertained in whose service he was, and as no objection was ever made by him to the character of Messrs. Cooke and Thompson, or to their treatment of Jean Ellé, he must have been satisfied, that for the short term of service that was yet unexpired, his situation with them was beneficial, and required no alteration. Upon this ground, therefore, we consider that the Collector ought to have abstained from removing Jean Ellé from the service of Messrs. Cooke and Thompson, and might, we think, with propriety have required them to deposit in the Savings Bank, for his benefit, the wages that were due from the death of Mr. Murray, and that might become due until the expiration of his term of apprenticeship.

Instances certainly have occurred, in which the Collector and Comptroller of the Customs, upon the death or departure of the masters of Prize Negroes, have consulted the wishes of the surviving or remaining members of the family; in the present instance, however, we are compelled to state, that no other motive appears to us to be assignable for the removal of Jean Ellé from the service of Messrs. Cooke and Thompson, than the desire of accommodating a near relation of the Comptroller with a good servant.

In pursuing the second subject of charge made by Mr. Cooke against the Collector of the Customs, we think it right to explain, that after the former had determined to relinquish the criminal action against the latter, he availed himself of the assistance of Mr. W. Edwards, a person who had been lately admitted a notary public, and procured the declarations upon oath of several persons to be taken, who professed to be acquainted with the Collector and Comptroller's practice of distributing and assigning the Prize Negroes. Copies of these declarations, taken from the protocol of Mr. Edwards, were delivered by him to us, before his embarkation for New South Wales; and we have also received information from  
other

Documents,  
N<sup>o</sup> 1 & 6.

other quarters upon the same subject, the substance of which we now proceed to lay before your Lordship.

It has been stated to us, that both the Collector and Comptroller of the Customs, in the sale of their estates, had availed themselves of the power they possessed in regulating the assignment of Prize Negroes, to transfer their interest in some of them to the purchasers, in consequence of express stipulations to that effect, and with a view to enhance the price.

Both these officers have thought proper from time to time to select Prize Negroes for their own service, or to retain such as they required upon the death or departure of the masters from the colony. Mr. Blair, it appears, has had 54 Prize Negroes, and Mr. W. Bird, 23.

A difference of a somewhat technical nature has prevailed in their methods of accomplishing this object: The Collector has considered that the act of apprenticing a Prize Negro to himself was not consistent with reason; while the Comptroller has adopted a different practice, and relying upon a supposed analogy which he discovered in the Act of the 5th of Elizabeth, chapter 40, and in the permission there given to fathers to apprentice their children to themselves, he has considered himself and the Collector to stand in the same relation, or in that of guardian, towards the Prize Negroes, and has executed indentures of apprenticeship, and assignments of unexpired terms, in his own favour, taking care however in some of these cases to mark in explicit terms the individual and public capacities in which he gave and received at the same moment the services of the Prize Negroes.

We do not at present think it necessary to detain your Lordship with considering the substitution which is thus assumed by the Comptroller, of the relation of trustee and guardian for that of parent, as the basis of this analogy, or the difference between the objects held in view by the framers of the Act of Elizabeth, and of the Order in Council in conformity to which the indentures of Prize Negroes are drawn. The object of the latter is to provide protection for those persons by the selection of good and humane masters; and we do not think that this object is attained, while it certainly may be risked, by the combination in one and the same person of the interest of a master and the duty of protector.

The sale of Mr. Blair's estate at Stellenberg near Cape Town was effected in the month of April 1820, being ineffectually tried both by auction and private contract in the latter end of the year 1819, and the person who had in the first instance offered the sum of 120,000 guilders, became the purchaser of it afterwards by private contract for 100,000 guilders. From the evidence of this person it would not appear that he was himself aware at the moment, of the value that would be given to the estate by the services of ten Prize Negroes, who had been employed and lived upon it when it was possessed by Mr. Blair, although it was suggested by others who were employed in negotiating the sale; and he has since been aware that their labour, after deducting the expenses of clothing and subsistence, was worth 1,440 rix dollars per annum, and that the aggregate value of it for five years has amounted to 7,200 rix dollars.

From another witness who had bid for the estate we are informed, that although no express declaration was made at the sale, that the Prize Negroes were to be transferred with it, yet a belief prevailed that it would be so; and in a conversation that took place between this witness and Mr. Blair after the auction, in which the latter expressed his regret that he had not become the purchaser of his estate, Mr. Blair is stated to have pledged his word of honour, that if the estate should be sold, the Prize Negroes should not be withdrawn from it until their apprenticeships had expired.

At the period in which the sale was effected, Mr. Blair was preparing to go to England, and could not have himself required the services of the Prize Negroes. On the other hand it may be doubted, whether the sale of the estate could have been effected without some further reduction of the price, if the Prize Negroes had not been allowed to remain upon it; and it is asserted by one of the witnesses (and we think with truth) that this circumstance alone would augment the value to a purchaser to the amount of twenty per cent.

As no indentures of the Prize Negroes had been executed in favour of Mr. Blair, he was under the necessity of causing new ones to be executed in favour of the purchaser, Captain Amber, which we observe are dated on the 1st April 1820, and are alleged to be for the "remaining term of apprenticeship," without any reference to the date of its commencement. A loose memorandum of the periods at

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Documents,  
N° 11.

Documents,  
N° 20.

Copy of Indenture,  
N° 28, page 125.

Evidence,  
page 137.  
£. 3,000.  
£. 2,500.

Evidence,  
page 137.

£. 108.  
£. 540.  
Evidence,  
page 138.

Evidence,  
page 135 & 136.

Evidence,  
page 136.

Evidence,  
page 135.

Document,  
N° 9.  
ibid.



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Evidence,  
page 138.

£. 2,500.

which the terms would expire was given to Captain Amber, and one of the Prize Negroes was removed from his service upon an application that was made to the landdrost of the district; another was removed upon a complaint of misconduct; but we do not find that Captain Amber either claimed to receive other Prize Negroes in their places, or to make any deduction from the amount of the purchase money.

Although we conceive that the sale of the estate at the sum of 100,000 guilders was in a great degree facilitated by the permission to retain the Prize Negroes upon it, yet we do not find that the arrangement was injurious to them; and that in as far as it tended to keep them together at a place to which they had been for some time accustomed to reside, it might be considered as beneficial.

After giving Mr. Blair all the benefit of this observation, we will add, that it has not tended to alter the impression that his pledge, of not removing the Prize Negroes, given to a person then negotiating for the purchase of the estate, is so strongly calculated to create. We are satisfied in our own minds, that this pledge of the continuance of services so valuable could only be made with the view, and could only be attended with the effect, of promoting the sale of property of which Mr. Blair was so anxious to dispose previous to his departure to England. We have no reason to discredit the testimony of the person to whom the pledge was given; and we thus find great difficulty in acquitting Mr. Blair of an intention to combine the disposing power that he officially exercised over the Prize Negroes, with the interest that he felt as proprietor and seller of the estate. In this instance it appears that it only facilitated the sale, and that it did not augment the price, the sum of 110,000 guilders having been offered for it at a former period, and refused.

£. 2,750.

In the evidence that we have collected, a similar instance occurs of the transfer of an estate by the Comptroller of Customs, accompanied by a permission to the purchaser to retain three Prize Negroes that had previously been employed upon it.

Evidence,  
page 163.

£. 700.

If the evidence of Mr. Thomas Heatlie is to be relied upon, an express stipulation was made by him, that three Prize apprentices who had been assigned to the Comptroller should be transferred to him, and that their services formed part of the consideration of the purchase money, amounting to 28,000 guilders; to which however a condition was annexed, that in case Mr. Heatlie should sell the place, the Prize Negroes were not to be transferred without the consent of the Comptroller. It is stated that Mr. Dashwood, the Collector of the Customs of Simon's town, was present at the interview at which this negotiation took place; that a memorandum in writing was made of it, in which, at Mr. Wilberforce Bird the Comptroller's request, no mention was inserted of the three Prize Negroes who were allowed to remain upon the estate.

Evidence,  
page 163.

As Mr. Dashwood had unfortunately left the colony before this inquiry took place, we were deprived of his testimony, which would have relieved us from the doubts that we feel justified in entertaining with respect to that of Mr. Heatlie, in consequence of the inaccuracies that we have detected in his former statements.

Document,  
N° 18.

£. 700.

Document,  
N° 18..

It is admitted by Mr. W. Bird that the estate was sold for 28,000 guilders, and that he agreed to leave upon it three of his Prize Negroes, as they had been accustomed to reside there, and as he was desirous of acceding to the wishes of Mr. Dashwood, who first negotiated the sale of the estate on behalf of Mr. Heatlie, and who stated him to be a young beginner, and to stand in need of assistance.

£. 700.

In the present state of the evidence, the assertion of Mr. Heatlie, that the services of the Prize Negroes formed part of his inducement to pay the sum of 28,000 guilders for the estate, is not confirmed, and in that state we hesitate to ascribe to the transfer of the Prize Negroes the corrupt motive that Mr. Heatlie's evidence would establish against Mr. W. Bird, by allowing them to be considered as "part of the purchase money;" at the same time we feel it our duty to remark, that the Comptroller of the Customs has, with the view of meeting the wishes of his friend Mr. Dashwood, allowed three Prize Negroes to remain under the control of a person who, he says, has been reprov'd for his severe treatment of his Negroes, and to whom (as he observes in his letter to us of the 7th June last) he would never have given dominion, though merely temporary (without reserving strong checks and power of resumption) over any human creature.

Evidence,  
page 163.

Documents,  
N° 18, page 100.

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Now it is admitted by the Comptroller, that although the indentures of the Prize Negroes were not transferred to Mr. Heatlie, yet that he was allowed to have authority over them as long as he continued to be proprietor of the estate; and

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it was only in the event of a transfer of it to a stranger that he could claim the right of resuming them. In the attempts made by Mr. Heatlie to dispose of it, the right of resumption of the services of the Prize Negroes appears to have been partially exercised by the Comptroller of the Customs; and when they repaired to him for protection against Mr. Heatlie, who had left the estate and removed to Tulbagh, we do not find that the latter took any judicial steps to recover them, or to obtain a compensation for the loss of their services.

In pursuing our inquiry into the disposal of the Prize Negroes by the Collector and Comptroller of the Customs, and with reference to the facts disclosed in the notarial evidence of Mr. Edwards, our attention has been much occupied by the assignment of several Prize Negroes to an individual named Charles Dixon, a livery-stable keeper in Cape Town, and by the alleged remission by him of a debt of considerable amount to the Collector of the Customs.

It appears that at various periods, from the commencement of C. Dixon's setting up in business, Mr. Blair had been indebted to him in smaller sums, which had been discharged. Between the years 1810 and 1816, Mr. Dixon had received no less than 15 Prize Negroes from Mr. Blair, and had often and openly expressed the sense of the obligation that he had received, and the great assistance that their labour had afforded him.

Towards the end of the year 1819, when it was known that Mr. Blair was about to visit England, Dixon presented his bill to him, amounting to 1441 rix dollars 1 skilling, and, as he now swears, was induced to postpone the payment on a verbal promise of Mr. Blair to discharge the bill on his return to the colony. It is sworn by the person who acted as Dixon's clerk at the time, that he was desired by him to make out Mr. Blair's bill, that Dixon wrote the words, "Received payment," and signed it with his name. He further swears, that after Dixon had seen Mr. Blair, he desired him to make an entry in his books of the account having been paid, that he had not received any thing, but that he had made a present of the amount to Mr. Blair, in consideration of his kindness in having assigned so many Prize Negroes to him.

This entry of payment to Mr. Blair's credit, dated 1st April 1820, of cash in full to the amount of 1441 rix dollars 1 skilling, was found by us in Dixon's ledger, and balances all antecedent items to his debit; and it is further corroborated by subsequent declarations of Dixon, who is stated to have declared in the presence of more than one person, that he had been anxious to evince his sense of Mr. Blair's kindness, and had presented him with his receipted bill. Whether this document was in the state described by the clerk, receipted and signed by Dixon, at the time that he presented it to Mr. Blair, there is some doubt; Mr. Blair has not been able to find or produce the bill, nor can he recollect whether it was receipted or not.

In explanation of the entry in his ledger, and also of another entry in his day-book in his own handwriting, dated 1 April 1820, stating that "he had received of C. Blair, Esq., in full of all demands to that date, 1441 rix dollars 1 skilling," C. Dixon has not been able to satisfy us that the first entry in the ledger was not made by the clerk at the time, in consequence of the direction that the latter has sworn he gave him.

In explanation of these entries, Dixon has denied that they were considered by him as true, that he always considered Mr. Blair to be indebted to him in the amount of the account that he tendered to him in April 1820, and continued to be satisfied with the assurances that he had given him, of discharging it at some future day; but he further swears, that under the influence of an apprehension that the inquiries which Mr. Cooke and Edwards were making in the year 1824, respecting the assignment of Prize Negroes, might occasion him some embarrassment, he applied to Mr. Blair at that period to give him a promissory note for the amount of his account, and that by his (Dixon's) desire, both the note and the entry of payment were antedated to the 1st April 1820, for the purpose of defeating Mr. Edwards's inquiries, or of removing any suspicion that might be entertained, as to the reality of an adjustment of Mr. Blair's bill at that period. The original note has been produced, and we find that it is wholly of Mr. Blair's handwriting.

Mr. Blair has stated in explanation, that when he quitted the colony to go to England in April 1820, he had the consent of his creditors to do so upon an understanding that the payment of their accounts was to be postponed until his return. It appears that Dixon, amongst others, applied for payment of his account

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Document,  
N<sup>o</sup> 18.Documents,  
N<sup>os</sup> 1 to 6.Evidence,  
page 140.Evidence,  
page 139 & 140.

£. 108. 1. 8.

Evidence,  
page 131, 132,  
& 167.Evidence,  
page 132.

£. 108. 1. 8.

Document,  
N<sup>o</sup> 7,  
and Evid. p. 140.  
& 141.Document,  
N<sup>o</sup> 7.Evidence,  
page 134.Documents,  
N<sup>o</sup> 20.

£. 108. 1. 8.

Evidence,  
page 140 & 172.Evidence,  
page 141.Documents,  
N<sup>o</sup> 20.

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Documents,  
N° 20.

Evidence,  
page 139.  
Evidence,  
page 134.

Evidence,  
pages 132, 133,  
139.

£. 178. 14. 10.  
Evidence,  
page 142.

£. 69. 14. 5.  
£. 178. 16. 7.  
£. 188. 16. 9.  
Evidence,  
page 142.

Evidence of  
Mr. Heyward,  
page 142.

£. 178. 14. 10.  
Evidence,  
page 142.

Evidence,  
page 171.

account when Mr. Blair returned, and it is therefore justly asked by the latter, whether such a demand is consistent with the allegation of the voluntary tender of the account and receipt before his departure. His explanation of the date of the promissory note is not equally satisfactory; he says that it was given subsequently to his return to the colony, in consequence of an application made by Dixon for payment of his account. Mr. Blair did not return to the colony until 1821; it is therefore incontestibly proved that the note must have been antedated, and this proof is not weakened by the assertion of Mr. Blair, that he did not become acquainted with the fact until after the charges had been adduced against him.

Admitting however that the note was given for the purpose of meeting the inquiries that Mr. Edwards on behalf of Mr. Cooke was making into the disposal of the Prize Negroes in 1824, we do not see that it affects the question of the antecedent adjustment of the account by Dixon in consequence of his having been indulged with the services of so many of them. We have very little doubt that the sense of this obligation induced him to accede with readiness to a postponement of payment solicited by Mr. Blair previous to his departure for England in 1820; but we do not think that his casual declarations, although sworn to by a very respectable and disinterested witness, or even the entry of payment that he caused to be made in his ledger, afford conclusive proof that he considered the debt of Mr. Blair as finally cancelled. It appears in evidence that Mr. Dixon was very careless in the manner of keeping his accounts, and that errors were frequently detected in the entries of cash received in payment; it further appears that he was habitually incautious in his conversation, and not always correct in his relation of matter that affected his own interests.

In consideration of all these circumstances, we are induced to reject the imputation, that the debt of Mr. Blair to C. Dixon was cancelled in consideration of the assignment to him of Prize Negroes; but we think it our duty to add, that he appears to have been unworthy of such indulgence, on account of the severity with which he frequently treated them. Several complaints were preferred by them to the Fiscal, and were brought before the commissioners of the court of justice, and some of which, for want of sufficient proof, were dismissed; but upon one occasion it appears that Dixon was sentenced to pay a fine of 50 rix dollars.

The next case to which we propose to call your Lordship's attention, is that of a tradesman named Durham, to whom fifteen Prize Negroes had from time to time been assigned, and in whose books we found that a debt of Mr. Blair's, for various articles of household furniture, had continued to accumulate in every successive year, from the 9th June 1814 to the 19th December 1821, when it amounted to the sum of 2,383 rix dollars 2 skillings, without any thing appearing to Mr. Blair's credit, or any thing having been paid by him, to the knowledge of the clerk and book-keeper, during that long period; although the same person declares that he had delivered the bills to him, and requested payment.

Upon an examination of Mr. Durham's books, it further appeared, that the balance before mentioned is not brought forward, but there exists an open account of the date of 28th March 1823, amounting to 929 rix dollars 5 skillings, augmented to the sum of 2,317 rix dollars 6 skillings in Decemder 1824; and it further appears that a bill had been delivered to Mr. Blair, amounting to 2,517 rix dollars 7 skillings.

In the absence of Mr. Durham, who left the colony to proceed to England in January 1825, we examined his chief clerk and book-keeper, who professes himself to be unable to account for the apparent relinquishment of the old balance of 2,383 rix dollars 2 skillings; but he produced a letter that he had lately received from Mr. Durham, dated Saint Helena, 11th February 1825 (on his voyage to England) in which he is requested by him to press Mr. Blair for the settlement of the old account by notes, leaving the new one to be paid by instalments, according to an expectation that he says he received before he quitted the colony.

From the evidence of the clerk we do not find that the indulgence that Mr. Blair has experienced from Mr. Durham has been extended to his other customers; and although we do not question that the account was intended at some period to be discharged, we think ourselves justified in concluding, that even with the general forbearance observed by tradesmen towards the civil servants of Government in demanding payment of their debts, such great indulgence would not have been granted to Mr. Blair if Mr. Durham had not been accommodated with the services of so many Prize Negroes.

In examining the lists of those that have been distributed by Mr. Blair since the year 1809, we found that the greatest number distributed in Cape Town had been assigned to respectable tradespeople, and who had been included in the list of witnesses to be summoned on the trial of Mr. Cooke, several of whom we thought it necessary to examine, and have found that, with one exception only, they consisted of persons to whom Mr. Blair was and had been indebted in sums of, various but not very large amounts, and that although temporary remissions of their demands had been made by them in his favour, and that they were inconsistent with the ordinary terms of their dealing, yet we have not found one instance in which any thing had passed that would justify us in concluding that a total remission of the debt was intended, but that, on the contrary, in almost all, we have found at one period or another an application for payment made by the creditor, and an acknowledgment on the part of Mr. Blair, that negative the presumption of a final adjustment in consequence of the assignment of Prize Negroes. The value and importance of their services to these persons have been freely acknowledged; and with respect to this point we are well justified in concluding, that after the lapse of one year from the date of the abolition of the Slave trade, the competition for the assignment of Prize Negroes at the Cape has been pressing and constant. Without entering at present into the manner in which they have been distributed generally, we will take occasion to observe, that, according to the lists that are before us, and after the claims of the naval and military services and those of the colonial government had been attended to, the particular friends of Mr. Blair and Mr. Wilberforce Bird have appeared to have received the greatest number.

Amongst the former, we have observed that a Mr. Samuel Murray (now deceased) of whom we have already had occasion to speak in noticing the case of Jean Ellé, is the most distinguished. We do not find that this individual possessed any other claim to this indulgence than that of being unfortunate in his commercial concerns, from the consequences of which he certainly derived relief by hiring out the Prize Negroes that Mr. Blair had from time to time assigned to him.

During the existence of his partnership with another merchant, an open account was kept with Mr. Blair, to whom wine had at different periods been delivered, and to the amount of 480 rix dollars.

The person charged with recovering payment of the debts due to the partnership has declared that he was informed by a friend of Mr. Blair, that this sum had been overpaid to Mr. Murray in a bill that Mr. Blair had given him for 1,000 rix dollars, and that upon giving this information to the late Mr. Samuel Murray, he promised to pay him the amount of Mr. Blair's account; and was more than once threatened with an action by his former partner, Mr. Horne, to compel the payment. From not having been able to gain access to any other books than the ledger of the late Mr. Murray, we cannot fully confirm the correctness of this statement; but after examining that book, we have found that no credit appears to have been given to Mr. Blair; but the irregularity with which the accounts appear to have been kept, would render it unsafe to draw any inference from such an omission.

In another instance, (that of Mr. Duckitt) a gentleman who had been sent to the Cape at an early period of its former occupation, to try experiments and introduce improvements in agriculture, we find that the possession of ten Prize Negroes, independent of the large number that he had received from himself and family, was coupled with a condition of appropriating to Mr. Blair the calculated quantity of produce raised by their labour on his farm, and that of subsisting and clothing them.

With these exceptions, we find that a large majority of the Prize Negroes apprenticed by the Collector and Comptroller of the Customs since the passing of the Abolition Act, and amounting nearly to 1490, have been distributed in numbers not exceeding, and generally less than three to each person; and although we have not been able to obtain from the Custom-house any accurate account of the numbers that have been reassigned, we observe that the Collector and Comptroller have exercised vigilance approaching to severity in asserting their claims to this questionable right, and that it has been exercised less with a view to the advantage of the Negro for whose benefit alone, as we have had the honour to contend, the right was conferred, than to the maintenance and augmentation of the Collector's and Comptroller's patronage. The case of Jean Ellé, which we have already detailed, is in support of this observation. The case of the Prize Negroes of an individual

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Evidence, page 144, 147, 150, 153, 158.

Document, N° 8.

Document, N° 21. £. 36.

Evidence, page 173, 174.

Evidence of Mr. Ley, *ibid.*

£. 75.

Document, N° 21.

Documents, N° 23. Evidence, page 159.

Document, N° 11.

Documents,  
N° 22.

named Corbitt, which was submitted to your Lordship by him before he returned to the colony from England, also corroborated our remarks.

It appears that he had obtained the permission of Mr. Blair to take to England one of the four Prize Negroes that had been assigned to him, who had lived in his family for seven years, and whose good qualities had greatly recommended him to his favour and protection. Not being able himself to return within twelve months, he sent the Prize Negro under proper care to a friend and agent in Cape Town, who neglected to apprize the Collector of the Customs of his return, but who, proceeding according to the directions of Mr. Corbitt, had placed the boy at school, and given employment to him in his own store. From this employment, which appears to have been suggested by a proper attention to the benevolent and kind views of Mr. Corbitt, the boy was taken by Mr. Blair and removed to his own service.

Evidence,  
page 164.

It was certainly the duty of Mr. Corbitt's agent to have apprized the Collector or Comptroller of the Customs of the boy's return to the colony; and we cannot help expressing our surprise that he should have been allowed to cancel the security that his principal had given in the office of the Colonial Secretary for the boy's return, without notice to the Collector or Comptroller of the Customs, or without any attempt to identify the boy's person.

*ibid.*

It is alleged by the agent, that upon Mr. Corbitt's departure, he had the permission of the Comptroller of the Customs to keep in his possession a Prize Negro, named "Present," and that a similar understanding prevailed respecting the disposal of another, both of whom were left in the colony by Mr. Corbitt. Considering the loose and irregular manner in which the transfers of indentures and temporary arrangements respecting Prize Negroes appear to have been made, we think it most probable that the permission to retain these Prize Negroes had been verbally given, by the Comptroller of the Customs, in the absence of the Collector, and that the latter was not aware of it, until a complaint of one of the Negroes to him brought the matter to his notice.

*ibid.*

*ibid.*

Documents,  
N° 22.

In a Report that he addressed to his Excellency the Governor, we find that the Collector represented that the situation and treatment of the Prize Negro "Tom" in the house of Mr. Corbitt's agent was disadvantageous to him and improper; that he was compelled to perform drudgery; and that with a view to improve his condition, he took him into his own family. Upon an inquiry into these circumstances we find that the boy was employed by the agent in the same way that he had been employed by Mr. Corbitt himself; that he was a house servant and shop-boy, and consequently was made to carry parcels and errands. His services in that situation are stated by Mr. Deane (the agent of Mr. Corbitt) to have been worth from 15 to 20 rix dollars per month, exclusive of his board and lodging; and that he was a boy of remarkably quiet disposition, and at the same time endued with intelligence and quickness.

£. 1. 2. 6.  
to £. 1. 10.  
Evidence,  
page 165.

*ibid.*

Arrangements had been made by Mr. Deane for his attendance at a free school in Cape Town, in pursuance of Mr. Corbitt's directions; but notwithstanding these circumstances, which we consider to have been highly favourable to the progressive improvement of the Negro, he was removed to the domestic service of Mr. Blair, where he has received no instruction, and where it appears that he has had to complain of the violence of Mr. Blair, in the unauthorized punishments that he inflicts upon him in moments of irritation.

Evidence,  
page 169.

We have no reason to believe that (except on these occasions) Mr. Blair's treatment of his Prize Negroes has been objectionable; and we had reasons to observe that this Negro, who is employed in the house of Mr. Blair, is well clothed; but we cannot hesitate to express our opinion, that the situation of this Prize Negro, in the service of Mr. Corbitt, to whom he was attached by ties of gratitude and obligation, would have been infinitely more beneficial to him than that of Mr. Blair, in which he now remains, and is to continue until the expiration of the term of his apprenticeship.

Another case, of very recent occurrence, has impressed us with a belief that the personal accommodation of the Collector and Comptroller of the Customs is now become a prevailing principle in the distribution of Prize Negroes who are in a situation to be reassigned to new masters. Upon the departure of a gentleman from the colony who held a situation in the department of the Customs, and who expressed a wish to transfer the services of a valuable Prize Negro to a friend of his, who had lately succeeded to one of the highest appointments in the colony, and who experienced in common with every stranger the difficulty so much com-  
plained

plained of at the Cape, of obtaining or hiring good domestic servants; this very reasonable request was denied by the Collector of the Customs, upon the sole allegation of his requiring the services of the Prize Negro for himself. In stating this occurrence, together with others that seemed to require explanation, to the Collector and Comptroller of the Customs, we observed that it had not received any answer or notice, but it has been explained to us by Mr. Blair, that, reserving to himself a contingent claim to the services of the Negro, he has allowed him to remain for the present in the service of Mr. Wilberforce Bird, but without any regular assignment.

Before we conclude this subject, we beg leave to notice the refusal of the Collector of the Customs to give a certificate of the expiration of a term of service to a Prize Negro who had lived with him as an apprenticed servant for some time, but, upon the expiration of whose term of apprenticeship, was unwilling to re-engage with him. The application was made to Mr. Blair by a person who has sworn that he refused to give the certificate, and made inquiries respecting the character of the individual who was desirous of having the Negro, saying, that he would call upon him. It appears, however, that the Negro was hired out without a certificate; and from a Government advertisement that had been published previously, notifying to the public the names of such Prize Negroes as had then become free, it appears that such a document from the Collector was unnecessary. The Landdrost of the district in which the Negro had served Mr. Blair, had sent for him, and in pursuance of the directions of the Government advertisement, informed him that his term of apprenticeship had expired, and intimated to him, and to others in the same situation, that they were at liberty to enter into contracts with other masters. As that in which the Negro was about to engage was in the Cape district, the application for contracting him should have been made to the Landdrost, and not the Fiscal, to whose office it is alleged that it was addressed.

During the apprenticeship of the Prize Negro with Mr. Blair, his native name had been changed, although he was described by it in the Government advertisement; and to that circumstance may be attributed the mistake in the application. Mr. Blair has stated, that he treated this Negro, during a very long period of service, with particular favour; and that even after he obtained his freedom he returned to his service, and remained with him six months on wages at ten rix dollars per month. As the Negro had left the colony and gone to England, we had no opportunity of substantiating this fact; but the allegation of his having refused to re-engage in Mr. Blair's service on account of severe treatment, rests, in this instance, on such slight grounds, that we do not hesitate to reject it. In other respects, although Mr. Blair might have shown a greater degree of courtesy when the application was made to him for a certificate of the Negro's termination of service, yet it does not appear that in this instance it was a part of his duty to give such a document, or that it was even necessary to enable the Negro to engage in a new service.

From the observations that we have already offered upon the several circumstances detailed in the evidence that we have collected, we trust that we have enabled your Lordship to form a judgment of the motives by which the conduct of the chief officers of the Customs, in the distribution of Prize Negroes, has been guided; and of the truth of the representations that have been addressed by Mr. L. Cooke to the Lords Commissioners of His Majesty's Treasury.

Our inquiries upon these subjects have been guided in a great measure by the declarations of the witnesses whom Mr. Cooke, assisted by Mr. Edwards, had intended to call before the court of justice for the purpose of vindicating themselves, and proving the truth of the allegations of the Memorial; and we have no reason to think that any material information, of which they thus became possessed, has escaped us.

The vehemence and earnestness with which Mr. Edwards had entered into the cause of Mr. Cooke, had made a great impression upon the minds of the middling classes of the population of Cape Town; and to the intimidating effects of his tone and manner, we conceive that some parts of the acknowledgments contained in the evidence are to be attributed. We do not find, however, that their truth has been impeached in any material point; and although Mr. Cooke may have greatly exaggerated the grounds of his appeal to the Lords Commissioners of the Treasury, in the epithets that he has applied to various acts imputed to Mr. Blair, yet we have been disappointed in not receiving from the latter, and from Mr. W.

Bird.

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Evidence, page 130.

Document, N° 26.

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See extract, Document, N° 12.

Bird, a more satisfactory explanation of the facts that have been established by proof, and which would have enabled us to remove the doubts which have been raised upon the considerations of these facts.

We certainly perceive that the Collector and Comptroller of the Customs have either misunderstood or overlooked the meaning of the sixth clause of the Instructions of His Majesty in Council, respecting the reassignment of Prize Negroes, and that they have thus unnecessarily increased their patronage or their own accommodation, without sufficiently keeping in view the advantage of the Negroes. We do not feel ourselves justified in declaring that their exercise of this patronage has been dictated by a corrupt motive, but we certainly observe that its effects, in several instances, have operated in relieving them from the pressure of pecuniary claims, which we believe to have been withheld from a sense of obligation, and which have continued subject to the same influence. It would not however be just to consider the Collector and Comptroller responsible for the existence of this influence on the minds of their creditors, where it has not been proved that they connived at it.

In observing upon the proceedings instituted against Mr. Cooke, we will shortly recapitulate the circumstances of their origin and progress.

The great reluctance felt by the Prize Negro Jean Ellé to be removed from the service of Messrs. Cooke and Thompson to that of Mr. Pigou, and the apprehension of the punishment to which his disobedience to the order for his removal might expose him, had induced Mr. Cooke to submit the circumstances that had caused his detention to the Deputy Fiscal. Upon receiving an intimation of that officer's opinion, that they had no right to detain him nor any claim to his services, and after some further hesitation, Mr. Cooke had an interview with Mr. Blair, the circumstances of which we have before explained, and that led to an immediate application to the Deputy Fiscal for protection and redress. This application was made by Mr. Cooke in a letter that he addressed to the Deputy Fiscal, dated 20 November 1823, in which he took occasion to request, in earnest language, his zealous exertions, and named the witness who was present at the interview with Mr. Blair, and whose evidence he offered in support of his own information.

The Deputy Fiscal having in vain endeavoured to terminate the dispute by amicable adjustment, according to the injunction and practice of the colonial law, was preparing to bring the case before one of the sitting commissioners of the court of justice, in pursuance of the reiterated request of Mr. Cooke, addressed to him on the 13th December 1823, when he received a notice from him, on the 12th January 1824, stating, that he begged to withdraw the complaint that he made to him on the 29th November preceding.

On the 30th January 1824, a letter was addressed to His Majesty's Fiscal by the acting Secretary to Government, enclosing the Memorial of Mr. Cooke to the Lords of the Treasury, as well as a letter of Mr. Edwards, in which it was enclosed, and requesting "the Fiscal to refer to Mr. Blair, in order to obtain every information for prosecuting Mr. L. Cooke, for defamation of a public servant."

It appears that this letter was conveyed by Mr. Blair himself to the Fiscal, who, after considering the statements in the Memorial, came to the determination of prosecuting Mr. Cooke, inasmuch as he saw reason for concluding that his object in writing and sending it was dictated rather by a spirit of revenge for the insult offered to him by Mr. Blair, and the loss of a servant, than by a desire to procure a reform of any abuses in the system of distributing the Prize Negroes.

The steps prescribed by the regulations for Crown trials were then adopted. Mr. Edwards and Mr. Hoffman were joined in the indictment, in which Mr. Cooke was charged with wilfully and maliciously composing publishing and signing a certain libellous writing in the shape or form of a Memorial to the Lords Commissioners of His Majesty's Treasury, in which, with the apparent intention of bringing to their notice his personal grievances against Mr. Blair, but actuated with a malicious intention of exposing him to the hatred and contempt of his superiors, and to the danger of being ignominiously discharged, Mr. Cooke had introduced some general remarks and alleged facts by which Mr. Blair was represented in a contemptible and criminal aspect. The indictment here particularly alluded to the alleged oppression committed by the officers of the Customs, their "ruthless cupidity," and their malicious abuse of their power in the reapprenticing of a Prize Negro after the decease of his master. Mr. Edwards was charged with the same offence, and J. B. Hoffman with writing and preparing the libel for publication.

Documents, N° 15, page 57.

Document, N° 13.

Document, N° 15, page 76.

On the 16th February the trial commenced, and after the indictment had been read to the defendants, and when the officer of the court was about to address to them the interrogatories filed by the Fiscal, Edwards, the second defendant, offered to the court four exceptions; first, that the prosecution had not been commenced within the time prescribed by law, viz. eight days after the issue of the summons for personal appearance; secondly, that the Fiscal had not summoned the witnesses that he had named; thirdly, that the Fiscal had not religiously observed the truth in his indictment; and, fourthly, that the court was not competent.

In arguing these exceptions, Edwards was twice cautioned by the Commissioners of the court to abstain from uttering calumnies against the Fiscal; but as he persisted in this course, and as the Fiscal claimed the protection of the court, he was ordered to be confined in the town gaol for one month, for contempt of court.

On the 18th February, the hearing of the case was resumed, and Mr. Cooke proposed and pleaded an exception, in the commencement of which he fully acknowledged that he gave directions for drawing up the Memorial, and that he examined, approved and signed it, but contended, that it contained nothing that constituted a libel, and that he had not committed any offence.

After hearing the Fiscal in reply, the Commissioners rejected the exception of Mr. Cooke, who entered an appeal from their decision to the full court. The cause was ordered, notwithstanding, to proceed before the Commissioners, and Mr. Cooke having answered to the interrogatories, and prayed that his witnesses might be heard, Mr. Edwards was desired to proceed in his exceptions. The Fiscal having been heard in reply to them, they were rejected by the Commissioners, and the interrogatories filed by the Fiscal were put to Mr. Edwards, who, in answering them, acknowledged that he had written a part of the Memorial, but had not published it. The answers of the third defendant were then taken to the interrogatories, and the cause was adjourned, upon the production of a certificate by the Fiscal, that Mr. Blair, one of his witnesses, whom he proposed first to examine, was unable to attend from indisposition.

On the 20th February the court resumed, and the Fiscal moved for permission to amend his indictment against the second defendant Edwards, which was refused. The court then applied to the Fiscal, to the defendant Cooke, who now appeared by his advocate, and to the second and third defendants, to declare the nature of the points that their witnesses, whom they had wished to summons, were intended to prove.

They concurred in stating, that their witnesses were intended to disprove on the one side, and to establish on the other, the truth of the allegations; and the advocate of Mr. Cooke particularly requested that all the witnesses that had been previously named by Edwards on his behalf, amounting in number to 59, including the Governor, Lord Charles Somerset, should be summoned and heard. The court adjourned, and on the 20th February declared, that they could not receive the testimony of any witnesses that were intended to establish or contradict the facts set forth in the Memorial of Mr. Cooke; and that as to the question respecting the number of witnesses and the tendency of their testimony, it would be taken into consideration at a future stage of the proceedings.

The Fiscal, and the first and second defendants (Cooke and Edwards) noted appeals to the full Court against the first of these decisions, and the first and second defendants against both. The Commissioners having received some slight evidence upon the charge against the third defendant, he was, with consent of the Fiscal, released from further prosecution; and the proceedings were suspended until the two appeals made to the full Court had been decided.

This Court, with the exception of the President Sir John Truter, who was absent, assembled on the 26th of February, and having heard the arguments of the Fiscal, and the advocates of Messrs. Cooke and Edwards against the decrees appealed from, confirmed them both, and condemned Mr. Cooke in all the costs of his own proceedings. The Fiscal, and the second defendant Edwards, appealed against this decision to the Court of Appeals.

Between the 1st and the 8th of March, the several Memorials and replies of the parties, who were now joined by Mr. Cooke in appeal against these decrees, were filed, and on the 9th the Court of Appeals made an order of reference to the President of the Court of Justice, who had been absent during the whole of the proceedings, for the purpose of requesting his opinion "as to the legal right of the Memorialists, consistent with the laws of the colony, to have so many

"witnesses

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“ witnesses summoned ; and whether they are by law bound to specify the grounds upon which they wish so many witnesses to be summoned.”

Document,  
N° 16.

On the 18th March, a decree was given by the Court of Appeals, in which, after declaring, “ that it rejected the Memorials of the Fiscal, and the replies thereto, the cause was remitted to the Court of Justice, to be proceeded in according to the laws of the colony, with leave to the parties to make such further appeal as they might be advised in any future stage of the proceeding.”

This sentence of the Court of Appeals was considered to be in affirmation of the decrees of the full Court of the 18th and 26th February ; by the first of which the exceptions of the defendants Cooke and Edwards had been rejected, and by the second the hearing of witnesses in confirmation or contradiction of the libellous allegations of the Memorial was rejected.

Document,  
N° 15.

The incidental questions being thus decided, the hearing of the principal cause was resumed before two Commissioners of the Court of Justice on the 26th March, and after the Fiscal had unsuccessfully applied to them to admit the examination of two witnesses not included in his original list, the Commissioners declared the investigation of the charge to be closed, and to relieve the defendants from personal appearance, and from all further prosecution of the accusations contained in the indictment.

As your Lordship will observe that His Majesty's Fiscal has principally relied upon the intentions and motives of Mr. Cooke, manifested in his first application to the Deputy Fiscal for redress, and in the subsequent appeal that he was induced to make to the Lords Commissioners of the Treasury, as the grounds of the proceedings that he instituted against him, we think it right briefly to notice them.

We think that we do not overstate or misapprehend Mr. Cooke's motives in the first application that he made to the Deputy Fiscal, when we adopt his own statement of his wish to obtain redress for the insulting language that had been addressed to him by Mr. Blair. That wish was repeated in the course of the proceedings adopted by the Deputy Fiscal, accompanied with an expression of the confidence that Mr. Cooke felt in his exertions.

Document,  
N° 13.

Whatever may have been the advice that Mr. Cooke subsequently received, and under which he appears to have acted in withdrawing his prosecution, we do not think that he was justified in resorting to another and more remote authority for protection against the insults of Mr. Blair, until he had found that the nearer, and what may be termed the natural tribunal, had shown itself unwilling, or had been proved incompetent to afford it.

From the preliminary measures that had been taken by the Deputy Fiscal, Mr. Cooke had no reason to conclude that the protection that he now seeks at the hands of the Lords Commissioners of the Treasury against the insults of Mr. Blair would not have been afforded him had he permitted the cause to proceed ; and although Mr. Blair might have pleaded in extenuation of his violence the offensive offer that had been made by Mr. Cooke to Mr. Pigou, and which implied a corrupt connivance, in the payment to him of a pecuniary indemnity for the services of a Prize Negro, yet we feel ourselves justified in believing that if the expressions used by Mr. Blair had been proved to the satisfaction of the court, he would have been visited both with censure and punishment. It is not therefore without reason that the Fiscal was led to attribute the abandonment of that course, and the adoption of the other, for which Mr. Cooke was prosecuted, to a desire of revenging himself for a personal insult received from Mr. Blair, by exposing and denouncing in vehement language acts of corruption and oppressive conduct, rather than to the more laudable and disinterested motive that he professed, of affording impartial information to the Lord Commissioners of the Treasury of abuse of authority committed by one of their officers.

Evidence,  
page 166.

It was this view of the subject, combined with the instructions that he received from the colonial government, that determined the Fiscal to institute a criminal prosecution against Mr. Cooke and the other persons concerned in the writing and publication of the Memorial ; although the last of these acts consisted only in transmitting a duplicate copy of it to the Governor. The Fiscal seems to have been of opinion, that even under these circumstances Mr. Blair was entitled to the protection that the law of the colony affords against any act or writing by which the character of an individual is calumniated or disgraced, although he entertained doubts whether the libellous character of the Memorial in this case was of a nature to exclude all proof of its truth. The preparations indeed that he had made

Evid. p. 167.

made for disproving it, show that he had anticipated a contrary determination of this question; the communications that he had with Mr. Blair (who did not appear to shrink from an inquiry into the truth of the allegations, in the event of the Court permitting it,) were not of such a nature as to have furnished any well grounded expectation of a successful result; and considering the number and description of the witnesses that were summoned by the defendants, we do not think that it was altogether prudent to have committed the character of the Collector and Comptroller of the Customs in the event of a prosecution, wherein the punishment of the writers of the Memorial became very doubtful, and where, if it had been attained, their own vindication would not have been complete.

A denunciation to the magistracy, of abuses that the interest of the state requires to be revealed, forms a well known exception in the Roman law to the general description of libel or calumnious writings. The right of Mr. Cooke to address the Lords of the Treasury upon the conduct of one of their officers was generally believed, for it was known only to a very few persons that Mr. Blair was accountable to the Governor of the Cape as well as to their Lordships, from the circumstance of his having received commissions from both, and for the express purpose of creating a local responsibility, which it certainly was open to the Governor in this instance to have claimed. Admitting even that the intention with which Mr. Cooke addressed his Memorial to the Lords of the Treasury was such as the Fiscal asserted, and in which we are also disposed to concur, we think that a prosecution founded upon a mere official interception of such a document could only have the effect of giving publicity to the imputations that it conveyed, without affording the means of establishing their truth or falsehood. It is precisely the light in which the question of Mr. Blair's conduct is now viewed. In justice to him we must add, that towards the close of the judicial proceedings against Mr. Cooke, he solicited a court of inquiry into his own conduct; and it certainly was not his fault that the result was not more satisfactory.

From the course that was adopted by the Fiscal in conducting the proceedings, we do not find that Mr. Cooke had any just cause of complaint. Three days beyond the term allowed by law from the date of the decree for personal appearance, had been suffered to elapse before the trial commenced; but we do not find that the delay was prejudicial to Mr. Cooke, or that he even relied upon it as a valid exception. In the appeal to the full Court he was assisted by an advocate, and joined with the second defendant in pleading the exception, of want of jurisdiction. From the terms of the clause in the regulations of the Crown Trial, we think that this exception is meant to apply only to the local incompetence of the court, and that the discussion that was raised upon the nature of the offence in question, before any proof or acknowledgement was received of the commission of it, under the specious pretence of an exception to the jurisdiction, was premature and irregular. It was argued however in this stage of the proceedings at some length on the part of Mr. Cooke, and, together with the rejection of the witnesses on either side as to the truth of the libel, and the Fiscal's objection to issue summonses to so many witnesses until the Court had decided upon the relevancy of their individual testimony, became the subject of appeal to the full Court and afterwards to the Court of Appeal. Without meaning any disrespect to the members of the courts by whom, in the absence of the president, these very important questions had been decided, we conceive that Mr. Cooke was justified in adopting any course that was likely to procure a further consideration of the case, even at the expense of some delay. The proceedings in the Court of Appeal appear to have been conducted with more than usual expedition; and although we cannot join in the reason assigned in a note of the Registrar and Secretary for passing by the constituted advisers of the Court of Appeal in criminal cases, and thus casting an implied though unintentional reflection on their competence, yet we concur in the expediency that existed of obtaining an opinion of the respectable person to whom reference was made, upon a point of such importance as the refusal of the Fiscal, to whom the duty is assigned in criminal cases, of summoning witnesses named by the defendant or prisoner to be present for examination on the day of trial, and of submitting to the judge, if required, the tendency of their testimony. It is stated by the Fiscal, upon the authority of the most respectable writers upon the Roman law, from which the restriction is derived, that if it shall appear to a prosecutor, that, from the number and character of witnesses summoned by the defendant, there is an intention of harassing the court and perplexing the proceedings, or of multiplying proofs unnecessarily, in such

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Evidence, page 167.

See note at the end of Document, N° 16.

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such case it is in the power of the court to make such preliminary inquiries respecting the facts they are called to prove, as may enable them reasonably to reduce the number.

This doctrine was confirmed by the opinion of the President of the Court of Justice, who also thought that in this instance no evidence whatever of the truth or falsehood of the libel was admissible, but, with a view to prevent any future inconvenience arising from a capricious application of it, a resolution was subsequently drawn up by the Court of Justice, on the application of the Fiscal, by which that officer was enjoined to notify his objection to the defendant's list of witnesses, as soon as they should be named, so as to admit of the consideration of it in time for the impending trial.

In the present case it cannot be denied that the description of the defendant's witnesses, as well as their number, was calculated to create a suspicion in the mind of the Fiscal, of the motive with which they had been named, and if he had not acted under that persuasion, some of them resided at too great a distance to have admitted of their being present on the day of trial. In consequence of the final decision of the Court, the examination of a very few witnesses was required on the part of the prosecution, and with the expectation that the Fiscal entertained of being able to prove the falsehood of the libel by the cross-examination of the defendant's witnesses, we are by no means disposed to think that his objection to summon them proceeded from any unjust or oppressive intention of excluding their testimony altogether.

We have thus detailed the nature and result of the proceedings instituted against Mr. Cooke before the Courts. They certainly were the cause of his detention in the colony from the date of the notice of prohibition to leave it, given to him by the Fiscal on the 3d February, until the 26th March 1825, the day of his acquittal by the Court of Justice. We do not find that this circumstance occasioned any prejudice to the concerns of the partnership in which he was engaged, but we have not been able to ascertain whether it was detrimental to the individual views of Mr. Cooke.

Evidence of  
Mr. Thompson,  
p. 173.

We have the honour to be,

My Lord,

Your Lordship's most obedient humble Servants,

(signed) *John Thomas Bigge.*  
*Will<sup>m</sup> M. E. Colebrooke.*

— 4. —

## SCHEDULE OF DOCUMENTS

Accompanying the Report of the Commissioners of Inquiry at the Cape of Good Hope, dated 22d July 1825, upon the allegations against Charles Blair, Esq. Collector of Customs, contained in two Memorials addressed by Mr. Lancelot Cooke to the Lords Commissioners of His Majesty's Treasury.

- 
- N° 1.—Notarial Declaration of Mr. Lancelot Cooke, 20 Jan. 1824 - p. 29
- N° 2.— - - Ditto - - of Jean Ellé, 21 Jan. 1824 - - - p. 30
- N° 3.— - - Ditto - - of Thomas Thwaites, 10 March 1824 - *ibid.*
- N° 4.— - - Ditto - - of Wm. Cousins, 23 March 1824 - - p. 31
- N° 5.— - - Ditto - - of J. B. Hoffman, 23 March 1824 - - p. 33
- N° 6.— - - Ditto - - of John Warden, 7 April 1824 - - p. 35
- N° 7.—Extract from Mr. Dixon's Ledger - - - - - p. 36
- N° 8.—List of Prize Negroes apprenticed by Mr. Blair to Mr. Samuel Murray ;  
with a List of Persons to whom the late Mr. Samuel Murray hired  
out Prize Negroes - - - - - p. 36
- N° 9.—Memorandum of 10 Indentures of Prize Negroes assigned by Mr. Blair  
to Captain Amber - - - - - p. 37
- N° 10.—Proceedings before the Vice Admiralty Court in the case of "Le Victor,"  
with a description List of the Negroes landed from her - p. 38
- N° 11.—Return of all Prize Negroes who have at any time been assigned to  
Mr. Blair, and to Mr. Wilberforce Bird - - - - - p. 40
- N° 12.—Extract from the Order in Council of 16 March 1808. Paragraph,  
N° 6 - - - - - p. 42
- N° 13.—Mr. Ryneveld's Letter to the Commissioners of Inquiry, enclosing  
copy of a Letter addressed to him on the 12th Jan. 1824, withdraw-  
ing the Complaint he had made respecting Mr. Blair's conduct, p. 43
- N° 14.—Proceedings of the Court of Inquiry appointed by the Governor to  
inquire into the truth of the Charges brought by Mr. Lancelot Cooke  
against Mr. Blair - - - - - *ibid.*
- N° 15.—Translated Copies of the Proceedings held before the Court of Justice  
in Cape Town, in the case of H. M. Fiscal *versus* L. Cooke,  
Wm. Edwards and J. B. Hoffman, for a libel on the Collector of  
Customs - - - - - p. 54
- N° 16.—Extracts from the Minutes of the Court of Appeals, dated 1st, 3d, 4th,  
8th, 9th, and 18th March 1824, in the several cases of Appeal on  
the part of H. M. Fiscal, Messrs. Cooke and Edwards, from Sen-  
tences of the Courts below, in the case of the prosecution for a Libel  
on Mr. Blair - - - - - p. 98
- N° 17.—Copy of a Note dictated by Mr. Wilberforce Bird to Mr. Williams, on  
6 Nov. 1824, demanding the restoration of two Negro Apprentices  
by Mr. Heatlie - - - - - p. 99
- N° 18.—Mr. Wilberforce Bird's remarks, dated 7th June 1825, upon the evidence  
of Mr. Heatlie - - - - - p. 100

Vide N° 27.

## PAPERS RELATING TO PRIZE SLAVES

- N° 19.—Copy of the Statement transmitted by the Commissioners of Inquiry to the Collector and Comptroller of Customs, on the 9th June 1825, comprising the several points adverted to in Mr. Lancelot Cooke's Memorial to the Treasury, and the imputations of other individuals, p. 102
- N° 20.—Copy of the Reply to the Collector and Comptroller, to the foregoing general Statement, dated 21 June 1825 - - - - - p. 107
- N° 21.—Copy of Mr. Blair's Account, extracted from the Ledger of the late Mr. Samuel Murray - - - - - pp. 110, 111
- N° 22.—Documents relating to Mr. Corbitt's Negro Apprentice, named "Malamo," alias "Jack;" viz.
- Notarial Declaration of Geo. Luck, 3d March 1824 - p. 110
- Ditto - - - - of Wm. Corbitt, 3d March 1824 - p. 112
- Copy of Mr. Corbitt's Memorial to Earl Bathurst, dated 3d Feb. 1823 - - - - - p. 113
- Copy of Mr. Wilmot Horton's Letter to Mr. Corbitt, dated 7th March 1823 - - - - - p. 114
- Copy of Mr. Corbitt's Memorial to Lord Charles Somerset, dated 11 Nov. 1823 - - - - - *ibid.*
- Copy of Mr. Wilmot Horton's Letter to Mr. Corbitt, dated 22d Oct. 1823 - - - - - p. 115
- Letter from Lord C. Somerset to the Commissioners of Inquiry, dated 31 May 1825, enclosing copy of his Dispatch to Earl Bathurst of the 21 July 1823, with its Enclosure - *ibid.*
- Letter from Lord C. Somerset to the Commissioners of Inquiry, dated 1 June 1825, enclosing copy of the Bond signed by Mr. Corbitt, on the occasion of his taking a Prize Negro named "Malamo" to England - - - - - p. 117
- Copy of Sir Ruf. Donkin's authority for the Negro's accompanying Mr. Corbett - - - - - p. 118
- Copy of the Certificate of the Collector of Customs upon which the authority was granted - - - - - *ibid.*
- Extract from a Letter addressed by Mr. Corbitt to Mr. John Deane, dated London, 16 Feb. 1822 - - - - - *ibid.*
- Copy of Mr. Blair's Note to Mr. Deane, dated 22 July 1822, p. 119
- N° 23.—Correspondence between the Commissioners of Inquiry, Mr. Duckit, and Mr. Blair, relative to the Negroes sent by the latter to Klaver Valley, for the purpose of cultivating land there on his (Mr. Blair's) account; viz.
- Copy of a Letter from Mr. Gregory to Mr. Duckit, dated 30 May 1825 - - - - - p. 119
- Ditto - - - - from Mr. Duckit to Mr. Gregory, dated 31 May 1825 - - - - - *ibid.*
- Ditto - - - - from the Commissioners to Mr. Blair, dated 3d June 1825 - - - - - *ibid.*
- Ditto - - - - from Mr. Blair to the Commissioners, dated 6th June 1825 - - - - - p. 120
- N° 24.—Copy of Mr. Woeke's Bill against Mr. Blair for Wine delivered, amounting to R. D. 255; with copy of Mr. Pontardent's Note to Mr. Woeke, dated April 10, 1822 - - - - - p. 120
- N° 25.—Abstract from a Return of all Prize Negroes that have been apprenticed at the Cape of Good Hope by Mr. Blair, the Collector of Customs, between 1 Jan. 1808 to 12 Feb. 1822 - - - - - p. 121
- N° 26.—Copy of Mr. Stoll's Letter to the Commissioners of Inquiry, dated 20 July 1825, relative to the expiration of the periods of apprenticeship of certain Prize Negroes, including "William Cousins;" and the manner in which, as Landdrost, he had complied with the Government advertisement of 26 April 1823 - - - - - p. 121

## AT THE CAPE OF GOOD HOPE.

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- N° 27.— Letter from Lord C. Somerset to the Commissioners of Inquiry, dated 21 July 1825, enclosing copy of Sir John Truter's opinion on the reference made to him by the Court of Appeals in March 1824, upon the right of summoning numerous Witnesses upon a Trial, and the obligation of the summoning party to specify the grounds upon which he wishes them to be so summoned - - - p. 122  
 Copy of a Letter addressed by D. Denyssen, Esq. H. M. Fiscal to Sir John Truter, Knt. Chief Justice, dated 10 May 1824, with copy of the Resolution of the Court of Justice, dated 20 May 1824, relative to the obligation laid on the public Prosecutor by the 78th art. of the Crown Trial, with regard to the summoning of Witnesses to be present on the day fixed for the Trial - - - p. 123
- N° 28.— Copy of the Indenture of a Prize Negro named Myndola, apprenticed by Mr. Blair to R. Desacotaix, on the 1st June 1813, and reapprenticed by Mr. Wilberforce Bird (acting as Chief Officer of the Customs during Mr. Blair's absence from the colony) to himself as a private individual - - - p. 125
- N° 29.— Book containing Evidence - - - p. 126  
 Cape Town, 22 July 1825. (signed) *J. Gregory, Sec<sup>r</sup>.*

(Copy.)

(signed) H. Cloete.

N° 1.—Notarial Declaration of Mr. Lancelot Cooke, 20th January 1824.

BE it hereby made known, That on this twentieth day of January in the year of our Lord one thousand eight hundred and twenty-four, Lancelot Cooke, of Cape Town, in the Cape of Good Hope, merchant, personally came and appeared before me, William Edwards, of the same place, notary public, duly constituted appointed and sworn, and the Witnesses hereinafter mentioned, and offering a solemn oath on the Holy Evangelists of Almighty God to the truth of the declaration and every part thereof, whensoever he shall be thereunto duly required, did declare, testify, depose and say, That on the twenty-eighth day of November last, he did, from the Sheriff having stated that Mr. Blair charged him, deponent, with harbouring an apprentice to disobey his orders, and in consequence of his co-partner and himself having received an order from the Collector of the Customs to deliver up a Prize Negro named Jean Ellé to the Comptroller of Customs, or his order, repair in company with Mr. John Roberts, his managing clerk, to the Custom-house, for the purpose of explaining to the said Collector the cause of a little delay that had taken place in the obedience of his said order, where he saw Mr. Blair the Collector, in company with Mr. Wilberforce Bird the Comptroller, on horseback, when he this deponent addressed him the said Collector of Customs, who instantly assailed him with a volley of the most gross and abusive language, saying, "Damn you, Sir, hold your tongue, or by God I'll knock you down," at the same time holding his whip or stick in a threatening attitude towards this deponent; and also saying and repeating, "God damn you, Sir, don't speak a word, or I'll knock you down. If you had said as much to me as you did to my friend Mr. Pigou, I would have blown your brains out, damn and blast you, I would, you scoundrel;" and concluded, as he was riding away, by calling this deponent "a damned son of a bitch." And this deponent further saith, that Mr. Wilberforce Bird instantly rode away, and left the said Charles Blair, without attempting to restrain or witness such abuse.

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Documents.

N° 1.

For a memorial whereof, I caused the deponent to subscribe to an act hereof in triplicate, in the presence of and together with me the Notary and the witnesses Thomas Hall and Henry Nitch, on paper duly stamped, the day and year first above written.

Witnesses,

(signed) *Lancelot Cooke.*(signed) Tho' Hall.  
Henry Nitch.Which I attest,  
(signed) *W. Edwards, Notary.*

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Documents.

(Copy.)

(signed) H. Cloete.

N° 2.

N° 2.—Notarial Declaration of Jean Ellé, 21 January 1824.

BE it hereby made known, That on this twenty-first day of January in the year of our Lord one thousand eight hundred and twenty-four, Jean Ellé, late cook to Messrs. Cooke and Thompson, of Cape Town, in the colony of the Cape of Good Hope, merchants, but now employed as cook by H. M. Pigou, of Sussex-place, in the said colony, Esquire, personally came and appeared before me, William Edwards, of the same place, notary public, duly constituted admitted and sworn, and the Witnesses hereunder written, at the house of Captain John Carnall, the proprietor of the premises occupied by the said H. M. Pigou, and offering a solemn oath on the Holy Evangelists of Almighty God to the truth of this declaration and every part thereof, whensoever he shall be thereunto required, did declare, testify, depose and say, That he was employed on board the packet l'Ector, when taken from the French by the English, as a free man, which will appear by the Livre de Loc of such packet; and further, that by a reference to the books of entry in the Caisse de bienfaisance in the Island of Bourbon, it will appear that a sum of three hundred Spanish dollars was paid by Monsieur Precourt, the lawful owner of the said Jean Ellé at the time of his manumission, for the customary fee on emancipating slaves, he being the son of the said Monsieur Precourt by a creole slave of Bourbon. And the deponent further saith, that when he arrived in this colony he was placed with persons whom he does not recollect, from his then ignorance of the Dutch language; and that he was subsequently placed with Mr. Samuel Murray, by Mr. Blair the Collector of Customs; and that the said Samuel Murray hired him for six years as cook to Mr. Cooke and his co-partner, where he remained, and was so well treated and happy as almost not to regret his slavery. And further the deponent saith, that when the said Samuel Murray died, he requested Messrs. Cooke and Thompson to retain him in their service, to which they consented; and that when they were required to deliver him to Mr. Wilberforce Bird, they directed him to go to the Custom-house, which he refused to do, until the day he was taken by the police and put into prison, whilst he was waiting at the door of the Custom-house. And the deponent further saith, that he is uncomfortable and miserable in the employ of Mr. Pigou; and that Mrs. Pigou has, since he left Messrs. Cooke and Thompson, often told him, that if he would remain in her service, she would pay him wages after the expiration of his apprenticeship, and that he replied, he would not do so, but return to the service of his last employers.

For a memorial whereof I have reduced the same into writing, and explained every sentence thereof in its fullest extent to the deponent, who declares that he perfectly understands the same, and approves thereof for truth, and caused him to sign the same in triplicate, in the presence of and together with me the Notary and the witnesses John Carnall and Daniel Horrogan, the day and year first above written.

Witnesses,

(signed)

J. Carnall.

D. Horrogan.

The mark of *Jean* × *Ellé*.

Which I attest,

(signed) W. Edwards, Notary.

(Copy.)

(signed) H. Cloete.

N° 3.

N° 3.—Notarial Declaration of Thomas Thwaites, 10 March 1824.

BE it hereby made known, That on this tenth day of March in the year of our Lord one thousand eight hundred and twenty-four, Thomas Thwaites, of Cape Town, in the colony of the Cape of Good Hope, common brewer, personally came and appeared before me, William Edwards, of the same town and colony, notary public, duly constituted appointed and sworn, and the Witnesses hereinafter mentioned, and offering a solemn oath on the Holy Evangelists of Almighty God to the truth of this declaration and every part thereof, whensoever he shall be thereunto required, did declare, testify, depose and say, That in or about the month of October last, a Negro, who said his name was William Cousins, applied at the brewery

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Documents.  
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N° 3.

brewery of the deponent, and solicited employment from deponent, whereupon he the said deponent inquired in what manner the said William Cousins had been theretofore employed, when the said Negro informed this deponent, that he was a Prize Negro, and had lately become free, having served an apprenticeship to Charles Blair, Esquire, Collector of Customs in Cape Town, with whom he had been one voyage to England, but that the said Charles Blair had treated him the said Negro so cruelly, that he was determined to quit his the said Charles Blair's employ, and being unable to procure a situation as a gentleman's servant, he would engage to do the laborious work of the brewery. And the deponent further saith, that he immediately made inquiry into the said Negro's statement and character, and found that the account he gave was correct, and himself bore an excellent character, and that in consequence thereof the deponent recommended the said William Cousins as a house servant to James Richardson, esquire, this deponent's co-partner, who wishing to engage the said William Cousins, requested him the deponent to enter into the contract required in such cases by the laws of this colony, whereupon the deponent applied for that purpose at the office of his Majesty's Fiscal, who required a certificate, as was customary, from the said Charles Blair as Collector of Customs, that the said William Cousins had served the whole term of his apprenticeship, prior to enrolling such contract; and the deponent further saith, that he then applied with the said William Cousins at the Custom-house, where he saw the said Charles Blair, who assailed the said William Cousins with most violent threatening and abusive language, and swore he would never give him a certificate to enable him to procure employment; and the deponent further saith, that he was and still is convinced by the language of the said Charles Blair, that he wished to prevail on the said William Cousins to return into his the said Charles Blair's service, and recommended him the said William Cousins so to do, but finding him determined to the contrary, and thinking the wish exhibited by the said Charles Blair was creditable to the said Prize Negro, the deponent advised his said co-partner, in defiance of the absence of the said Charles Blair's certificate, to engage the said William Cousins as a servant, whereon his said co-partner did so, and the said William Cousins hath ever since continued in his employ.

For a memorial whereof I caused the said Appearer to subscribe hereto in triplicate, on paper duly stamped, (one part whereof is enrolled in my protocol) together with and in the presence of me the Notary and witnesses William Guest and Petrus Johannes Trüter, the day and year first above written.

(signed) *Thomas Thwaites.*

Witnesses,

(signed) W<sup>m</sup> Guest.  
P. J. Trüter.

Which I attest,  
(signed) W. Edwards, Notary.

(Copy.)

(signed) H. Cloete.

No. 4.—Notarial Declaration of Wm. Cousins, 23d March 1824.

N° 4.

BE it hereby made known, That on this twenty-third day of March in the year of our Lord one thousand eight hundred and twenty-four, William Cousins, late an apprentice to Charles Blair, Collector of Customs in Cape Town, in the Cape of Good Hope, personally came and appeared before me William Edwards, of the same place, notary public, duly constituted appointed and sworn, and the Witnesses hereunder written, and offering a solemn oath on the Holy Evangelists of Almighty God to the truth of this declaration and every part thereof, whenever he shall be thereunto required, did declare testify depose and say, That about fifteen years ago he was brought in a captured slave ship into this colony, and kept as a Prize Negro apprentice to the above-mentioned Charles Blair, to serve him for fourteen years; and that he did continue in his said service as a house servant the whole of the said term, during which time he made a voyage with his master to England, and back to Table Bay; and deponent further saith, that soon after his being apprenticed to the Collector of Customs, another Prize Slave ship arrived, from which the said Charles Blair took three girls and either four or five boys, as his servants;



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Documents.

N° 4.

servants ; and afterwards he took five natives of Mozambique from another ship ; and that he afterwards took several single Negroes from their masters, and kept them in his own employment for some time, until he sold an estate called Stellemberg to one Captain Amber, at which time he left with the said Captain Amber, on the estate so sold, nine or ten Prize Negroes, most of whom continue to serve the said Captain Amber to this day. And the deponent further saith, that whilst he so resided with and served the said Charles Blair, he frequently went with his master to reside at the house of a gentleman of the name of Theunissen, at Hottentots' Holland, where the said Charles Blair and his family continued for upwards of the space of six months ; and further, that he the said Charles Blair gave near forty Prize Negroes to the said Mr. Theunissen, and two or three Prize Negroes to one Mr. Melks, who often made him presents of different quantities of barley ; and that he the said Charles Blair had given a great number of Prize Negroes to one Thomas Dreyer, of Wynberg, who very frequently sent presents of veal, fruit and game to the said Charles Blair ; and that he hath given divers and very many Prize Negroes to one Mr. Duckett and his two sons, who nearly supply the said Charles Blair in presents with all the forage he uses for his horses and cattle. And deponent further saith, that Mr. Blair is so very passionate, that he whips and flogs all the Prize Negroes in his service in a most cruel manner, which was the reason he the deponent was determined not to continue in his service, for which reason he applied to Mr. Thwaites to give him employment, and was with Mr. Thwaites when he applied at the Custom-house for a certificate of the expiration of his apprenticeship, which Mr. Blair would not give to Mr. Thwaites or the deponent. And the deponent further saith, that a short time before he became free, whilst he was at the house of a gentleman at Overberg, Mr. Blair went out shooting game, and took as a servant, to assist him in finding the game, a Prize Negro named Jack, then and now in the service of Mr. Blair, and that when the said Mr. Blair returned in the evening, the deponent was informed that the said Negro Jack had absconded, but he was afterwards found by a Hottentot, and brought to his master, soon after which the deponent inquired of the said Negro Jack why he had absconded, to which he replied, that his master being offended with him, was going to flog him, whereupon he ran away, on which the said Charles Blair presented a double-barelled gun, and shot the said Prize Negro Jack in his hand, which he then produced and showed to the deponent shockingly wounded by the contents of such double-barelled gun. And the deponent saith, that he hath been informed and believes, that the said Mr. Blair yesterday caused the police to flog a Prize Negro very cruelly, for absenting himself from his service, to which he had been taken from the service of one Mr. Koeké or his daughter, to whom he had been duly apprenticed ; and that Mr. Blair, on Monday last, called him the deponent to the Custom-house, and paid him ten rix dollars, which he had long owed to deponent ; but that neither the deponent or Mr. Blair ever spoke of his returning to his service, as hath been pretended.

For a memorial whereof I caused the said Appearer to subscribe hereto in triplicate, on paper duly stamped, (one part whereof is enrolled in my protocol) together with and in the presence of me the Notary and the witnesses Petrus Johannes Trüter and Daniel Horrogan, the day and year first above written.

Witnesses,

(signed) P. J. Trüter.  
D. Horrogan.

As other Witnesses,

(signed) Forbes Still.  
D. P. Francis.

The mark of *William × Cousins.*

Which I attest,

(signed) W. Edwards, Notary.

(Copy.)

(signed) H. Cloete.

—4—  
Documents.

N° 5.—Notarial Declaration of J. B. Hoffman, 23 March 1824.

N° 5.

BE it hereby made known, That on this twenty-third day of March in the year of our Lord one thousand eight hundred and twenty-four, Jan Bernard Hoffman, of Cape Town, Cape of Good Hope, gentleman, personally came and appeared before me William Edwards, of the same place, notary public, duly constituted appointed and sworn, and the Witnesses hereinafter mentioned, and offering a solemn oath on the Holy Evangelists of Almighty God to the truth of his declaration and every part thereof, whensoever he shall be thereto duly required, did declare, testify, depose and say,

That in the year one thousand eight hundred and fifteen, as well as previously and subsequently, this deponent was owner of several Slaves, amongst whom were five children of the female sex.

That in the month of February of said year, this deponent wrote and sent a letter to Charles Blair, esquire, Collector of Customs, and dispatched the same to the Custom-house in this town, in the words and figures following :

“ Sir,

“ Cape Town, February 27, 1815.”

“ HAVING understood that a number of Negroes have arrived in Simon’s Bay, who likely will be apprenticed to the inhabitants, I beg to solicit you would be pleased to apprentice four of them to me, provided I do manumit one of my Slave girls as a mark of my gratitude, and which I perceive would be answering the view of the British Government.

“ I have, &amp;c.

“ Charles Blair, Esquire.”

(signed) . “ J. B. Hoffman.”

That this deponent not having received an answer to said letter, nor any message or notice respecting it, did write a letter to Lieut. Colonel C. Bird, purporting as follows :

“ Sir,

“ Cape Town, 6th March, 1815.”

“ PERCEIVING that if the children of the female sex procreated by the Slaves in this Settlement were henceforth successively made free, and the future generation of Slaves thereby discontinued, the Slavery here will disappear one day, I have written to Charles Blair, Esq. Collector of Customs, requesting him to apprentice to me four of the Negroes lately arrived, (should they be condemned as lawful prize to the captors) on my manumitting one of my Slave girls, as a mark of my gratitude.

“ I hope other inhabitants will do the same ; at least I will gladly manumit four others of my Slave children, all females, if Mr. Blair would apprentice to me three of the said or other Negroes for each of them.

“ I thought it my duty to acquaint you of my intention, and to solicit your favour of communicating it to His Excellency Lord Charles H. Somerset, as I am confident that the liberty I have taken will be beneficial to this Settlement.

“ I have, &amp;c.

“ Colonel C. Bird,  
Aide de Camp to His Excellency  
General Lord Somerset.”

(signed) “ J. B. Hoffman.”

That on the next day, this deponent received a reply to his last mentioned letter, to the following effect :

“ Sir,

“ Colonial Office, March 7th, 1815.”

“ I HAD the honour of laying the letter you did me the favour to address to me yesterday, before His Excellency the Governor, and have received His Excellency’s command to acquaint you, that the subject to which it relates is in no way under his control, but is placed by law under the direction of the Collector of His Majesty’s Customs.

“ I have, &amp;c.

“ Mr. J. B. Hoffman.”

(signed) “ C. Bird.”

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Documents.

N<sup>o</sup> 5.

That this deponent conceiving that the Collector of Customs would prefer terms beneficial to the Negroes themselves, did on the next day write a letter to said Collector, as follows:

“ Sir,

“ Cape Town, 8th March 1815.”

“ I BEG leave once more to intrude upon you, soliciting of your favour to apprentice to me eight or ten of the male Negroes lately arrived (in case they should be condemned as lawful prize to the captors;) that is, besides the four alluded to in my letter dated 27th ult., and to which your principles of humanity promise me success.

“ I beg to add, that I am inclined to comply with the usual articles of apprenticeship, and moreover, to pay, at the expiration of each year, into the discount bank, or any other office you shall point out, a sum of fifty rix dollars for each of the said apprentices, to be divided amongst them, or the survivors of them, at the expiration of their apprenticeship.

“ I have, &c.

“ Chas. Blair, Esquire.”

(signed) “ J. B. Hoffman.”

That this deponent having, several days afterwards, understood that the Negroes alluded to were to be distributed amongst some of the inhabitants, proceeded to Simon's Town, in hopes that his application would be acceded to, but did not obtain a single person of those Prize Negroes.

And that this deponent, after his return to Cape Town, wrote a letter, as follows, to Colonel C. Bird:

“ Sir,

“ Cape Town, March 28, 1815.”

“ I BEG leave to solicit of your favour to direct to be granted to me two office copies of my letter to you, dated 6th instant, respecting the Prize Negroes lately arrived. I further beg leave to solicit you would be pleased to acquaint me whether a copy of that letter has been transmitted to Charles Blair, Esquire, Collector of Customs, and when?

“ I have, &c.

“ Col. Ch. Bird.”

(signed) “ J. B. Hoffman.”

To which last-mentioned letter this deponent received no reply.

The deponent further declared, that sometime in or about the same month of March, at the request of Martin Joh. Smit and Nicolaas Hendrick Everhard Smit, he wrote for them a letter to the said Charles Blair, in the words following:

“ Sir,

“ Cape Town, 8 March 1815.”

“ WE beg leave to trouble you with our humble request, that you may be pleased to apprentice to us, in partnership, twenty of the male Negroes lately arrived (should they be condemned as lawful prize to the captors.)

“ We further beg to add, that we are inclined not only to enter into a bond, as usual, but also to give proper security that we shall pay unto each of the said Negroes, at the expiration of their apprenticeship, a sum of four hundred rix dollars for their own use.

“ We have, &c.

“ Charles Blair, Esquire.”

(signed) “ M. J. Smit.  
“ N. H. E. Smit.”

As also that the said M. J. Smit and N. H. E. Smit had told this deponent, that the latter-named had carried their aforesaid letter to the Custom-house, and had delivered it to said Cha. Blair.

And finally, that said M. J. Smit and N. H. E. Smit had also acquainted this deponent, that they never received any answer to their aforesaid letter, and that

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that none of the aforesaid or other Prize Negroes have been apprenticed to them or to any of them.

For a memorial whereof, I caused the said Appearer to subscribe hereto in triplicate, on paper duly stamped (one part whereof is enrolled in my protocol) together with and in the presence of me the Notary and the witnesses Louis Jerome Bianchi and Petrus Johannes Trüter, the day and year first above written.

Witnesses,  
(signed)

L. J. Bianchi.  
P. J. Trüter.

(signed) *J. B. Hoffman.*

Which I attest,  
(signed) W. Edwards, Notary.

—4—  
Documents.

N° 5.

(Copy.)

(signed) H. Cloete,

N° 6.—Notarial Declaration of John Warden, 7 April 1824.

BE it hereby made known, That on the seventh day of April in the year of our Lord one thousand eight hundred and twenty-four, John Warden, of Cape Town, in the colony of the Cape of Good Hope, accountant, personally came and appeared before me, William Edwards, of the same place, notary public, duly constituted appointed and sworn, and the Witnesses hereunto subscribed, and offering a solemn oath on the Holy Evangelists of Almighty God to the truth of this declaration and every part thereof, whensoever he shall be thereunto required, did declare, testify, depose and say,

N° 6.

That in the year 1820, he was employed as clerk to Charles Dixon, of Cape Town aforesaid, livery-stable keeper, and that whilst he was so employed, Mr. Dixon directed him to make out the account of Mr. Blair, the Collector of Customs, saying he wished to carry it to Mr. Blair before his departure for England, as he was then about to sail for Europe; and deponent said, that he soon after made out an account, from the books of Mr. Dixon, against Mr. Blair, amounting to nearly the sum of two thousand rix dollars, which he delivered to Mr. Dixon, who wrote a receipt upon it, and then rode towards Mr. Blair's house in the country, from which he returned in a few hours, and directed the deponent to make an entry in the book, that the same was paid, and also to tell Mrs. Dixon, his wife, (if she inquired) that Mr. Blair had paid him by a bill on England for £. 120, as he, Mr. Dixon, wished her to suppose the money was paid; and further saith, that he had never received from Mr. Blair fifty rix dollars during his residence in the colony, to the best of the deponent's recollection; and he the said Charles Dixon further said, "Blair is a good fellow, and I have made him a present of my demand, to show my gratitude, as he has given me so many Prize Negroes."

And the deponent further saith, that one of the Prize Negroes belonging to Mr. Dixon, named Tom, having offended Mr. Dixon by running away, he sent the deponent with a note addressed to his Majesty's Fiscal, to the house of Mr. Blair at Wineberg, requesting he would sign an authority for the Fiscal to flog the boy; when the deponent, having seen Mr. Blair and presented such note, Mr. Blair said, "Damn him, he is a damned rascal, and ought to be well flogged," and wrote an order at the foot of the note to the Fiscal, that he should be so flogged, without having interrogated the deponent, the Prize Negro, or Mr. Dixon, or making any further inquiry or investigation beyond the contents of Mr. Dixon's letter; and on the deponent's return to the Fiscal, he, in the same unenquiring manner, countersigned the said order, and the Negro was immediately flogged in the prison of Cape Town.

And the deponent further said, that he hath often seen Mr. Dixon most unmercifully beat and flog his Prize Negroes, and that he was never deprived by Mr. Blair of his Negroes for so doing, although his cruelties have been the subject of judicial inquiry before the court of justice, by whom he hath been fined for the same.

For a memorial whereof the deponent subscribed hereto in triplicate, on paper duly stamped (one part whereof is inregistered in my protocol) in the presence of and together with me the Notary and the witnesses Petrus Johannes Trüter and Daniel Lee, the day and year first above written.

Witnesses,  
(signed)

P. J. Trüter.  
Dan<sup>l</sup> Lee.

(signed) *John Warden.*

Which I attest,  
(signed) W. Edwards, Notary.

— 4 —  
Documents.

N° 7.

N° 7.—EXTRACT from the Ledger of Mr. *Dixon*, Livery Stable Keeper  
in *Cape Town*.—Folio 63.

D° - - - - - *Charles Blair*, Esq. - - - Contra - C°

1820: Amount brought from folio 13 - - -	R. D. 1,378 1 -	1820: April 1. By Cash in full -	R. D. 1,441 1 -
Sundry Items of charge between 6 Feb. 1820 and 22 March 1820 -	63 - -		
R. D.	1,441 1 -	R. D.	1,441 1 -

The next account with Mr. Blair, that appears in the Ledger of Mr. Dixon, commences at folio 393, on the 3d of December 1821. No balance from any former account is mentioned in it.

(signed) *John Gregory*, Sec<sup>r</sup>.

(Copy.)

N° 8.

N° 8.—LIST of PRIZE NEGROES apprenticed by Mr. *Blair* to  
Mr. *Samuel Murray*.—(Received from Mr. John Murray.)

Names of Negroes.	When apprenticed.	To whom apprenticed.
Sangora - Male - -	1st March 1810 -	- Samuel Murray.
Baraka - - d° - -	- - d° - -	- - d°
Jean Ellé - - d° - -	- - d° - -	- - d°
Sangora - - d° - -	- - d° - -	- - d°
Amatu - - d° - -	- - d° - -	- - d°
Myance - - d° - -	- - d° - -	- - d°
Raceit - - d° - -	- - d° - -	- - d°
Fatima - - Female - -	- - d° - -	- - d°
Sanzor - - Male - -	- - d° - -	- - d°

Indentures delivered to the Custom-house per Mr. John Murdoch, 2d clerk to the Collector.

Strand-street, Cape Town, }  
23d May 1825. }

(Errors excepted.)

Names of Negroes.	When apprenticed.	To whom apprenticed.
Masampeana - Male	20 May - 1812 -	Samuel Murray; died at Proctor's.
Leuolo - - - d°	d° - d° -	(Tom) d°; at John Murray's, Strand-street.
Moeyhocha - Female	d° - d° -	(Rose) d°; died in Somerset Hospital.
Nampolum - Male	d° - d° -	(Robert) d°; at John Murray's, Strand-street.
Deperotto - - d°	1 February 1813 -	Sam <sup>l</sup> Murray, at F. W. Woeke, Castle-street.
Nantaguya - - d°	d° - d° -	(John) d°; at Collison & Co's, Hout-street.
Jampalatte - - d°	d° - d° -	(Macaco) d°; died in 1823, at J. Murray's, Strand-street.
Antonio - - d°	d° - d° -	- - d°; at F. W. Woeke, Castle-street.
Monoqua - - d°	d° - d° -	(Manuel) d°; at old Tress the nurse.
Unharapoka - - d°	25 March - 1815 -	Sam <sup>l</sup> Murray; at John Murray's, Strand-street.
Quaratta - - d°	d° - d° -	(Charles) d°; at Collison & Co. Hout-street.
Manuera - - d°	d° - d° -	(Rora) d°; at John Murray's, Strand-street.
Raboot - - Female	21 Dec. - 1816 -	(Jane) d°; at C. Lambres, Owl Raal Groene Kloof.

Strand-street, Cape Town, }  
23d May 1825. }

(Errors excepted.)

The foregoing is a true Copy of the original List delivered in by Mr. John Murray, and referred to in his evidence.

(signed) *John Gregory*, Sec<sup>r</sup>.

## AT THE CAPE OF GOOD HOPE.

37

(Copy.)

LIST of Persons to whom the late Mr. S. Murray hired out Prize Negroes.

John Collison & Co.  
 Doctor Bailey.  
 Cooke & Thompson.  
 Thomson - - - farmer - - - Groene Kloof.  
 Ingledere - - - Hottentots' Holland,  
 Duckett - - - farmer - - - Groene Kloof.  
 Proctor - - - farmer - - - D°

— 4 —  
Documents.

N° 8.

The above is a true Copy of the List furnished to the Commissioners of Inquiry by Mr. John Murray.

(signed) *John Gregory, Sec<sup>r</sup>.*

(Copy.)

N° 9.—MEMORANDUM of ten Indentures of PRIZE NEGROES assigned by Mr. *Blair* to Captain *Amber*, and produced by the latter for the inspection of the Commissioners of Inquiry on the occasion of his examination before them.

N° 9.

Adam	- - - - -	male	- - -	field servant
Nankookhie	- - - - -	d°	- - -	d°
Molly	- - - - -	female	- - -	house servant
Frederick	- - - - -	male	- - -	field servant
Juah	- - - - -	d°	- - -	d°
Breshook	- - - - -	d°	- - -	d°
François	- - - - -	d°	- - -	d°
Alexander	- - - - -	d°	- - -	d°
Sangora	- - - - -	d°	- - -	d°
Doze	- - - - -	d°	- - -	d°

Total - 10 Indentures.

All dated 1st April 1820.

All signed by Mr. Blair.

No term of service specified in any one of these ten indentures.  
 Each indenture binds the Negro for "the remaining term of his or her apprenticeship."

Cape Town, 12 May 1825.

(signed) *John Gregory, Sec<sup>r</sup>.*

(Copy.)

Molly	- - - 1826	Doze	- - - 1827
Juah	- - - d°	Sangola	- - - d°
Breshook	- - - d°	François	- - - d°
Namkookhie	- - - d°	Alexander	- - - 1829
Frederick	- - - 1827		

A true Paper,

(signed) *John Amber.*

The above is a true Copy of the Paper produced to the Commissioners of Inquiry by Captain John Amber, 15th July 1825.

(signed) *John Gregory, Sec<sup>r</sup>.*

—4—  
Documents.  
—  
N° 10.

(Copy.)

N° 10.—EXTRACT from the Evidence taken by the Vice Admiralty Court at the *Cape of Good Hope*, on the 1st July 1809, in the case of "Le Victor."

The Examination of Claude Guillaume Metairie, the master, a witness, sworn and examined on the standing interrogatories by the interpreter, E. B. Ziervogel, duly sworn faithfully to interpret.

TO the twelfth Interrogatory this deponent saith, That several merchants at the Isle of Buonaparte are the shippers of the goods; that several merchants, whose names he cannot specify, but that they reside either at the Isle of France or the Isle of Bourbon, are the owners of the lading; that they were consigned to several merchants at the Isle of France; that he can take upon himself to swear that the goods at the time of the lading and at the time of the capture were the sole property of French subjects, resident as aforesaid.

To the twenty-sixth Interrogatory this deponent saith, That there were three black men and one black woman on board, passengers; that they were slaves going to their masters at the Isle of France, two of whom, one mulatto of the name of Jean Marie, and a black man, he believes, from Mozambique, either from thence or Madagascar, of the name of Denis, were under his the deponent's particular charge.

(signed) *C. G. Metairie.*  
*E. B. Ziervogel*, sworn interpreter.

Repeated and acknowledged before me,  
(signed) *Henry Buckton*, notary public, examiner.

The same Witness on the additional Interrogatories.

The deponent saith, That there were four persons taken and found on board at the time of the capture, slaves, treated, dealt with, carried, and detained as such; viz., one woman of the name of Louisa, about the age of twenty-four or twenty-five; Jean Pierre, the husband of the said Louisa, of about the age of forty-five; Jean Marie, of about the age of twenty-four or twenty-five; and Denis, of about the age of sixteen or eighteen years; that the said aforesaid four persons so dealt with as slaves, came on board at the Isle of Buonaparte, and were destined to the Isle of France; that the said persons were all domestics; that Louisa and Jean Pierre were the property of Mr. Josset, a captain of a troop at the Isle of France, and a French subject; that the other two were under the immediate attention of him the deponent; that Denis is the property of Monsieur Dubignon, of the Isle of France, likewise a French subject, and Jean Marie is the property of Monsieur Guerin, likewise a French subject, residing at the Isle of France; that the aforesaid is all that he knows and believes regarding the real and true situation circumstances and description of the aforesaid persons.

(signed) *C. G. Metairie.*  
*E. B. Ziervogel*, sworn interpreter.

Repeated and acknowledged before me,  
(signed) *Henry Buckton*, notary public, examiner.

EXTRACT from the Evidence taken by the Vice Admiralty Court, at the *Cape of Good Hope*, on the 1st July 1809, in the case of "Le Victor."

The Examination of Pierre Barrant, mate and boatswain, on board the said vessel, a witness sworn and examined on the standing Interrogatories by the interpreter, E. B. Ziervogel, duly sworn faithfully to interpret.

TO the twenty-sixth Interrogatory this deponent saith, That there were four passengers on board, viz. three black men and one black woman; that the woman and one of the men were natives of Madagascar, one was born at Bourbon, and one a native of Mozambique; that he does not know what rank they were, but believes they were slaves; and further to the interrogatory he answers negatively.

(signed) The mark of *Pierre x Barraud.*  
*E. B. Ziervogel*, sworn interpreter.

Repeated and acknowledged before me,  
(signed) *Henry Buckton*, notary public, examiner.

The same Witness on the additional Interrogatories.

The deponent saith, That they were four persons on board the said vessel, treated, dealt with, carried, and detained as slaves, passengers on board the said vessel, viz. one woman and three men, all above fourteen years of age; that two are natives of Madagascar, one of Mozambique, and one of the Isle of Bourbon; that he cannot depose to whom they severally belong; that they were all domestics, as he believes; that he cannot positively swear that they were slaves, but believes them to be slaves, they being so considered as such on board the vessel; that they came on board as passengers for the Isle of France. That the foregoing is all that he knows and believes relative to the matter interrogate.

The mark of *Pierre* × *Barrant*.

(signed) *E. B. Ziervogel*, sworn interpreter.

Repeated and acknowledged before me,

(signed) *Henry Buckton*, notary public, examiner.

A true Extract,

(signed) *John Gregory*, Sec<sup>r</sup>.

(Copy.)

AT a Court of Vice Admiralty, held on Tuesday the twenty-third day of January one thousand eight hundred and ten, at the court room in the Castle of Good Hope, before Winchcomb Henry Hartly, Esq. A. M. one of the Honourable Society of Lincoln's-Inn, Barrister at Law, Judge and Commissary.

Present, *Henry Buckton*, Notary Public.

“ Le Victor.” Claude Guillaume Metairie, master.

Our Sovereign Lord the King against the said Ship, her tackle apparel and furniture, and the goods wares and merchandizes laden therein, taken by His Majesty's sloop of War Racehorse, William Fisher, Esq. Commander, and brought to the Cape of Good Hope; and against all persons in general.

The certificate of the monition is continued.—Publication of the depositions is decreed.

Jennings then brought into the registry an affidavit of William Robertson, with exhibits annexed, marked A. to F. inclusive; and brought in the sum of sixteen thousand and ninety six dollars, as the proceeds of the sales of the whole cargo.

The Judge, at his petition, confirmed the sale as an act of expediency.

In pain of parties cited, thrice called, and not appearing, Jennings gave the usual allegation, admitted, and the Judge assigned the cause for sentence on the first and second assignations.

The Judge having heard the evidence read, and informations thereon, at the petition of Jennings, on motion of His Majesty's Advocate, pronounced the ship and cargo to be enemy's property at the time of the capture and seizure thereof, and as such, or otherwise, subject and liable to confiscation; and by interlocutory condemned the same to His Majesty, taken by His Majesty's ship Racehorse, — Fisher, Esq. commander: and at the further petition of Jennings, on motion of His Majesty's Advocate, having heard the evidence read, and informations thereon by further interlocutory, pronounced,—

Louisa - - a woman - - - - 24 or 25 years of age,

Jean Pierre - husband of said Louisa, about 45 - d°

Jean Marie - a man - - - - 24 or 25 - d°

and

Denis - - - a boy - - - - about 16 - d°

to have been taken and found on board the said vessel at the time of the capture, slaves, treated, dealt with, carried, kept, and detained as such, and condemned the same to His Majesty, His Heirs and Successors.

A true Copy,

(signed) *Geo Cadogan*, Reg<sup>r</sup>.

A true Copy,

(signed) *John Gregory*, Sec<sup>r</sup>.



—4—  
Documents.  
—  
N° 10.

(Copy.)

## DESCRIPTION LIST of NEGROES landed from the French Lugger "Victor."

N°	Name of Vessel taken.	Name of Negro.	Sex.	Age.	Height.	AFRICAN MARKS.
1.	Le Victor	Jean Ellie, alias Marie.	Male	above 14 years	feet. in. 5 4	No mark.
2.	d°	Jean Pierre -	d°	d°	5 7	A black spot on the left of his nose.
3.	d°	Jean Dinné, alias Denis.	d°	d°	5 1	No mark.
4.	d°	Louison, alias Louisa.	Female	d°	5 -	No mark.

Cape Town, 8th August 1809.

We do hereby acknowledge, by our respective signatures, to have received from Messrs. Maude and Robertson, and Charles de Coetlogon, the persons above described, as named against our individual signatures; and to subsist, clothe and take care of them, and further to deliver them up whenever it shall be required:

	above	ft.	in.		
Louison - female	- 14 years	- 5	0	- S. M. Berrange,	10 Aug. 1809.
Jean Ellé, male	- d°	- 5	4	- N. Tyrholm.	—
Jean Dinné, d°	- d°	- 5	1	- Wm. Hussey.	—
Jean Pierre d°	- d°	- 5	7	- Wm. Austin.	—

The above is a true copy of the original produced to the Commissioners of Inquiry by Mr. Blair.

(signed) *John Gregory, Sec<sup>y</sup>.*

N° 11.—RETURNS of all PRIZE NEGROES that have at any time been assigned to Mr. Blair and Mr. W. Bird.

To Mr. Blair	- - - - -	54
To Mr. Bird	- - - - -	23

RETURN of PRIZE NEGROES that have at any time been assigned to Mr. Blair,  
Collector of Customs.

SHIP'S NAME.	N° of Negro in the List.	When condemned.	Name of Negro.	By whom transferred to Mr. Blair.	To whom transferred by Mr. Blair.	SEX:	
						Male.	Female.
List, N° 1.		1810:					
La Prairie - -	4	6 Feb.	Inarakoo -	- - - -	- - - -	1	-
- - - -	30	-	Laquakc -	- - - -	- - - -	1	-
La Charlotte -	12	-	Raala -	- - - -	- - - -	-	1
- - - -	16	-	Soah -	W. Bird	- - - -	1	-
- - - -	32	-	Adia -	- - - -	- - - -	-	1
- - - -	34	-	Volimia -	- - - -	- - - -	-	1
L'Uranie - -	-	30 April	Lipe -	T. B. Ord	- - - -	1	-
La Mouche -	-	-	Lezard -	- - - -	M. Melk	1	-

## AT THE CAPE OF GOOD HOPE.

41

N° 11.—Return of Prize Negroes that have at any time been assigned to Mr. Blair—*continued.*

SHIP'S NAME.	N° of Negro in the List.	When condemned.	Name of Negro.	By whom transferred to Mr. Blair.	To whom transferred by Mr. Blair.	SEX :		
						Male.	Female.	
List, N° 2.		1812 :						
Restaurador -	31	15 Feb.	Angelica -	Capt <sup>n</sup> Drury -	- - -	-	1	Dead.
- - -	41	-	Lewiwa -	apprenticed to	Mrs. Blair -	-	1	
- - -	99	-	Tinpokaro -	- - -	- - -	1	-	
- - -	194	-	Baroa -	- - -	- - -	1	-	
- - -	289	-	Faranganto -	- - -	- - -	1	-	
- - -	257	-	Nakoatjie -	- - -	J. Amber -	1	-	
- - -	398	-	Manoere -	H. Alexander	- - -	1	-	
List, N° 3.		1813 :						
Elisabeth - -	24	26 Jan.	Maccotto -	G. Baird -	- - -	-	1	
- - -	91	-	Louis -	- - -	- - -	1	-	
- - -	114	-	Auton -	- - -	- - -	1	-	
- - -	121	-	Belto -	- - -	- - -	1	-	
- - -	127	-	Intowolamnoo -	- - -	T. Crowcher	1	-	
- - -	132	-	Pamporiha -	- - -	- - -	1	-	
- - -	144	-	Manneccoo -	- - -	- - -	1	-	
- - -	176	-	Namotsia -	- - -	- - -	1	-	
- - -	177	-	Philip -	- - -	- - -	1	-	
- - -	178	-	Salvador -	- - -	- - -	1	-	
- - -	179	-	Jvaho -	- - -	- - -	1	-	
- - -	190	-	Meetemmola -	- - -	- - -	1	-	
- - -	226	-	Queriansie -	- - -	- - -	1	-	
- - -	245	-	Pagquette -	- - -	J. Amber -	1	-	
- - -	300	-	Malania -	W. Cooke -	- - -	1	-	
- - -	398	-	Antonio -	J. Macgregor	- - -	1	-	
- - -	416	-	Colesue -	- - -	- - -	1	-	
List, N° 4.								
Eliza - - -	4	31 May	Malland -	- - -	J. Amber -	1	-	
- - -	9	-	Amehena -	- - -	E. Durham -	1	-	
- - -	13	-	Mafatogoo -	- - -	E. Durham -	1	-	
- - -	14	-	Meuica -	- - -	E. Durham -	1	-	
- - -	40	-	Hoedarie -	- - -	J. Amber -	1	-	
- - -	42	-	Dehewe -	- - -	J. Amber -	1	-	
- - -	46	-	Esamba -	- - -	- - -	1	-	
- - -	47	-	Cheffinerie -	- - -	C. Dixon -	1	-	
- - -	93	-	Lasark -	- - -	C. Dixon -	-	1	
- - -	94	-	Reewa -	- - -	G. Hodgson	-	1	
- - -	95	-	Rasaff -	- - -	G. Hodgson	-	1	
- - -	104	-	Maro -	- - -	J. Lawrence	-	1	
List, N° 5.		1815 :						
Sa° Joachim -	33	17 Mar.	Pasciree -	- - -	W. Duckitt -	1	-	Dead.
- - -	41	-	Moyowhoka -	- - -	- - -	1	-	
- - -	58	-	Pedro -	- - -	W. Duckitt -	1	-	
- - -	73	-	Gaetano -	- - -	W. Duckitt -	1	-	
- - -	118	-	Pooteela -	- - -	J. Amber -	1	-	
- - -	129	-	Moogorooto -	- - -	W. Duckitt -	1	-	
- - -	131	-	Domingo -	- - -	W. Duckitt -	1	-	
- - -	210	-	Derinkoos -	- - -	J. S. Merrington	1	-	
- - -	216	-	Malamoo -	W. Corbett -	- - -	1	-	
List, N° 7.		1816 :						
La Jeune Victor	9	25 Jan.	Mamampela -	- - -	J. Amber -	1	-	
						44	10	

TOTAL - - 54 { Apprenticed to Mr. Blair - - - 31  
Of whom are dead - - - 2  
Remain with Mr. Blair - - - 29

(signed) J. Gregory, Sec<sup>r</sup>.

## PAPERS RELATING TO PRIZE SLAVES

RETURN of PRIZE NEGROES that have at any time been assigned to Mr. W. W. Bird,  
Comptroller of the Customs.

SHIP'S NAME.	N° of Negro.	When condemned.	Name of Negro.	By whom transferred to Mr. W. W. Bird.	To whom transferred by Mr. W. W. Bird.	SEX :		
						Male.	Female.	
List, N° 1.		1810 :						
Tilset - - -	-	13 Feb.	Mechie -	- - -	Miss Reitz -	-	1	
La Charlotte -	16	6 Feb.	Soah -	- - -	Mr. Blair -	1	-	
La Mouche -	-	13 Apr.	Landormy -	- - -	- - -	1	-	
- - -	-	-	Lasoy -	- - -	W. Proctor -	1	-	
List, N° 2.		1812 :						
Restaurador -	68	15 Feb.	Ketano -	- - -	Rev. Mr. Hough	1	-	Dead.
- - -	200	-	Kalawa -	- - -	Rev. Mr. Hough	1	-	Dead.
- - -	391	-	Paon -	- - -	- - -	1	-	
- - -	400	-	Antonie -	- - -	- - -	1	-	
List, N° 3.								
Elisabeth - -	4	26 Jan.	Arosa -	- - -	- - -	-	1	
- - -	222	-	Manuel -	- - -	- - -	1	-	
- - -	269	-	Lino -	- - -	- - -	1	-	
- - -	276	-	Amaro -	- - -	- - -	1	-	
- - -	284	-	Sawyer -	- - -	K. Morrison	1	-	
- - -	436	-	Johanna -	- - -	- - -	-	1	
List, N° 4.		1813 :						
Eliza - - -	34	31 May	Ballaka -	- - -	- - -	1	-	
- - -	37	-	Myndoola -	R. D'Escotais	- - -	1	-	
- - -	54	-	Leenwola -	- - -	- - -	1	-	
List, N° 5.		1815 :						
Sa° Joachim -	30	17 Mar.	Gracia -	- - -	- - -	1	-	
- - -	36	-	Moyoran -	- - -	- - -	1	-	
- - -	107	-	Macalee -	- - -	- - -	1	-	
List, N° 6.		1816 :						
La Neptune -	37	16 Dec.	Taffela -	- - -	- - -	1	-	
- - -	81	-	Lansoro -	- - -	- - -	1	-	
List, N° 7.		1816 :						
La Jeune Victor	29	25 Jan.	Leyzaff -	J. Hare -	- - -	1	-	
TOTAL						-	20	3

Mem.—In Mr. Bird's service in October 1823 - - - 17

Transferred by Mr. Bird - - - - - 6

Total as above - - - - - 23

(signed) J. Gregory, Secy.

(Copy.)

—4.—  
Documents.

N° 12.

N° 12.—EXTRACT from an Order of His Majesty in Council,  
dated Queen's Palace, 16th March 1808.

6. " IF by the death of the master or mistress, or any other cause, any such apprentice Negro, male or female, shall be thrown out of service or employment before he or she has acquired knowledge enough to gain his or her own support, it shall be lawful for the said Collector or Chief Officer of the Customs for the time being again to bind out such apprentice to some other master or mistress in the same art, trade or occupation, and for a like service, for any term, which being added to the time that such apprentice served under the former indentures, will not exceed fourteen years, subject, as nearly as the case will permit, to the rules and regulations herein prescribed in respect to original apprenticeships."

A true Extract

(signed) John Gregory, Secretary.

(Copy.)

N° 13.—Mr. *Ryneveld's* Letter to the Commissioners of Inquiry, enclosing Copy of a Letter addressed to him on the 12th January 1824, withdrawing the complaint he had made respecting Mr. *Blair's* conduct.

Gentlemen,

Fiscal's Office, 9th June 1825.

I HAVE the honour to forward to you, agreeable to your request, Copy of the letter that was addressed to me by Mr. Lancelot Cooke, in which I was requested by him to relinquish the prosecution of Mr. Blair, the Collector of Customs.

J. T. Bigge, Esq. and I have, &c.  
 W. M. G. Colebrooke, Esq. (signed) *W. C. Van Ryneveld,*  
 H. M. Commissioners of Inquiry, Dep' Fiscal.  
 &c. &c. &c.

(Copy.)

Sir,

Cape Town, 12th January 1824.

A MUTUAL friend to myself and Mr. Notary Edwards having recommended me to lay the circumstances of Mr. Blair's conduct before that gentleman, stating his knowledge of English law and many years connexion with the Metropolitan government, superlatively qualified him to show me how to act towards its servants, I gave all my papers into his hands.

On perusing them, he advises me to lay the case before the Lords of the Treasury, as best calculated to procure me satisfaction from Mr. Blair;—I therefore beg to withdraw the complaint I made to you on the 29th November last.

To W. C. Van Ryneveld, Esq. I have, &c.  
 Deputy Fiscal. (signed) *Lancelot Cooke.*

A true Copy,  
 (signed) *W. C. Van Ryneveld,*  
 Dep' Fiscal.

(Copy.)

N° 14.—Letter from Lord *Charles Somerset* to the Commissioners of Inquiry, dated 16th May 1825, transmitting Copies of the Proceedings of the Court of Inquiry appointed by His Excellency in March 1824, to investigate the charges brought by Mr. *Lancelot Cooke* against Mr. *Blair*, the Collector of Customs.

N° 14.

Gentlemen,

Newlands, 16 May 1825.

I HAVE the honour to acknowledge your letter of the 3d instant, and to transmit to you, in reply thereto, a Copy of the Report of the Committee appointed by me on the 10th March 1824, to investigate the charges of corruption contained in a certain Memorial addressed by Mr. L. Cooke to the Lords Commissioners of His Majesty's Treasury, relative to the conduct of Charles Blair, Esq. Collector of H. M. Customs in this Port, in the distribution of Prize Negro apprentices; from which Report you will perceive, that thro' the unwillingness of Mr. Cooke to bring forward his case before the Committee, they were deprived of the means of strictly examining and inquiring into this matter, or of recording in their proceedings any conclusive opinion respecting the several acts of corruption of which Mr. Blair stood accused by Mr. L. Cooke.

I have, &c.  
 (signed) *Charles Henry Somerset.*

To H. M. Commissioners of Inquiry.

(Copy.)

My Lord,

Cape Town, March 29, 1824.

MAY it please your Lordship,—We the underwritten, in obedience to your Lordship's warrant, which bears date the 10th instant, commanding us to examine into the charges of corruption contained in a certain Memorial of Mr. L. Cooke, addressed to the Right honourable the Lords of the Treasury, relative to the conduct of Charles Blair, Esq. Collector of H. M. Customs in this port, in the distribution

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distribution of Prize Negro apprentices, and to report to your Lordship distinctly thereon, beg leave to lay before your Lordship the Proceedings hereunto annexed, and respectfully report to your Lordship—

That Mr. L. Cooke was, by letter bearing date the 27th instant, requested to attend before us; to which letter we this day received an answer, dated the 28th instant, in which Mr. Cooke decidedly objected to give any information, or to bring forward any witnesses to corroborate the charges of mal-practices alleged to have been committed by Mr. Blair in the distribution and charge of Prize Negroes committed to his care, unless he (Mr. Cooke) were allowed the aid of such counsel as he might require, and also the power of cross-examining the witnesses, as will more fully appear by reference to annexure L<sup>a</sup> G.—That having assembled on the day following (this 29th instant) Mr. L. Cooke appeared personally before us, and being apprized that he would now have an opportunity of establishing the charges of corruption contained in his Memorial against Mr. Blair, refused so to do, or to offer any proof of said charges, on the ground, that many of his witnesses were unwilling to come forward and speak the truth, and that his Letter (G.) already contained his determination.—That we could not assent to the conditions required in his said letter, as being contrary to the usage and practice of courts of Inquiry, which do not sit in judgment, and also because His Majesty's Fiscal would become the ex officio prosecutor, in case it should appear necessary to His Excellency to order a criminal prosecution against Mr. Blair. That Mr. L. Cooke then withdrew; and that, thus circumstanced, we are deprived of the means of strictly examining and inquiring into, or of recording in our proceedings any conclusive opinion respecting the several acts of corruption of which Mr. Blair stands accused in the Memorial of Mr. L. Cooke to the Right honourable the Lords of the Treasury. All which is humbly submitted.

(signed) *T. A. Truter. G. Kekewich. M. Napier.*

A true Copy,

To His Excellency the R<sup>t</sup> Hon<sup>ble</sup>  
General Lord Cha<sup>s</sup> H<sup>y</sup> Somerset  
Governor & Commander-in-Chief,  
&c. &c. &c.

(signed) *P. G. Brink,*  
Ass<sup>t</sup> Sec<sup>y</sup> to Gov<sup>t</sup>.

LIST of PAPERS accompanying the Report of the Committee of Inquiry, to his Excellency the Governor and Commander in Chief, dated the 29th March 1824.

- L<sup>a</sup> A.—Copy of the Assistant Colonial Secretary's Letter to the Committee, transmitting his Excellency the Governor's Warrant - - - *see below*  
L<sup>a</sup> B.—The Warrant itself - - - - - p. 45  
L<sup>a</sup> C.—Copy of the Assistant Colonial Secretary's Letter to Mr. L. Cooke, apprising him of the appointment of this Committee - - - p. 46  
L<sup>a</sup> D.—Copy of Mr Cooke's Memorial to the Right honourable the Lords Commissioners of the Treasury - - - - - *ibid.*  
L<sup>a</sup> E.—Mr. Cooke's Letter to the Assistant Colonial Secretary, stating the grounds on which he declines to bring before the Committee any Evidence touching matter of the cognizance of a duly constituted Court p 53  
L<sup>a</sup> F.—Copy of the Letter written by order of the Committee to Mr. Cooke, requesting his attendance - - - - - *ibid.*  
L<sup>a</sup> G.—And Mr. Cooke's reply thereto - - - - - p. 54

A true Copy,

(signed) *P. G. Brink,* Ass<sup>t</sup> Sec<sup>y</sup> to Gov<sup>t</sup>.

(Copy.)

L<sup>a</sup> A.—COPY of the Assistant Colonial Secretary's Letter to the Committee, transmitting his Excellency's the Governor's Warrant.

Sir,

Colonial Office, 10th March 1824.

I HAVE the honour to transmit to you copy of a Warrant from his Excellency the Governor and Commander in Chief, appointing a Committee, consisting of yourself, his Honour the Judge in the Vice Admiralty Court (George Kekewich, Esq.) and the Commandant of the Garrison of Cape Town (Colonel Mark Napier),  
to

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to inquire into and report upon certain charges preferred by Mr. L. Cooke against Charles Blair, Esq. Collector of Customs, contained in a Memorial addressed to the Lords Commissioners of His Majesty's Treasury, a copy of which I have the honour to enclose.

His Excellency has apprised Mr. Cooke of the appointment of this Committee, and has requested his attendance whenever you shall require it, to enable you to proceed in the duties you are called upon to perform.

His Excellency has been pleased to appoint Mr. John Brink to act as Secretary to the Committee, and has directed the committee room of the Court of Justice to be prepared for your reception.

I enclose a copy of the letter I have addressed to Mr. Cooke; and

Have, &c.

(signed) *P. G. Brink.*

To  
His Honour the Chief Justice,  
His Honour the Judge in the Vice  
Admiralty Court, and  
Colonel Mark Napier, Commandant  
Cape Castle.

A true Copy,  
(signed) *P. G. Brink,*  
Ass' Sec<sup>r</sup> to Gov<sup>r</sup>.

(Copy.)

L<sup>a</sup> B.—The Warrant itself.

BY his Excellency the Right honourable General Lord Charles Henry Somerset, one of His Majesty's most honourable Privy Council, Colonel of His Majesty's 1st West India Regiment, Governor and Commander in Chief of His Majesty's Castle, Town, and Settlement of the Cape of Good Hope, in South Africa, and of the Territories and Dependencies thereof, and Ordinary and Vice-Admiral of the same, Commander of the Forces, &c. &c. &c.

WHEREAS Charles Blair, Esquire, Collector of His Majesty's Customs in this place, has, by letter of the 9th instant, made complaint and given information to me, of certain charges and accusations having been circulated against his character by Mr. Lancelot Cooke, merchant, of Cape Town, in a Memorial forwarded to the Lords Commissioners of His Majesty's Treasury, a duplicate of which was transmitted to me, as to the discharge of his public duty in the distribution of Prize Negro apprentices; I have decided upon causing a minute investigation to be made into the several circumstances set forth in the Memorial before alluded to of the said L. Cooke. And I do, by these Presents, constitute and appoint his Honour Sir J. A. Truter, K<sup>t</sup> (Chief Justice,) his Honour George Kekewich, Esq. (Judge of the Vice Admiralty Court,) and Colonel Mark Napier (Commandant of the Garrison of Cape Town,) to be a Committee, for the purpose of inquiring into and taking cognizance of the matter aforesaid, and reporting thereon to me in a clear and distinct manner, together with their opinions relative to the same.

And I have also judged it expedient, and I do hereby invest the said Committee with full powers to summon before them, and to examine on oath (which they are hereby authorized to administer) all such persons as shall appear to them to be able to give information on the different charges of said Memorial; and I do further authorize the said Committee to call for copies of all such public papers and public documents as may tend to elucidate the several subjects of their investigation.

Given under my hand and seal, at the Cape of Good Hope, this 10th day of March 1824.

(signed) *Charles Henry Somerset.*  
(L. s.)

By His Excellency's Command,  
(signed) *P. G. Brink.*

A true Copy,  
(signed) *P. G. Brink, Ass' Sec<sup>r</sup> to Gov<sup>r</sup>.*

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(Copy.)

L<sup>d</sup> C.—Copy of the Assistant Colonial Secretary's Letter to Mr. *L. Cooke*, apprising him of the appointment of this Committee.

Sir,

Colonial Office, March 10, 1824.

His Excellency the Governor having been pleased to issue a Warrant under his hand and seal, appointing a Committee to inquire into and report upon certain charges of misconduct alleged by you in a Memorial to the Lords Commissioners of His Majesty's Treasury against Charles Blair, Esquire, in the discharge of that part of his duty as Collector of the Customs at this port, which relates to Prize Negro apprentices; I am directed to inform you, that the Committee so appointed consists of his Honour the Chief Justice, his Honour the Judge of the Vice Admiralty Court, and the Commandant of the Garrison of Cape Town, and to request that you will be pleased to attend the said Committee at such time as they shall require your presence, in order to give the necessary information to enable them to proceed in the duties entrusted to them.

Mr. L. Cooke.

I remain, &amp;c.

(signed) *P. G. Brink.*

A true Copy,

(signed) *P. G. Brink, Ass' Sec<sup>r</sup> to Gov<sup>r</sup>.*

(Copy.)

(Duplicate.)

L<sup>d</sup> D.—COPY of Mr. *Cooke's* Memorial to the Right honourable the Lords Commissioners of His Majesty's Treasury.

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

The MEMORIAL of Lancelot Cooke, of Cape Town, in  
the Cape of Good Hope, Merchant,

Respectfully showeth,

THAT by an Act of Parliament made and passed in the forty-seventh year of the reign of his late Majesty King George the Third, intituled, "An Act for the Abolition of the Slave Trade," it was enacted, that all subjects or inhabitants of Africa, unlawfully carried or imported as Slaves into his Majesty's colonies, should be seized, prosecuted and forfeited, in the like manner and form as goods and merchandizes unlawfully imported; and that after the condemnation thereof, such subjects or inhabitants should be bound as apprentices, for a term not exceeding fourteen years, on such conditions as his Majesty, by an Order in Council, might direct or appoint. And it was further enacted, "That any indenture of apprenticeship, duly made and executed by any person or persons to be for that purpose appointed by any such Order in Council, for any time not exceeding fourteen years, should be of the same force and effect as if the party thereby bound an apprentice had himself or herself, when of full age, upon good consideration, duly executed the same."

And that his Majesty the said King George the Third did, by an Order in Council, afterwards direct, that all such subjects or natives of Africa, so seized, forfeited and condemned, should be placed out as apprentices by the Collector of Customs. Also, that in or about the year 1810, the French packet l'Ector, trading from St. Denis to Port Louis, being captured by the English brig Racehorse, one Jean Ellé was found on board thereof, who stated that he was a free man of colour, a native of Bourbon, employed as a seaman on board such packet, but being unable to speak English or Dutch, and the inhabitants of the Cape ignorant of the patois of Bourbon, he could not make himself understood, and was ultimately placed out as an apprentice by Charles Blair, Esquire, the Collector of Customs at this port, and after having served two several masters some years, he was removed by the Collector of Customs, and placed with Mr. Samuel Murray, who hired him to Your Memorialist's establishment nearly six years, at the rate of thirty-five rix dollars per mensem; when at the death of the said Samuel Murray, the said Jean Ellé requested Your Memorialist to permit him to continue in his service, alleging, that he had only a very short time to serve of his original apprenticeship; to which Your Memorialist consented, from the good opinion he entertained

entertained of the man, acquired during his long and faithful service; and he paid his wages to him, until on or about the 21st day of November last, when he received an order from Mr. Blair to deliver up Jean Ellé to William Wilberforce Bird, Esquire, or his order, accompanied by a note from the said Mr. Bird, who is the Comptroller of Customs, requiring the man to be sent to the Custom-house.

That he immediately informed the said Jean Ellé of such demand, and requested him to go there as desired; but on his representing, that he had so long served Your Memorialist with fidelity and industry, and hoped he should not be abandoned at the close of his servitude, Your Memorialist replied, that though he was unwilling to force him away, he could not disobey the peremptory order of the Collector of Customs, and requested the man to go as desired; yet he nevertheless refused to do so for some days, until he found he was destined to serve one H. M. Pigou, Esquire, the son-in-law of Mr. Wilberforce Bird the Comptroller of Customs, and that the police were searching to apprehend him for disobedience of orders, when he instantly repaired to the Custom-house.

That a few days before Jean Ellé could be prevailed on to leave the employ of Memorialist and his co-partner, Mr. Pigou called at their house, where, witnessing Jean Ellé's reluctance to leave them, he said, if another Cook could be recommended to him, he was willing the man should remain where he was; whereupon, after consulting a gentleman in the law, many years acquainted with the arrangements made by Mr. Blair on similar occasions, Your Memorialist subsequently met Mr. Pigou, and stated that he was willing to meet his proposal, and pay the wages of any cook he might hire, when, pretending to be offended, he rudely left Your Memorialist without an answer.

That whilst Jean Ellé was waiting at the Custom-house, Your Memorialist, from a wish never to offend or oppose the constituted authorities of His Majesty, and supposing, from the frequent repetition of a similar interference by Mr. Blair, that he was empowered by law so to do, repaired to the Custom-house, where he saw Mr. Blair on horseback, in company with Mr. Wilberforce Bird, and accosted him respectfully in the presence of Mr. Roberts, the head clerk in the establishment of Memorialist, for the purpose of informing him, that the man's objection to leave his employ was the cause of the trifling delay; whereon Mr. Blair, in the most violent, loud and insulting manner, holding up his whip or stick in a threatening attitude, said to Your Memorialist, "Damn you, sir, hold your tongue, or by God, I'll knock you down,"—"God damn you, sir, don't speak a word, or I'll knock you down; if you had said as much to me as you did to my friend Mr. Pigou, I would have blown your brains out, damn and blast you, I would, you scoundrel;" and as he rode away, he called Your Memorialist "a damned son of a bitch," and Mr. Wilberforce Bird, who was in company with Mr. Blair at the commencement of Your Memorialist's attempt to speak, instantly rode off, the moment he perceived Mr. Blair under the natural influence of his temper, that he might neither restrain or be called to bear witness of his brother officer's insolence.

That Your Memorialist having no other wish than to receive such an apology as his Excellency the Governor might think fair, complained of this outrage; when Lord Charles Somerset, ever anxious to discharge his duty with an impartiality befitting the representative of His Majesty, applied to the Collector of Customs; and, as might have been expected, a person capable of descending to such abusive expressions, would be sure to contradict them, Mr. Blair did so, though he pretended to glory in one part of his rudeness, as communicated by his Lordship, with the enclosure from Mr. Blair.

Your Memorialist humbly submits, that this vain-glorious boast of Mr. Blair's carries its own refutation on its face, for, had Memorialist insulted Mr. Pigou, as is pretended, it is clear that he was either able to resent it himself, or unworthy the aid of a proxy.

However, as Your Memorialist conceives that the ipse dixit of Mr. Blair cannot be set against the oath of himself and Mr. Roberts, he annexes Depositions taken before a notary, agreeably to the laws of this colony, and also one of Jean Ellé, on which he confidently appeals to Your Lordships for redress.

Your Memorialist further respectfully submits, that when this man was once placed as an apprentice, the legal right of interference in the Collector of Customs ceased, as in the case of a parish apprentice in England, where the master has a chattel interest that devolves on his executors; and therefore, as Your servant cannot have been actuated by a sense of duty, he feels it imperious on him to draw

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Your Lordships' attention to the fact, of his having in the first instance put this man out as an apprentice, he being a sailor-cook, and, as he has always declared, a prisoner of war. If Mr. Blair had been influenced by the benevolent spirit of the Abolition Act (and Jean Ellé had been a Slave in reality) when he found him a man near thirty years of age, so good a cook, and so well able to earn the bread of honest industry, he would have satisfied the law, by placing him in some family for a few months, instead of fourteen years; but this would not satisfy the necessities or the wishes of Mr. Blair, who acquired consequence and credit by disposing of so many Slaves of the most unfortunate order; and if Your Lordships would afford Your protection against the future oppressions of the officers of Customs, several cases should appear before You of Mr. Blair's privity to such contracts as that offered to Mr. Pigou, at which he expresses such indignation; to contracts even more corrupt; some, wherein, when persons have pressed him for payment of his debts, he has promised them greater advantages, which have ended in donations of miserable creatures, thus abandoned to those whom he dare not to assail; sacrifices to his necessities, victims of his oppressive partialities. Hearing of his insolence to Your Memorialist, several persons in Cape Town, of the greatest respectability, highly indignant at such demeanor, came to Memorialist with accounts of the manner in which he had disposed of Negroes to themselves, and are now ready to make oath of these facts; but Your Memorialist, unwilling to expose them to the powerful vengeance of the Custom-house, wishes first to obtain an assurance of Your Lordships' protection towards them. The English Senate intended to have been the friend and protector of the wretched Negro; but in this case it has been the greatest misfortune. Here is a man well able to earn thirty-five rix dollars per month as a cook, who, on pretence of being taught a business, is bound, by the ruthless cupidity of His Majesty's servants, to serve the most valuable part of his life to the favourites of the Collector of Customs at Cape Town. Had Jean Ellé been a Slave in fact, and remained so after so valuable a portion of his life spent in the service of his master, the law would have compelled that master to support him in his old age; but here is a man serving the prime of a valuable life for the advantage of those, who in old age will desert him to all the miseries of want.

Your Lordships will feel how inconsistent is such conduct with the philanthropy that abolished Slave dealing.

Your Lordships will feel how wretched is the state of that Slave, who, under the benign indulgence and protection of Mr. Blair, is cursed with liberty at the end of a cruel, abject and unprofitable slavery of fourteen years, left to starve in the decline of life, after having worn away his strength by the goadings of those who have no interest (like the real Slave proprietor) in well treating these poor people, to make their old age more vigorous.

Your Lordships will feel what sentiments actuated Mr. Blair, when, on a very recent occasion, one William Cousins, who had served him fourteen years, and been a voyage with him to England, on applying for a certificate of the expiration of his apprenticeship, was cruelly told, he should never have it, unless he would return to his service.

Your Lordships will feel what is the general tenor of Mr. Blair's character, his humanity, his mildness, and his justice, when you are informed that this poor man preferred all the horrors of starvation, rather than return to a master who had made him so miserable; and such must have been his fate, so great the terror of the Collector of Customs, had not the benevolence of one of Your Memorialist's acquaintances prompted him, in defiance of the malediction and the denunciations of this great man, to take the poor Negro for his servant.

Your Lordships will feel and appreciate the spirit that urged Mr. Blair, when he saw an unhappy Negro, who had served Your Memorialist for the benefit of Mr. Samuel Murray above six years, anxiously soliciting to be continued in the same employ, so callously rejecting every solicitation, although the man becomes free again on the 1st of March next.

Your Lordships will feel whether it was an amiable thing, in a person intrusted with the exercise of His Majesty's benevolence, so relentlessly to separate a master and a servant, whom he saw happy and satisfied in so long a connexion.

And Your Lordships will feel and judge whether the violence of his language to Memorialist, the indecency of his expressions in the letter to the Governor, and the unfairness of his conduct in taking Jean Ellé away from Your Memorialist, in violation of every principle of humanity towards the poor man, merely to supply

Mr. Bird's

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Mr. Bird's son-in-law with a cook, was befitting him who holds an important trust under the King, in which equanimity of temper, humanity, disinterestedness and benevolence of heart, ought to shine in a superlative degree.

Your Memorialist thinks it due to himself to say, that he is not impelled to this complaint from a desire to oppose the servants of His Majesty, or from a vindictive spirit of revenge, for although through life no one has possessed a warmer or a better spirit of loyalty, or a more forgiving disposition towards those who have injured or insulted him, yet he owes it to his own rank in society to call from Your Lordships for justice on Mr. Blair, who has thus trampled on all the decencies of life; and he does this more confidently, knowing that You are most able and most willing to screen gentlemen from the insolence of office.

And he sincerely assures Your Lordships, that whatever may be Your decision, with that decision he will rest most perfectly satisfied.

Wherefore he prays, That Your Lordships will be pleased to cause an inquiry to be made into the conduct of the Collector of Customs towards him, and judge thereon as You may deem meet.

And he will ever pray, &c.

(signed) *Lancelot Cooke.*

A true Copy,

(signed) P. G. Brink, Ass' Sec' to Gov'.

(Copy.)

Cape Town, 25 Long Market Street,  
22 Jan' 1824.

My Lord,

As your Lordship is aware of the professional duty which necessarily leads me into misunderstandings with which I have no concern—and of the occasion, from a duty to my client, that I adopt their sentiments and expressions, I feel it scarcely requisite to make any excuse to you for conducting a complaint against one of your officers.

But I do feel it needful, for my own sake, in transmitting the duplicates of Mr. Cooke's Memorial through your Lordship to the Treasury, to say, that I do not enter into this business from choice. I told Mr. Blair what was advised by me, in hopes that the affair might have been arranged by a slight concession on his part. And although I will never shrink from the performance of my duty to my clients, there is no man who would do a duty which might be painful to your Excellency with more sorrow than myself, no man in the colony more unwilling to thwart measures of His Majesty's government than I am, nor is there a man alive more willing to devote his life, his every thing, to the honour or service of his Sovereign, or the sacred representative of a beloved King.

My father, my Lord, had the happiness of serving His Majesty for years as a captain of dragoons, he was personally known to some of those before whom this Memorial may be laid—I have also the honour of being so known—therefore I feel it absolutely imperative on me to write this letter, that it may never be supposed I have swerved from the principles of loyalty and affection to government, in which I was educated.

The other copy of the Memorial will be forwarded by post: And as Mr. Cooke is speedily departing for England, he will pursue the affair in person before Their Lordships, with the assistance of counsel.

I have, &c.

(signed) *W. Edwards.*

A true Copy,

(signed) P. G. Brink, Ass' Sec' to Gov'.

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## PAPERS RELATING TO PRIZE SLAVES

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(Copy.)

I, Christopher Bird, Esquire, Chief Secretary and Registrar to the Government of the Colony of the Cape of Good Hope, Do hereby certify, that William Edwards, who hath signed the Acts hereunto annexed, is a Notary Public practising in Cape Town, and that to all Acts so signed [by him, full faith and credit is and ought to be given in judicature and thereout.

Dated this 22 day of January 1824.

(signed) *C. Bird,*  
Col. Secretary & Registrar, Cape of Good Hope.

A true Copy,  
(signed) P. G. Brink, Ass' Sec' to Gov'.

(Copy.)

(A.)

To Messrs. Cooke &amp; Thompson.

Gentlemen,—Be pleased to deliver to William Wilberforce Bird, Esquire, or his order, the Prize Boy in your service named Jean Ellé, belonging to the late Mr. Samuel Murray.

(signed) *Charles Blair,* Collector Customs.

Cape Town, 21 November 1823.

A true Copy,  
(signed) P. G. Brink, Ass' Sec' to Gov'.

(Copy.)

(B.)

Mr. Wilberforce Bird will thank Mr. Cooke to send the Apprentice Boy (late Mr. Murray's) to the Custom-house.

Custom-house, Monday.

To Lancelot Cooke, Esquire.

A true Copy,  
Quod attestor,  
(signed) W. Edwards, Notary Public.

A true Copy,  
(signed) P. G. Brink, Ass' Sec' to Gov'.

(Copy.)

(C.)

Sir,

Newlands, Friday, Dec. 12, 1823.

I DID not fail to communicate the contents of your representation to me to Mr. Blair, through a gentleman whom I knew to be in his confidence, and enclose you the reply he made to me.

I remain, &amp;c.

(signed) *Charles Henry Somerset.*

To Lancelot Cooke, Esquire.

A true Copy,

Quod attestor,  
(signed) W. Edwards, Notary Public.

A true Copy,  
(signed) P. G. Brink, Ass' Sec' to Gov'.

(Copy.)

(D.)

My Lord,

Custom-house, December 11, 1823.

I HAVE this morning received from Mr. Bird a letter of complaint from Mr. Lancelot Cooke to your Lordship, the greater part of which is false. I certainly told Mr. Lancelot Cooke, that if he had said to me what he did to Mr. Pigou, I should have felt myself compelled to have kicked him.

I regret that your Lordship should have been troubled on so trifling an occasion.

I have, &amp;c.

(signed) *Charles Blair.*

To His Excellency  
Lord Charles Somerset.

A true Copy,

Quod attestor,  
(signed) W. Edwards, Notary Public.

A true Copy,  
(signed) P. G. Brink, Ass' Sec' to Gov'.

## AT THE CAPE OF GOOD HOPE.

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(Copy.)

Duplicate (E.)

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BE it hereby made known, That on this twentieth day of January in the year of our Lord one thousand eight hundred and twenty-four, Lancelot Cooke, of Cape Town, in the Cape of Good Hope, merchant, personally came and appeared before William Edwards, of the same place, notary public, duly constituted appointed and sworn, and the Witnesses hereinafter mentioned, and offering a solemn oath on the Holy Evangelists of Almighty God to the truth of this declaration and every part thereof, whensoever he shall be thereunto duly required, did declare testify depose and say, That on the twenty-eighth day of November last, he did (from the sheriff having stated that Mr. Blair charged him, deponent, with harbouring the Apprentice to disobey his orders, and in consequence of his co-partner and himself having received an order from the Collector of the Customs to deliver up a Prize Negro, named Jean Ellé, to the Comptroller of Customs, or his order,) repair, in company with Mr. John Roberts, his managing clerk, to the Custom-house, for the purpose of explaining to the said Collector the cause of a little delay that had taken place in the obedience of his said order; where he saw Mr. Blair the Collector, in company with Mr. Wilberforce Bird the Comptroller, on horseback, when he this deponent addressed him the said Collector of Customs, who instantly assailed him with a volley of the most gross and abusive language, saying, "Damn you, sir, hold your tongue, or, by God, I'll knock you down," at the same time holding his whip or stick in a threatening attitude towards this deponent; and also saying and repeating, "God damn you, sir, don't speak a word, or I'll knock you down; if you had said as much to me as you did to my friend Mr. Pigou, I would have blown your brains out, damn and blast you, I would, you scoundrel;" and concluded, as he was riding away, by calling this deponent "a damned son of a bitch." And this deponent further saith, that Mr. Wilberforce Bird instantly rode away, and left the said Charles Blair, without attempting to restrain or witness such abuse.

For a memorial whereof I have caused the said deponent to subscribe to the original hereof, and granted an Act thereof in duplicate, in the presence of the subscribed witnesses Thomas Hall and Henry Nitch, the day and year first above written, the original, upon a stamp of one rix dollar, remaining in my protocol.

Which I attest,  
(signed) *W. Edwards*, Notary Public.

A true Copy.  
P. G. Brink, Ass' Sec' to Gov'.

(Copy.)

Duplicate (F.)

BE it hereby made known, That on this twentieth day of January in the year of our Lord one thousand eight hundred and twenty-four, John Roberts, of Cape Town, in the Cape of Good Hope, managing clerk to Messrs. Cooke and Thompson, of the same place, merchants, personally came and appeared before me William Edwards, of the same place, notary public, duly constituted appointed and sworn, and the Witnesses hereinafter mentioned, and offering a solemn oath on the Holy Evangelists of Almighty God to the truth of this declaration and every point thereof, whensoever he shall be thereunto duly required, did declare testify depose and say, That on the twenty-eighth day of November last past, he was requested by the said Mr. Cooke to accompany him to the Custom-house, where he stated to deponent that he had a business to arrange with Mr. Blair, relative to the cook "Jean Ellé." And deponent further saith, that he did accompany the said Mr. Cooke, as requested; and that shortly after they arrived at the Custom-house, the Collector and the Comptroller of Customs came towards them on horseback; upon which Mr. Cooke stepped forward, and very civilly addressed himself to Mr. Blair, who, without the least provocation, burst into a violent and passionate exclamation, addressing himself to Mr. Cooke, and saying "Damn you, sir, hold your tongue, or by God I'll knock you down," at the same time holding his whip or stick in a threatening attitude towards the said Mr. Cooke, and repeating, "God damn you, sir, don't speak a word, or I'll knock you down; if you had said as much to me as you did to my friend Mr. Pigou, I would have blown your brains out, damn and blast you, I would, you scoundrel;" and concluded, as he was riding away, by saying

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saying to the said Mr. Cooke, "You are a damned son of a bitch." And this deponent further saith, that Mr. Wilberforce Bird did not stay one moment to witness this language, but immediately rode away. And this deponent further saith, that being so much surprised at hearing such language used towards so respectable a gentleman as Mr. Cooke, he reduced a narrative thereof into writing, on his return home, that he might not forget or mistake any part thereof, which was the cause he is now so well able to set forth the same.

And for a memorial whereof I have caused the said deponent to subscribe to the original hereof, and granted an Act thereof in duplicate, in the presence of the witnesses Thomas Hall and Henry Nitch, the day and year first above written, the original, upon a stamp of one rix dollar, remaining in my protocol.

Which I attest,

(signed) *W. Edwards*, Notary Public.

A true Copy,

(signed) *P. G. Brink*, Ass' Sec' to Gov'.

(Copy.)

Duplicate (G.)

BE it hereby made known, That on this twenty-first day of January in the year of our Lord one thousand eight hundred and twenty-four, Jean Ellé, late cook to Messrs. Cooke and Thompson, of Cape Town, in the colony of the Cape of Good Hope, merchants, but now employed as cook by H. M. Pigou, of Sussex Place, in the said colony, Esquire, personally came and appeared before me William Edwards, of the same place, notary public, duly constituted admitted and sworn, and the Witnesses hereunder written, at the house of Captain John Carnall the proprietor of the premises occupied by the said H. M. Pigou, and offering a solemn oath on the Holy Evangelists of Almighty God to the truth of this declaration and every part thereof, whensoever he shall be thereunto required, did declare, testify, depose and say, That he was employed on board the packet l' Ector when taken from the French by the English, as a free man, which will appear by the "Livre de Loc" of such packet; and further, that by a reference to the books of entry in the Caisse de bienfaisance in the Island of Bourbon, it will appear that a sum of three hundred Spanish dollars was paid by Monsieur Precourt, the lawful owner of the said Jean Ellé at the time of his manumission, for the customary fee on emancipating slaves, he being the son of said Monsieur Precourt by a creole slave of Bourbon. And the deponent further saith, that when he arrived in this colony, he was placed with persons whom he does not recollect, from his then ignorance of the Dutch language; and that he was subsequently placed with Mr. Samuel Murray, by Mr. Blair the Collector of Customs; and that the said Samuel Murray hired him for about six years as cook to Mr. Cooke and his co-partner, where he remained, and was so well treated and happy, as almost not to regret his slavery; and further the deponent saith, that when the said Samuel Murray died, he requested Messrs. Cooke and Thompson to retain him in their service, to which they consented; and that when they were required to deliver him to Mr. Wilberforce Bird, they directed him to go to the Custom-house, which he refused to do, until the day he was taken by the police and put into prison whilst he was waiting at the door of the Custom-house. And the deponent further saith, that he is uncomfortable and miserable in the employ of Mr. Pigou; and that Mrs. Pigou has, since he left Messrs. Cooke and Thompson, often told him, that if he would remain in her service, she would pay him wages after the expiration of his apprenticeship, and that he replied he would not do so, but return to the service of his last employers.

For a memorial whereof I have reduced the same into writing, and explained every sentence thereof in its fullest extent to the deponent, who declares that he perfectly understands the same, and approves thereof for truth; and caused him to sign the same in the presence of the said John Carnall and Daniel Horrogan, for witnesses, the day and year first above written, the original, on a stamp of one rix dollar, remaining in my protocol.

Which I attest,

(signed) *W. Edwards*, Notary Public

A true Copy,

(signed) *P. G. Brink*, Ass' Sec' to Gov'.

(Copy.)

L<sup>r</sup> E.—Mr. *Cooke's* Letter to the Assistant Colonial Secretary, stating the grounds on which he declines to bring before the Committee any evidence touching matter of the cognizance of a duly constituted court.

Sir,

Cape Town, 12 March 1824.

I HAVE the honour to acknowledge the receipt yesterday of your letter of the 10th instant, giving me the information that His Excellency the Governor has been pleased to appoint a Committee, consisting of his Honour the Chief Justice, his Honour the Judge of the Admiralty Court, and of the Commandant of Cape Town, for the purpose of inquiring into and reporting upon the conduct of Mr. Ch. Blair in the distribution of Prize Negroes, and calling upon me to lay any informations I may possess on that subject before that Committee; in answer to which I have the honour to state, that I cannot sufficiently express my satisfaction at the selection by His Excellency of persons so fully competent to discharge the duties of so important a trust, and that nothing would give me more pleasure than to lay any informations I might have on that subject before persons whose acknowledged integrity, judgment, and independence would guarantee a dispassionate, unprejudiced, and minute investigation of these charges.

Unacquainted however with the exact nature and authority of such a Committee, not knowing by whom that Inquiry will be carried on, and with what powers that prosecutor will be possessed to dive into the truth, I must only beg leave to represent to you, for the information of His Excellency, that an appeal is still pending before the Right honourable Court of Appeals, on the part of His Majesty's Fiscal and Mr. William Edwards, affecting the important question, whether any evidence is to be produced in the criminal prosecution which His Majesty's Fiscal has thought proper to institute against me. I am humbly of opinion that my defence cannot be fully entered upon in that prosecution, without *hearing* the evidence on both sides in the most ample manner. The same witnesses and informations I could produce before the Committee, are thus more than likely to be required in the open public trial now still pending against me, where they will be heard upon oath with all the advantages resulting from cross examination of both parties. The latter mode of proceeding thus appears to me, in the present stage of the case, to be the only regular, legal and satisfactory mode of enquiring into matters, where a certain reluctance and backwardness may naturally be expected in the witnesses. And upon these general and conclusive grounds, I find it impossible at present to bring before this Committee evidence of any nature, touching facts which already belong to the cognizance of a court duly constituted, and competent to pass sentence upon the whole merits of this case.

I have, &amp;c.

(signed) *Lancelot Cooke.*

A true Copy,

(signed) P. G. Brink, Ass<sup>t</sup> Sec<sup>y</sup> to Gov<sup>r</sup>.

(Copy.)

L<sup>r</sup> F.—COPY of the Letter written by order of the Committee to Mr. Cooke, respecting his attendance.

Sir,

Cape Town, March 27, 1824.

I AM directed by the Committee appointed by warrant of His Excellency the Governor, of the 10th instant, "for the purpose of inquiring into and reporting upon certain charges preferred by you against Charles Blair, Esquire, Collector of Customs, contained in a Memorial addressed to the Lords Commissioners of His Majesty's Treasury," to acquaint you that the said Committee will meet in the committee room of the Court of Justice on Monday next, the 29th instant, at eleven o'clock in the forenoon; at which hour I am further directed to request your attendance.

I have, &amp;c.

Lancelot Cooke, Esq.

(signed) *J. G. Brink, Secretary.*

A true Copy,

(signed) P. G. Brink, Ass<sup>t</sup> Sec<sup>y</sup> to Gov<sup>r</sup>.

## 54 PAPERS RELATING TO PRIZE SLAVES

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(Copy.)

L<sup>a</sup> G.—Mr. Cooke's Reply thereto.

Cape Town, 28th March 1824.

Sir,

IN answer to your letter of yesterday's date, I beg to acquaint you, for the information of the Gentlemen composing the Committee appointed by His Excellency the Governor, that I should always feel most happy to attend upon any of them, individually or collectively; but if my attendance to-morrow is intended to obtain from me any information respecting the mal-practices committed by Mr. Blair in the distribution and charge of Prize Negroes committed to his care, I must beg leave most decidedly to object entering upon these informations, unless I have the certainty that the examination of the witnesses which I should produce will be carried on in a manner likely to promote the ends of substantial justice, by allowing me the aid of such counsel as I might require, and subjecting the witnesses to cross-examination; as the Gentlemen of this Committee must be well aware of the difficulties I shall have to contend with, to elicit the truth from persons unwilling, and partly interested in withholding these mal-practices.

J. G. Brink, Esq.  
Colonial Office.

I have, &amp;c.

(signed) *Lancelot Cooke.*

A true Copy,  
(signed)

P. G. Brink, Ass' Sec<sup>r</sup> to Gov<sup>t</sup>.

N° 15.

N° 15.—LETTER from Mr. Bennangé, Secretary to the Court of Justice, addressed to Mr. Gregory, Secretary to the Commissioners of Inquiry, 25 June 1825; transmitting translated Copies of the Proceedings held before the Court of Justice in the case of H. M. Fiscal *versus* L. Cooke, Wm. Edwards and J. B. Hoffman, for a libel on Charles Blair, Esq. Collector of the Customs, in February and March 1824.

Sir,

Cape Town, 25 June 1825.

IN compliance with your letter of the 3d May, I have the honour to transmit herewith to you translated Copies of the whole of the proceedings held in the case of His Majesty's Fiscal *versus* L. Cooke, W. Edwards, and J. B. Hoffman.

(signed) *R. Bennangé.*

To John Gregory, Esq.  
Secretary to H. M. Comm<sup>r</sup> of Inquiry.

RECORDS held before Messrs. Walter Bentinck and P. J. Truter, commissioned Members of the Worshipful the Court of Justice of this Government, in the case of H. M. Fiscal, R. O. prosecutor, *versus* Lancelot Cooke, C. S. on Wednesday, 18th February 1824.

The R. O. prosecutor and the defendant L. Cooke having been admitted in court, the Commissioners stated to the first defendant, that the adjourned trial would be continued to-day, and that the same would be carried on against him as first defendant.

The first defendant then stated, that previous to answering the interrogatories, he had an exception to propose; and says,—

Worshipful Gentlemen,

I cannot allow this inquiry to be proceeded in without laying before your Worships a true statement of this case, the result of which, I doubt not, will prove that H. M's Fiscal has been premature in bringing this action forward; that there can exist no grounds for the present action, in the present state of this case; and that therefore this action "in limine" ought to be withdrawn from the cognizance of your Worships.

I commence this by acknowledging (what I conceive would be a disgrace to my character, and an insult to the persons whose grievances I thought it necessary to lay before a competent authority, to deny) that I directed to be drawn up, examined, approved and signed, the Memorial addressed to the Right honourable the Lords Commissioners of His Majesty's Treasury, treated as libellous by His Majesty's

Majesty's Fiscal, and the subject of the present prosecution. In how far this document may be deemed libellous does not belong to me now to consider, although, I trust, I shall be able fully to exculpate myself on that head, should the principal merits of this case still remain to be discussed hereafter. But here I beg leave, with the utmost submission, but still with the greatest confidence, to maintain, that this document, whether libellous or not, cannot legally, in the present stage of the case, form the subject of a criminal prosecution. Impelled by a sense of duty towards the public, and several unfortunate subjects whom I saw the silent victims of arbitrary power, become myself the object of violence and insult, because I presumed in the mildest manner to advocate one of these, who had faithfully served me for several years, to whom I felt a reciprocal attachment, and hearing at the same time from various channels, of similar and worse practices in the disposal of Negroes, I thought it a duty to them as well as to society in general, to represent such cases, of which I had proofs in support of my assertions, through the proper official channel to the constituents of my present accuser, Mr. Blair.

This Memorial is drawn out without the slightest wish to be offensive to His Majesty's government. It contains an official charge and information solely against Mr. Blair, not affecting his private character, but his public situation as Collector of His Majesty's Customs. This Memorial was not published, no publicity whatever was given to the same here, and it was only forwarded to His Excellency the Governor (with the knowledge of the Collector of Customs) for the sole purpose of being laid by his Lordship before the proper authorities, as an official impeachment against the Collector. This Memorial was diverted from that channel. The Right honourable the Lords Commissioners of His Majesty's Treasury have not as yet pronounced upon the contents thereof; and I therefore beg leave to submit, that it would be prejudging this case, that it would be doing an injury against me and to justice in general, an injury which never could be remedied, were this prosecution allowed to be gone on with, in the face of a charge which has been officially, from a sense of duty to myself and the public, made through the proper channel and to the proper authorities; a charge which has not as yet been enquired into, for which the time has not yet come to enquire. And I beg leave, upon these grounds, to propose an exception against the irregularity of this summons, and to pray for an absolution "ab instantia," with costs.

The Fiscal states, in reply to the exception,—

The defendant disputes the competency of the court to decide on his case in its present stage, on the grounds, that the decision of the Lords of His Majesty's Treasury should precede that of this court; this I most positively deny; I maintain, worshipful Gentlemen, that the writing or memorial in question must, "origine suspecta," be considered a libellous writing, that it originates in bad faith, and that it bears visible marks of irrelevancy, and of not having been presented to the authorities empowered to decide upon it. The consequence hereof is too clear to every eye to require pointing out.

I say that the writing originates in bad faith; and to prove it, I shall only quote some passages from the same, which will immediately convince the Judge: The defendant complains, against the Collector of Customs, of facts, of which, if true, he himself would be one of the principal accomplices, "turpe est doctori si culpa redarguit ipsum." He complains of the apprenticeship of a free person, whom he himself has kept as an apprentice for several years, notwithstanding he maintains that that person had, from the very beginning, felt himself aggrieved at the injustice he suffered; for whom he has paid hire to Samuel Murray, and whom he finally wished to keep in his service as an apprentice,—*nota bene*, at the expense of the wages of another cook whom he had offered to pay for Mr. Pigou. He complains, that after the death of Samuel Murray, the Collector of Customs had no right to dispose of Jean Ellé, as an apprentice. And what did he do himself? He silently disposed of the service of that negro as an apprentice for himself, to which he certainly had less right than any one else.

He complains of oppression, of the powerful vengeance of the Custom-house officers, without quoting a single instance touching the Custom-house officers generally.

I further say, that the original bad faith of that writing also transpires in its bearing the most visible marks of irrelevancy, for it speaks of itself that the



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complaints ought to stand in connection with the object, the attainment of which he had in view in complaining. If that object was to render a service to the public, then he would have stepped forward as the advocate for the public; if the object was personal interest, then he ought to have confined himself to the means particularly calculated to further that object. What now is the tendency of the Memorial from which we are to judge of the object of the writer or writers? The tendency is personal interest, in no wise the public good: We have only to read the introduction and conclusion of the writing, and it will be found that it is not the defendant's object to go a step beyond what he is driven to by his own interest. He complains of the conduct of the Collector of Customs against himself, and concludes with praying *an inquiry into the conduct of the Collector of the Customs towards him, and to judge thereon*. He therefore does not wish that any thing else should be investigated into beyond what he states the Collector of Customs to have done towards *himself*.

Compare with this the whole contents of the Memorial, from the words, *Your Memorialist further respectfully submits*, to nearly the conclusion, and it will be found that all the accusations preferred against the officers of Customs in general, as well as against Charles Blair in particular, are irrelevant to the matter; or does it personally concern L. Cooke, that the Custom-house officers have shown partiality to others? that other Negroes, whom he never asked for, have been apprenticed to favourites? that the Collector of Customs had in their regard abused his authority? that W. Cousins could not obtain any proof of the expiration of his apprenticeship? that Jean Ellé, whom he had himself so long employed as an apprentice, had from the beginning (suppose it to be true) been illegally apprenticed? All these are circumstances irrelevant to the complaint of the defendant, who only wishes it to be investigated, whether he has not actually been attacked by the Collector of the Customs with threats and scoldings, and nothing more, he having unequivocally acknowledged the same in the conclusion of his Memorial, and also unreservedly stated it in his letter to the Deputy Fiscal Van Ryneveld, dated the 12th January 1824, in which he has shortly described the object of the Memorial in these words, *to procure me satisfaction*.

I say, finally, that the complaints of the defendant have been preferred to authorities who, be it said with respect, have not the power to decide upon them. My intention is not to signify, that in case it was proved that the Collector of Customs had grossly insulted L. Cooke in such a manner that he was not any longer worthy the trust of his superiors, that he could not then be dismissed from his situation by them; this is a question entirely alien to my present task; but I cannot but maintain, and persist in saying, that the question about the existence or non-existence of the insult complained of by the defendant, and the decision, whether it has been proved or not, belongs to the competency of the ordinary judge, that is, of this worshipful Court.

I once more repeat, the defendant has complained of insults which he pretends to have been offered to him within this town, within the jurisdiction of this court. This was the axle on which the whole case, if it had been well commenced by the defendant, was to have turned; the case therefore belongs to the jurisdiction of this court, and cannot be withdrawn from it but in an indirect and illegal manner. And in what manner is it endeavoured to be withdrawn from this court? by twisting it together with general accusations against the conduct of the officers of Customs, with quite different accusations against the Collector of Customs, with ironic joke, tending to expose that officer in the most shameful manner, with all sorts of malignity, of which it has been avoided to prove a single one, the Memorial being concluded with the prayer, that that part which personally regards the defendant might only be investigated into.

If the case did not, according to the defendant's own acknowledgment, belong to the cognizance of this Court, why has the defendant, then, in the first instance, lodged his complaint with the Deputy Fiscal, in order to be judicially investigated into by this court? this, worshipful Gentlemen, has been done by him.

He repaired to the Deputy Fiscal, Van Ryneveld, on the 26th November 1823, with a complaint, that Jean Ellé, whom he did not at the time place in any other light but in that of Prize Negro, legally apprenticed to an inhabitant of this place, and in his service as such, had been demanded from him by the Collector of Customs, as will appear to your Worships from a letter addressed to me by the said

said Fiscal, Van Ryneveld, on the 15th of February 1824, of the following contents :

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“ Sir,

“ Cape Town, 15 February 1824.”

“ ON the 26th November last, Mr. Lancelot Cooke appeared at my office, and stated that he had in his service an apprentice named Jean Ellé, who had been apprenticed to the late Samuel Murray, but whose indentures had never been transferred to him ; that Mr. Blair having been informed of the circumstance, had demanded the said Prize Negro. Mr. Cooke (as he stated) not knowing how to conduct himself in that case, asked me what he should do, whether he should give up the Prize Negro, or not ; upon which I replied, that it appearing to me that he had not the least claim to the apprentice in question, I certainly thought him obliged to give him up.

“ This gentleman, most likely doubting the correctness of my opinion, wrote to me, on the 27th following, the letter annexed, *sub* N° 1 ; my answer to which is annexed, *sub* N° 2. On the 29th I received a written complaint against Mr. Blair (annexed, N° 3) ; to which was added, a summons, from Mr. Blair on Mr. Cooke or Mr. Thompson, to deliver up the Prize Negro Jean Ellé. The day subsequent to the receipt of this complaint, I issued a summons on the parties, to appear at my office, as you will perceive from the summons annexed, *sub* N° 5. On the 9th December I intended again to summon the parties (see Annexure N° 6,) but Mr. Cooke called on me the same day, and requested that I would stay the further prosecution of the case until I should further hear from him, as he had been advised to bring the case to the knowledge of His Excellency the Governor ; in consequence of which I did not issue the summons. On the 13th December I received the letter annexed, N° 7, upon receipt of which I resolved to proceed with the case as soon as possible. The following day, Mr. Cooke called on me, and asked me for the letter which he had enclosed to me in his communication of the 13th December, which I accordingly returned to him.

“ Some days after, I despatched a second summons (which I have not with me at present, the same being deposited in the office, but which I shall have the honour to deliver to you to-morrow.) On this summons Mr. Blair appeared at my office ; and when he had seen the parties, and experienced, to my regret, that there was no possibility for an amicable termination, I resolved to bring the case before the Commissioners without delay.

“ Being at the time employed with business of more importance, requiring immediate attention, a couple of weeks elapsed, and just as I was busy and had prepared myself to bring forward Messrs. Cooke and Blair’s case, I received from Mr. Cooke, on the 12th January last, the letter annexed, *sub* N° 8 ; on which I requested Mr. Blair to call on me, and communicated to him the contents.

“ I have been as short as possible, to describe the case from the beginning to the end, and shall be ready to afford any other elucidation you may require on the subject. In the mean time I have the honour to remain, with the deepest respect,

“ Sir,

“ Your very obedient humble Servant,

“ D. Denyssen, Esq.  
H. M.’s Fiscal.”

(signed)

“ W. C. Van Ryneveld.”

(Annexure N° 1.)

“ My dear Sir,

“ WOULD you recommend me to see Mr. Denyssen respecting the Prize boy, Jean Ellé, of whom I mentioned to you yesterday, in the event of any complaint being made by Mr. W. Bird or Mr. Pigou to Mr. Denyssen, instead of yourself, on the subject? Or can you be pleased to do the needful in the matter with Mr. Denyssen ?

“ I shall, however, be obliged to you to notify that we are willing to give up the Boy, but to protest against his being punished, until the boy’s case is heard, or till he can be convinced that he is in error, of which he is not now sensible, but wishes to submit his case to the Governor or to the Commissioners.

“ Requesting you will excuse this trouble,

“ Believe me yours very truly,

“ 58, Long-street, 27 Nov. 1823.”

“ S. Lancelot Cooke.”

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(Annexure N° 2.)

“ My Dear Sir,

“ Fiscal’s Office, 27 Nov. 1823.”

“ IN answer to your letter of this day, I beg to say that I see no reason why you should not see Mr. Denyssen, if you think it necessary.

“ I remain, my dear Sir,

“ Yours very truly,

“ Lancelot Cooke, Esq.  
Cape Town.”(signed) “ *W. C. Van Ryneveld.*”

(Annexure N° 3.)

“ Sir,

“ Cape Town, 29 Nov. 1823.”

“ ENCLOSED I beg leave to hand to you, Copy of an order received from Mr. Blair yesterday, in the case of the boy Jean Ellé, with which you are already acquainted. Upon receipt of the above order, the Boy was immediately delivered over to the officer; and meeting with Mr. Blair soon after, near the Trunk, I was about to acquaint him of having delivered the boy up, in compliance with his order; but before I had time to speak, Mr. Blair accosted me in the most violent and insulting manner, viz.—

“ ‘ Damn you, Sir, hold your tongue, or by God I’ll knock you down;’ at the same time holding his whip in a threatening attitude; and frequently after reiterated, upon my attempting to speak, ‘ God damn you, Sir, don’t speak a word, or I’ll knock you down;’ adding, ‘ if you had said as much to me as you did to my friend Mr. Pigou, I would have blown your brains out, damn and blast you, I would, you scoundrel;’ and concluded, as he was riding away, by calling me a ‘ damned son of a bitch,’ or words to that effect.

“ I must confess I blush at the idea of repeating expressions of so gross a nature; but I feel it a duty, for the benefit of society in general, to bring this case forward, and make an example of him, as such conduct, in a man holding a high official situation, cannot be too severely punished.

“ I have, &amp;c.

“ The name of my witness is John Roberts.” (signed) “ *Lancelot Cooke.*”

“ — Ryneveld, Esq. Deputy Fiscal.”

(Copy.)

(Annexure N° 4.)

“ Mr. L. Cooke or Mr. E. Thompson, Lang-straat.

“ Sir,—You will be pleased to deliver over to the Sheriff’s officer the cook boy Jean Ellé, late apprenticed to Mr. Samuel Murray, deceased.

(signed) “ *Charles Blair*, Collector of Customs.”

“ Custom-house, 28 Nov. 1823.”

(Annexure N° 5.)

“ Messenger,

“ Summon to appear in the Fiscal’s office, to-morrow at twelve o’clock, Charles Blair, in order to be heard on a charge of threats, accompanied with gross insulting language on the public streets, preferred by Lancelot Cooke, Esq.

“ Summon also said Lancelot Cooke, Esq. in order to relate his charges, preferred in writing by him on the 29th ultimo, against the accused.

(signed) “ *W. C. Van Ryneveld*, Dep’ Fiscal.”

“ Fiscal’s Office, 1 December 1823.”

(Messenger’s Report.)

“ HAVING served the accompanying summons in the absence of C. Blair, Esq. on his servant M. Woellock; and in the absence of L. Cooke, on Mr. Thompson; I received for answer from the first—‘ Mr. Blair is out shooting in the country, and will return on Friday or Saturday.’ And from Mr. Thompson, ‘ I will deliver the message.’

(signed) “ *J. A. A. Soestman*,  
Messenger.”

“ Cape Town, 1st Dec. 1823.”

" I, the undersigned messenger, Do hereby certify, that at the desire of Deputy Fiscal, W. C. Van Ryneveld, I repaired on this 2d December to the house of L. Cooke, and in his absence communicated the above to Mr. Thompson, from whom I received as answer—' I will deliver the message.'

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" Cape Town, date as above." (signed) " J. A. A. Soestman,  
Messenger."

(Annexure N° 6.)

" Messenger.

" Summon to appear in the Fiscal's office to-morrow, at 12 o'clock, Charles Blair, Esq. in order to be heard on a charge of threats, accompanied with gross insulting language on the public street, preferred by Lancelot Cooke, Esq.

" Summon also said Lancelot Cooke, Esq. in order to relate his charge preferred in writing by him on the 29th ult. against the accused.

" Fiscal's office, 9 December 1823."

" W. C. Van Ryneveld,  
Dep' Fiscal."

(Annexure N° 7.)

" My dear Sir,

" Cape Town, 13 Dec. 1823."

" I TAKE the liberty to enclose for your perusal, Lord Charles's note to myself, with Mr. Blair's letter to his Lordship, which His Excellency was pleased to send to me.

" Mr. Blair's conduct is really disgusting, and adding only *insult* to *injury*. He is now mean enough to cover his shame by falsehood. This is a proof of a very narrow mind, and in my opinion is an act of great cowardice resorted to, to screen his conduct.

" I shall feel infinitely obliged to you if you will, without the *least delay*, take the most summary measures to bring the offender to justice; I shall be ready with my witness when called for.

" Mr. Blair must have a very high opinion of himself, and a most degrading one of your most unfortunate and very humble Servant,

(signed) " Lancelot Cooke."

" P. S.—I must depend upon your strenuous exertions to procure for me the utmost satisfaction; and allow me to observe, that I feel a comfortable assurance you will do so.

" L. C."

" — Ryneveld, Esq."

(Annexure N° 8.)

" Sir,

" Cape Town, 12 January 1824."

" A MUTUAL friend to myself and Mr. Notary Edwards having recommended me to lay the circumstances of Mr. Blair's conduct before that gentleman, stating his knowledge of English law, and many years connexion with the Metropolitan government superlatively qualified him to show me how to act towards its servants, I gave all my papers into his hands.

" On perusing them, he advised me to lay the case before the Lords of the Treasury, as best calculated to procure me satisfaction from Mr. Blair; I therefore beg to withdraw the complaint I made to you on the 29th November last.

" I have, &c.

" To W. C. Van Ryneveld, Esq.  
Dep' Fiscal."

(signed) " L. Cooke."

The R. O. prosecutor proceeded.—Not having listened to the advice given him on that occasion by the Deputy Fiscal, before he received a further order from the Collector for giving up that Prize Negro, he seems to have had a meeting with the Collector on the 28 November last, of which he complained in writing to the Deputy Fiscal on the 29th following, with the undoubtful object of having his complaint brought to the cognizance of the Colonial court, whose equitable

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decision he seems to have at that time expected with confidence. Even on the 13 December 1823, between which and the first named date the parties had been twice summoned to appear at the Fiscal's office, the defendant persisted in his wish that the case should be submitted to the Colonial court; he therefore wrote to the Deputy Fiscal,

"I shall feel infinitely obliged to you, if you will take the most summary measures to bring the offender to justice; I shall be ready with my witness when called for."

The Deputy Fiscal, well assured that the case would not be amicably terminated, had already taken preliminary steps for bringing the same before the Commissioners of the court, when he unexpectedly received a letter, informing him that he (Cooke) had been advised by the second defendant, Wm. Edwards, to lay the case before the Commissioners of His Majesty's Treasury, they being best competent to grant him satisfaction against Mr. Blair, and which letter he concludes thus:

"I therefore beg to withdraw the complaint I made to you on the 29th November last;" all of which will appear to the court from the above annexures to the letter of the Deputy Fiscal.

It appears from these documents, and particularly from the last letter of the defendant, that the object of the Memorial to the Lords of his Majesty's Treasury has been no other than to bring the defendant's case to the cognizance of the superiors of the Collector of Customs, for the purpose of affording him (defendant) satisfaction—"to procure me satisfaction."

This being the object of the Memorial, which clearly appears from the introduction and conclusion of the same; can the defendant, then, by converting his original complaint into a libellous writing, in which he intermingled many accusations irrelevant to the case on which he asks no investigation, withdraw the complaints which he himself acknowledged to belong to the competency of the Collector's ordinary judge at this place, from that competency? Certainly not.

You, worshipful Gentlemen, are to decide whether the writing in question is a libellous writing. The decree issued proves to me at "prima fronte," that the writing has appeared to you in no other light than that in which it continues to appear to me, namely, as a libellous writing; it will therefore be the duty of the defendant to relieve himself from the accusation to which he has become subject, not by proposing exceptive defences, but by entering into the field of battle opened before him, and by defending himself in the principal case before you, worshipful Gentlemen, as his competent judges.

I am very distant, worshipful Gentlemen, from desiring that evil, although committed by high government servants, should be concealed; I do not wish to deprive the defendant, or whoever he may be, from the opportunity of bringing to light the misconduct of government servants, if such actually exist, provided it is preferred in a proper and lawful manner, in order to place the judges as well as the prosecutor in the opportunity of investigating into it. From what I have done in occurrences of former times, the Judge will be convinced of my ideas in this respect. But to allow that the defendant shall pass his competent judge, and, under the cloak of complaining of what has happened to himself personally, attack the government servants with a number of complaints unconnected with his case, in a manner affording him a chance of escaping the investigation of such accusations; to allow that the servants of this government shall be wounded in this manner; to permit that the investigation into this conduct shall be withdrawn from their daily competent judge; would be countenancing the most corruptible of all calumnies. Or is it no calumny to be silent where the complaint ought to be preferred, if grounds of such complaint exist? to be silent, where those complaints can be immediately investigated into, where the judge and prosecutor are on the spot to conduct such investigation, and to lodge the complaints where the same cannot but be investigated with difficulty, loss of time and expense?

Is there no Governor at this place? Could the Fiscal not have been addressed? Why have these officers been passed, and the complaints, without having been lodged here, sent to Europe? And who does not feel that the pretended incompetency of your Worships to take cognizance of the case in its present state, is merely endeavoured to escape the proper investigation of the same?

I shall not proceed further, for I am assured that this worshipful Court will not hesitate to reject the proposed exception of incompetency *c. e.* and to direct the parties to proceed in the principal case.

Advocate

Advocate Cloete requests to be allowed to rejoin for the defendant, in further support of the proposed exception, and in refutation of the arguments advanced by the R. O. prosecutor in his reply, the defendant, who does not understand the Dutch language, not having comprehended the prosecutor's objections.

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The R. O. prosecutor objects to this request, which he states to be contrary to the mode of proceeding.

Commissioners reject the prayer of the first defendant to be allowed to rejoin, in conformity to the 42d article of the Crown Trial; doth declare the proceedings on the exception to be closed; and doth further reject the exception proposed by the first defendant.

The defendant L. Cooke declares to appeal from the above sentence to the full Court.

Commissioners direct the investigation of the case to be proceeded in according to the 43d article of the Crown Trial, notwithstanding the appeal noted on the rejected exception.

Upon which, the queries exhibited *in judicio* were put to the first defendant, and answered by him as follows:—

To Query N° 1.—Lancelot Cooke, 28 years of age, born in England, residing in Cape Town, merchant.

— N° 2.—No.

— N° 3.—Yes.

— N° 4.—Yes.

— N° 5.—I beg to be assisted by my Advocate in answering this query.

Commissioners Fiat:—Mr. Cloete only requests that all the witnesses may be heard, because they are very necessary in his defence, if the decision of the principal case be proceeded to.

The above answers having been read to the defendant, he declared to persist in the same.

The second defendant, Wm. Edwards, having been admitted, Commissioners stated to him, that he was now at liberty to proceed on the exceptions proposed by him on Monday last: when he proceeded thus—

That when he was busy on the former occasion to state the grounds for his third exception, he had said that the Fiscal had inserted a detestable falsehood in his act of indictment, at which the Fiscal felt himself injured, in consequence of which he (the defendant) was imprisoned; that he has now been confined for three days, and considered all the time about it, without being as yet able to alter his opinion, as falsehood, however it be described, is detestable; but as he might in consequence of this persecution, from heat of passion, again touch a point which the Fiscal may consider as insulting, and in consequence of which he may be incarcerated for a longer period, he rather preferred not again to touch the grounds of this exception; that he would therefore proceed to his fourth exception.

The steps we have taken against Mr. Blair are just in every respect, because His Excellency himself declared that he had no authority over Mr. Blair in regard to the Prize Negroes. When and to whom could we, then, have addressed ourselves, but to the Lords Commissioners of His Majesty's Treasury? which is also in conformity to Blackstone, book 1, page 143: "persons reporting malversation of public officers can or may not be prosecuted, but deserve praise." The Fiscal ought therefore, on perusing the Memorial of such a respectable gentleman as Mr. Cooke, to have commenced an investigation into Mr. Blair's conduct, the same as was the case with the Landdrost of Tulbagh. The person who has intercepted the Memorial to the Lords Commissioners of His Majesty's Treasury, ought also to have been punished, be he whoever he may.

It is also found in the acts of W. & M., that no denizen may exercise any office of trust under the Crown, either civil or military; and as Mr. Denyssen is himself a denizen, he is not qualified for the situation of Fiscal, in the present instance, to prosecute a British subject on colonial laws, which must, in consequence of the last capitulation, still be observed here.

I must also complain against the Fiscal, for the manner in which I am treated in prison, as I am there placed under his surveillance. Yesterday evening, two of my friends intended to come and see me in prison on business of importance; one of whom I have only seen, because they would not admit both of them at the same time, in consequence of which the other could not see me.

I will

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I will not say any thing further about my 3d and 4th exceptions, for fear of being incarcerated still longer.

The R. O. prosecutor says:—If I am not mistaken, four exceptions have been proposed by the second defendant.—With regard to the first, *viz.* “ that the prosecution has not been commenced within the time prescribed by law,” I must submit to Commissioners, whether it is an exception that can stay the prosecution of the case, as it does not belong to those sorts of exceptions comprehended in the 42d article; in my opinion it ought to be placed under those of informality; the mode of proceeding does not teach me that the case cannot therefore be pursued, there being examples of them, which have however not impeded the prosecution of the case. But to show that no informality has taken place, I exhibit the decree, which is dated 5th February, and which I have only received on the 9th, as appears from my memorandum on the same; and as the periods must be calculated from the date of the receipt, (which is also observed by the Court of Appeals) it will be found that if eight days be added to the 9th February, that the case has been prosecuted within the time prescribed by law.

The second exception is one as less calculated to stay the prosecution of the case as the first: it relates to the neglect in summoning a great number of witnesses. I have already stated to the Court my reasons for not doing so; the fear, namely, that I should, by summoning such a number of witnesses, act contrary to the mode of proceeding, and to the principles of the law. I have already shown that in cases in which it is wished to hear such a number of witnesses, the judge ought to intercede; see the Roman Dutch law, L. 1. s. 1. Tit. de Testibus. This being the case, I could not do otherwise but leave it to the decision of the Court, whether the number of witnesses of the defendant should be heard or not, before I summoned them.

It is true, that by the mode of proceeding, it is prescribed that the public prosecutor is to summon all the witnesses for the day of the trial; but it is in nowise the object of the mode of proceeding to upset the law in those instances in which it cannot be observed. When the law establishes a rule, it does not thereby annul the exceptions which must necessarily remain in force on such rule. The dictates of the mode of proceeding can moreover not be strictly observed on all occasions, as appears from the second defendant's own list of witnesses, which includes persons not resident in town. I find amongst them persons who live at Tulbagh, and others at Hottentots Holland: such witnesses as these cannot reasonably attend on the day of trial; but the mode of proceeding is there above not to serve as a means of vexing the Fiscal. Suppose I had summoned all these witnesses, I would not have been able to examine them on the first day of the trial, because I foresaw that the whole of that day would be required for examining the defendants and some of the witnesses, and I would thereby have withdrawn high government servants, and others who are on service, from their business, such as His Excellency and many others. It therefore appears from what I have said, that I have done it premeditatedly with an intention to prevent vexation, and which I hope will meet the approbation of the Court.

With regard to the third exception, I shall not degrade myself to give a single reply to the remarks of the defendant; they merit nothing but my silence; I request that the Court will keep in view, that when I can but for a moment be suspected to have deserved the least part of it, I ought not to be allowed to carry on the prosecution of this case.

The fourth, which has the appearance of an exception, the other scarcely deserving that name, is the competency of Commissioners and the Fiscal. In as far as regards the Commissioners, I am astonished that the defendant, who has already once submitted to the decision of a criminal case against him by one Commissioner of the court, now wishes to withdraw himself from a like decision of another criminal case by two Commissioners. We are inclined to believe, although no proofs have been exhibited, that he was born and is a subject of Great Britain; but it appears strange to me that on that account he wishes to withdraw himself and the Collector of Customs, (who acknowledges the jurisdiction of this Court) from that jurisdiction. If this pretext is founded, how many incompetent sentences would not have been issued. The second defendant wishes to withdraw himself from the colonial laws, and says, that the laws of England will follow him. We do not find the defendant supported herein by the great lawyer Sir Wm. Blackstone, to whom he appeals, but who says, in the introduction of his Commentaries, s. 4. p. 107. *P. L.*

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It is not therefore the capitulation that has left to this colony its laws, but our Sovereign, who has made no other ordinances besides those already known; and in case the defendant wishes to withdraw himself from these laws, he must become a wicked subject.

Hitherto no objection has been made to my official capacity; the second defendant is the first; after I have been in the situation for twelve years, he has broken the ice. I must however inform the defendant, who perhaps is unaware of it, that my appointment, however unlawfully it may appear to him, has been approved by His Majesty's Secretary of State, and I may therefore also say, by His Majesty. It is not for me to judge in how far these high authorities have erred; in the mean time, as long as I am not convinced of that error by higher authority, I shall continue in the situation; and in case it may finally appear that my high constituents have erred in giving me the situation (which I have hesitated to accept) my proceeding in that situation must perhaps also in this case be considered as lawful;—concluding therefore for rejection of the exceptions.

Commissioners reject all the exceptions proposed by the second defendant; and with regard to his complaint about the non-admittance of the persons who came to see him in prison, direct that the necessary investigation shall be made on the subject.

Having hereupon proceeded to examine the second defendant, he answered to the interrogatories as follows;—viz.

To query N° 1.—William Edwards, 40 years of age, born at North Wales, residing in Cape Town, notary.

To query N° 2.—Certainly not. I have done nothing malicious. (And on the Memorial being produced to him, says) I have written a part of this Memorial; I have not published it, nor have I written it *malâ fide*, but *bonâ fide*, as a discharge of my duty.

To query N° 3.—I justify it. It is my duty as a faithful subject of His Great Britannic Majesty to act in this manner, in order to lay open to him all malversations and bad administrations, coming to my knowledge, of his officers; I have always done so, and will always continue so to do.

The above answers having been read to the defendant, he declared to persist in the same.

The third defendant having hereupon been admitted, he answered to the queries put to him, as follows;—viz.

To query N° 1.—As is stated in the act of indictment. I do not recollect that I was born, and must therefore state it from hearsay. I reside in Cape Town, my profession is a born writer.

To query N° 2.—No. (And on the said document being produced to him, he says,) I never look at libels.

The R. O. prosecutor says, that this being the time to examine the witnesses, the first he wishes to examine is C. Blair, who however (as appears from a note of Wilberforce Bird, which he exhibited) is prevented from attending by indisposition, and that as he judges it requisite to examine him previous to hearing the other witnesses, and as the day is so far advanced, he requested that the further prosecution of the case might be postponed until Friday next.

Commissioners agree to the Fiscal's prayer.

Thus done at the Cape of Good Hope, die et anno ut supra.

(signed) W. Bentinck. P. J. Truter.

In my presence,  
(signed) J. T. Jurgens, 1 H. C.

(Annexure N° 4.)

RECORDS held and continued before W. Bentinck, Esq., LL. D., and T. J. Truter, jun. Esq. Commissioned Members of the Worshipful the Court of Justice of this Government, in the case of His Majesty's Fiscal *versus* Lancelot Cooke, C. S., on Friday the 20th Feb. 1824.

THE R. O. prosecutor and the defendants having been admitted, His Majesty's Fiscal stated,

As the defendant has acknowledged, in his answer to the 2d query of his interrogatories, to be the writer of a great part of the Memorial which is the subject of



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the present investigation, and, as founded on the preliminary information, I have only declared him to be subject to the accusation of having published the same, I beg to request, on the ground of this acknowledgment, that the investigation to be held in this case may be extended against the defendant Wm. Edwards to the accusation of having written the said Memorial, and having caused the same to be written *malâ fide*, and with the intention described in the act of indictment; appealing, in support of the fairness of my present request, not only to the admitted practice at this place, from which, as well as from the different precedents, it can be proved that the investigations have been carried beyond the strict letter of the acts of indictment, but also to the ordinance of King Philip the Second, on the manner of criminal procedure, dated 9 July 1570, in which the judges are directed to inquire *ex officio* into all circumstances relating to the case in question, although they may not be contained in the original indictment, and which ordinance is, in as far as it has not been annulled by the present Crown trial, by renewal appealed to as a still existing colonial law, in the Crown Trial, art. 146.

The second defendant states in substance, That there exist no grounds whatever for extending the act of indictment, in regard to which the ordinance of King Philip the Second on the manner of criminal procedure, which the Fiscal has appealed to, is not of the least application, as that article only empowers the judge to hear a witness and to enter into the merits of the case, without a single word being spoken of extending the act of indictment. This request arises therefore from nothing else but a desire to vex; which more particularly appears from the impertinent and rude manner in which the Fiscal has treated me when I called on him at his office, and addressed myself in the kindest manner about the detention of the Memorial, when he attacked me in the most rude, impertinent and insulting manner, and stated that he would hear nothing from me, but should meet me in court.

The R. O. respondent says, Nothing is advanced by the defendant, in his defence, except personal remarks on the Fiscal; and I am therefore obliged to ask, whether I sit here to be tried, in which case the defendant may proceed; but if such is not the case, I beg that the defendant may be stopped.

Commissioners recommend the second defendant to abstain from making any personal remarks.

The second defendant says—I prefer no accusations against the Fiscal, I only speak to defend myself against the illegality and personality of the Fiscal, who, as I have before said, treated me so rude in his office when I spoke to him on the subject of the Memorial which had been so unlawfully detained at this place. I know that the Fiscal has taken upon himself an unpleasant task, but can it not be tempered by kindness, instead of such an impertinent conduct as I have experienced from him, particularly by threatening me, in an improper manner, that he should meet me in court, where he must have had a prospect that it would be in his power to get me into prison, but where however, from my knowledge and family, I may be his superior.

The Fiscal says—All this is personal against me; if he has any complaints to make, let him prefer them regularly; but am I, as representing the Sovereign, to be prostituted here by that man?

Commissioners again recommend the second defendant to abstain from making personal remarks, and to answer pertinently on the Fiscal's request.

The second defendant states, that the Fiscal endeavours to irritate his feelings by treating him indecently, as just now appeared, when the prosecutor called him "that man," an expression which he considers to be very insulting, and for which the Fiscal has not been punished, although we are on a level; I shall however obey the orders of Commissioners, and request that the prayer of the Fiscal to extend the act of indictment may be rejected, particularly as it appears that I am persecuted.

Commissioners reject the prayer of the prosecutor.

Hereupon the prosecutor was directed by the Court to state the points on which he wishes to examine the witnesses summoned by him, when he said that they must serve to lay open to the court the merits of the case; viz.

- 1st. C. Blair, who is to be examined on the truth or untruth of the facts stated in the Memorial, as also to throw some light on the obscure parts of the same.
2. W. W. Bird, and
3. D. Pontardent, } for the same purpose.
4. N. Tyrholm, as first master of Jean Ellé, to be heard on the circumstances relating to him, and described in the Memorial.

5. F. X. Lind,

5. F. X. Lind, and 6. J. M. Bendall; the first as having been employed in the office of Jan Bernard Hoffman, and the latter as an experienced writing-master, to prove the handwriting of J. B. Hoffman, or what is termed in law "Comparatio Literarum." And for the rest I leave it to the defendants to extenuate the criminality contained in the Memorial by such witnesses as they may judge necessary.

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The defendants having severally been asked for what purposes they desired the evidence of the witnesses named by them, Advocate Cloete, for the 1st defendant, stated, All the witnesses mentioned in my letter to the Fiscal, in which I have referred to the 2d defendant's list of witnesses, are very necessary, and relate as direct to the case as those of the Fiscal; and in refutation of what has been quoted by the Fiscal, on the commencement of this trial, from Memla, I must remark, that is thereby taught, it is true, that two witnesses are sufficient to prove a fact; but what does he teach further—"to prove other circumstances and further facts, sixty, seventy, and more witnesses may be heard." Which is the case here, several facts appearing in the Memorial which must be proved by these witnesses; wherefore he insists on the examination of all of them.

The second defendant says,—The witnesses serve to prove the facts appearing in the Memorial, and I object against the evidence of C. Blair, who cannot be a witness to prove the untruth of the assertions in the Memorial, as the facts stated in the same will be proved by me, otherwise the case would be turned over; whilst Mr. Blair can be heard on the manner in which the Memorial has been intercepted, by which he will be found guilty of high treason, in detaining a lawful complaint to lawful authorities, objecting on the same grounds against W. W. Bird. And as the facts appearing in the Memorial must be proved by witnesses against Mr. Blair, I beg to be allowed to ask the Fiscal, whether my list of witnesses has not been produced to Mr. Blair, who has been tampering with two of my witnesses; and in case Commissioners may not allow me to put that question to the Fiscal, then I shall put it to Mr. Blair, and if he denies it, I shall prove by two witnesses that he is guilty of perjury.

Commissioners declare that the question does not fit here, whereas, in case the defendant has any complaints against the Fiscal, he can prefer them in a regular manner.

The second defendant says further,—N. Tyrholm, who must be heard as having been the first master of Jean Ellé, can give no other evidence but of his good or bad behaviour; he ought therefore not to be heard, as no mention thereof is made in the act of indictment, but in his regard a decree of the Admiralty Court ought to have been produced. And with respect to the witnesses Lind and Bendall, to identify Hoffman's handwriting, I am astonished that the goose that produced the quill, and the manufacturer of the paper, are not also considered necessary for the purpose.

The third defendant states to have no witnesses.

Commissioners, deciding on the admission of the witnesses named by both parties, reject all such of them as are intended either to substantiate or contradict the facts appearing in the Memorial.

On this, the 21st day of February 1824, His Majesty's Fiscal declared to appeal from the above decision, as far as regards the rejection of the witnesses, to the full Court.

Quod attestor,

(signed) *J. T. Jurgens*, i H. C.

Mr. Cloete, for the first defendant, together with the second defendant, declares to appeal to the full Court.

The second defendant requests, that, on account of his poverty, an advocate may be allowed him, to proceed on his behalf in forma pauperis.

Commissioners declare that his request will be taken into consideration.

The defendant Edwards states, that he just now received from Mr. Advocate Brand an extract resolution taken by the worshipful the Court of Justice of yesterday, on his request for a practitioner pro Deo, by which he is charged to prove his poverty by a certificate, which he undertakes to produce.

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The investigation of the third defendant's case having hereupon been proceeded to, the following witnesses were successively admitted;—viz.

1.—Franciscus Xaverius Lind, 41 years of age, born in this colony, notary public, who, after having made oath, answered to the queries put to him by the prosecutor, as follows:

1. Whether the witness has not for a considerable time been employed in the late notarial office of J. B. Hoffman, first as clerk, and subsequently as joint notary?

The first part affirmative, but not the second, witness not having acted as joint notary, having only superintended the office in Hoffman's absence.

2. During what period witness acted in that office?

I cannot fix the exact period; but I think from 1796 to 1812.

3. Whether witness is well acquainted with the handwriting of the defendant J. B. Hoffman?

I became acquainted with his handwriting whilst I was employed in his office, and saw him write.

4. To produce to the witness the first page of the Memorial, forming the object of the present prosecution, and to question him whether he considers the handwriting to be that of J. B. Hoffman?

It bears some marks of resemblance; but it is difficult to identify any one's handwriting, because there are many handwritings resembling each other; and to be able to say that it is the defendant's handwriting, I ought to have been present when he wrote it.

5. Whether any resemblance exists between the handwriting produced to him, and that of the defendant; if so, to state wherein that resemblance exists?

It is so long since I left the defendant's office, that it is not possible for me to identify the letters; perhaps, the vowels *a*, *o*, and *e*, some capital letters, amongst others, if I am not mistaken, the *T* and *R*, resemble his handwriting.

6. The witness to state whether he has discovered any want of resemblance between the paper produced to him, and the common handwriting of the defendant J. B. Hoffman, which could relieve the defendant from the suspicion of having written the same?

I have already said that there exists a mark of resemblance between the handwriting produced to me and the writing of the defendant; at that time he wrote, in my opinion, a running hand; but this does not seem to be the case now; and if any want of resemblance exists in the letters, it must be attributed to the difference between slow and fast writing.

7. To produce to the witness a memorial subscribed by the defendant, and presented to the Court in the course of last year, and to question him, whether that memorial appears to him to have been written in the same handwriting as the paper produced to him on putting the 4th query?

This writing has just as much resemblance to the hand the defendant used to write; but I cannot declare a positive opinion.

8. To produce to the witness, with permission of the Judge, one of the protocols of the late notary J. B. Hoffman, and to ask him to point out the handwriting of the defendant, in order to compare the same with the writing in question.

The Act L. C. N° 720, I take to be in the handwriting of the defendant at that time.

9. Whether witness observes any resemblance between the writing pointed out by him, and the writing in question?

It appears from the documents themselves, that the two handwritings bear almost no resemblance to each other; it is possible that one and the same person may have different handwritings, but to state such with certainty is very difficult.

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The third defendant cross-questions witness :—

1. Have you seen me write in the Memorial produced to you ?  
Certainly not ; otherwise I should be in the opportunity of giving a positive evidence.

The second defendant wishing to put some queries to the witness, the Fiscal objected, on the ground that the witness Lind has only been summoned by him to identify the third defendant's handwriting.

Upon which the Commissioners would not admit the second defendant to put any queries to the witness.

2.—John Maximilian Bendall, 41 years of age, born in England, schoolmaster ; who, after having made oath, answered the queries put to him by the prosecutor, as follows :

1. Whether the witness is not accustomed to act as writing-master ?

I am.

2. Whether the witness considers himself, in that capacity, competent and enabled to discover, by comparing different handwritings, whether they have been written by the same person ?

I am indeed unable to do so.

The R. O. prosecutor says ;—That as it appears from the above evidence that doubts exist as to the handwriting of the third defendant, the third defendant may be relieved from the accusations, and from all further prosecution on that account.

Commissioners declare the investigation to be closed in as far as regards the accusation of the third defendant J. B. Hoffman ; do acquiesce in the prosecutor's declaration to have no ground of action against the third defendant, relieving him in consequence from all further reatus ; and with regard to the first and second defendants, do adjourn the prosecution until the Appeals noted by them shall be finally decided.

Thus done at the Cape of Good Hope, die et anno ut supra.

(signed) *W. Bentinck.*  
*T. J. Truter, jun.*

In my presence,

(signed) *J. T. Jurgens, 1 H. C.*

A true Translation,  
(signed) *R. Berrangé.*

RECORDS held before the presiding Member of the Court, W. Hiddingh, Esq. LL. D. and the Members of the worshipful the Court of Justice of the Settlement of the Cape of Good Hope and the dependencies thereof, in the case of Lancelot Cooke (summoned to personal appearance and appellant of two decrees of Commissioners, dated 18th and 20th instant, by the first of which the exception on the irregularity of the summons, and by the latter the hearing of witnesses tending to substantiate or contradict the facts stated in the Memorial, have been rejected) *versus* His Majesty's Fiscal, D. Denyssen, LL. D. Respondent with regard to the first decree, and cross Appellant of the second decree ; on Thursday, 26 February 1824, at 10 o'clock, A. M. in the common court hall.

Present, all the Members " demto " His Honour the Chief Justice,  
Sir J. N. Truter, being absent from town.

Advocate Cloete, for the appellant L. Cooke, vested with a special power of attorney, exhibits two certificates that the fines of appeal have been deposited (Annexures N° 1 & 2) together with two records containing the investigation in this case (Annexures N° 3 & 4.) and prays to be allowed to bring both cases forward at the same time, having prepared himself to that effect.

His Majesty's Fiscal submits to the consideration of the Court, whether it would not be better to bring these cases forward separately, on the ground that if the first exception may unexpectedly be admitted, the second Appeal will fall away of itself.

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Advocate Cloete having further stated, that it would be difficult for him to separate these two cases, as he had combined them in drawing up his claim, having also done so in his summons on His Majesty's Fiscal without any remark having been made upon it,—his request was acceded to.

Advocate Cloete then said for claim in appeal :

Right Worshipful Sir, and Worshipful Gentlemen,—When this Hall was installed and consecrated as the temple of justice, the following remarkable words, delivered by our much respected Chief Justice, re-echoed through the same, “ Every thing becomes uncertain whenever we deviate from the principles of justice.”

This admirable admonition, from that time to the present moment, could never have been better applied than at the deliberation of this case, which is now brought before your Worships as a sequel of one of the most singular criminal prosecutions which ever has been agitated in any tribunal.

But it will solely be the task of a Judge to decide upon the following simple facts.

The appellant had a dispute with the original complainant, the Collector of Customs, Mr. Blair, about his having deprived him, of a Negro cook he hired from Samuel Murray, to whom the same seems to have been apprenticed, and who for a series of years had faithfully served him, and whom the said Collector immediately after the death of said Samuel Murray appears to have promised to one or other of his friends, although that creature had only to serve *two* months longer in a state much resembling that of slavery, before he could breathe his divine *Aurea Libertas*.

On this occasion the appellant was publicly insulted, in the open street before the office of the Custom-house, in such a manner as to oblige him to bring this insult to the cognizance of government, and of His Majesty's Fiscal.

Weeks after weeks elapsed without any chance of redress being opened to the appellant ; notwithstanding his repeated and earnest applications, he was informed that the government at this place could not directly take notice of the acts of a public servant not appointed by them ; and at the same time the very slow steps taken by the Fiscal to afford the appellant the required redress for the public offence suffered by him, betrayed the feeble prospects to receive any satisfaction whatever from that quarter.

At the same time, the grievances which the appellant had at first brought forward against the arbitrary conduct of the Collector, led to information, given him from every side, of so many similar unwarrantable and arbitrary transactions, that the appellant could not refrain from taking notice thereof, and having convinced himself in a summary manner of the truth of some of the facts detailed to him, he thought himself in honour and duty bound, both to the public and to justice, and more particularly to those creatures who were the passive victims of such proceedings, to lay the same before the constituents of the Collector of Customs, in a regular, formal and official manner.

This information the appellant gave them in a written Memorial, addressed to the immediate superiors of the Collector of Customs, the Lords Commissioners of the Treasury, who were the competent persons to take cognizance of, to investigate into, and grant redress for, all these unlawful acts, which the Collector of Customs, both in the distribution of and in general in his dealings respecting these Negroes committed to his care, had made himself guilty.

This Memorial of the appellant was neither written in the heat of passion, in ignorance or anger, by no means ; he caused the same to be drawn out and copied by a public servant, appointed by this government as a notary public, and thus qualified to advise the public and draw out such documents, with directions to expedite the same in the usual and formal manner, who in consequence thereof transmitted it to His Excellency the Governor, for the purpose of being forwarded through him to the Lords Commissioners of His Majesty's Treasury, with such remarks as would be most conducive to the discovery of the truth. But how great was appellant's surprise, when, not long afterwards, being obliged to return to Europe for a short time, on account of the affairs of the firm of Cooke and Thompson, he experienced that his pass was not only retained from him at the Fiscal's office, but when a few days after he saw himself the object of a criminal prosecution, by being summoned before two Commissioners of this court, there personally to appear in order to be criminally prosecuted on a charge of being guilty

guilty of having made a calumnious and libellous placard. Obedient to that decree, the appellant dutifully appeared on the 16th, 18th and 20th instant, before the Commissioners before whom the case successively was brought forward, in the course of which prosecution two interlocutory decrees were issued by the Commissioners, from which, conceiving himself much aggrieved, the appellant noted an appeal, and now begs to submit the same to the revision of this worshipful and full Court, before acquiescing in the same, as they immediately affect the merits of this case.

Confidently relying upon the liberality of those Members from whose decrees he is now appealing, whom the appellant can assure that while he is prosecuting this appeal he has ever maintained the fullest assurance that they aimed only to procure him justice, and to temper that justice with equity, the appellant's advocate will boldly proceed to examine the merits of these decrees, from which the appeal had been noted, and compare the same with the principles of law, when he flatters himself that the worshipful members who in the first instance conceived themselves precluded by the strict words of the Crown Trial from admitting at the time the objections made against the frivolous arguments advanced by the R. O. respondent, will now, with the full Court, find themselves amply justified in granting the appellant that substantial justice which, he flatters himself, they ever intended to show him.

I. The first sentence from which we are now respectfully appealing, is that of the 18th instant, whereby the appellant proposed the exception of irregularity of summons, and thereby prayed for an absolution "ab instantiâ."

To convince the Judge of the legality of this exception, it will be necessary in the first place to deviate from the mode pursued by the R. O. prosecutor, in the first instance, and acquaint this worshipful Court with the true nature of this case, not *in abstracto* but *in concreto*; and for that purpose we will take the liberty to read the whole of the appellant's Memorial, which has been stamped as calumnious and libellous.

Upon this Memorial, which had been transmitted to His Excellency, to be expedited by him to the Lords Commissioners of the Treasury with or without his remarks, the appellant was criminally prosecuted, and, according to the act of indictment, charged with being guilty of an "open violation of the laws, tending to the disturbance of the peace, and to set bad example to other persons, the imitation of which would have the most pernicious influence on the peaceful minds and good manners of the inhabitants of this colony"!!!

The appellant, who was totally ignorant of any laws that would subject him to punishment because this Memorial could have a tendency to introduce a bad example to the peaceful minds and *good manners* of the inhabitants, did not consider himself obliged to oppose this prosecution in limine, upon the whole of its merits, but dictated the following declinatory and peremptory exception, founded on the irregularity of the summons, and moved for an absolution of the prosecution. *F. L.*

This defensive exception of the appellant has been considered by the R. O. respondent in the light of an exception of incompetency, against which he brought the weight of all his legal store of argument; which the appellant found himself unable personally to refute; while, by the strict wording of the Crown Trial, I was prevented from supplying his place.

It was therefore not to be wondered at that the said exception was rejected; although I am inclined to believe that the exposing of the feeble arguments advanced by the R. O. respondent on that day may now be crowned with the hoped for success, as it would become a matter of the greatest injustice to drag the appellant through the ordeal of an entire criminal prosecution, when the indictment upon the face thereof betrays a total want of legal grounds to support any criminal charge.

We cannot convince the Court in a better manner of the legality of our exception, than by analyzing the arguments of the R. O. respondent. The same are, that the act of appellant *might* have a *tendency to instigate the peaceful minds* of the *inhabitants to disorder, &c.* A fine crime indeed! Then every person commits a crime, who takes a dose of laudanum or any other medicine that is classed among the "*venoms,*" because he sets a bad example to other peaceful and stupid inhabitants, who, taking too great a quantity of the same medicines, might bring themselves to the grave. Upon this argument, every person who, travelling through uninhabited places and provides himself with arms for his defence, is giving a bad example to others

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others to break the peace and the good order of society by terrifying the peaceful inhabitants who might pass by, and thereby teach them that with such arms robberies, burglaries and murders may be committed !

Who does not feel the absurdity of this argument, and of thus construing crimes ?

We therefore put the question with much confidence to the R. O. respondent, Whether in the mass of Dutch, German, English, French or Roman commentators on the Criminal Law, he has ever met with a single law which brings similar acts, that are not "*malu per se*," under the head of crimes, because they could become so "*per consequentiam*," and consequently hold them out as punishable crimes ? Does any thing exist in the universe, which, however good, cannot degenerate into bad ? All that good is therefore by the Fiscal's argument still bad, and every human act mischievous, because it may lead to bad consequences ! But is the appellant responsible for these possible evil consequences ? and if his act be not criminal *in se*, ought he not to be immediately absolved from all *reatus* ?

The R. O. respondent says this Memorial is criminal, because it bears the notorious marks of bad faith, is irrelevant, and proves nothing.

Because, says the R. O. respondent, the appellant throughout the whole Memorial complains of the transactions of, and personal offence he experienced from, the Collector of Customs. If this constitutes a proof for a crime, why then did the R. O. respondent criminally prosecute the appellant, when the latter officially lodged his complaints against the Collector of Customs of having threatened him on the streets, abused and insulted him in the meanest manner ; for this information and complaint may also be construed to have a tendency to disturb the peace, and impair the dignity due to high authorities. And what could have been the cause that the sharp and strained analogy of the R. O. respondent did not impute it to the appellant as a crime also, and brought him to trial for the same ? We consider to have now fully proved the absurdity of the deductions and inferences of the R. O. respondent, that we may commence with the main question, in which we are to examine whether the appellant is in anywise whatever criminal.

To prove the contrary hereof, we have solely to implore the Court's attention on the Memorial subscribed by the appellant, and on the act of indictment, which comprises all the criminality set forth in the said Memorial ; and if we examine the law, the contrary will be experienced.

*In principio* this Memorial is no private writing, but an official address of grievances concerning personal offences to the appellant, as also a formal accusation of maladministration and private benefit which the Collector derived from his public situation. This Memorial was addressed to that Board only that could take cognizance of such accusations ; because it is hardly worth while to refute the frivolous remark of the R. O. respondent, that *he* or His Excellency was the authority where the information ought to have been made.

How could the R. O. respondent hazard such assertions ? whereas the appellant has proved, by the production of the correspondence with His Majesty's Fiscal, that from the 26th November up to the 12th January had expired, before the Fiscal would scarcely take any notice of the public attack on the appellant's person in the public street ; and if His Excellency was the proper channel, was the Memorial not expressly put into his hands for that purpose ? although the appellant was verbally informed by His Excellency himself, that the Collector of Customs, as not being appointed by His Excellency, was not under the direct control of His Excellency, and that the appellant could have recourse only to his lawful constituents.

The appellant therefore, *quo ad formam*, did not commit any thing that was not lawful and perfectly formal. But, says the R. O. respondent, this Memorial not proving any thing, has the evident marks of bad faith, because, it for the greatest part treats of the grievance personally felt by the appellant. But has the R. O. respondent ever learned by his own experience, that such complaints have been preferred by intimate friends one to another ? Did the R. O. respondent so little dive into human nature, as not to know that an intimate favourite, or an accomplice, would never prefer such accusations, and that generally some private consideration, some trivial information, often leads to the most important consequences ? Does he forget that Paris running away with a fine woman, led to Troy's being laid in flames and ashes ?

The present question is not, whether the information brought forward by the appellant against the Collector be true, or not ; the question is merely, whether the

the appellant has in the least committed himself against the mode of proceeding, and whether he has given the least ground for a criminal action, either by using any *notorious defamatory* expressions, or any indecent or improper language in his Memorial.

That neither the one nor the other can be made applicable in this present instance, can be proved by the R. O. respondent's own acknowledgment.

The R. O. respondent acknowledges in the act of indictment, that the appellant has stated *facts* which might tend to expose the Collector of Customs to contempt, and to the loss of his situation.

It is not even asserted that the accusation is either *false* or *defamatory*, but only that the collector might lose his situation by the investigation of these facts. When I, therefore, see a government servant commit a murder or the foulest crime, I then become liable to the present criminal prosecution, for, when this crime laid to his charge is to be investigated, such government servant might not only hazard his situation, but his life even!!!

What are the principles of law come to, worshipful Gentlemen, when such arguments are not only admitted in court, but have had a direct tendency to entangle a respectable inhabitant and merchant of this place in a criminal prosecution, for giving such information. In vain do we examine this Memorial throughout, to find a single indecent or improper expression. The appellant is also not indicted for the same; the whole extent of the accusation purports, that he ventured to subscribe a memorial tending to accuse an eminent government servant of having, in office, committed unlawful transactions; in consequence of which information, this public servant may pass some uneasy and sleepless nights, in fear of losing his situation by a well deserved punishment, should the information be correct. Without occupying ourselves any longer with the investigation, whether the facts and accusations contained in the Memorial are true or not, we will only remark, that the presumption of the law is in favour of the appellant, as defendant in the first instance, in support of the authenticity of the alleged facts. But this Memorial does not rest solely upon his own assertions; it is supported by several declarations passed under the impression of an oath, by individuals who attested the alleged facts, and by which the contents of that Memorial are fully established. Independent of all these favourable presumptions, the appellant will further briefly examine whether he is fully justified in drawing up, subscribing, and forwarding, such a memorial, and whether he has not urgent reasons to be aggrieved at the first decree here in question.

The English law on this subject bears such a similarity to the Roman and Dutch laws, that the principles of the one are in every respect those of the other; according to which, nobody may maliciously say, write, or publish, any writing, to the prejudice of another character. This is a misdemeanor which is liable to a civil action of defamation. But when the same is accompanied with a breach of the peace or any act of violence, then a criminal prosecution lies for real injury or libel, according to the nature of the case. This doctrine is clear and simple, and not subject to any doubt, unless it be misconstrued by strained or erroneous analogy and subtle deductions, and extended to all cases not comprised in the same. In order, however, to prevent as much as possible these variations, it is expressly enacted in the Roman as well in the English and Dutch law, under this head, that any person who, by putting his own name to any writing, accuses *one or other person or government servant of official transactions which it is the province of the government to investigate and to take cognizance of, is not liable to be punished as a libeller.* (For in ancient times no writing was considered a libel, unless it was anonymous, or issued under a wrong name.) This we find in the Lex 18 ff. de Injuriis, where it is taught—

“Eum qui nocentem infamavit non esse bonum æquum ob eam rem condemnari; peccata enim nocentium nota esse et oportere et expedire.”

And further, in Lex 33 eodem—

“Quod Reipublicæ venerandæ causa secundum bonos mores fit etiam si ad *contumeliam* alicujus pertinet quia tamen non ea mente magistratus *facit ut injuriam* faci at sed ad vindictam majestatis publicæ respiciat actione injuriarum non tenetur.”

And in the preceding law, Lex 32, we find more conspicuously in what manner redress is to be obtained against “magistratus personas,” or public servants, of less or more importance. By which the law is beyond doubt, which justifies



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justifies and even directs all complaints to be brought before such authorities as are empowered to examine into and afford redress for the same. Vide *Lex unica Cod.*

This system is also prevalent in the Dutch laws we are taught by Professor Voet, in his Commentaries *ad ff. ad Tit. de Injuriis*, 9; where we find the following words—

“ Quod si verum esse constet, quod objectum est, ne sic quidem objiciens ab injuriâ semper excusatus est. Nam si tale quid alteri exprobraverit quod manifestum fieri reipublica inter est ob eam rem ipsam condemnari bonum et æquum non est, veluti si crimen objecerit, *quod* recedum punitum fuit, quia peccata nocentium nota esse atque punire oportet et expedit; neque prætimendum est eum qui quid agit quod agere poterat sine bono bonaque reipublicæ consulendi, mente malâ, injuriandi animo agere voluisse.”

This is also commented on by Hugo de Groot, in his “ *Inleiding tot de Holl. Regt-geleedheid*, book iii. vol. 36, § 2, as follows—

“ The crime of calumny comprises every thing that is communicated either verbally or in writing, in the presence or absence of any person, or either in private or public, by which one’s honour is injured, notwithstanding it were truth; *excepting when such information is given to the competent authority for the investigation and punishment of crimes.*”

The same we find more forcibly deduced by Groenewegen, in his famous Treatise de Leg. Mag. in c. 18 ff. and lex 1 Cod. de Injuriis, where he says—

“ Veritas convicii excusat a palinodea sed non a mulcta pecuniaria, nisi quis apud judicem alione oportuno loco talem injuriam dixit quam scire et punire publicè expedit, et ad Leg. Cod. famosi libelli pœna juris civilis exolevit.”

There consequently does not exist the least doubt, that, according to our law, the appellant, in detecting facts the investigation and punishment of which regards the public good, has the fullest right to give official information thereof after having briefly convinced himself of the truth of the same; and that the appellant’s information is not solely founded on his mere dixit appears from the Memorial itself, exhibited at the first instance, which the Court will perceive is substantiated by three or four depositions, from individuals who gave their evidence and first information as to the improper transactions of the Collector respecting these Negroes. That the investigation of these charges is of the utmost importance to government, as well as to a faithful administration of justice in all departments, is acknowledged by the R. O. respondent himself, by his stating, in his act of indictment, that the facts which have been brought to light by the appellant *might have the effect* of dismissing the Collector of his situation!!

Can there be a stronger proof than this very acknowledgment, that these acts require a severe examination, and consequently ought to be investigated, and if found correct, punished? But, directly contrary to the first principles of law, the *appellant*, against whom there do not exist any accusations, and who, being a quiet and peaceable citizen, has the protection of the law in his favour, finds himself involved in a criminal prosecution; while the Collector, being placed above the reach of the laws, laughs at any attempt to investigate his unwarrantable transactions, and perhaps still continues in the same!!!

If it is proved, by the Roman and Dutch laws, that every citizen has the right to lodge informations of any corrupt or improper transactions of citizens or magistrates to their superiors, without fearing the possibility of being criminally prosecuted in case such information be not investigated, then it will be hardly necessary to quote any authorities from the English law, by which the rights of the citizens are in every respect so fully supported, in order to prove the right of giving official information against magistrates.

Blackstone, in his Commentaries, book i. page 143, states as follows; further in page 354, in notes, and book iv. c. 10, page 140 and 141, half law of libel, page 172. *F. J.*

And if it were necessary to substantiate this doctrine by precedents from the British history, we need only cite the trials of a Warren Hastings, Governor General of India, and of Lord Melville, the intimate friend of a prime minister, Pitt, brought forward by persons against whom there might have been advanced the charges of bad faith and personal resentment. Yet these charges were brought forward by the Attorney General, and could not screen the Minister’s favourites from the influence of the law.

Have the persons informing against such exalted characters ever been thwarted in stating their charges? have they ever been prosecuted for their complaints, when  
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by a final sentence the whole of those charges could not be proved in law? But why are we to seek for precedents in foreign countries, when in the year 1780 our fellow burghers Van Reenen, Astorgs, Tieleman, Roos, and Heyns, expressly left this colony in order to lay open to the Directors of the Honourable Dutch East India Company the conduct of the majority of the government servants, from the then Governor of the colony to the lower servants? Were they then detained by the Attorney General or His Excellency, and upon the specious argument, that *they* were the competent authorities to investigate such complaints? were they debarred to obtain redress in an equitable and regular manner at home?

When the serious complaints of the inhabitants were transmitted against the Governor Van der Stell, were the burghers then prevented from forwarding their complaints by such prosecutions as the present, on that frivolous principle (which may be made applicable to every case) "that these complaints set a bad example to the peaceful minds and *good manners* of the inhabitants"! Were they detained, and how much the less were they criminally prosecuted?

When we approach to later times, we may with confidence question the R. O. respondent, whether he was actuated by the same principles, when complaints bearing all marks of bad faith and personal hatred on their face were preferred by the former secretary against the Landdrost of Tulbagh? How frivolous was that information, and what a picture of bad faith did the same exhibit upon the face thereof; and notwithstanding this, was not a regular investigation and prosecution against the Landdrost effected, previous to prosecuting the complainant for such complaints as had been found destitute of all grounds, and consequently therein bore marks of bad faith and persecution?

It is certainly needless, and it would discover a distrust of the sound judgment of this Court, if we should any longer dwell upon similar instances; and we rest assured, that if these arguments could have been brought forward against those of the ex-officio respondent in the first instance, we would have freed the gentlemen Commissioners from all the disagreeable consequences of a tedious and difficult prosecution.

II.—In stating my reasons for appealing from the second sentence, I hope to be allowed to remark, that the appellant, being uncertain as to the first determination of the proceedings connected with the first instance, was bound to come in opposition against that decree, which directs—"That although the sitting Commissioners are willing to enter upon the full merits of the main question of this case, the hearing of witnesses would be unnecessary." Against which we take the liberty to remark, that according to the foregoing quotations, particularly the passage cited from Voet, and that from Blackstone ad lib. iv. ch. 11, page 151 in the notes, it is absolutely necessary, if the appellant is obliged to litigate the main cause, that he should ground his defence upon the witnesses to whom he has referred, and from the contents of whose depositions he is to expect his acquittal. They verify every assertion contained in his Memorial. The appellant must necessarily require this evidence in the principal cause, unless the decree of the court is founded upon the principle developed by the appellant, upon the first decree, namely, that in this case it is not necessary to enter upon the merits or principle which the ex-officio respondent has misunderstood or misapplied, by supposing that the appellant contended against the competency of the Judge to try this case, while he merely contends against the competency or right of the prosecutor to bring such an indictment forward, and applies to him the "*Tibi adversus me nondum competit hæc actio.*" And herewith the appellant prays for a correction of the above decrees, and for an absolution "*ab instantia.*" C. E.

26 February, 1824.

(signed) H. Cloete, L' Adv.

His Majesty's Fiscal says,—It will not be necessary for me to be at length in replying to the claim in appeal. With regard to the sentence by which the exception proposed by the appellant has been rejected, appellant's advocate has entered upon the principal case, and endeavoured to show that there exists no libel; if this may actually be found to be the case, the defendants will most certainly be acquitted. But that is no exceptive defence; the point now to be decided is, whether the decision on the question on the existence or non-existence of the libel actually and under the present circumstances belong to the cognizance of the Court. The negative is maintained by the appellant; but if it is not subject to the cognizance of the court under the existing circumstances, it cannot become so

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hereafter. I respect the authorities quoted by the appellant's advocate, but I will in time, when the case has come to its proper stage, develope my grounds and show that there actually exists a libel. I am very distant from being inclined to screen magistrates from complaints relative to the exercise of their offices, but even if the appellant proves the truth of the facts in his Memorial, even then I consider it is a libel. This I will endeavour to show at the proper time; and I therefore feel myself also aggrieved by the sentence of Commissioners with regard to the restriction in examining the witnesses.

I conceive this sufficient to conclude with regard to the proposed exception, for rejection of the same, and with respect of the second decree, for correction of the same. *C. E.*

Advocate Brand, for the second defendant, Wm. Edwards, refers himself to what has been advanced by Advocate Cloete, on the subject of the witnesses, and concludes for annulment or correction of the second sentence.

The Court, having seen and examined the records held before Commissioners, having heard the arguments of both parties in appeal, and having considered every thing that deserved attention or could in any wise move the Court, administering justice in the name and on behalf of His Great Britannic Majesty, Doth declare the Appellants not to be aggrieved by the two decrees of Commissioners of the 18th and 20th February last, and doth in consequence affirm the said two decrees, with condemnation of the first defendant, as appellant, in the costs incurred as well in the court below as in appeal, and confiscation of the deposited fines of appeal; the costs of the R. O. respondent being hereby fixed at fifteen rix dollars.

Thus done and decreed in the Court of Justice at the Cape of Good Hope, die et anno ut supra, and pronounced on the same day.

(signed)	<i>W. Hiddingh.</i>	<i>J. C. Fleck.</i>
	<i>W. Bentinck.</i>	<i>P. J. Truter, jun.</i>
	<i>I. H. Neethling.</i>	<i>P. B. Borchers.</i>
	<i>F. R. Bresler.</i>	<i>R. Rogerson.</i>

In my presence,

(signed) D. F. Berrangé, Sec<sup>r</sup>.

On this the 27th February 1824, the appellant Wm. Edwards declared to appeal from the decree above affirmed, with respect to the witnesses.

Quod attestor,

(signed) D. F. Berrangé, Sec<sup>r</sup>.

On this the 27th February 1824, His Majesty's Fiscal declared to appeal to the Right honourable the Court of Appeals, from the decree above affirmed, with regard to the witnesses.

Quod attestor,

(signed) D. F. Berrangé, Sec<sup>r</sup>.

(Annexure N° 1.)

I, THE undersigned, 4th H. Clerk to the worshipful the Court of Justice, Do hereby certify, that Advocate Cloete, in the name of L. Cooke, duly deposited the fine for an appeal, in the case of His Majesty's Fiscal *versus* the said L. Cooke.

Office of the Court of Justice, 24th February 1824.

(signed) *H<sup>c</sup> Smuts, 4th H. C.*

(Annexure N° 2.)

I, THE undersigned, 4th Head Clerk to the worshipful the Court of Justice, Do hereby certify, that Advocate Cloete, in the name of L. Cooke, duly deposited the fine for an appeal, in the case of His Majesty's Fiscal *versus* said L. Cooke.

Office of the Court of Justice, 24th February 1824.

(signed) *H<sup>c</sup> Smuts, 4th H. C.*

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RECORDS held before Messrs. Walter Bentinck and P. J. Truter, commissioned Members of the worshipful the Court of Justice of this government, in the case of His Majesty's Fiscal R. O. Prosecutor in a criminal action *versus* 1, Lancelot Cooke, 2, William Edwards, 3, Jan Bernard Hoffman, summoned to personal appearance, in a case of composing and publishing a Libel, or causing the same to be composed and published.

Monday, 16 Februry 1824.

THE Court having been opened with the usual solemnity, and the R. O. prosecutor and the defendant having been admitted, the second defendant requested to be allowed to lay on the table the protocol held by him in his notarial capacity.

Upon which the Court observed, that if he should require it in his defence, he would be at liberty then to produce it.

The R. O. prosecutor hereupon exhibited,

1. The preliminary information on which the decree was obtained, consisting of the following; viz.

A. His representation to the Court—

“ To the Gentlemen Commissioners of the worshipful the Court of Justice for Criminal Cases.

“ Shows with due respect His Majesty's Fiscal,

“ That it has pleased His Excellency the Governor to place in my hands, by letter of the 30th January last, a certain Memorial of Lancelot Cooke to the Lords Commissioners of His Majesty's Treasury, containing complaints of the conduct of Mr. Charles Blair, in his regard, and concluding with a prayer, that it may please the Commissioners of His Majesty's Treasury to cause an inquiry to be made into the conduct of the Collector of Customs against him, and to take such decision thereon as their Lordships may judge proper.

“ That he (the Fiscal) has found, that besides the grievances concerning the subscriber Lancelot Cooke, personally, the Memorial also contains accusations of a more general nature against the conduct of Mr. Charles Blair, in his official capacity as Collector of Customs, and also partly against that of the other officers of that department; which, in case they may be found conformable to truth, would render a criminal prosecution necessary against those officers.”

“ That the accusations above alluded to by the Fiscal, when summed up, principally come to exist in the following points :

“ 1. Abuse of authority, and illegally assuming to dispose of the right of others, particularly remarkable in apprenticing for fourteen years a person who was not only able to earn his own livelihood, but moreover always declared to be a prisoner of war, and in reapprenticing the same person to another after he was apprenticed already.

“ 2. Suppression.

“ 3. Participation in illegal contracts.

“ 4. Premeditated and wilful neglect in the execution of the duty of the office of the Collector of Customs, to protect the Prize Negroes entrusted to him by His Majesty's Government, by sacrificing their interests and prosperity to unmerciful covetousness, and apprenticing them to his particular favourites at the expense of their own comfort and happiness.

“ That the duplicate of this Memorial, the original of which is already or is about to be sent off to the Lords Commissioners of His Majesty's Treasury, was sent to His Excellency the Governor, accompanied by a letter from W. Edwards, in which he has pretendedly in his official capacity, without mentioning which, taken upon himself to declare that he sent that duplicate (as he writes) through his Lordship to the Treasury of England, although he did not do so from choice; but which sort of protestation, *actui contraria*, it has appeared to His Majesty's Fiscal did not release the said W. Edwards from his responsibility in that respect.

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“ That further, on comparing the handwriting of the duplicate of the Memorial which was sent to His Excellency the Governor, with the well known handwriting of the late Notary, Jan Bernard Hoffman, of which a number of examples are to be found at the Secretary’s Office of the Court, in his protocols, and in the law-suits in which the said Jan Bernard Hoffman acted as attorney-at-law, there cannot exist any reasonable doubt but that the said duplicate was written with Jan Bernard Hoffman’s own handwriting, who is therefore also involved in composing the said Memorial. And as such accusations, not made with the object to have the same investigated into at the proper place and in the proper manner, render the composers and publishers of the Memorial containing the same subject to the accusation of libel even when found to contain the truth,—but much more so if on investigation they are found to contain untruth, and therefore to be made calumny.

“ The Fiscal therefore addresses himself to you, Gentlemen, requesting that a decree for a summons to personal appearance may be granted to him against Lancelot Cooke, as having subscribed the duplicate of the Memorial with his own signature, and as having allowed the same to be made public by W. Edwards; against W. Edwards, as publisher of the said Memorial; and against J. B. Hoffman, as having by writing the same lent a hand to the said Memorial; in order that each of them may, as far as he is involved, be prosecuted before your Worships, or that such other provision of justice may be granted to him against the said persons as will be found proper.

“ The Fiscal annexing hereunto—

“ 1. The duplicate Memorial in question, signed by Lancelot Cooke, with its Annexures.

“ 2. The letter which accompanied the same to His Excellency the Governor, signed by W. Edwards.”

(signed) “ *D. Denyssen*, Fiscal.”

Extr. in Judicio, 5th Feb. 1824.

“ C. Letter from the Colonial Office.”

“ Sir,

“ Colonial Office, 30 Jan. 1824.”

“ I AM directed by His Excellency the Governor to forward to you herewith, in original, a letter transmitted to His Excellency by Mr. Edwards, a notary in Cape Town, styling himself the attorney to Mr. Lancelot Cooke, together with the documents therein referred to; and as these papers contain assertions injurious to the character of the Collector of His Majesty’s Customs at this place, His Excellency desires that you will be pleased to refer to Mr. Blair, in order to obtain every information for prosecuting Mr. L. Cooke for defamation of a public servant.

“ I have the honour to be, Sir,

“ Your obedient Servant,

“ *D. Denyssen*, Esq.

(signed) “ *P. G. Brink*.”

His Majesty’s Fiscal.”

“ C. Memorial of Lancelot Cooke to the Lords Commissioners of the Treasury, with its Annexures.

(Duplicate.)

“ To the Right Honourable the Lords Commissioners of His Majesty’s Treasury.

“ The MEMORIAL of Lancelot Cooke, of Cape Town,  
in the Cape of Good Hope, Merchant,

“ Respectfully showeth,

“ THAT by an Act of Parliament made and passed in the 47th year of the reign of his late Majesty King George the Third, intituled, ‘ An Act for the Abolition of the Slave Trade,’ it was enacted, that all subjects or inhabitants of Africa, unlawfully carried or imported as Slaves into his Majesty’s colonies, should be seized prosecuted and forfeited, in the like manner and form as goods and merchandizes unlawfully imported; and that after the condemnation thereof, such subjects or inhabitants should be bound as apprentices for a term not exceeding fourteen years, on such conditions as His Majesty, by an Order in Council, might direct

direct or appoint; and it was further enacted, "That any indenture of apprenticeship, duly made and executed by any person or persons to be for that purpose appointed by any such Order in Council, for any time not exceeding fourteen years, should be of the same force and effect as if the party thereby bound an apprentice had himself or herself, when of full age, upon good consideration, duly executed the same."

"And that his Majesty the said King George the Third did, by an Order in Council, afterwards direct that all such subjects or natives of Africa, so seized forfeited and condemned, should be placed out as apprentices by the Collector of Customs.

"Also, that in or about the year 1810, the French packet l'Ector, trading from St. Denis to Port Louis, being captured by the English brig Racehorse, one Jean Ellé was found on board thereof, who stated that he was a free man of colour, a native of Bourbon, employed as a seaman on board such packet, but being unable to speak English or Dutch, and the inhabitants of the Cape ignorant of the patois of Bourbon, he could not make himself understood, and was ultimately placed out as an apprentice by Charles Blair, Esq. the Collector of Customs at this port, and after having served two several masters some years, he was removed by the Collector of Customs, and placed with Mr. Samuel Murray, who hired him to Your Memorialist's establishment nearly six years, at the rate of thirty-five rix dollars per mensem; when at the death of the said Samuel Murray, the said Jean Ellé requested Your Memorialist to permit him to continue in his service, alleging that he had only a very short time to serve of his original apprenticeship; to which Your Memorialist consented, from the good opinion he entertained of the man, acquired during his long and faithful service; and he paid his wages to him, until on or about the 21st day of November last, when he received an order from Mr. Blair, to deliver up Jean Ellé to William Wilberforce Bird, Esq. or his order, accompanied by a Note from the said Mr. Bird, who is the Comptroller of the Customs, requiring the man to be sent to the Custom-house.

"That he immediately informed the said Jean Ellé of such demand, and requested him to go there, as desired; but on his representing that he had so long served Your Memorialist with fidelity and industry, and hoped he should not be abandoned at the close of his servitude, Your Memorialist replied, that though he was unwilling to force him away, he could not disobey the peremptory order of the Collector of Customs, and requested the man to go as desired; yet he nevertheless refused to do so for some days, until he found he was destined to serve one H. M. Pigou, Esq. the son-in-law of Mr. Wilberforce Bird, the Comptroller of Customs, and that the police were searching to apprehend him for disobedience of orders, when he instantly repaired to the Custom-house.

"That a few days before Jean Ellé could be prevailed on to leave the employ of Memorialist and his copartner, Mr. Pigou called at their house, where, witnessing Jean Ellé's reluctance to leave them, he said, if another cook could be recommended to him, he was willing the man should remain where he was; whereupon, after consulting a gentleman in the law, many years acquainted with the arrangements made by Mr. Blair on similar occasions, Your Memorialist subsequently met Mr. Pigou, and stated that he was willing to meet his proposal, and pay the wages of any cook he might hire; when, pretending to be offended, he rudely left Your Memorialist without an answer.

"That whilst Jean Ellé was waiting at the Custom-house, Your Memorialist, from a wish never to offend or oppose the constituted authorities of His Majesty, and supposing, from the frequent repetition of a similar interference by Mr. Blair, that he was empowered by law so to do, repaired to the Custom-house, where he saw Mr. Blair on horseback, in company with Mr. Wilberforce Bird, and accosted him respectfully, in the presence of Mr. Roberts, the head clerk of the establishment of Memorialist, for the purpose of informing him, that the man's objection to leave his employ was the cause of the trifling delay; whereon Mr. Blair, in the most violent, loud and insulting manner, holding up his whip or stick in a threatening attitude, said to Your Memorialist, 'Damn you, sir, hold your tongue, or, by God, I'll knock you down—God damn you, sir, don't speak a word, or I'll knock you down—If you had said as much to me as you did to my friend Mr. Pigou, I would have blown your brains out, damn and blast you, I would, you scoundrel;' and as he rode away he called Your Memorialist 'a damned son of a bitch;' and Mr. Wilberforce Bird, who was in company with Mr. Blair at the commencement of Your Memorialist's attempt to speak, instantly rode off, the moment he perceived Mr. Blair

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(A.) p. 79.  
(B.) p. 80.

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(C.) } p. 80.  
(D.) }

(E.) - ib.  
(F.) } p. 81.  
(G.) }

Blair under the natural influence of his temper, that he might neither restrain or be called to bear witness of his brother officer's insolence.

" That Your Memorialist having no other wish than to receive such an apology as His Excellency the Governor might think fair, complained of this outrage ; when Lord Charles Somerset, ever anxious to discharge his duty with an impartiality befitting the representative of His Majesty, applied to the Collector of Customs ; and, as might have been expected, a person capable of descending to such abusive expressions would be sure to contradict them, Mr. Blair did so, though he pretended to glory in one part of his rudeness, as communicated by his Lordship, with the Enclosure from Mr. Blair.

" Your Memorialist humbly submits, that this vain-glorious boast of Mr. Blair's carries its own refutation on its face, for, had Memorialist insulted Mr. Pigou as is pretended, it is clear that he was either able to resent it himself or unworthy the aid of a proxy.

" However, as Your Memorialist conceives that the ipse dixit of Mr. Blair cannot be set against the oath of himself and Mr. Roberts, he annexes Depositions, taken before a notary agreeably to the laws of this colony, and also one of Jean Ellé, on which he confidently appeals to Your Lordships for redress.

" Your Memorialist further respectfully submits, that when this man was once placed as an apprentice, the legal right of interference in the Collector of Customs ceased, as in the case of a parish apprentice in England, where the master has a chattel interest that devolves on his executors ; and therefore, as Your servant cannot have been actuated by a sense of duty, he feels it imperious on him to draw Your Lordships' attention to the fact, of his having in the first instance put this man out as an apprentice, he being a sailor-cook, and, as he has always declared, a prisoner of war : If Mr. Blair had been influenced by the benevolent spirit of the Abolition Act (and Jean Ellé had been a Slave in reality) when he found him a man near thirty years of age, so good a cook, and so well able to earn the bread of honest industry, he would have satisfied the law, by placing him in some family for a few months, instead of fourteen years ; but this would not satisfy the necessities or the wishes of Mr. Blair, who acquired consequence and credit by disposing of so many Slaves of the most unfortunate order ; and if Your Lordships would afford Your protection against the future oppressions of the officers of Customs, several cases should appear before You of Mr. Blair's privity to such contracts as that offered to Mr. Pigou, at which he expressed such indignation ; to contracts even more corrupt ; some, wherein, when persons have pressed him for payment of his debts, he has promised them greater advantages, which have ended in donations of miserable creatures, thus abandoned to those whom he dare not to assail ; sacrifices to his necessities, victims of his oppressive partialities.

" Hearing of his insolence to Your Memorialist, several persons in Cape Town, of the greatest respectability, highly indignant at such demeanor, came to Memorialist with accounts of the manner in which he had disposed of Negroes to themselves, and are now ready to make oath of these facts ; but Your Memorialist, unwilling to expose them to the powerful vengeance of the Custom-house, wishes first to obtain an assurance of Your Lordships' protection towards them. The English Senate intended to have been the friend and protector of the wretched Negro ; but in this case it has been the greatest misfortune. Here is a man well able to earn thirty-five rix dollars per month as a cook, who, on pretence of being taught a business, is bound, by the ruthless cupidity of His Majesty's servants, to serve the most valuable part of his life to the favourites of the Collector of Customs at Cape Town. Had Jean Ellé been a Slave in fact, and remained so after so valuable a portion of his life spent in the service of his master, the law would have compelled that master to support him in his old age ; but here is a man serving the prime of a valuable life for the advantage of those who in old age will desert him to all the miseries of want.

" Your Lordships will feel how inconsistent is such conduct with the philanthropy that abolished Slave-dealing.

" Your Lordships will feel how wretched is the state of that Slave, who, under the benign indulgence and protection of Mr. Blair, is cursed with liberty at the end of a cruel, abject and unprofitable slavery of fourteen years, left to starve in the decline of life, after having worn away his strength by the goadings of those who have no interest (like the real Slave proprietor) in well treating these poor people, to make their old age more vigorous.

.. Your

“ Your Lordships will feel what sentiment actuated Mr. Blair, when, on a very recent occasion, one William Cousins, who had served him fourteen years, and been a voyage with him to England, on applying for a certificate of the expiration of his apprenticeship, was cruelly told he should never have it, unless he would return to his service.

Your Lordships will feel what is the general tenor of Mr. Blair's character, his humanity, his mildness, and his justice, when you are informed, that this poor man preferred all the horrors of starvation rather than return to a master who had made him so miserable; and such must have been his fate, so great the terror of the Collector of Customs, had not the benevolence of one of Your Memorialists acquaintances prompted him, in defiance of the malediction and the denunciations of this great man to take the poor Negro for his servant.

“ Your Lordships will feel and appreciate the spirit that urged Mr. Blair, when he saw an unhappy Negro, who had served Your Memorialist, for the benefit of Mr. Samuel Murray, above six years, anxiously soliciting to be continued in the same employ, so callously rejecting every solicitation, although the man becomes free again on the 1st of March next.

“ Your Lordships will feel whether it was an amiable thing, in a person intrusted with the exercise of His Majesty's benevolence, so relentlessly to separate a master and a servant, whom he saw happy and satisfied in so long a connexion.

“ And Your Lordships will feel and judge whether the violence of his language to Memorialist, the indecency of his expression in the letter to the Governor, and the unfairness of his conduct in taking Jean Ellé away from Your Memorialist, in violation of every principle of humanity towards the poor man, merely to supply Mr. Bird's son-in-law with a cook, was befitting him who holds an important trust under the King, in which equanimity of temper, humanity, disinterestedness, and benevolence of heart, ought to shine in a superlative degree.

“ Your Memorialist thinks it due to himself to say, that he is not impelled to this complaint from a desire to oppose the servants of His Majesty, or from a vindictive spirit of revenge, for, although through life no one has possessed a warmer or a better spirit of loyalty, or a more forgiving disposition towards those who have injured or insulted him, yet he owes it to his own rank in society to call from Your Lordships for justice on Mr. Blair, who has thus trampled on all the decencies of life; and he does this more confidently, knowing that You are most able and most willing to screen gentlemen from the insolence of office.

“ And he sincerely assures Your Lordships, that whatever may be Your decision, with that decision he will rest most perfectly satisfied.

“ Wherefore he prays, that Your Lordships will be pleased to cause an inquiry to be made into the conduct of the Collector of Customs towards him, and judge thereon as You may deem meet.

“ And he will ever pray. (signed) “ *L. Cooke.*”

“ I, Christopher Bird, Esq. Chief Secretary and Registrar to the Government of the colony of the Cape of Good Hope, Do hereby certify, that William Edwards, who hath signed the Acts hereunto annexed, is a notary public, practising in Cape Town; and that to all Acts so signed by him, full faith and credit is and ought to be given in judicature and thereout. Dated this 22d day of January 1824.

(signed) “ *C. Bird, Col' Sec' and Registrar,*  
Cape of Good Hope.”

(A.)

“ To Messrs. Cooke and Thompson.

“ Gentlemen,—Be pleased to deliver to William Wilberforce Bird, Esq. or his order, the Prize Boy in your service named Jean Ellé, belonging to the late Mr. Samuel Murray.

“ Cape Town,  
21 Nov. 1823.”

(signed) “ *Charles Blair,*  
Coll' Customs.”



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(B.)

“ Mr. Wilberforce Bird will thank Mr. Cooke to send the apprentice Boy, (late Mr. Murray’s) to the Custom-house.”

“ Custom-house, Monday.”

“ To L. Cooke, Esq.”

“ A true Copy,

“ Quod attestor,

(signed) “ *W. Edwards, Not’ Public.*”

(C.)

“ Sir,

“ Newlands, Friday 12 Dec. 1823.”

“ I DID not fail to communicate the contents of your representation to me, to Mr. Blair, through a gentleman whom I know to be in his confidence, and enclose you the reply he made to me.

“ I remain, Sir, your most obedient Servant,

“ To L. Cooke, Esq.”

(signed) “ *Charles Henry Somerset.*”

“ A true Copy,

“ Quod attestor,

(signed) “ *W. Edwards, Not’ Public.*”

(D.)

“ My Lord,

“ Custom-house, 11 Dec. 1823.”

“ I HAVE this morning received from Mr. Bird, a letter of complaint from Mr. L. Cooke to your Lordship, the greater part of which is false: I certainly told Mr. L. Cooke, that if he had said to me what he did to Mr. Pigou, I should have felt myself compelled to have kicked him.

“ I regret that your Lordship should have been troubled on so trifling an occasion.

“ I have, &c.

“ His Excellency

(signed)

“ *Charles Blair.*”

Lord Charles Somerset.”

“ A true Copy,

“ Quod attestor,

(signed) “ *W. Edwards, Not’ Public.*”

“ Duplicate (E.)

“ BE it hereby made known, That on this twentieth day of January in the year of our Lord one thousand eight hundred and twenty-four, Lancelot Cooke, of Cape Town in the Cape of Good Hope, merchant, personally came and appeared before me, William Edwards, of the same place, notary public, duly constituted appointed and sworn, and the Witnesses hereinafter mentioned, and offering a solemn oath on the Holy Evangelists of Almighty God to the truth of his declaration and every part thereof, whensoever he shall be thereunto duly required, did declare, testify, depose and say, That on the twentieth day of November last, he did, from the sheriff having stated that Mr. Blair charged him, deponent, with harbouring the apprentice to disobey his orders, and in consequence of his copartner and himself having received an order from the Collector of the Customs to deliver up a Prize Negro named Jean Ellé to the Comptroller of Customs, or his order, repair in company with Mr. John Roberts, his managing clerk, to the Custom-house, for the purpose of explaining to the said Collector the cause of a little delay that had taken place in the obedience of his said order, where he saw Mr. Blair the Collector, in company with Mr. Wilberforce Bird the Comptroller, on horseback, when he this deponent addressed him the said Collector of Customs, who instantly assailed him with a volley of the most gross and abusive language, saying, ‘ Damn you, Sir, hold your tongue, or by God I’ll knock you down,’ at the same time holding his whip or stick in a threatening attitude towards this deponent; and also saying and repeating, ‘ God damn you, Sir, don’t speak a word, or I’ll knock you down. If you had said as much to me as you did to my friend Mr Pigou, I would have blown your brains out, damn and blast you, I would, you scoundrel;’

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scoundrel;’ and concluded, as he was riding away, by calling this deponent ‘ a damned son of a bitch.’ And this deponent further saith, that Mr. Wilberforce Bird instantly rode away, and left the said Charles Blair, without attempting to restrain or witness such abuse.

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“ For a memorial whereof I have caused the said deponent to subscribe to the original hereof, and granted an Act thereof in duplicate, in the presence of the subscribed witnesses Thomas Hall and Henry Nitch, the day and year first above written, the original, upon a stamp of one rix dollar, remaining in my protocol.

“ Which I attest,  
(signed) “ *W. Edwards*, Notary Public.”

“ Duplicate (F.)

“ BE it hereby made known, That on this twentieth day of January in the year of our Lord one thousand eight hundred and twenty-four, John Roberts, of Cape Town, in the Cape of Good Hope, managing clerk to Messrs. Cooke and Thompson, of the same place, merchants, personally came and appeared before me, William Edwards, of the same place, notary public, duly constituted appointed and sworn, and the Witnesses hereinafter mentioned, and offering a solemn oath on the Holy Evangelists of Almighty God to the truth of this declaration and every point thereof, whensoever he shall be thereunto duly required, did declare testify depose and say, That on the twenty-eighth day of November last past, he was requested by the said Mr. Cooke to accompany him to the Custom-house, where he stated to deponent that he had business to arrange with Mr. Blair, relative to the cook Jean Ellé. And deponent further saith, that he did accompany the said Mr. Cooke, as requested; and that shortly after they arrived at the Custom-house, the Collector and the Comptroller of Customs came towards them on horseback; upon which Mr. Cooke stepped forward, and very civilly addressed himself to Mr. Blair, who, without the least provocation, burst into a violent and passionate exclamation, addressing himself to Mr. Cooke, and saying, ‘ Damn you, Sir, hold your tongue, or by God I’ll knock you down,’ at the same time holding his whip or stick in a threatening attitude towards the said Mr. Cooke, and repeating, ‘ God damn you, Sir, don’t speak a word, or I’ll knock you down; if you had said as much to me as you did to my friend Mr. Pigou, I would have blown your brains out, damn and blast you, I would, you scoundrel;’ and concluded, as he was riding away, by saying to the said Mr. Cooke, ‘ You are a damned son of a bitch.’ And this deponent further saith, that Mr. Wilberforce Bird did not stay one moment to witness this language, but immediately rode away. And this deponent further saith, that being so much surprised at hearing such language used towards so respectable a gentleman as Mr. Cooke, he reduced a narrative thereof into writing on his return home, that he might not forget or mistate any part thereof; which was the cause he is now so well able to set forth the same.

“ And for a memorial whereof I have caused the said deponent to subscribe to the original hereof, and granted an Act thereof in duplicate, in the presence of the witnesses Thomas Hall and Henry Nitch, the day and year first above written, the original, upon a stamp of one rix dollar, remaining in my protocol.

“ Which I attest,  
(signed) “ *W. Edwards*, Notary Public.”

“ Duplicate (G.)

“ BE it hereby made known, That on this twenty-first day of January in the year of our Lord one thousand eight hundred and twenty-four, Jean Ellé, late cook to Messrs. Cooke and Thompson of Cape Town, in the colony of the Cape of Good Hope, merchants, but now employed as cook by H. M. Pigou, of Sussex Place, in the said colony, Esquire, personally came and appeared before me, William Edwards, of the same place, notary public, duly constituted admitted and sworn, and the Witnesses hereunder written, at the house of Captain John Carnall, the proprietor of the premises occupied by the same H. M. Pigou, and offering a solemn

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a solemn oath on the Holy Evangelists of Almighty God to the truth of this declaration and every part thereof, whensoever he shall be thereunto required, did declare, testify, depose and say, That he was employed on board the packet l'Ector, when taken from the French by the English, as a free man, which will appear by the 'Livre de Loc' of such packet; and further, that by a reference to the books of entry in the Caisse de bienfaisance in the Island of Bourbon, it will appear that a sum of three hundred Spanish dollars was paid by Monsieur Precourt, the lawful owner of the said Jean Ellé at the time of his manumission, for the customary fee on emancipating slaves, he being the son of said Monsieur Precourt by a creole slave of Bourbon. And the deponent further saith, that when he arrived in this colony, he was placed with persons whom he does not recollect, from his then ignorance of the Dutch language; and that he was subsequently placed with Mr. Samuel Murray, by Mr. Blair the Collector of Customs; and that the said Samuel Murray hired him for about six years as cook to Mr. Cooke and his co-partner, where he remained, and was so well treated and happy, as almost not to regret his slavery; and further the deponent saith, that when the said Samuel Murray died, he requested Messrs. Cooke and Thompson to retain him in their service, to which they consented; and that when they were required to deliver him to Mr. Wilberforce Bird, they directed him to go to the Custom-house, which he refused to do, until the day he was taken by the police and put into prison whilst he was waiting at the door of the Custom-house. And the deponent further saith, that he is uncomfortable and miserable in the employ of Mr. Pigou; and that Mrs. Pigou has, since he left Messrs. Cooke and Thompson, often told him, that if he would remain in her service, she would pay him wages after the expiration of his apprenticeship, and that he replied he would not do so, but return to the service of his last employers.

“ For a memorial whereof I have reduced the same into writing, and explained every sentence thereof in its fullest extent to the deponent, who declares that he perfectly understands the same, and approves thereof for truth; and caused him to sign the same in the presence of the said John Carnall and Daniel Horrogan, for witnesses, the day and year first above written, the original, on a stamp of one rix dollar, remaining in my protocol.

“ Which I attest,  
(signed) “ *W. Edwards*, Notary Public.”

“ *d.* The second defendant's Letter to His Excellency the Governor.

“ Cape Town, 25 Long Market-street,  
22 Jan. 1824.”

“ My Lord,

“ AS your Lordship is aware of the professional duty which necessarily leads me into misunderstandings with which I have no concern, and of the occasion from a duty to my client that I adopt their sentiments and expressions, I feel it scarcely requisite to make any excuse to you for conducting a complaint against one of your officers.

“ But I do feel it needful for my own sake, in transmitting the duplicates of Mr. Cooke's Memorial through your Lordship to the Treasury, to say that I do not enter into this business from choice. I told Mr. Blair what was advised by me, in hopes that the affair might have been arranged by a slight concession on his part; and although I will never shrink from the performance of my duty to my clients, there is no man who would do a duty which might be painful to Your Excellency with more sorrow than myself, no man in the colony more unwilling to thwart the measures of His Majesty's Government than I am, nor is there a man alive more willing to devote his life, his every thing, to the honour or service of his Sovereign or the sacred representative of a beloved King.

“ My father, my Lord, had the happiness of serving His Majesty for years as a captain of dragoons; he was personally known to some of those before whom this Memorial may be laid. I have also the honour of being so known, and therefore feel it absolutely imperative on me to write this letter, that it may never be supposed I have swerved from the principles of loyalty and affection to Government in which I was educated.

“ The

“ The other copy of the Memorial will be forwarded by post ; and as Mr. Cooke is speedily departing for England, he will pursue the affair in person before their Lordships, with the assistance of counsel.

“ I have the honour to be

“ Your Lordship’s faithful humble Servant,

“ To His Excellency  
Lord Charles Somerset.”

(signed) “ *W. Edwards.*”

“ 2. The said Decree.

“ Thursday the 5 Feb. 1824.”

“ In the presence of Messrs. Walter Bentinck and P. J. Truter, Commissioned Members of the worshipful the Court of Justice of this Government ;—

“ Read, a Memorial from the Fiscal of this Government, D. Denyssen, LL. D., annexing,

“ I. Duplicate of a certain Memorial signed by Lancelot Cooke, and addressed to the Lords Commissioners of His Majesty’s Treasury, complaining of the conduct of Mr. C. Blair, Collector ; with the Annexures thereunto belonging.

“ II. A Letter addressed to His Excellency by William Edwards, giving cover to the same.

“ III. Letter addressed from the Colonial Office to His Majesty’s Fiscal, placing the above documents in the hands of the Fiscal, for investigation and prosecution.

“ And from which documents the Fiscal stated it should appear, that Lancelot Cooke, W. Edwards, and Jan Bernard Hoffman, had made themselves guilty of drawing up, writing and publishing a libel, requesting on the ground thereof a decree for a summons to personal appearance against, 1. Lancelot Cooke, as having subscribed the duplicate of the Memorial with his own signature, and having allowed the same to be published by Wm. Edwards ; 2. Wm. Edwards, as publisher of the said Memorial ; 3. J. B. Hoffman, as having, by copying the same, lent a hand to the said Memorial ; in order that each of them may be prosecuted as far as he is regarded, or that such other provision may be made against the said persons as may be judged proper.

“ His Majesty’s Fiscal’s Memorial being as follows : *F. J.*

“ Upon which, it was, after examination of the said Memorial and other documents, resolved to accede to the prayer of the Fiscal, as is done by these presents, and consequently to grant a decree for a summons to personal appearance against Lancelot Cooke, Wm. Edwards, and J. B. Hoffman, on the grounds above stated.

“ A copy hereof, together with the annexures to the Fiscal’s Memorial, to be granted to that officer, for his information and guidance.

“ Thus done at the Cape of Good Hope, die et anno ut supra.

“ Quod attestor,

(signed) “ *J. T. Jurgens, 1 H. C.*”

“ 3. The Act of Indictment.

“ ACT of INDICTMENT in the criminal proceedings of His Majesty’s Fiscal, acting by virtue of his office, *versus* Lancelot Cooke, William Edwards, and Jan Bernard Hoffman, against whom a decree of summons to personal appearance has been passed.

“ BE it known by these Presents, That Lancelot Cooke, William Edwards, and Jan Bernard Hoffman, inhabitants of this town, against whom a decree of summons to personal appearance has been passed, became liable to the following charges :

“ The first summoned Lancelot Cooke, of having wilfully and with a malicious intention composed and published, and caused to be composed and published, and having signed the same with his signmanual, a certain libellous writing in the shape or form of a Memorial or request to the Lords Commissioners of His Majesty’s Treasury, seemingly with the intention to bring to the cognizance of said Lords Commissioners his grievances on the conduct of the Collector of Customs in this town, Charles Blair, in his respect ; which Lords Commissioners were therefore also requested to cause an investigation to be held on the conduct of the

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Collector of Customs *towards him*, and thereon to judge as they may deem meet; but in which Memorial or request, besides the said grievances regarding him personally, the first summoned Lancelot Cooke did not refrain from wilfully and maliciously, with the intention and design thereby to expose the officers of Customs, and more particularly said Charles Blair, to hatred and contempt of their superiors, and to defame them and bring them in danger of being ignominiously discharged from their situations; making some general remarks, and alleging facts, by which the officers of Customs, and more particularly said Charles Blair, as Collector of Customs, are represented in a contemptible and criminal aspect, namely, by having alleged in said Memorial or Request, that the officers of Customs were guilty of *oppression*, in the following terms, “if Your Lordships would afford Your protection against the future oppressions of *the officers of the Customs*;” and moreover by alleging, that without receiving the assurance of protection from the Lords Commissioners of His Majesty’s Treasury, he Lancelot Cooke would not expose the persons, whose evidence he would require, to the powerful vengeance of the officers of Customs, in the following terms, “Your Memorialist unwilling to expose them to the powerful vengeance of the Custom-house, he wishes first to obtain an assurance of Your Lordships protection towards them.” And further by having stated, that a free Negro called Jean Ellé, who could earn his own livelihood, by “*the ruthless cupidity of His Majesty’s servants*” (expressions whereby none could be aimed at but the Collector and one or more of his fellow officers of Customs) was under the restraint of spending the best part of his life in the servitude of the favourites of the Collector of Customs; which charge, in so far as the same must be applied to Charles Blair in his abovementioned capacity, not only contains the charges of ruthless cupidity, but also, for a second time, the charge of oppression, and moreover, that of having maliciously abused his power as Collector of Customs, he being represented in said Memorial, with reference to the two last mentioned charges, as having transgressed his power by reapprenticing a Prize Negro after the decease of the master to whom he was apprenticed, and moreover, as having maliciously, and from foul self interest, apprenticed for 14 years a free Negro who did not belong to the Prize Negroes, and could earn his own livelihood; this last mentioned charge being contained in the following terms, “as Your servant cannot have been actuated by a sense of duty, he feels it imperious on him to draw Your Lordships’ attention to the fact of his having in the first instance put this man out as an apprentice, he being a sailor cook, and, as he has always declared, a prisoner of war: If Mr. Blair had been influenced by the benevolent spirit of the Abolition Act (and Jean Ellé had been a slave in reality) when he found him a man near 30 years of age, so good a cook, and so well able to earn the bread of honest industry, he would have satisfied the law by placing him in some family for a few months; but this would not satisfy the necessities or the wishes of Mr. Blair, who acquired consequence and credit by disposing of so many slaves of the most unfortunate order.” Further, by having preferred a charge against said Charles Blair of privity to corrupt contracts, “privity to such contracts as that offered to Mr. Pigou” (viz. by the defendant, Lancelot Cooke himself) “contracts even more corrupt, some wherein, when persons have pressed him for payment of his debts, he has promised them greater advantages, which have ended in donations of miserable creatures, thus abandoned to those whom he dare not to assail; sacrifices to his necessities, victims of his oppressive partialities.” Which last expressions also contain the charges of a most malicious and criminal disregard of his duty towards the Prize Negroes, who, by order of the King in Council, are placed under his care and protection, but of whom he disposed, as is stated in said Memorial or request, to meet his own necessities, and thereby rendered them victims of his oppressive partialities; for which reason they are also ironically described in a following period, as persons who “under the benign indulgence and protection of Mr. Blair, at the end of a cruel, abject, and unprofitable slavery of 14 years, are cursed with liberty,” and in that state “left to starve in the decline of life, after having worn away their strength by the goadings of masters who do not feel interested in well treating them, to make their old age vigorous.” And finally, by having preferred a charge in said writing, against Charles Blair, of having, by threat held out to a Prize Negro, William Cousins, not to deliver him a certificate of the expiration of his apprenticeship, intended to force him to remain in his service, and by which threats said Prize Negro would have been induced to remain in the service of Charles Blair, “had not” (such are the terms which were used by Lancelot Cooke in said Memorial) “the benevolence of one of Your Memorialist’s acquaintances

acquaintances prompted him, in defiance of the maledictions and the denunciations of this great man, to take the poor Negro for his servant."

"The second summoned William Edwards, of wilfully and maliciously, with the intention and a design thereby to expose the officers of Customs, and more particularly said Charles Blair, to hatred and contempt of their superiors, and to defame them and bring them in danger of being ignominiously discharged from their situations; to have composed, written or published said scandalous and libellous writing, by having sent a duplicate of it to His Excellency the Governor of this colony, with an accompanying letter bearing date 22d January 1824, and directed by him the second summoned to His Excellency the Governor, in which it was desired that said duplicate might be transmitted by His Excellency to the Lords Commissioners of His Majesty's Treasury, as the other copy of said writing or Memorial would be sent by the post to said Lords Commissioners.

"And finally, the third summoned Jan Bernard Hoffman, of wilfully and maliciously, with the intention and a design thereby to expose the officers of Customs, and more particularly said Charles Blair, to hatred and contempt of their superiors, and to defame them and bring them in danger of being ignominiously discharged from their situations, to have copied the duplicate of said scandalous writing or Memorial which was sent to His Excellency the Governor and Commander in Chief, with his own handwriting, and to have prepared the same for the intended publication, and thus to have co-operated in composing, writing, publishing or causing to be published the same.

"Which transgressions, as an open violation of the laws, and tending to disturb the peace and tranquillity, and to set an example to other malevolent persons, the imitation of which would influence most perniciously on the peaceable and moral disposition and habits of the inhabitants of this colony, and therefore cannot be tolerated in a land of justice, but on the contrary, as an example to deter others from doing the same, should be visited with public and corporal punishment.

(signed) "D. Denyssen, Fiscal."

"Fiscal's Office, February 1824."

4. The summons and messenger's report from which the communication of the Act of indictment appears.

"Messenger,

"Summon to appear before Commissioners from the Worshipful the Court of Justice for Criminal Cases, on Monday the 16th instant, at 10 o'clock in the morning precisely;—Lancelot Cooke, William Edwards, and Jan Bernard Hoffman, all summoned to personal appearance, in order, by virtue of the decree for summons to personal appearance issued against them on the 5th instant by the Commissioners from the Court acting for criminal cases, to be tried before the said Commissioners, for the accusations contained in the Act of indictment formed against them.

"Serve this summons on each of the defendants personally, deliver to each of the defendants a copy or translation of this summons, and if required, of the accompanying decree for summons to personal appearance; as also a copy and translation of the Act of indictment formed against the defendants, to serve as a proper communication to the defendants. Demand from each of the defendants a statement in writing, of the names of such persons as they may wish to be heard as witnesses on their behalf, in the investigation of the crimes laid to their charge in the Act of indictment, and communicate the result of your proceedings in writing.

(signed) "D. Denyssen, Fiscal."

"Fiscal's Office, 12th February 1824."

"On this the 11th February 1824,

"I the Undersigned duly served the accompanying summons on Lancelot Cooke, William Edwards, and Jan Bernard Hoffman, and delivered to each of them a copy and translation, and the Act of indictment; upon which I received for answer, viz.—from Lancelot Cooke, 'I shall appear, and send a list of witnesses to-morrow.' From William Edwards, 'I shall appear, and place a list of witnesses in your hands.' And from Jan Bernard Hoffman, 'I shall appear, and send a list of witnesses to the Fiscal's office to-morrow.' Which serves as report.

"J. A. A. Soestman, Mess'."

"Cape Town, date as above."

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5. Interrogatories to be put to the defendants.

“ Queries to be put to Lancelot Cooke, summoned to personal appearance, exhibited in Court of Commissioners for Criminal Cases by His Majesty’s Fiscal, D. Denyssen, R. O.

“ Art. 1.—The summoned’s name, age, and country, residence, and employment.

“ Art. 2.—Whether the summoned acknowledges himself guilty of the accusations laid to his charge in the Act of indictment this day read to him *in judicio*, namely, of having drawn up and published, or caused to be drawn up and published, and having subscribed with his own signature, certain libellous writing, in which, besides some grievances relating to the summoned, personally, the summoned had premeditatedly and *malâ fide*, and with the intention described in the Act of indictment, stated the observation and facts not regarding the summoned personally, which are more fully mentioned in the Act of indictment.

“ Art. 3. To produce to the summoned the writing or Memorial mentioned in the preceding article, and in particular the signature of *Lancelot Cooke*; and to question him, whether he acknowledges the same to be his name.

“ Art. 4. Whether he also acknowledges that that signature has been put down in his own handwriting.

“ Art. 5. What the summoned can plead in excuse.

“ Fiscal’s Office, 16th February 1824.” (signed) “ *D. Denyssen*, Fiscal.”

“ Queries to be put to William Edwards, summoned to personal appearance, exhibited in Court of Commissioners for Criminal Cases by His Majesty’s Fiscal, D. Denyssen, R. O.

“ Art. 1. The summoned’s name, age, and country, residence, and employment.

“ Art. 2. Whether the summoned acknowledges himself guilty of the accusations laid to his charge in the Act of indictment this day read to him *in judicio*, namely, of having *malâ fide* and with the intention described in the Act of indictment, published certain libellous writing, a duplicate of which will be produced to him on putting this query.

“ Art. 3. What the summoned can plead in excuse.

“ Fiscal’s Office, 16th Feb. 1824.” (signed) “ *D. Denyssen*, Fiscal.”

“ Queries to be put to Jan Bernard Hoffman, summoned to personal appearance, exhibited in Court of Commissioners for Criminal Cases by His Majesty’s Fiscal, D. Denyssen, R. O.

“ Art. 1. The summoned’s name, age, and country, residence, and employment.

“ Art. 2. Whether the summoned acknowledges himself guilty of the accusations laid to his charge in the Act of indictment this day read to him *in judicio*, namely, of having *malâ fide* and with the intention described in the Act of indictment brought, in order with his own handwriting and for intended publication, the duplicate of certain libellous writing, (to be exhibited to the summoned on putting this query,) and consequently of having contributed to the drawing up and publication thereof.

“ Art. 3. What the summoned can plead in excuse.

“ Fiscal’s Office, 16th February 1824.” (signed) “ *D. Denyssen*, Fiscal.”

6. A List of the Prosecutor’s Witnesses.

“ His Majesty’s Fiscal acting R. O. in the Prosecution to be carried on before Commissioners of the worshipful the Court of Justice of this Government for Criminal Cases, *versus* Lancelot Cooke, William Edwards, and Jan Bernard Hoffman, summoned to personal appearance.

“ List of Witnesses :—1° Witnesses to be produced by His Majesty’s Fiscal, R. O.—Charles Blair, William Wilberforce Bird, N. Tyrholm, David Pontardent, J. M. Bendall, W. C. Van Ryneveld.—2° Witnesses to be produced by the defendants.”

7. As also a List of Witnesses sent in to him by the second defendant.

“ List

“ List of my Witnesses.

(signed) “ *W. Edwards.*”

“ His Excellency Lord Charles Henry Somerset, Christopher Bird, Esq., Mr. P. G. Brink, Charles Blair, Esq., Wm. Wilberforce Bird, Esq., Thomas Rowles, Esq., H. M. Pigou, Esq., Mr. David Pontardent, Jean Ellé, John Roberts, The Postmaster in Cape Town; Captain Amber, Stellenberg; Mr. G. H. Maasdorp; Mr. T. Heatley, Tulbagh; Mr. Geo. Thompson, Cape Town; Mr. Batt; Mr. Saunders, confectioner; Mr. Watney, Mr. John Tilley, Mr. Duckett, Mr. Dashwood; Mr. Williams, near Papendorp; Mr. Muggridge, Mr. John Collison, Mr. Woeke, Deputy Fiscal Ryneveld, Mr. Edward Durham, Mr. Charles Dixon, Mr. Day, Mr. Lusebrinck; Mr. Theunissen, Hottentots' Holland; Mr. Proctor; Mr. Ward, carpenter; Mr. Corbitt, Mr. Ingram, Mr. John Murray, Deputy Commissary Home, Mr. Thwaites; Wm. Cousins, servant to Mr. Richardson; Rev. Mr. Hough, Hend<sup>t</sup> Heegers, Mr. Kingham, Mr. Notary Merrington, The Landdrost Stoll, Mr. Whiston.”

“ The Prosecutor Denyssen not having given in a list of his witnesses at the time of summoning me, I do protest against him for not so doing, and claim that he shall be excluded from doing so hereafter.

“ 11th February 1824.”

(signed) “ *W. Edwards.*”

“ Further witnesses.—Mr. J. Smit, Mr. H. N. E. Smit, Mrs. Dray, A. B. Laing, W. E. Sheppard, Dr. Lyss, Mr. D. Denyssen, and the female apprentice he hired for a wet nurse.”

“ To His Majesty's Fiscal,

“ I do hereby require you to summon the following additional witnesses for me:

“ Thomas Dreyer, Wynberg; Jacob Van Reenen-Sebastian's son, Sebastian V. Reenen-Sebastian's son, of Witteborn; John Warden, at Mr. Luck's, Long Market-street; M. W. Theunissen, Cape Town; Mr. Koeke, Cape Town.

“ Dated this 14th day of February 1824.”

(signed) “ *W Edwards.*”

8. And moreover a letter received by him from Advocate Cloete, in the name of the first defendant, in which he refers to the list of witnesses sent in by the second defendant:—

“ Sir,

“ Having been retained by Mr. Lancelot Cooke to take charge of his interests in the procedure of the Fiscal R. O. *versus* the said Cooke, I have the honour to acquaint you, that Mr. Cooke will for the greater part refer to and avail himself of the witnesses already named by Mr. Edwards in his behalf; Mr. Cooke only wishing to add the name of Mr. George Cadogan, whom he requests may be summoned to be heard at the trial.

“ I have the honour to be, Sir,

“ Your obedient Servant,

“ 13th February 1824.”

(signed) “ *H. Cloete, L' Adv.*”

The R. O. prosecutor stating further, that no witnesses have been named to him on the part of third defendant, and that the names of the witnesses sent in by the second defendant Wm. Edwards, in a list subscribed by him, and referred to by the first defendant Lancelot Cooke, could not be added to his list of witnesses, because it was requisite that it should previously be stated for what purpose the evidence of each of them was required, in order that the Court may thereby be enabled to scratch off from the list the unnecessary and superfluous witnesses, and prevent vexatary proceedings, accompanied by unnecessary delays.

In addition to which, the defendant Jan Bernard Hoffman (although duly applied to for the list of his witnesses) has thought proper not to send the same to His Majesty's Fiscal. The list of the defendants, L. Cooke and Wm. Edwards, have therefore been added as annexures to the prosecutor's list of witnesses.



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The prosecutor further states,

I conceive to be justified in every respect in this request, as it is not only founded on precedents of which I could, if necessary, enumerate some, but it is also justified by law. See Memla's Practice, where it is taught, that although two or three witnesses are sufficient to prove a fact, the admission of a great number must however be avoided and prevented. Which in every respect agrees with Mattheus, de Criminibus, 48, 15, 3, 9, and Voet Pandecta de Testibus, N<sup>o</sup> 20.

On these grounds I have thought it advisable, previous to adding the witnesses of the first and second defendants to my list, and causing them to be summoned, to leave the same to the arbitrium Judicis.

“The Court, previous to deciding on what has been advanced by the prosecutor, doth direct the investigation of the case to go on regularly until that stage of the proceeding in which it shall be requisite to examine the defendant's witnesses.”

The Act of indictment having been read to the defendants, as well in the Dutch as English languages, in open court, the Court stated to the defendants, that the interrogatories exhibited in court, as also such further queries as the Court should think proper to put to them on the subject contained in the Act of indictment, would be put to them by the Secretary.

Upon which the second defendant stated, that previous to the interrogatories being answered, he had some exceptions to propose, it being the regular stage of the proceedings fixed for that purpose by the Crown Trial, and says to have the following exceptions to propose :

1. That the action has not been brought forward within the time prescribed by law. 2. That the Fiscal has not summoned his witnesses, which the law compels him to do. 3. That the Act of indictment must contain a religious truth, which has not been observed by the Fiscal. 4. That the Court is not competent.

With regard to the first exception, I must observe, that the decree by which a summons to personal appearance has been granted against us is dated 5th February, and that the prosecution has been commenced on this date, being the 16th February, whilst the 33d article of the Crown Trial directs that no prosecution may be delayed beyond eight days after the decree has been issued. According to the rules of arithmetic, I cannot bring the interval between the 5th and 16th to eight days; the Fiscal may possibly understand another arithmetic, to bring it to eight days, but I do not.

It is true, that the 33d article states further, “provided some legal impediments exist, which are duly to be recorded.” If the Fiscal is, therefore, able to show any recorded legal impediment, I shall willingly renounce from this my exception, but I am convinced that the Fiscal cannot show any legal excuse. The second defendant stating further, in a very violent tone, that the Fiscal conceives himself above the law; that this is, therefore, a very gross neglect of the Fiscal, whose duty as head magistrate is to guard that the laws are strictly adhered to; and further, in the same tone, some personal remarks on the Fiscal.

The Fiscal requests that the second defendant may be stopped in these personal and insulting remarks.

The Court directs the second defendant to abstain from making any personal and insulting remarks on the Fiscal.

The second defendant states on his second exception,—

According to the 38th & 39th art. of the Crown Trial, the Fiscal is directed to produce a list of the defendant's witnesses on the commencement of the prosecution, and to show at the same time that they have been properly summoned, which has not been observed by the Fiscal, the contrary of which the Fiscal is not able to prove; notwithstanding the 78th art. of the Crown Trial directs that the prosecution is to go on without interruption, the Fiscal has thereby deprived me of my right of defence, and has, contrary to the above law, dared to take upon himself not to summon my witnesses, and to delay the prosecution,—and further, in a very passionate, threatening and improper tone, some personal remarks against the Fiscal.

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The Fiscal again requests that the second defendant may be directed to confine himself to the merits of the case, without making use of such insulting expressions against him.

“ The Court recommends the second defendant to abstain from using these insulting expressions, which can no longer be tolerated ; and in case they are repeated by him, it will be considered as a contempt of court, the consequence of which he would experience.”

The second defendant states, in support of his third exception—

This exception is of more consequence to me. The 34th article of the Crown Trial says, that in making out the Act of indictment, the Fiscal must adhere to religious truth ; this article has likewise not been observed by the Fiscal. I shall prove that he has stated an untruth in the Act of indictment, and has given a wrong construction to my Memorial. The Fiscal has therefore made himself guilty of falsity. The Fiscal states in the Act of indictment, that it is said in the Memorial (which he calls a libel) that the Prize Negro, W. Cousins, would have returned to the service of Mr. Blair, if he had not been prevented by me, the friend of the first defendant ; whilst the Memorial states quite the contrary, namely, “ that the said negro preferred all the horrors of starvation, rather than going into the service of Mr. Blair.” Is this an adherence to truth ? This is falsity, and the Fiscal deserves corporal punishment, for accusing me of words I have never made use of. I must therefore say that the accusation of the Fiscal is a detestable falsehood.

The R. O. prosecutor says, “ It is possible that I may have erred in some circumstances in the Act of indictment. I am but a man, and am therefore liable to err. But the Court is to judge whether I have been guilty of a detestable falsehood, before I can sit here any longer as Fiscal.”

The second defendant says,—It seems that the Fiscal is displeased with the words, detestable falsehood ; but the untruth so clearly appears in the Act of indictment, that I do not know any other appellation for it, and shall be happy if the Fiscal can give it any other name.

“ The Court having heard the expressions of the second defendant, William Edwards, and the remarks of the Fiscal, doth condemn the second defendant, in consequence of his above conduct, in contempt of Court, to an immediate imprisonment of one month in the town prison ; in consequence of which, the further prosecution is postponed to a subsequent day.”

Thus done at the Cape of Good Hope, die et anno ut supra.

(signed) *Walter Bentinck.* *P. J. Truter, jun.*

In my presence,

(signed) *J. T. Jurgens, 1 H. C.*

A true translated Copy,

(signed) *D. F. Berrangé, Sec.*

RECORDS held before the presiding member Willem Hiddingh, Esq. LL. D., and the Members of the worshipful the Court of Justice of the Settlement of the Cape of Good Hope, and of the territories and dependencies thereof, in the case of William Edwards, appellant, from a sentence of Commissioners, dated 16th instant, by which he is condemned for contempt of Court to one month's imprisonment in the town gaol, *versus* His Majesty's Fiscal, R. O. respondent in said case. Thursday the 26th February 1824, at ten o'clock A. M. at the usual Court Hall.

Present, all the Members “ demto,” His Honour the Chief Justice, Sir J. A. Truter, Kt. LL. D. being absent from town.

Advocate Brand, under exhibition of an extract Resolution, dated 23d instant (Annexure L<sup>a</sup> A.) and the Records held before Commissioners (Annexure L<sup>a</sup> B.) says for claim in appeal,

Right worshipful Sir, and  
worshipful Gentlemen,

WHEN I reflect on the case with the defence of which I am charged, when I earnestly consider the situation in which I am placed, then I must freely avow that I feel certain reluctance.

Advocate Brand for William Edwards, (being appointed by Resolution of this Court to act for him in forma pauperis, appellant, *versus* His Majesty's Fiscal respondent, to hear claim made and conclusion taken, for the retraction of the above sentence of Commissioners ; to answer thereon, and close proceedings pending the Courts of Session.

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It is not a question between individual and individual which I am now to advocate; the case is of much more importance and consequence. Placed before me, I see worthy and worshipful Judges, to whose jurisdiction I am subject as a practitioner, under whose immediate control I am placed; and it is against them that this case must be defended, for the appellant has been condemned for contempt of this very Court.

This consideration alone renders my position indeed difficult and important, and I should almost backwardly proceed to the defence of this case, were it not that you yourselves, worshipful Judges, have inspired me with a certain confidence. It was not my free choice to take the defence of this case upon me, but I was charged with it by a Resolution of this worshipful Court; a charge which I have most readily accepted, not only because I felt myself greatly honoured, but also because I have always made it my rigid and established duty to obey the directions of my Judges, with readiness and willingness.

From thence, that I conceive not only to have some claim to your indulgence; but also to request that the Court will overlook any expression, if, perhaps, inconsiderate.

When we look into the sentence of Commissioners, of the 16th February last, now in question, we find that the appellant is thereby condemned to an *immediate imprisonment* of one month for contempt of court, and that sentence was immediately carried into execution, notwithstanding the appellant instantly noted an appeal; in which case the execution must, according to the 131st art. of the Crown Trial, be stopped.

It was never the intention of the appellant to insult those worshipful Judges, or to defy their authority, on the contrary, the appellant has, as well previous as subsequent to that time, addressed the Judges with the greatest respect and reverence; and we can safely appeal to those Judges themselves, who have acted in the first instance, whether the appellant, when carried away by passion, in the heat of his defence and in advancing his grievances, did not immediately redress himself, whenever he was stopped by their Worships; whether he did not, whenever he was corrected by the Judge, make a proper apology with the greatest submission; whether he did not finally, when he remarked that he could not master his passion, declare that he would rather not proceed in his defence, than have the appearance of not respecting the Judge? That all this was the case will not be denied by the Judges of the first instance; and this being so, in what respect has the appellant insulted the Judge—wherein did he defy their authority? No, worshipful Judges, allow us once more to declare, that the appellant respects and venerates this worshipful Court.

It is true, worshipful Judges, that the appellant, in the heat of his defence, did not respect the R. O. respondent, or treat him with all decency, but it is also true, that we hereby touch a point which is of the greatest importance to every individual as the defender of his own right, to every practitioner as the defender of widows and orphans, to every one of you, worshipful Gentlemen, as administrators of a strict and impartial justice.

When the relative situation of the R. O. respondent as prosecutor, and the appellant as defendant, be considered; when every thing that happened between them previous to the commencement of the prosecution be recollected; when the nature of the prosecution of the principal case, and the manner in which it has been instituted, be reflected upon; then certainly every well thinking and unprejudiced Judge will grant *quod res plus licere debet quam fisco*, and that the conduct of the appellant against the R. O. respondent is excusable in every respect.

Imagine the appellant, with the R. O. prosecutor, in the Fiscal's office, remonstrating in a decent and proper manner about the unfairness of the principal action, and recollect at the same time the treatment which the appellant states to have met with there,—and then we ask, worshipful Judges, whether the appellant shall not be excused, when his mind is filled with antipathy against the prosecutor? We will go still further; the case was then finally brought to the cognizance of the Judge in the first instance; but in what manner? Not as the Crown Trial, which is to be obeyed by every one, whether he be a magistrate or individual, directs; the Crown Trial was on the contrary deviated from, and that deviation had exposed the appellant to difficulties which he would have been freed from, if the Crown Trial had been adhered to.

The appellant being on the eve of his departure for England, repaired to the R. O. respondent, to get his pass signed; this was refused him naturally, because  
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a criminal action existed against him; it was therefore also natural that the appellant was anxious that this case should be brought to a speedy conclusion, in order that he might be enabled speedily to proceed on his intended voyage; but in this respect also, all sorts of obstacles were put in his way. The 33d art. of the Crown Trial directs that all criminal cases must be prosecuted within eight days after the decree for summons to personal appearance is issued; and notwithstanding this express order of the legislature, the prosecutor brought the case before the Judge four or five days later. Can it therefore be found inexcusable or blameable, that the appellant stated his grievances in that respect to the Judge, and that he did so in a manner fitting an upright and good inhabitant? and can it any longer be found blameable in the appellant, that in reflecting on the unfairness and illegality of the proceeding, his feelings became irritated? The appellant, who was thereby kept back from his intended voyage in so illegal a manner,—he, who saw, to his great regret, that a case which could ere now have been concluded, was thereby prolonged? No, worshipful Judges, none of you can think so unreasonably. The R. O. respondent exculpates himself, &c. Vide art. 33.

But what is still worse, worshipful Gentlemen, the 78th article directs the public prosecutor, &c. Has this been complied with? by no means; and in this respect also the appellant had reason to consider the neglect as a vexation. The prosecutor duly summoned his own witnesses for the day of the trial; he fully enabled himself to charge the appellant with a crime, and the appellant, being a *Reus*, was deprived of his means of defence.

Who, worshipful Judges, has ever heard that the prosecutor must be clothed with more privileges in accusing, than a defendant and accused, in the defence of his own right? Certainly this is the first precedent we experience. This neglect, apparently and most probably, tended to counteract the appellant in his defence; and who, we confidently ask, can remain cool, in representing these and similar grievances? who should not feel a fire kindle in his heart, when the indulgences and privileges granted to an accused by the special laws of the colony, are invalidated and violated by a prosecutor? and should an accused, then, be punishable because he does not represent the truth clad with ornaments, but in its true nakedness? this would be a hardship pressing too hard on a *Reus*.

The R. O. respondent, in order to exculpate himself on this neglect, represented to the Court, that he had not summoned the witnesses, because he wanted first to propose to the Court to diminish their number. We admit for a moment that the prosecutor had grounded reasons for so doing; but it is also true, that the prosecutor had no right to deviate from the very clear words of the law, without any decree or consent of the Court; as long, therefore, as the Court had not yet declared itself on the subject, the prosecutor, being subject to the law, was obliged to obey that law, the maintenance of which he stands charged with.

But not only these grounds have given the appellant sufficient reason to feel himself aggrieved in the first instance; no, worshipful Gentlemen, there is one more, which indeed merits the particular attention of the Court.

The duty of prosecuting his fellow creature ought in itself to be an unpleasant task, particularly those fellow creatures who do not fall in the strict terms of the law; it is sufficient when a man is so unfortunate as to render himself criminal. But what will the Court say, when the appellant proves that the words of the Memorial (about which the principal action exists) have been misconstrued? and why?—in order to accuse the appellant of a crime which no where exists. The words written by the appellant, in the Memorial to the Lords Commissioners of the Treasury, are—*F. L.*

Now this is an accusation against C. Blair, and we do not believe that the Court will in these words find an accusation against the appellant himself; but when the Act of indictment be examined, it will be found that this accusation against *Blair* has, by the sagacity of the prosecutor, been converted into an accusation against appellant. *F. L.*

Now this is a crime laid to the appellant's charge, not even the shadow of which exists; which might perhaps have been passed over in silence, if in this respect also the Crown Trial did not speak so very clear that no other interpretation can be given to it. *F. L.* Art. 34.

I have laid before you, worshipful Judges, all the circumstances which have already taken place before the appellant appeared before Commissioners on the 16th February last, to defend his case, circumstances which must fill the mind of every

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every unprejudiced man, and of every friend of impartial justice; with indignation; We would feel ourselves greatly disappointed, if these circumstances do not also make some impression on your minds, and which must plead for the exculpation of the appellant.

The appellant, an English burgher, avails himself of his right of petitioning the King and Parliament; the Memorial is sent in by him in a legal manner to the competent authority; and previous to the King and Parliament having decided upon it, the appellant is criminally prosecuted for that very petition; a prosecution illegal in itself, for, says Judge Blackstone, in his Commentaries, b. i. ch. i. p. 143, by stat. 1 W. & M. all commitments and prosecutions for such petitioning are illegal.

This action and prosecution the appellant viewed in the light of persecution; and indeed, worshipful Judges, when we consider the different circumstances which we have just now enumerated, when we add to them the odiousness and difficulties to which the appellant has been exposed by this action—how he had been impeded in his departure, how he has been detained here without sufficient means of subsistence—how finally, the prosecution, once commenced, was delayed by neglecting the directions of the Crown Trial; and when, in conclusion, we add the extraordinary prayer made by the prosecutor to be allowed to extend the act of indictment against the appellant, on account of words which had escaped the appellant in his defence, after answering the interrogatories,—then, worshipful Judges, it will be difficult to deny that it has a resemblance of grounded suspicion.

Animated with these thoughts, the appellant appeared before the Court of Commissioners; like a lurking fire were they laying in his breast; one single word was almost sufficient to make it kindle in full force; and ere the appellant could check himself (and who has sufficient power over himself,—*homo sum, et humani nihil alienum a me puto,*) we say, ere the appellant could check himself, the fire had already burst out on all sides. Indeed, worshipful Judges, if in that moment some hard words have escaped the appellant against the prosecutor, then we believe that the *causa movens* is a sufficient exculpation. But it is not to be forgotten, worshipful Judges, that these words have been uttered, not against the Court (for which the appellant feels too much reverence,) but against the prosecutor. The appellant has therefore not in the least insulted the Court.

It is true, it will be objected to us, that the appellant, even if he had not insulted the Court, has nevertheless disobeyed its orders to abstain from those expressions; but we appeal to you, worshipful Gentlemen Commissioners, whether the appellant, when such remark was made by you, did not immediately apologize, and state for his exculpation, that he had been carried away by his passion; that this passion had overpowered him. How the appellant immediately after, and in compliance with the Court's warning, calmly resumed his reasoning. But, alas! human weakness triumphed. He forgot himself. His passion very nearly extended to a *furor brevis*, which made him utter the words for which he was punished with the imprisonment in question.

And indeed, worshipful Gentlemen, if it is true that the atrocity of a crime depends from the greater degree of bad faith or *dolus* which is found in the same, then it is, *à contrario*, also true, that the lesser degree of criminality in a crime must be determined in proportion to the lesser degree of bad faith and the greater degree of exculpation which it contains. This greater degree of exculpation we have already shown, and will further pass it over in silence.

We acknowledge that the appellant has used hard, even insulting words towards the R. O. prosecutor, but to obtain redress for the same, the usual course of the law is open to him.

But that the appellant has been disobedient to the commands of the Court with any intention (for intention must exist to constitute a crime,) this, worshipful Judges, we can neither believe nor acknowledge; for, in the imputation of every criminal act, an *intention*, a *libera voluntas*, must exist; if that is wanted, no criminality exists. And to this application the act of the appellant belongs. As long as the heat of his defence had not yet overpowered him, he spoke and argued before you, Gentlemen Commissioners, with coolness and respect; but no sooner was he led away by his fury, but he forgot your commands, and committed himself. The height of his passion could, however, not establish the criminality of the act. And allow us, worshipful Judges, that in support of this our opinion, we may appeal to what is taught by the respected professor Luzac, &c. *F. L.* in the Notes ad § 3. made by Prof. Luzac on Wolff Instit. de Droit de la Nature.

And it is in the conviction, that you, worshipful Judges, will be of the same opinion with this learned man, that we feel no difficulty, making claim in appeal, to conclude, that the sentence of Commissioners of the 16th February, now in question, shall be retracted, and the appellant shall consequently be released from his imprisonment; leaving it however to the prosecutor to institute such action against the appellant, in case of defamation, as he shall think proper, or to such other, &c.

(signed) C. J. Brand, Adv.

Exhibited in Court, 26 February 1824.

His Majesty's Fiscal says in reply,

Worshipful Judges,

David Boyne, when he describes in the preface to his much esteemed Treatise on the Divine Authority of the New Testament, the manner in which he defended its doctrine against the attacks of the Deists, makes this very just remark, which I beg to apply to the conduct of the second defendant *in judicio*, "a person who is conscious of truth on his side, is under no necessity of having recourse to scurrility and abuse." It would be needless to occupy the attention of the Court by being prolix in this my application, I shall therefore say but very little on the subject.

The defendant has been found guilty by the Court of such contempt of the judicial authority, as to render an immediate exemplary animadversion necessary. The nature of this contempt is sufficiently known to the Court and to the whole public. He did not cease, although repeatedly warned by the Commissioners to keep within the bounds of decency, to insult me in my official capacity as Fiscal, to blame my public conduct, and finally to make use of the most vulgar expressions, which may not be used against a private individual, much less against a public officer in the execution of his duty: even the common distinction attached to my situation was not spared by his abuse.

If his case had been a good case, it would not have required those weak, and, in the estimation of every well-disposed man, dishonourable means of defence; he would have considered that in his present situation of summoned to personal appearance, his conduct ought to be humble; he would have endeavoured to prepossess the Judge in favour of his case, not by insulting attacks and improper expressions, but by convincing arguments.

It therefore sufficiently appears from his conduct, what opinion is to be formed of his case.

But, worshipful Gentlemen, I am obliged to confine myself to the objection made by him against the decree of the Court of Commissioners, by which he is condemned to one month's imprisonment. That decree I consider in no other light but as a punishment for contempt of Court, for not having listened to the repeated warnings of the Court, but in no wise to give satisfaction for the insult offered to me as public prosecutor, which latter will yet become a subject for my consideration. It is a judicial vindication of the Court itself, which every Judge ought to exercise whenever he is insulted in his judicial dignity, or when he is disturbed in the maintenance of good order in his proceedings, *judex se ipsum vindicat*. Vide *Blackstone's Commentaries*, vol. 4, page 286, beginning with the words, *If the contempt*, &c. The appellant thus places the case quite in an erroneous light, when he endeavours to have his punishment considered as a satisfaction to the Fiscal; this it is not. It is the Judge himself whom he has insulted, and whose authority he has defied, and who has taken the step against which the appellant now complains, in order to maintain the judicial authority.

We have heard the advocate for the appellant acknowledge that his client was in the wrong, which he has at the same time endeavoured to palliate under various pretexts. He has appealed to the testimony of the Commissioners, to show that the appellant, when he was reminded not to give further scope to his passions, immediately endeavoured to recollect himself, and made a proper apology. He has described the appellant as never having had any intention to insult the Court; carried away by passion, it is said, he forgot the warnings and commands of the Court. This passion deprived him of his free-will to direct his words; yet, it is said, this rendered him equal to a child, equal to an insane person; and this childish and insane conduct is stated to have been the consequence of previous provocation, a provocation which, it is said, had its ground in what had happened to the appellant in the Fiscal's office. But, worshipful Judges, I do not know that any provocation has taken place in my office. I have there only spoken demon-

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Documents.

N<sup>o</sup>. 15.

stratively with the appellant; my public duty compelled me to indict the appellant, and this indictment I had it not in my power to withhold. It has been my custom at all times to spare particular persons as much as possible. I have said nothing personal to the appellant; but the appellant's advocate himself, feeling that he cannot plead a momentary provocation with success, takes recourse to more remote provocation. With respect to what happened in my office, I recollect that the appellant called on me with the usual form of an affidavit, to enable him to obtain a pass to leave the colony; not finding myself at liberty to administer that oath, I not only signified this to the appellant in general terms, but also did not hesitate to communicate to the appellant, on his inquiry, that a Memorial (alluding to the Memorial in question) had been placed into my hands, which would oblige me to institute criminal proceedings against him and against the first defendant Lancelot Cooke, and that therefore my hands were tied, and that I was not at liberty to administer the oath required by him. On this statement the appellant burst out in the most violent manner, saying, that he should like to know who had intercepted that Memorial, and that if the Fiscal had done so, he would prosecute him. I was on my guard, and felt obliged to warn the appellant Edwards not to proceed in that tone; that it would be better not to hold any further official communication with him before we should meet before the Judge, and that therefore I would not enter into any discussion with him in my office. This occurrence is now called a provocation, and a provocation which justified the appellant in his retortion, notwithstanding eight days have nearly elapsed between this occurrence and the prosecution; and who knows not that the retortion must immediately follow on a provocation, to render it excusable? Had the appellant actually felt himself aggrieved at my conduct, would he not have done better to have addressed himself to the competent authorities, than to endeavour to obtain satisfaction by publicly insulting the Fiscal? Has the appellant not, on the second session, after he had been stopped by the Judge, commenced with the same insulting expression with which he had closed the first, viz. that the Fiscal had made himself guilty of a detestable falsehood? Was the appellant then still insane? Had he not then had time enough to recollect himself? Is any thing necessary beyond examining The African Commercial Advertiser, to judge of the manner and tone in which the appellant persisted in his conduct towards the Fiscal?—Yes; how was the appellant's conduct even towards the Judges themselves, when they explained to him that when he could prove his assertions against the Fiscal and Mr. Blair, he could prosecute them? His answer was, *I am aware where and how to seek for justice, but that he knew better than to assail a snake in its own hiding-place.* The hiding-place alluded to by him was this court hall. This sanctuary he branded with the name of a serpent's hiding-place, and the Judges were those who would hide the snake. This is the respect for the judicial authority with which appellant's advocate wishes to make it appear that his client is so thoroughly impressed! Is this respect for a Judge? and is this only not sparing the prosecutor?

Another provocation is sought, in the manner of the proceedings against the appellant; and alluding to this circumstance, it is said that it must be acknowledged "*quod reo plus liceat quam actori.*" The Fiscal is accused of having deviated from the Crown Trial, and this deviation is said to have exposed the appellant to inconveniences; it was refused to sign his passport; and to raise still more obstacles against his departure, the prosecutor brought the case forward some days later than he was allowed to do. And how, says appellant's advocate, can the appellant, then, be blamed that he complained that he was stopped in his departure in so illegal a manner? I do not see how the advocate can construe into an illegal hindrance the circumstance that the prosecution was brought forward a few days later than the Crown Trial directs. I compute the eight days to commence from the receipt of the decree. The law teaches us, that we should not bind ourselves so much to the words as to the meaning of the legislator; and this is in our case a fixing of time, within which the prosecutor is able to summon the necessary witnesses; and how could this take place with the witnesses living at Tulbagh? the law does not require impossibilities.

We have heard of another grievance, stated to consist in the prosecutor's not having complied with the directions of the 78th article of the Crown Trial, according to which the prosecutor is obliged to take care that all the witnesses as well in favour of as against the accused party are present on the day of the trial; our non-compliance with the law is termed a vexation, a trick to take advantage of the absence of the appellant's witnesses, in order thereby to be enabled to support

support the accusation, to hinder the appellant in his defence, and even to counteract him; and who, it is said, would not feel agitated on seeing his rights infringed upon in that manner? But how little trouble will it cost to remove even the shadow of this grievance; for if it can be calculated that ten witnesses only can be heard, for what purpose then will it be requisite to summon fifty? Besides, the law teaches us, that if a great mass of witnesses be named, that in such case the opinion of the Court should first be asked, whether it be necessary to summon the whole of them or not; and without having obtained that opinion, those witnesses cannot be summoned. I have shown, by the law and by legal authorities, that in similar cases the Judge must first be made acquainted with the circumstances of the witnesses before they are summoned, because if any of the witnesses be rejected, it becomes unnecessary to summon such of them.

And as if all this was not sufficient, it was moreover asserted that I have misconstrued the words of the Memorial, with the sole object of accusing the appellant with a crime which no where exists. I am said to have accused him of having persuaded the Prize Negro, W. Cousins, not to return to the service of the Collector; I do not see wherein that misconstruction exists. I willingly acknowledge that I have not comprehended the advocate for the appellant. He himself was in doubts, and did not know how he should make himself understood to the Court; To this grievance another has been added, namely, an extraordinary request to extend the Act of indictment; from this, says the advocate for the appellant, it can undoubtedly be seen, that provocation has really taken place. But I deny having made any such request; I have only desired that the Court should pay the necessary regard to what would appear from the appellant's own answers, beyond what is contained in the Act of indictment; that is, that the Court should pay regard to the acta and probata. It cannot be said in our mode of trial as in the English, this is not contained in the Act of indictment, and therefore it cannot be entertained. In this respect a material difference exists between the English Acts of indictment and ours. I have often altered my claim without adhering to the Acts of indictment, and my claim has nevertheless more than once been adjudged; but how could even such an extraordinary request serve as an excuse for the appellant, and be construed to have occasioned a provocation which had been the cause of the appellant's passion and incarceration, since that request was at all events made in a session subsequent to his incarceration. Can thus this subsequent act have possibly influenced his preceding conduct? To all this, another grievance has been added, that, namely, the appellant availing himself of his right to petition the King and Parliament, should be punished for contempt of Court, before he has been heard on the merits of that Memorial. But, whatever right the appellant means to have, it can never justify him to fly in the face of the Judge, who, seeing his authority defied, has undoubtedly the right to vindicate himself by taking such resolution as can serve as well for the punishment of the offender as for an example and warning to others. In the mean time, the incarceration of the appellant has not been claimed or requested by me; the Judge himself has thought it necessary for the maintenance of his defied authority; and I therefore submit myself in that respect to this worshipful Court's opinion."

"The Court, having seen and examined the records held in the first instance, having heard the arguments of both parties in appeal, and having considered every thing that deserved attention or could in any wise move the Court, administering justice in the name and on behalf of His Great Britannic Majesty, Doth declare the appellant not to be aggrieved by the sentence of the Commissioners of the 16th instant, and doth consequently affirm the same.

"Thus done and decreed in the Court of Justice, at the Cape of Good Hope, *die et anno ut supra*, and pronounced on the same day.

(signed)	" W. Hiddingh.	J. C. Fleek.
	W. Bentinck.	P. J. Truter.
	J. H. Neethling.	T. B. Borchers.
	F. R. Bresler.	R. Rogerson."

"In my presence, (signed) " D. F. Berrangé, Sec'."

On this 28th February 1824, the appellant Wm. Edwards declared to appeal from the above sentence to the Right honourable the Court of Appeals for Criminal Cases.

Quod attestor,  
(signed) D. F. Berrangé, Sec'.



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Documents.

N° 15.

Annexure L<sup>a</sup> A.

On this 23d February 1824, I the Undersigned, fourth Head Clerk to the worshipful the Court of Justice of this Government, did, at the desire of the presiding Member, repair to the respective members of the Court, and submitted to them the Memorial of Advocate C. Brand, as being appointed, by Resolution of the 19th February last, practitioner for W. Edwards, submitting a certificate from the sequestrator's office, in proof of the poverty of said Edwards, and requesting on the ground thereof, to be allowed to proceed for said Edwards pro Deo, and without the use of stamps, in the appeals, noted on the 16th and 20th February last, from the sentences of the Court of Commissioners of the said dates, in the case of H. M. Fiscal v. said Edwards.

The said Memorial being as follows: *F. J.*

Upon which it was, after examination of the above certificate, resolved to accede to Memorialist's prayer, as is done by these presents, and consequently to admit the said advocate to act for the abovenamed William Edwards in appeal, in forma pauperis, and without the use of stamps.

A copy hereof to be granted to the advocate aforesaid, for his information and guidance.

(signed) *W. J. Smuts, 4 H. C.*

Annexure L<sup>a</sup> B.

RECORDS held before Messrs. W. Bentinck and P. J. Truter, Commissioned Members of the Worshipful the Court of Justice of this Government, in the case of His Majesty's Fiscal, R. O. Prosecutor *versus* 1. Lancelot Cooke, 2. William Edwards, summoned to personal appearance, and indicted of having drawn up a libel, or having caused the same to be drawn up and published, in order, whereas the Appeals noted against the Court's sentences in the incidental questions introduced in the above case have been rejected, now to proceed in the pp' case according to the law, on Friday the 26th March 1824.

Previous to the commencement of the proceedings of this day, Commissioners observed, that it appeared from the report on the summons, that the defendants have been summoned within 24 hours, which ought, in conformity to the mode of proceeding, to have been done at least 24 hours sooner, and on that account questioned the defendants whether they would desist from that privilege, in order to speed the case.

Upon which both the defendants declared to desist from the same.

The R. O. prosecutor says,—I have the honour to exhibit two decrees of the Right honourable the Court of Appeals, both dated 18th March 1824, on the subject of the incidental questions in this case, from which it appears that they have not been admitted in appeal, but were referred back to this Court, requesting on that ground that the case may again be prosecuted; the said orders being as follows:

In the Court of Appeals for Criminal Cases at the Cape of Good Hope, on the eighteenth day of March in the year of our Lord 1824;

Edwards <i>v.</i> His Majesty's Fiscal,	}	In appeal from a decree of the worshipful Court of Justice bearing date 26th day of February 1824.
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The Court having read and duly considered the Memorial of William Edwards, and the reply thereto, doth reject the prayer of the same; doth remit the cause back to the worshipful the Court of Justice, to be proceeded in according to the laws of this colony; the parties being at liberty to make any further appeal they may be advised to in any future stage of the proceedings.

(signed) *Thom' Rowles, Sec<sup>r</sup>.*

In the Court of Appeals for Criminal Cases at the Cape of Good Hope, on the eighteenth day of March in the year of our Lord 1824;

His Majesty's Fiscal, R. O. in Appeal, <i>v.</i> Lancelot Cooke and William Edwards,	}	From a Decree of the worshipful Court of Justice, bearing date the 26th day of February 1824.
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The Court having read and duly considered the Memorial of His Majesty's Fiscal, and the replies thereto, doth reject the prayer of the same; doth remit the cause back to the worshipful the Court of Justice, to be proceeded in according to the laws of this colony, the parties being at liberty to make any further appeal they may be advised to in any future stage of the proceedings.

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N° 15.

(signed) *Thom. Rowles, Sec<sup>r</sup>.*

The defendants submit themselves.

Commissioners accede to the prosecutor's request.

The R. O. prosecutor says,—I request to be admitted to produce two witnesses, not included in my list, to serve in proof of the intention to defame, in publishing the Memorial or libel in question; not because he thinks this proof to be requisite, that intention evidently appearing from the publication of the duplicate to His Excellency the Governor, and the acknowledgment of the transmission of the original to England, but because I was informed on the 26th February last, the day on which the question about the exception served in appeal, that reasons existed for suspecting that previous to the commencement of the prosecution, the contents of the Memorial or libel in question had been communicated to these two witnesses.

Not having received this information before that day, I trust that this circumstance will plead as a sufficient excuse for my not having included in the list the two witnesses to be now named by me, and who are, 1, J. H. Whiston, 2, Thompson, (partner in the firm of Cooke and Thompson.)

The second defendant says,—This is another mirepresentation; I am astonished that the Fiscal continues to pursue his former system of misrepresenting facts; I have, on the interrogatories, denied ever having sent the Memorial to Lord Charles Somerset, but to the Lords of the Treasury; I have however no objection to the two witnesses being heard.

Advocate Cloete says for the first defendant,—I call the Court's attention to the irregular mode of proceeding pursued by the R. O. prosecutor, which just now again appeared from the prosecutor's request. The R. O. prosecutor is well aware that the 38th and 41st articles of the Crown Trials prescribe, that the names of all the witnesses necessary to be heard must be stated at the commencement of the trial, after which no more witnesses can be heard, except for very important reasons; it is also known to the Fiscal, that the Court has rejected the examination of any witness in this case, which has been affirmed by the Right honourable the Court of Appeals; and notwithstanding all this, the prosecutor now again prays to be allowed to hear new witnesses. H. M. Fiscal himself acknowledged that the two witnesses named by him, only came to his knowledge on the 26th February, so that their evidence cannot be of that importance, as to prove an action instituted by him on the 16th of the same month, of which he ought then to have been possessed. It is therefore very strange to endeavour, in an action for libel, to prove the publication of it at a moment when the trial is so far advanced that the parties almost expect the decision of the Court. The R. O. prosecutor himself states, that the two witnesses named by him are not considered to be of great importance; notwithstanding which, he requests to be allowed to examine them in the present stage of the proceedings, contrary to the distinct letter of the 41st article of the Crown Trial. And in case these witnesses are judged requisite by the prosecutor to prove any publication, he is also obliged to admit evidence to contradict the same. On which ground I conclude, that the prosecutor's prayer shall be rejected.

Commissioners reject the prayer of the R. O. prosecutor, on the ground, that during the investigation no new or unforeseen circumstances have occurred to justify the production of new witnesses. They do further declare the investigation to be closed; do relieve the defendants from personal appearance, and from all further prosecution respecting the accusations contained in the Act of indictment.

Thus done at the Cape of Good Hope, die et anno ut supra.

(signed) *W. Bentinck. P. J. Truter.*

In my presence,

(signed) *J. T. Jurgens, S. H. C.*

A true translated Copy,

(signed) *D. F. Berrangé.*

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Documents.

N° 16.

N° 16.—EXTRACTS from the Minutes of the Court of Appeals ; dated

1st March 1824	} In the several cases of appeal on the part of H. M. Fiscal, Messrs. Cooke and Edwards, from sentences of the Court of Justice, in the case of H. M. Fiscal v. Cooke, Edwards and Hoffman, for a libel upon Mr. Blair, Collector of the Customs.—Vide Documents N° 27.
3d March 1824	
4th March 1824	
8th March 1824	
9th March 1824	
18th March 1824	

(Copy.)

Extracted from the Minutes of the Court of Appeals for Criminal Cases.

- “ On the first day of March in the year of our Lord 1824.
- “ Edwards at the suit of } In appeal from the sentence of the worshipful Court of  
His Majesty’s Fiscal, } Justice, bearing date 26 February 1824.
- “ The appellant, by Brand, his advocate, brought in a memorial, praying to be admitted to appeal from the sentence dated as above.
- “ Edwards at the suit of } In appeal from the sentence of the worshipful Court of  
His Majesty’s Fiscal, } Justice, bearing date 26 February 1824.
- “ The appellant, by Brand, his advocate, brought in a memorial, praying to be admitted to appeal from a sentence dated as above, and to refer the decision to the judgment of His Majesty in Council.
- “ His Majesty’s Fiscal } In appeal from a sentence of the worshipful Court of  
v. } Justice, bearing date the 26 February 1824.  
Cooke & Edwards, }
- “ His Majesty’s Fiscal brought in a memorial, praying to be admitted to appeal from the sentence dated as above.
- “ On the third day of March in the year of our Lord 1824.
- “ His Majesty’s Fiscal }  
v. }  
Cooke & Edwards. }
- “ The respondent, by Cloete, his advocate, brought in a reply to the memorial of His Majesty’s Fiscal, and the same was filed.
- “ On the fourth day of March in the year of our Lord 1824.
- “ His Majesty’s Fiscal }  
v. }  
Cooke & Edwards. }
- “ Advocate Brand, for Edwards, brought in a reply to the memorial of H. M. Fiscal, and the same was filed.
- “ Edwards at the suit of }  
H. M. Fiscal. }
- “ His Majesty’s Fiscal brought in his reply to the memorials of appellant, and the same was filed.
- “ On the eighth day of March, in the year of our Lord 1824.
- “ Edwards at the suit of }  
H. M. Fiscal. }
- “ His Majesty’s Fiscal brought in his reply to appellant’s memorial, and the same was filed.
- “ On the ninth day of March in the year of our Lord 1824.
- “ Edwards }  
v. }  
H. M. Fiscal. }

“ The Court having considered the memorial of William Edwards and the reply of His Majesty’s Fiscal, doth refer\* the same to His Honour the Chief Justice, for his opinion as to the legal right, consistent with the laws of this colony, of the memorialist to have so many witnesses summoned, and whether he is by law bound

\* See Note of Mr. Rowles, next page.

bound to specify the grounds upon which he wishes so many witnesses to be so summoned.

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Documents.

N° 16.

“ On the eighteenth day of March in the year of our Lord 1824.

“ H. M. Fiscal  
R. O. in appeal  
v.  
Lancelot Cooke and  
William Edwards,

} From a decree of the worshipful Court of Justice, bearing date the 26th day of February 1824.

“ The Court having read and duly considered the memorial of His Majesty's Fiscal and the replies thereto, doth reject the prayer of the same; doth remit the cause back to the worshipful Court of Justice, to be proceeded in according to the laws of this colony, the parties being at liberty to make any further appeal they may be advised to in any future stage of the proceedings.

“ Edwards  
v.  
H. M. Fiscal,

} In appeal from a decree of the worshipful Court of Justice, bearing date the 26th day of February 1824.

“ The Court having read and duly considered the memorial of William Edwards and the reply thereto, doth reject the prayer of the same; doth remit the cause back to the worshipful Court of Justice, to be proceeded in according to the laws of this colony, the parties being at liberty to make any further appeal they may be advised to in any future stage of the proceedings.

“ Edwards  
v.  
H. M. Fiscal,

} In appeal from a decree of the worshipful Court of Justice, bearing date the 26th day of February 1824.

“ The Court having read and duly considered the memorial of William Edwards, and the reply thereto, doth reject the prayer of the same.”

The foregoing are true Copies of those furnished by the Secretary of the Court of Appeals to the Commissioners of Inquiry.

(signed) *John Gregory, Sec<sup>r</sup>.*

Copy of a marginal Note in the handwriting of Mr. Rowles, the Secretary of the Court of Appeals, appended to the Copy of the Minutes of the Court, dated 9th March 1824.

“ The Chief Justice not having been present in the Court when the sentence appealed from was pronounced, I suggested to His Excellency the importance of that law officer's opinion, and the almost imperious necessity of its being had, before he came to a decision upon points of such magnitude as those in the Memorial. The opinion is not in the office, but with His Excellency.” *T. R.*

N° 17. Copy of a Note dictated by Mr. Wilberforce Bird to Mr. Williams, on 6 November 1824, demanding the restoration of two Negro Apprentices by Mr. Heatlie.

N° 17.

“ Sir,

“ You will please to desire Mr. Heatlie immediately to send back my two apprentices, Germyn and Gracia, he having sold Green River, it having been my intention to let them remain only during the term Mr. Heatlie occupied that place, where they had long laboured, as is well known to Mr. Dashwood. Jupiter, the boy now with me, has made heavy complaints of having been harshly treated and beat by Mr. Heatlie.”

The above is a true copy of the Note stated by Mr. Heatlie, in his evidence, to have been dictated by Mr. Wilberforce Bird to Mr. Williams on Saturday the 6th of November 1824.

(signed) *John Gregory, Sec<sup>r</sup>.*

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Documents.

N° 18.

N° 18.—Mr. *W. Wilberforce Bird's* Remarks upon the Evidence given before the Commissioners of Inquiry by Mr. *Heatlie*, relative to the negotiation for the purchase of Mr. Bird's Estate at the Groene Rivier, and to the terms upon which certain Prize Negroes were left upon the estate by Mr. Bird.

(Copy.)

Gentlemen,

Custom-house, 2 June 1825.

AS your communication of yesterday was not left at the Custom-house till after I had quitted office, I had no opportunity of reading it till my arrival late to-day in Cape Town. It happens that I am so particularly occupied in some family arrangements both this day and to-morrow, that it is wholly out of my power to abstract myself from them so as to reply to what I consider to be a most malevolent and unfounded attack; and I must therefore, though very unwillingly, solicit your indulgence until Saturday.

I have, &amp;c.

(signed) *W. Wilberforce Bird.*

His Majesty's Commissioners of Inquiry,  
&c. &c. &c.

(Copy.)

Gentlemen,

Cape Town, 7th June 1825.

I HAVE the honour of forwarding to you my remarks on the evidence of Mr. Heatlie, to the best of my recollection, as to the circumstances which took place; but really, never having an expectation that what was done in kindness could at any time be charged with corruption, I made no minute or memorandum of the transactions. Certain I am, that I should never have given dominion to Mr. Heatlie, though merely temporary (without reserving strong checks and power of resumption) over any human creature. More may have passed; but if so, time has effaced all further memory of the transaction.

I have, &amp;c.

(signed) *W. Wilberforce Bird.*

His Majesty's Commissioners of Inquiry,  
&c. &c. &c.

REMARKS on the Evidence of Thomas Heatlie, charging *W. Wilberforce Bird* with the disposal to him of certain Prize Negroes apprenticed to said Bird by the Collector.

ON the 1, 2, 3, 4, 5, 6, 7, and 8th replies to the questions proposed to Mr. Heatlie, no remark is necessary.

The 9th is extremely incorrect and loose; it says, "Three Prize Negroes were considered part of the purchase." If this means any thing, it can only be, that the remainder term of servitude was purchased by Mr. Heatlie, as Mr. Bird has a title to no more.

On the 10th, Mr. Bird remarks, that he had no conversation with or knowledge of Mr. Heatlie, as a purchaser, in the first instance. Mr. Dashwood called on Mr. Bird, stating, that he wanted a small place, and asked the price of Groene Rivier, to which Mr. Bird replied, that he was not disposed to sell under 30,000 guilders. Either at that or a subsequent meeting, Mr. Dashwood pressed for some abatement, and Mr. Bird fixed his absolute price at 28,000 guilders. Mr. Dashwood then disclosed, that in truth he wanted this place for Mr. Heatlie, whom he called a young beginner. He then pressed Mr. Bird to leave on the place some apprentices, which would greatly assist Mr. Heatlie; to which Mr. Bird replied, that he might possibly consent to do so, as the boys had lived on the soil, and were used to the place, but it could only be for the period whilst Mr. Heatlie owned and lived at Groene Rivier, as he would not have his boys handed about to other people or other places. During this meeting, Mr. Heatlie came forward. What Mr. Heatlie declares on evidence, that he said or did or thought, Mr. Bird does not recollect nor regard; Mr. Bird had made up his mind with Mr. Dashwood, not to sell under 28,000 guilders, and whether he left no apprentice or all, would have made no alteration in his terms. It must also be remarked, that in this criminating evidence, Mr. Heatlie says that Mr. Bird declared to him he would not sell it under 28,000 guilders, and that it was he himself who proposed and introduced all the talk about 22,000 guilders, if such talk really took place; and

and Mr. Heatlie adds, Mr. Bird said he would *give* him three Negroes; but if he sold the place, why, then, they were not to be *given* without second consent of Mr. Bird, (not that of the Collector, who alone has the power) in order to prevent their falling into improper hands; and this is what Mr. Heatlie calls in answer 9, "considered part of the purchase."

On N° 11, Mr. Bird remarks, why all this was not brought forward when Mr. Dashwood was in the colony, as the case had then taken place.

On N° 12, Mr. Bird remarks, that Mr. Heatlie being asked whether any written agreement was made, replies that one was made, but "I never saw it till my return from the interior." But in N° 13, when asked whether the memorandum contained any stipulation about the Negroes, Mr. Heatlie replies, Mr. Bird had said, "that no mention of it should be made." But if Mr. Heatlie's reply 12, be true, that he never saw the agreement till his return from the interior, how can he reply as he does in N° 13, when by his own showing he was not present at the time the memorandum was made.

On N° 14 and 15, Mr. Bird merely remarks, that Mr. Bird never contemplated any request to the Collector to make over indentures to Mr. Heatlie, nor would have allowed the boys to remain on the soil, had it not been out of regard for Mr. Dashwood's request, whom he considered as guarantee for their good treatment, knowing that Mr. Heatlie has been reprov'd for cruelty to negroes when manager of Mr. Dashwood's place.

N° 16, requires no remark.

On N° 17 and 18, Mr. Bird remarks, that Mr. Heatlie *has* sold and conveyed a part of the Groene Rivier estate to John Loun, of Rondeberg, for 6,000 guilders (in 1822), as may be seen at the Transfer Office. As this was only a part, and not the house, it did not induce Mr. Heatlie to remove; and it is mentioned merely to show the manner in which Mr. Heatlie replies on oath. He sold, or did agree to sell to Mr. Watney the remainder, and on that sale quitted the place; Mr. Watney was long in possession and occupation of it. Mrs. Watney, his widow, inherited it at her husband's death. By some contrivance the payment of the Heererecht, without which property cannot be transferred, was eluded, and Mr. Heatlie, thinking he could obtain a better price, claimed the estate on this default, and Mrs. Watney gave it up. He then sold or bargained to sell it to \_\_\_\_\_ who again sold it to Evert Laubscher, who now lives there as owner; Mr. Bird and friends have been there since Mr. Laubscher's residence. Here the Heererecht, it lately appeared, has been again avoided, and of course the transfer not made; and Mr. Heatlie interferes and claims again, in consequence of some defect or delinquency.

At Mr. Watney's purchase, he Mr. Watney asked Mr. Bird, in the presence of Mr. Kekewich, to let the apprentices stay at Groene Rivier; to which Mr. Bird did not agree. Mr. Bird had not removed them before his death, as, being in friendship, Mr. Bird was unwilling to put Mr. Watney to inconveniency, nor did the boys run home from Mr. Watney from ill usage. And the whole history, in N° 17 and 18, about Garcia, proves, by Mr. Heatlie's own showing, the title and right of Mr. Bird; if otherwise, why does he not apply to the court of law for redress?

The residence at Tulbagh is in the teeth of Mr. Bird's intention; when he allowed the boys to remain at Groene Rivier only, and they ran home, declaring they could no longer bear it.

N° 20, 21, 22, 23, 24. No remark necessary.

N° 25. This reply is an arrow shot at the Collector, one knows not why. Whenever Mr. Heatlie produces to Mr. Blair his title to Mr. Dashwood's apprentices, there can be no delay in the assignment; till then, they will remain under Mr. Dashwood's responsibility.

(signed) *W. Wilberforce Bird.*

Custom-house,  
7th June 1825.

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N° 18.

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 N° 19.

N° 19.—COPY of the Statement transmitted by the Commissioners of Inquiry, on the 9th June 1825, to the Collector and Comptroller of Customs; comprising the several points adverted to in Mr. Lancelot Cooke's Memorial to the Lords of the Treasury, and the imputations of other Individuals.

For their Replies, *see* Document N° 20.

Gentlemen,

Cape Town, 9 June 1825.

HAVING, in obedience to the instructions of His Majesty's Secretary of State for the Colonial Department, made inquiry into the leading points stated in the Memorial addressed by Mr. Lancelot Cooke to the Lords Commissioners of His Majesty's Treasury, and the imputations of other individuals relative to the manner in which the Prize Negroes condemned and forfeited to His Majesty in this colony have been distributed by you; we beg leave to transmit to you the particulars of each case, as they have been collected by us; and we at the same time beg leave to declare to you our readiness to attend to any information that you may be desirous of affording us, whether in the way of answer or explanation.

#### The Case of Mr. Lancelot Cooke and Jean Ellé.

It appears that Jean Ellé, having been condemned by the Court of Vice Admiralty in the year 1809, as prize taken on board the French ship the Victor, was assigned as an apprentice to a Dutchman of the name of Tyrholm. Being ill-treated by him, a Mr. Allen, who was in his employ, offered to take him, and he served him for a twelvemonth. On his repairing to the country he was taken by a Mr. Lambert, a Dutchman, and afterwards came into the service of the late Mr. Samuel Murray, who hired him out in the year 1818 to Mr. Knubley, the former partner of Mr. Thompson, for the sum of thirty-five rix dollars per month, which at first was settled in account between that firm and Mr. Samuel Murray.

From the original indenture of Jean Ellé, it does not appear that the Collector or Comptroller of the Customs had any knowledge of the various transfers that took place of his services, until the occurrence of the death of the late Mr. Samuel Murray, in the month of August 1823, when, in consequence of a notice from Mr. Blair, all the Prize Negroes that had been in the possession of the late Mr. Samuel Murray, were sent to the Custom-house for inspection; amongst these was Jean Ellé, who appears to have been recognized by Mr. Blair at the inspection as a cook, and in the service of Messrs. Cooke and Thompson.

During the period of Mr. Thompson's continuance at the Cape, the treatment that Jean Ellé experienced was such as greatly to attach him to their service. In the absence of Mr. Thompson, disputes appear to have taken place between Mr. Cooke and Jean Ellé, which on Mr. Thompson's return to the colony were reconciled. Much reluctance was evinced by him to leave their service, when an order of Mr. Blair was announced to him to repair to the Custom-house, where he was informed by Mr. Wilberforce Bird, that he must go to the service of Mr. Pigou, his son-in-law, at Wynberg.

The term of Jean Ellé's apprenticeship had then only four months to run. He had stated that the motive of his reluctance to repair to the service of Mr. Pigou was his attachment to that of Messrs. Cooke and Thompson, who had always treated him well, although they do not appear to have paid any sum for his hire, from the period of the death of Mr. Murray in August 1823, to November of the same year, nor did they, when required to give him up, increase the weekly allowance that they had been in the habit of making to him before that time.

Jean Ellé made no complaint of his treatment in the service of Mr. Pigou, who appears to have given him an allowance of one rix dollar per week till the expiration of his service, when he availed himself of the first opportunity to leave it and to return to that of Messrs. Cooke and Thompson, with the last of whom he now remains.

In consequence of the reluctance expressed by Messrs. Cooke and Thompson to dispense with the services of Jean Ellé, a proposal appears to have been made to them by Mr. Pigou, to allow him to remain with them, provided they would procure him another cook. Finding themselves unable to comply with this proposal, Mr. Cooke tendered to Mr. Pigou the acceptance of a monthly payment equivalent to the ordinary hire of a cook. This proposal was rejected by Mr. Pigou  
 with

with feelings of indignation; and when Jean Ellé was ordered by Mr. Blair to be sent to the Custom-house, Mr. Cooke, together with Mr. Roberts his clerk, accompanied him with a view to explain the reason of his not having been sent in pursuance of former orders; upon meeting Mr. Blair, he attempted to address him, but was prevented by the very abrupt and violent language that was addressed to him by Mr. Blair, who appeared to have been apprized of the proposal made by Mr. Cooke to Mr. Pigou, and to have been much offended by it. The words that are charged in the Memorial to have been addressed by Mr. Blair to Mr. Cooke, are supported by the evidence of Mr. Roberts, his clerk.

Assignment of several Prize Negroes by Mr. Blair to Captain Amber,  
on the sale of the Stellenberg Estate.

The Stellenberg Estate was put up to sale by auction in the year 1819, previous to Mr. Blair's departure for England; the sum of 120,000 guilders was asked for it, but no higher bidding was made than one by Captain Hollett, who offered 110,000 guilders. The sale of the estate was not effected on this occasion, but subsequently to it Mr. Blair informed Captain Hollett, that six male Negroes and two females would be allowed to remain upon the estate until the expiration of their terms of service. This information had also been given to Captain Hollett by the two persons who had agreed to become his securities.

The Negroes were reported to be useful and intelligent, and would, in the estimation of Captain Hollett, have added 20 per cent to the value of the estate.

It was given out that the indentures of the Prize Negroes could not be assigned to the purchasers; but Mr. Blair is stated to have pledged his word and honour to Captain Hollett, that the Prize Negroes would not be removed until after the expiration of their terms of service.

On the return of Captain Amber to the colony, he renewed a negotiation for the purchase that had been broken off by his abrupt departure; and although he was not then aware of the value of eight Prize Negroes left upon the estate, he yielded to the representations of Mr. Smith, who was agent for Mr. Blair, and who strongly set forth the advantages that their labour would produce. In fact, Captain Amber states that the hire of the labour of these Negroes would have cost him about 12 rix dollars per month each, without clothing and subsistence.

Soon after the purchase of the estate by Captain Amber, indentures of apprenticeship, bearing date 1st April 1820, were executed by Mr. Blair in favour of Captain Amber, for six male Negroes and two females, and one of them was afterwards returned by Captain Amber to the Collector, for misconduct, and one made a claim of freedom before the Landdroost of the Cape district, which was established. One of the Prize Negroes so assigned to Captain Amber has become an excellent domestic servant, and another (who claimed his freedom) was a very good coachman. It does not appear that Captain Amber has claimed to make any deduction from the purchase money, on account of the loss of the services of the two Negroes.

Disposal of the Groene Rivier estate by Mr. Wilberforce Bird to Mr. Heatlie, in which, after some discussion, Mr. Heatlie agreed to purchase the property on Mr. Bird's terms, provided that three Prize Negroes were allowed to remain.

Subject to the observations made by Mr. Wilberforce Bird.—Vide Document, N° 18.

Remission of tradesmen's bills, in consequence of the assignment to them of several Prize Negroes by the Collector of Customs.

Several Prize Negroes have from time to time been assigned by the Collector of the Customs to Mr. Charles Dixon, since he established in the business of a liveryman, in Cape Town, in the year 1812. At first, Mr. Dixon was not anxious to obtain them, partly on account of the condition they were in on leaving the ships in which they were captured. That objection, however, appears gradually to have yielded to the increasing scarcity of labour. In later periods, Mr. Dixon has received 17 Prize Negroes, twelve of whom were originally assigned to him, and five transferred from other masters. Such has been the value of their services to him, that he has been heard to declare that he could not have succeeded



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in his business, if it had not been for the Prize Negroes that the Collector had given him; and at other times he expressed himself in terms of grateful acknowledgment to Mr. Blair for the kindness he had shown him.

For some time antecedently to the year 1819, Mr. Blair had been indebted in small amounts to Mr. Dixon, for stabling of his horses, and carriage hire, which he paid. But upon the approach of his departure for England, towards the end of the year 1819, the amount of his account was found to be considerable, and Mr. Dixon resolved to present it to him. He had an interview with the Collector near Rondebosch, in which Mr. Dixon now says that he received a promise from Mr. Blair that the bill should be paid on his return from England, but that it was inconvenient to him to pay it at that moment. The result of this interview has been very differently stated. It is sworn by the person who was employed as clerk by Dixon, that on his return home, he informed him that he had presented Mr. Blair with the account and receipt annexed to it.

Next, that he (Dixon) had received a bill upon England for 120*l.* sterling, which he enjoined him to state to Mrs. Dixon, in the event of her making any inquiry respecting the payment of this account; and that some little time afterwards, Mr. Dixon again said that he had presented Mr. Blair with the bill, as an acknowledgment for his kindness in assigning so many Prize Negroes to him. The same clerk has sworn, that he was *desired* by Mr. Dixon to make an entry of the bill as paid; and upon an inspection of Mr. Dixon's ledger, he has sworn that he made the following entry:

1820, April 1 - - - By Cash, in full - - R.D" 1,441. 1.

It is further sworn by one person who was present at a conversation at Dixon's house, before Mr. Blair's departure for England, that he openly declared that he could not allow Mr. Blair to leave the colony, without tendering some acknowledgment to him, for his kindness in assigning Prize Negroes to him, and that with that impression he had presented him with his bill receipted.

This witness having been reproached by Mr. Dixon, at a subsequent period, for having made a disclosure of this conversation, expressed his regret, but observed, that if he should ever be called upon to declare on oath what had passed, he should feel himself bound to adhere to his former declaration.

On further inspection of the books of Mr. Dixon, an entry to the following effect is found in his day-book:

" Saturday 1st April 1820:—Received of C. Blair, Esq. in full of all demands to this date—R.D" 1,441. 1. 0."

It is in the handwriting of Mr. Dixon, who produced a note of Mr. Blair, of the following tenor:

" R.D" 1,441. 1. 0.

April 1, 1820.

" On demand, I promise to pay Charles Dixon the sum of fourteen hundred and forty-one Rix Dollars.

(signed) " Charles Blair."

Being called upon to give the Commissioners an explanation of these documents, Mr. Dixon stated, that having been alarmed at the inquiries made by William Edwards before or about the time of the prosecution of the Fiscal against Mr. Lancelot Cooke, Edwards and Hoffman, for a libel upon the Collector of Customs, in the year 1824, and finding that Edwards had got possession of the circumstances relating to Mr. Blair's account, he had antedated the entry of payment in the Day-book, as if it had been made in April 1820, and had strongly urged Mr. Blair to give him a promissory note of even date with that entry, by which he said afterwards in conversation with another person, that if any inquiry was now made respecting the payment of the account, it would appear to have been satisfactorily arranged at a period long anterior.

It has been stated to the Commissioners, that Mr. Dixon is habitually unguarded in his expressions; but that he is not a person that is likely to forego the payment of a large sum of money.

It has also appeared that Mr. Dixon has on several occasions been brought before the Courts on complaints of his Prize Negroes for ill treatment, and that on one occasion he was fined.

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Case of Mr. E. Durham, to whom 15 Prize Negroes were assigned by the Collector of Customs.

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An account of Mr. Durham against Mr. Blair, amounting to 947 Rix Dollars, appears, in the Ledger produced to the Commissioners by Mr. Durham's agent, to have been paid by cash on the 6th Sept. 1813. Subsequently to this date, new and augmented balances are brought forward in each successive year, until Dec. 19th, 1821; when the sum to the debit of Mr. Blair amounted to R. D<sup>rs</sup> 2,383: nothing having appeared to his credit during that period.

In a subsequent page of the same ledger this balance is not brought forward; and the clerk who has had the custody of Mr. Durham's accounts, swears that to his knowledge no payment has been made by Mr. Blair, either on the account ending in the year 1821, or on that which has arisen subsequent to that period.

He is unable to account for the balance of that year not having been brought forward, and for a new account having been made, in which no notice is taken of it; but he has produced a letter from Mr. Durham, now absent from the colony, and dated St. Helena, 11 Feb. 1825, in which he desires him to get the old account settled by notes; and he is of opinion that this passage in Mr. Durham's letter, alludes to the account ending in the year 1821, that was not brought forward.

Refusal of the Collector of the Customs to grant a certificate of the expiration of the service of a Prize Negro.

A Negro, named Cousins, applied to Mr. Thwaites, a tradesman of Cape Town, to procure him a situation. Mr. Thwaites recommended Cousins to the service of Mr. Richardson, who requested Mr. Thwaites to take the trouble of having the boy properly contracted.

Mr. Thwaites repaired to the office of the Fiscal, where he was informed that as Cousins was a Prize Negro, a certificate, from the Collector of the Customs, of the expiration of his apprenticeship was necessary, before any contract could be executed.

Mr. Thwaites therefore repaired to the Collector, and the following conversation is sworn to have taken place between them:

Mr. Thwaites: "After speaking to Mr. Auret, the Head Clerk, who referred me to Mr. Blair for a certificate of the expiration of the lad's apprenticeship, I went to the Custom-house and saw Mr. Blair. When I mentioned my business, Mr. Blair said, Who is the person who intends to take the Boy? who is he? is he a gentleman? I answered, that it was Mr. Richardson, who lived at Rondebosch, and that he was a gentleman. Mr. Blair then said, I'll call upon him, I will not give him a certificate. The impression upon my mind was, that Mr. Blair was vexed that the Boy had left his service, and that he wished to retain him."

QUESTIONS by the Commissioners of Inquiry.

"Did Mr. Blair say that the Boy's time had not expired?"

"I do not recollect that he did; but I observed it to him; indeed, I had called in consequence of being informed that the Boy's time had expired.

"Had you made any inquiry that satisfied you that such was the fact?"

"Yes, I had.

"Did you find that the Boy had lived with Mr. Blair?"

"He told me that he had lived with him for 14 years; and I think he said that he had been to England with him; but he added, that Mr. Blair's treatment of him had been so severe, that he could not live with him any longer.

"Did he instance or allude to any particular act of severity?"

"I recollect one that he alluded to: He went one day into a room where Mr. Blair was, and something happened to displease him, when Mr. Blair knocked him down on the floor; and he stated generally that Mr. Blair's treatment of his Prize Negroes was very severe."

Mr. Blair not having called upon Mr. Richardson, Cousins continued to serve him for four months at the rate of 14 rix dollars per month. The Commissioners have in vain endeavoured to procure the attendance of Cousins.

The Commissioners having observed that the late Mr. S. Murray had a great many Negroes assigned to him (22) request the Collector of the Customs to afford them some explanation of that circumstance, it not having appeared that Mr.

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Samuel Murray had any public claims to this favour, and that he availed himself of the services of his Prize Negroes for the sole purpose of receiving their hire, a custom which (the Commissioners have observed) is still prevalent, and is invariably accompanied by a great rise in the price of labour in Cape Town, to industrious individuals who have not been fortunate enough to share in the same indulgence.

In examining the instances in which they perceived the largest assignment of Prize Negroes had been made by the Collector of the Customs to individuals in Cape Town and the neighbourhood, the Commissioners have found in the cases of Mr. C. Dixon, Mr. W. E. Shephard, Mr. Woeke, Mrs. Susebrink, and Mr. Becker, that accounts have been and are still open against Mr. Blair in the books of these individuals; and they find that in all these cases much indulgence in the payment has been afforded, though in most instances the accounts have been called for by Mr. Blair under circumstances that imply an intention of discharging them at some future period.

Prize Negroes were assigned to the late Mrs. Yzel, at whose house it is stated that the Collector and Comptroller occasionally sojourned when they remained beyond the period of official hours in Cape Town.

It appears also that a Prize Negress (Noyaffa) was indentured as an apprentice in the month of January 1816, by the Collector of Customs, to a female who at that period was in a state of slavery, and belonged to the late Mrs. Yzel. Her name was at that time "Meintje," and she was not emancipated until 1817, when she, with her child, was sold at public auction, and purchased by Mr. Weydeman, son-in-law of Mrs. Yzel, for 2,680 rix dollars, who afterwards sold "Meintje" to a Mrs. Wehelin, on the express condition of her manumitting the Slave.

A memorandum of Mr. Wilberforce Bird's, appended to the indenture of Noyaffa, states that the Prize Negress had originally been given to him, and afterwards indentured, at his request, to Wilhelmina Hendrekse (the Slave above-mentioned.)

The Commissioners request Mr. Bird to inform them, whether it was customary to give Prize Negroes at the distributions of them; and as the memorandum made by him is without date, to state at what period it was made.

Amongst the largest assignments of Prize Negroes to individuals in the country, the Commissioners have observed the name of the late Mr. Duckett, and that of the late Mr. Watney. They are aware that the former gentleman was extensively, though not successfully, engaged in agricultural pursuits; and they have been informed that the Collector of Customs, not having succeeded in obtaining a grant of a piece of land contiguous to the present farm of Mr. Duckett, allowed 10 Prize Negroes, whom he had sent to assist in its cultivation, to repair to Mr. Duckett's farm, and there to cultivate a portion of it, under an agreement that the produce in oats, hay, barley, &c. should be sent at his own expense to Wynberg, Mr. Duckett at the same time feeding and maintaining the Prize Negroes.

The Commissioners request to be informed of the motives that may have influenced the assignment of so many Negroes to the late Mr. Watney.

It has appeared that in some instances, where the master of a Prize Negro apprentice has ceased to require his services, or has died, the Collector has considered himself entitled to exercise a preferential claim to the services of the Negro for himself or friends, without regarding the wishes of the assignee of his services, or of the Negro, in cases where those wishes were expressed, and where the proposed assignment was unexceptionable.

The following Cases are adduced:—

Case of a Prize Negro of Mr. Dashwood, sought to be transferred, at his departure, to Sir Richard Plasket, Chief Secretary to government, but refused on the alleged want of his services by Mr. Blair.

Case of Jean Ellé, who was removed from the service of Messrs. Cooke and Thompson to that of the son-in-law of Mr. Wilberforce Bird.

Case of a Prize Negro assigned to Mr. Corbitt, who, upon being returned by him to the colony in pursuance of a bond given by Mr. Corbitt, was taken by Mr. Deane, to whom the Negro was addressed with a particular instruction contained in a letter from Mr. Corbitt, requesting Mr. Deane to pay the greatest attention to the Negro, and to put him to school, on account of his good disposition and valuable qualities that he had manifested in Mr. Corbitt's service.

Mr. Deane, in pursuance of these instructions, sent the Negro to the free school of Mr. Russell, and employed him as a shop-boy. He attended the school on more than

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than one occasion, and his further attendance was prevented by his removal from the care of Mr. Deane.

This individual had omitted to give Mr. Blair or Mr. Bird any notice of the Negro's return, or of his being in his employment; and it does not appear that in the interview that took place between him and Mr. Blair, he either showed or read Mr. Corbitt's letter of instructions, an extract of which the Commissioners now subjoin.

Mr. Blair took the Negro into his own service, with the view, as stated in his letter to the Governor, of rendering him more comfortable, and providing more fully for his wants.

The Commissioners request that the Collector and Comptroller will inform them by whom the form of Indenture that has been adopted for apprenticing Prize Negroes in this colony was drawn and settled, and whether any instance has occurred in which, upon resumption of the indenture by reason of the death or departure of the master, or of other cause, a Prize Negro who has been able to maintain himself by his own labour, as in the cases of Jean Ellé, and the Negro Jack (Malamo) assigned to Mr. Corbitt, has been released from service during the remaining period of his indenture.

The Commissioners having been officially informed by the Collector of the Customs, that it was not his practice to execute indentures of Prize Negroes in his own favour, request him to state by what other form the services of those whom he has retained from time to time have been appropriated to him, and what means may have existed of ascertaining the commencement and the expiration of their terms of service.

The Commissioners having observed an instance in which a Negro was transferred to the Comptroller, when acting in the absence of the Collector, and that a memorandum is endorsed upon the original indenture, declaring that the Comptroller assigned the Prize Negro named in it to himself in his individual capacity, request that he will inform them upon what authority or legal opinion this practice has been founded.

The Commissioners, lastly, request to be informed of the nature of the protection that the Collector of the Customs may have given to the Prize Negroes, in pursuance of the Order in Council by which this duty was thrown upon him; of the course pursued by him in cases of complaint, either from the masters or the apprentices; and of the checks he may have held and exercised over the punishment of the Negroes.

(signed) *John Thomas Bigge.*  
*W. M. G. Colebrooke.*

To C. Blair, Esq.

Collector H. M. Customs, and

W. Wilberforce Bird, Esq.

Comptroller of H. M. Customs.

A true Copy,

(signed) John Gregory, Sec.

N° 20.—REPLIES of Mr. Blair and of Mr. Wilberforce Bird, dated 21 June 1825, to the Statement N° 19, transmitted to them by the Commissioners of Inquiry, comprising the several points adverted to in Mr. Lancelot Cooke's Memorial to the Lords of the Treasury, and the imputations of other individuals.

N° 20.

(Copy.)—Received 23 June.

Gentlemen,

Custom House, Cape Town, 21 June 1825.

WE take the liberty of returning our thanks to you for the transmission to us of a copy of the particulars of those cases, as collected by you, in which we are charged with neglect or corruption in the discharge of our duty as it relates to Prize apprentices.

In reviewing the circumstances adduced by the delators, we think they must appear to every one so confused and improbable, so weak in attempted proof, so abundant in spite and malice, so defective in the display of those honest, conscientious and honourable motives which ought to actuate individuals in their attacks upon public servants, that we feel no disposition, as there is no necessity, to lean upon the difficulty of a situation, in which by the fair discharge of its duties the few are barely satisfied, and the many become discontented and revengeful; or to offer

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offer a plea in abatement, that if there have been errors, they were those of the judgment.

We have therefore the honour of now supplying you with our remarks on the matters stated, as they regard each of us individually, hoping they will prove satisfactory to H. M. Commissioners of Inquiry, in whose good opinion we are anxious to remain.

In reply to the particulars of the cases with which the Commissioners of Inquiry have favoured the Collector and Comptroller of Customs, the Collector explains,—That Mr. and Mrs. Murray, the master and mistress of John Ellie, died, and on the death of the survivor (Mr. Murray) it became the duty of the Collector to reapprentice John Ellie for the remainder of the term to a humane and good master, in conformity to the Order in Council. Knowing Mr. Pigou so to be, the Collector, not considering Cooke and Thompson to have any claim, in consequence of having hired John Ellie of Mr. Murray, unknown to him, exercised the duty committed to him to the best of his judgment by apprenticing him to Mr. Pigou for the remaining term.

With regard to what passed between Mr. Blair and Mr. Cooke, the former attended a summons from the Fiscal, which was abandoned by Mr. Cooke.

That Mr. Blair left certain Prize Negroes on the Stellenberg estate, on which they had been employed for some years, on which their wives and children lived, and to which place they were much attached; Mr. Blair was then about to go to England, and to sell his estate, and had no occasion for their labour.

The evidence of Captain Hollett shows that he offered 110,000 guilders for Stellenberg; and notwithstanding the alleged charge, of addition to its value by these boys being left for the purpose of raising the price, it was sold to Mr. Amber for 100,000 guilders, being a less sum by ten thousand. Mr. Smith was the agent of the party, not of Mr. Blair.

That before Mr. Blair went to England, he asked the consent of his creditors to leave the colony without paying them their demands, till his return. Some days after, on the road to Cape Town, to which Mr. Blair did not again go, he met Mr. Dixon, who gave him a sealed or wafered letter, saying "This is my account, and you will find it all right." Mr. Blair put it into his pocket; and is ready to make oath that he never opened this account or knew its contents, and that he has searched for it amongst his papers, but ineffectually. On Mr. Blair's return from England, Mr. Dixon applied to him for money, which Mr. Blair told him he could not at that moment conveniently pay. Is it to be believed that Mr. Dixon asked payment of an account, if he had written a discharge long before, as is alleged?—Subsequently Mr. Blair gave him a note of hand on demand, for the amount of the unpaid accounts, which note still remains against him.

In reply to the evidence of "one person," Mr. Blair denies that he ever became acquainted in any way or manner with the history of an alleged receipted bill, until after the charges against him were adduced. His Majesty's Commissioners cannot but remark on the inconsistency and contradictions contained throughout this story; the attempted evidence being merely a recital of what Mr. Dixon has been *heard to say*. As to his intentions of showing his gratitude to Mr. Blair, Mr. Dixon, his clerk, and "one person," swear variously; but no one of them swears that Mr. Blair consented to accept, or was ever made acquainted with Mr. Dixon's professed intentions; and the whole fabrication is of so loose and improbable a nature, that Mr. Blair confidently submits that such evidence cannot be entitled to the smallest credit as affecting the propriety of his conduct and character.

That Mr. Blair submits that the evidence of the clerk, as to the purport of Mr. Durham's letter from St. Helena, dated 11th February 1825, respecting the account ending in 1821, contradicts every imputation of corrupt motives in the distribution acting on the mind of the Collector, with regard to Mr. Durham.

That the whole term of Cousins's apprenticeship was served with the Collector. He went to England with him, and was there instructed and baptized. Returning with Mr. Blair, he lived with him on wages for many months after; but becoming drunken, he was dismissed. Mr. Thwaites bears evidence of Mr. Blair's refusal of a certificate. The Colonial Gazette had certified, and the Fiscal was acquainted with his freedom, and to him the application, if at all necessary, was to be made. He was no longer under the management of the Collector. Before Cousins went to England, where he now is, he abandoned all other services and applied to Mr. Blair to be again taken into his family, which refutes the charges of ill-usage.

Mr. Blair

Mr. Blair refused to receive him; and he left the colony. The charge is more improbable and aggravating, as the boy was landed from the ship in a dying state, rejected as an apprentice by every one, and received and nurtured by Mr. Blair from humane motives, as though he was an individual of his own family.

That Mr. Blair considers Mr. Murray to have been a worthy respectable man, and a good and humane master. He was unfortunate in business, and on his resumption of it, Mr. Blair continued to be his friend, and took frequent opportunities of assisting him. Mr. Blair denies all knowledge of Mr. Murray's practice of letting out his apprentices for hire, but has been lately assured that it is legal so to do.

That it is stated that Mr. Blair has undischarged accounts with Mr. Dixon, Mr. Shepherd, Mr. Woeke, Mrs. Lusebrink, Mr. Becker. To several of the above nothing is due, to others very little. The Collector spurns the inference, if any is intended to be drawn, that because he becomes a debtor to tradesmen in the course of their business, by the daily and current purchase of necessaries or conveniences for himself, every act of favour conferred on them is to be imputed to a corrupt motive. Do his accusers mean to argue, that in the discharge of his duty of distribution, he was to pass by all with whom he might happen to be connected socially, or even interestedly, and seek out other persons unknown or unfriendly?

That the Collector apprenticed several Prize Negroes to Mrs. Yzel, who was a humane and good mistress; and, residing in the country, he may, when engaged in Cape Town, have slept a few nights at the lodging house of Mrs. Yzel; but he never sojourned there. Mr. Pontardent, a particular friend of Mr. Blair, on whom he called most days, lived several years at Mrs. Yzel's, until her death; and articles purchased, were almost daily taken there, and forwarded by Mr. Pontardent in Mr. Blair's cart, or otherwise, to the house at Stellenberg. Mr. Blair denies having indentured, in 1816 or at any other time, a Prize Negress to a female in a state of slavery.

Mr. Bird, on his part, says, that Royaffa or Semira, a Prize Negress from Jeun Victor, was indentured to him in January 1816, whilst living in a hired apartment at Mrs. Yzel's, which he did in the summers of several years, his family residing at Groene Rivier; and says, that a slave girl belonging to Mrs. Yzel, being brought to bed, he allowed his apprentice Semira or Noyaffa to assist in taking care of the child; and after the death of Mrs. Yzel, the slave and her child, being sold by public auction, were removed by the purchaser, and Mr. Bird allowed his apprentice to continue to nurse the child; not long after, the slave girl and her child acquired their freedom; and it appears by the register that they were christened and received into the church about February 1818; from that date, the then christened Wilhelmina Rosina Hendrickse, who was also a housekeeper and licensed shopkeeper, became entitled to the privileges and advantages of a free Christian. Many months after she possessed these rights, Mr. Bird interested himself in procuring Semira to be her apprentice, giving up or cancelling his indentures in favour of her, whom he represented as a humane and good mistress. That this statement must be correct, carries its own proof, for the mistress who signed the indenture, which has been in possession of the Commissioners, did not bear that name in January 1816, but was christened by the name so signed in February 1818.

The memorandum on the office indenture was noted, when the death of Semira became known at the Customs, and the other (together with the distribution book) on its surrender by the mistress, both, as a record of the truth. The word "given" can only mean given as an apprentice; there is no other power in a Collector.

That Mr. Duckett and Mr. Watney were engaged on a very extended scale in agriculture on the English system, and were men of good and humane character.

The Collector felt a warm friendship for them, and considered himself compelled, both by duty and inclination, to assist to the very utmost of his power these agriculturists in pursuits so beneficial to the colony.

That the Order in Council instructs the Collector to apprentice Prize Negroes to good and humane masters; and the Collector has so done to the best of his judgment. When services terminate by the death or misconduct of the master, or otherwise, the Collector considers himself entitled to a preferential right of disposal

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Documents.

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disposal of the remaining term of service, to those whom he considers most likely to benefit the apprentices and act kindly towards them. But in the cases of lapsed apprentices, the instances extremely preponderate in which attention has been paid to the wishes of individuals leaving the colony, or to those of the surviving family of a deceased person.

That the indenture was framed by H. Alexander, Esq. at that time Colonial Secretary. The Collector has not considered himself authorized to remit, under any circumstances, the period of apprenticeship.

That this object is effected by the condemnation and the muster roll, and the entry in the distribution book or list.

The Comptroller in reply:—" Upon what authority, when acting as chief officer, he assigned the apprentice Myndola (now Mentor) to himself as an individual?" observes, that the 5th Elizabeth, cap. 40. not only allows, but encourages a parent to indenture to himself his own son, by enacting that he may so do, even in cases where by usage or law of trade he is limited to a certain number. It is no where forbidden to a guardian or to one in trust to take an apprentice, though he be the object of that care or trust.

The

N° 21.

N° 21.—COPY of Mr. Blair's Account, as it appears in the

D'			Mr. C.		
Aug.	- -	17.	One Aum Cape Madeira, at 320 R. D° per Leaguer	✓	£ 80 - -
		-	$\frac{1}{2}$ Aum Cape Wine - - at 200 - d°	✓	25 - -
Sept.	- -	24.	$\frac{1}{2}$ D° - D° - - - 200 - d°	} Ch. 75 ✓	25 - -
		27.	One Aum Madeira (Cape) - 320 - d°		80 - -
Nov.	- - -	8.	$\frac{1}{2}$ Aum Cape Wine - - 240 - d°	✓	30 - -
Dec.	- - -	8.	$\frac{1}{2}$ - - D° - - 224 - d°	✓	28 - -
		24.	$\frac{1}{2}$ - Old Steen - - 280 - d°	✓	35 - -
1814:					
Feb.	- - -	4.	$\frac{1}{2}$ - New Wine - - - - -	✓	30 - -
March	- - -	7.	$\frac{1}{2}$ Aum Wine - - - - -	✓	30 - -
May	- - -	9.	$\frac{1}{2}$ D° - - - - -	✓	35 - -
June	- - -	-	$2\frac{1}{2}$ D° - or 1 Aum Steen Wine, 320 D°	✓	80 - -
			$\left. \begin{array}{l} \frac{1}{2} \text{ Pipe for Villiers} \\ * \end{array} \right\}$		$\left. \begin{array}{r} 478 \\ 40 \\ \hline 438 \\ 35 \\ \hline 403 \end{array} \right\} *$

\* N. B.—THE Marks ✓ and words and figures in Brackets, are in pencil in the original.

(signed) J. Gregory.

N° 22.

N° 22.—DOCUMENTS relating to Mr. Corbitt's Negro Apprentice, named "Malamo."  
(Copy.)

(signed) H. Cloete.

Notarial Declaration of Geo. Luck, 3d March 1824.

BE it hereby made known, That on this third day of March in the year of our Lord one thousand eight hundred and twenty-four, George Luck, of Cape Town, in the colony of the Cape of Good Hope, merchant, personally came and appeared before me William Edwards, of the same place, notary public, duly constituted appointed

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The Collector or chief officer appears to stand in one of the above two capacities; and at liberty to indenture to himself, if he be of opinion that he may be considered to be a humane and good master, under the common acceptation of the term.

The Collector, when any complaint of a serious nature is preferred, refers it primarily to His Majesty's Fiscal, and examines into all trifling disputes by hearing all parties, and inquiring into the circumstances and acting accordingly. Before he consents to any punishment, the case undergoes the examination of the Deputy Fiscal, and requires his previous signature. The protection of the apprentice is guaranteed under the indenture and the law of the land, and by a ready attention to complaints and grievances when made at the Custom-house.

The complaints of the apprentice against the master, are by a late Act referred to the Judge of the Vice Admiralty Court.

(signed) *Charles Blair*,  
Collector of Customs.

H. M. Commissioners of Inquiry, (signed) *W. Wilberforce Bird*,  
&c. &c. &c. Comptroller of Customs.

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N° 20.

Ledger of the late Mr. Samuel Murray.

folio 41

N° 21.

*Blair.*

120 *					
} 75 *		Balance due,	398 D <sup>rs</sup>	}	
			80		
			478		
			30		
			448		
			80		
			528		
		Ded. 475			
		30			
		5			
	440				
	80				
	360				
	40				
	400				

THE above is a true Copy of the Account as it stands in the Ledger produced by Mr. John Murray to the Commissioners of Inquiry this day.

Cape Town,  
18 July 1825.

(signed) *John Gregory.*

appointed and sworn, and the Witnesses hereunto subscribed, and offering a solemp oath on the Holy Evangelists of Almighty God to the truth of this declaration and every part thereof, whensoever he shall be thereunto required, did declare testify depose and say, That when Mr. William Corbitt sailed for England, in or about the year 1821, he left in the charge of deponent one of his apprentice Prize Negroes, to be protected and kept until the said Mr. William Corbitt returned from England, which said Prize Negro was returned to the said William Corbitt, on his arrival, by the deponent; and deponent further saith, that during the absence of the

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the said William Corbitt, he received an order from Mr. Blair, the Collector of Customs, to attend at his office, concerning the said Prize Negro, when he was told by the said Collector of Customs that the said Prize Negro should remain with deponent for the present, but would not be allowed to remain long; and lastly, deponent saith, that as he endeavoured to make the said apprentice as comfortable as possible, and treated him with all possible humanity and kindness, the said Charles Blair could not be influenced by any opinion that in removing the said apprentice he should add to his comfort or act for the advantage of the said Negro apprentice.

For a memorial whereof I caused the deponent to subscribe hereto in triplicate, on paper duly stamped (one part whereof is enregistered in my protocol) in the presence of and together with me the notary and witnesses William Guest and Petrus Johannes Truter, the day and year first above written.

Witnesses,

W<sup>m</sup> Guest.

P. J. Truter.

Which I attest,

(signed) W. Edwards, Notary.

(signed) *Geo. Luck.*

(Copy.)

(signed) *H. Cloete.*

Notarial Declaration of Wm. Corbitt, 3d March 1824.

BE it hereby made known, That on this third day of March in the year of our Lord one thousand eight hundred and twenty-four, William Corbitt, of Cape Town, in the colony of the Cape of Good Hope, merchant, personally came and appeared before me William Edwards, of the same place, notary public, duly constituted appointed and sworn, and the Witnesses hereunto subscribed, and offering a solemn oath on the Holy Evangelists of Almighty God to the truth of this declaration and every part thereof, whensoever he shall be thereunto required, did declare testify depose and say, That some years ago, amongst others, he received from Charles Blair, Esquire, the Collector of Customs in Cape Town, a Negro child of the name of "Malamo" as an apprentice, he having been condemned as prize under the Abolition Act, which said apprentice "Malamo" remained in his service, and conducted himself with so much propriety as to become deservedly respected in the family and by all the deponent's friends who knew him the said apprentice "Malamo;" in consequence whereof, when deponent made a voyage to England in the year 1821, he procured leave from the colonial government to take the said "Malamo" to England, on giving security that he should return in one year from the day of his departure; and deponent further saith, that finding he should not be able to return himself within the said period of one year, he sent the said apprentice to the Cape of Good Hope, with a letter to the deponent's agent in Cape Town, bearing date the 16th day of February 1822, requesting his said agent to place the said "Malamo" in some school, until deponent should arrive in the Cape, but that on the said Charles Blair learning that the said "Malamo" was arrived in the Cape, he soon after caused him to be taken away from his the deponent's agent, and employed him in his own service, where he hath ever since been and now remains; and the deponent further saith, that he complained thereof by a petition to the Right honourable the Earl Bathurst, a copy whereof is hereunto annexed, marked (A), and received an answer, whereof a copy is hereunto annexed, marked (B), and also that he complained thereof to His Excellency Lord Charles Henry Somerset, the Governor of this colony, by memorial bearing date at Cape Town on or about the eleventh day of November last past, a copy whereof is hereunto annexed, marked (C), and received an answer thereto from Colonel Bird, the chief secretary to the government of the colony, in the words and figures following:

" Reply to the Memorial of Mr. Wm. Corbitt, praying that the Collector of Customs may be directed to deliver up to him his Prize Negro apprentice Malamo, one of the Negroes who, he complained to Earl Bathurst, had been removed by the Collector from the care of the person under whose charge they were left by him during his absence from the Cape.

" His Excellency the Governor desires that the Memorialist may be informed that the Collector of Customs is guided in the measures he takes with respect to Prize Negroes

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Negroes by his view of the power vested in him by Act of Parliament, and not by any regulations of the colonial government. Memorialist must therefore seek redress in the usual manner, should he continue to feel himself aggrieved by the line taken by the Collector in the case.

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By command of His Excellency.

(signed) *C. Bird.*

Colonial Office, November 13, 1823.

And deponent further saith, that he hath not been able to learn what is the meaning of the term "usual manner," expressed in the said memorial, nor can he find any means of bringing the said Charles Blair to account; and the deponent further saith, that when he returned to Cape Town he found that he was mistaken in supposing the said Charles Blair had resumed all his three apprentices, as mentioned in the said memorial, marked (A), but that he had only taken one of such apprentices, as will be explained by the deposition of his agent Mr. John Dean; and the deponent further saith, that he verily believes that the said Charles Blair was informed of the good conduct and character of his said apprentice "Malamo," and was induced thereby to take him from his said service.

For a memorial whereof I caused the said Appearer to subscribe hereto in triplicate on paper duly stamped (one part whereof is enregistered in my protocol) together with and in the presence of me the notary and the witnesses George Luck and John Carnall, the day and year first above written.

(signed) *W. Corbitt.*

Witnesses,

(signed) Geo. Luck.  
John Carnall.

Which I attest,  
(signed) W. Edwards, Notary.

COPY of Mr. *Corbitt's* Memorial to Earl *Bathurst*, dated 3d February 1823.

(A.)

To the Right Honourable His Majesty's Secretary of State  
for Colonial Affairs.

The MEMORIAL of William Corbitt; which

Humbly showeth,

THAT Your Lordship's Memorialist has been a respectable inhabitant at the Cape of Good Hope for the period of fifteen years, eleven years of which he served His Majesty as a clerk in the Commissariat, and that he subsequently carried on business as a merchant, up to the period of his quitting the colony in the month of August 1821.

That at various periods during Memorialist's residence at the Cape of Good Hope, he did receive from His Majesty's Collector of Customs certain Negroes (which Negroes had been forfeited to His Majesty, and condemned as lawful prize) as apprentices for the period of fourteen years, to be by Memorialist instructed in house service and other useful employment, and were legally bound by indenture to Memorialist in the customary manner.

That Memorialist being compelled by his private affairs (the bad state of health of his wife, who is since dead) to come to England, did obtain permission of His Majesty's government at the Cape of Good Hope to bring with him one of his Negro apprentices, having first given bond to return the said Negro to the Cape of Good Hope within twelve months from the date of his departure, which bond was duly satisfied and discharged by the returning of the said Negro on board of the ship *Arethusa*, which vessel arrived at the Cape of Good Hope about the beginning of the month of July 1822.

That as soon as it was notified that Memorialist's apprentice had arrived in the colony, the Collector of His Majesty's Customs did arbitrarily take from the agent of Memorialist the said apprentice Negro, and put him into his own service, notwithstanding the bond of indenture by which he is bound to Memorialist, and to the utter discomfiture of the future prospects of the said apprentice Negro, whom Memorialist had sent out at much expense, with directions to his agent to keep

constantly

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constantly at school, with a view to get him as speedily as possible initiated into the Christian religion, it being the intention of Memorialist to bring the said Negro up in a superior way to what such class of people in general are brought up, he having for seven years served Memorialist with an honest affectionate zeal rarely to be met with, and thereby merited the warmest gratitude and affection Memorialist can bestow on any person next to his own child, and indeed, from having received him as a child, and reared him in the midst of his own children, the pang occasioned to Memorialist by so abrupt a separation is but little less than it could have been had his own offspring been thus torn from him.

The humble and most fervent prayer therefore of Memorialist is, That Your Lordship will be graciously pleased to interfere, and by Your authority direct that the Negro already alluded to in this Memorial, together with two other Negroes, being Memorialist's apprentices, and taken from him by the said Collector of Customs in the same manner, and disposed of to other persons, may be immediately given up to the agent of Memorialist at the Cape of Good Hope, to be by him replaced in the comfortable situations provided for them by Memorialist previous to his departure from that colony, and in which situations at his return he fully expected to have found them.

And Memorialist, as in duty bound, will ever pray.

N° 2, James-street,  
Covent-garden, London.

(signed) *W. Corbitt.*

[This Memorial was dated 3d February 1823.]

COPY of Mr. *Wilmot Horton's* Letter to Mr. *Corbitt*, dated 7th March 1823.

(B.)

Sir,

Downing-street, 7th March 1823.

I AM directed to acknowledge the receipt of a Memorial you addressed to Earl Bathurst on the 3d ult<sup>o</sup>, and to acquaint you, that his Lordship has caused a reference to be made to the Government of the Cape, in order that further information may be obtained respecting the Prize Negroes which appear to have been apprenticed to you by the Collector of Customs at the Cape, and under his authority subsequently removed from the care of the person whom you had appointed to take charge of them during your absence from the colony.

I am, &c.

Mr. Corbitt.

(signed) *R. Wilmot Horton.*

COPY of Mr. *Corbitt's* Memorial to Lord *Charles Somerset*,  
dated 11th November 1823.

(C.)

To His Excellency the Right Honourable Lord Charles Henry Somerset,  
Governor, Commander of the Forces, &c. &c. &c.

The MEMORIAL of William Corbitt,—

Humbly showeth,

THAT Memorialist did in the month of January last present a Memorial to His Majesty's Secretary of State for Colonial Affairs, praying that three apprenticed Negroes, being the apprentices of Memorialist, and which Negroes had been taken by His Majesty's Collector of Customs during Memorialist's absence to England, and disposed of to another person, might be returned to Memorialist.

That his Lordship was graciously pleased, in reply, to inform Memorialist, that he had directed inquiry to be made into the circumstances of His Majesty's government at the Cape of Good Hope, the result of which inquiry could not possibly be known at the time Memorialist left England.

That on Memorialist's arrival at the Cape of Good Hope, he found that the Collector of His Majesty's Customs had only actually taken and disposed of two of the said apprentices, but had said to the agent of Memorialist, that he would take the third also, which however he never did.

The humble and fervent prayer of Memorialist therefore is, That Your Excellency will be graciously pleased to direct that Memorialist's Negro apprentice Malamo, now in the service of Charles Blair, esquire, be delivered up to Memorialist,

rialist,

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rialist, the other apprentices named, who had been given to Mr. Deane, having been returned without difficulty.

Your Excellency's Memorialist further prays, that should any attempt be made to contradict the statements contained in this Memorial, that the same may be established and verified by the oaths of most reputable and respectable persons, who will be found ready to bear testimony to the facts.

And Your Excellency's Memorialist, as in duty bound, will ever pray.

(signed) *W. Corbitt.*

Cape Town, Cape of Good Hope,  
11th November 1823.

True Copies.

Quod attestor,

(signed) *W. Edwards, Notary.*

Received at the Cape of Good Hope, 26th March 1824.

(signed) *W. C.*

COPY of Mr. *Wilmot Horton's* Letter to Mr. *Corbitt*, dated 22d Oct. 1823.

Sir,

Downing-street, 22d October 1823.

WITH reference to the Memorial which you addressed to Earl Bathurst under date of the 3d of February last, relative to three Prize Negro apprentices who under different circumstances are alleged to have been removed from the care of your agent at the Cape of Good Hope, I am directed by Earl Bathurst to acquaint you, that Lord Charles Somerset having been called upon to inquire into the particulars of their respective cases, a Report has been received from His Lordship, differing most essentially from the statements you had made to His Majesty's government.

With regard to the apprentice "John," who accompanied you to England and afterwards returned to the Cape, Lord Bathurst has no hesitation in expressing the opinion that the Collector of Customs was justified in the course he pursued, and that he acted not only in strict conformity with the law, but with a due regard to the comfort and welfare of the Negro himself, whose education, alluded to in your Memorial, is stated to have consisted in carrying small parcels and drudgeries in the house of the tradesman to whom you had very improperly transferred his services.

With regard to the other two apprentices who were left by you at the Cape, and whom you also state to have been removed by the Collector of the Customs from the care of the persons with whom they were placed; it appears that the fact was utterly unfounded, although in not having removed them, it is by no means clear whether the Collector has completely fulfilled the Orders in Council and the terms of the indentures by which the Negroes in question were specially bound your apprentices.

I am, &c.

To Mr. Corbitt,

2, James-street, Covent-Garden.

(signed) *R. Wilmot Horton.*

(Copy.)—Received 1 June.

LETTER from Lord C. Somerset to the Commissioners of Inquiry, dated 31st May 1825; enclosing Copy of the Despatch to Earl Bathurst, of the 21st July 1823, with its Enclosure.

Gentlemen,

Newlands, 31 May 1825.

I do myself the honour of acknowledging the receipt of your letter of yesterday's date, and of transmitting to you in reply a Copy of my despatch to Earl Bathurst, dated 21 July 1823, with its Enclosure, being the explanation of the Collector of Customs upon the complaint of Mr. Wm. Corbitt, that three Prize Negroes had been removed from his service.

I am, &c.

(signed) *Charles Henry Somerset.*

H. M. Commissioners of Inquiry,  
&c. &c. &c.

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(Copy.—N° 48.)

My Lord, Cape of Good Hope, 21 July 1823.  
I HAVE had the honour to receive your Lordship's despatch of the 14th March last, (N° 59), covering a Memorial from Mr. Wm. Corbitt, relative to three Prize Negro apprentices; and having referred the same to the Collector of His Majesty's Customs at this place, have the honour to transmit to your Lordship a copy of that officer's explanation, which exposes the gross mistatement of Mr. Wm. Corbitt, and which will, I trust, evince to your Lordship that Mr. Blair acted on this occasion in strict conformity to the law, and with a due regard to the welfare of the Negro in question.

I have, &c.

(signed) *Charles H<sup>e</sup> Somerset.*

Mr. Corbitt's Memorial is herewith returned.

The Right Honourable  
The Earl Bathurst, K. G.  
&c. &c. &c.

A true Copy,  
(signed) *P. G. Brink.*  
Ass' Sec<sup>r</sup> to Gov<sup>r</sup>.

(Copy.)

My Lord, Custom-house, Cape Town, 14th July 1823.  
IN reply to the honour of your Lordship's communication from Earl Bathurst on the subject of Mr. Corbitt's apprentices, I have to state, that the Order of Council of the 16th March 1808, grounded on the Act passed in the 47th year of Geo. 3, intituled, "An Act for the Abolition of the Slave Trade," orders and appoints me to receive, protect, and provide for, all such natives of Africa as have or shall be condemned as prize of war, or as forfeiture, and to enter and enlist them in His Majesty's land or sea service as soldiers, seamen and marines, and to bind the same apprentices, and to make and execute indentures of apprenticeship for that purpose.

In discharge of these my duties under the Order in Council, indentures were drawn out, approved by the Colonial Government and the legal authorities, a copy of which is hereunto annexed, bearing upon the face of them (for the protection and comfort of the Negro) a prohibition of the assignment of such Negro to any future master, without the consent of the Collector of His Majesty's Customs.—Under the penalty of these indentures, three apprentices were bound to Mr. Corbitt, who applied for leave to take to England one of them, John, in order to attend on his family on their passage. It was granted, on his entering into bond to send back to the Cape, John, who returned without his master about July 1822. Instead of showing himself to the Collector on his return, it appears that Mr. Corbitt, having left the colony, and deserted these apprentices, neglected every engagement entered into by the indenture, and ordered John to repair to the house, and to give his services to a shopkeeper in Cape Town, where the superior education, to the benefit of which, after eight years neglect, Mr. Corbitt alludes, appears to consist in carrying small parcels and doing the drudgeries of the house. Under these circumstances, I judged it most favourable to the future comfort and improvement of John, handed from one to another, abandoned by his master, to take him for the remainder of his term into my own family, where he will meet with all due care and instructions, and become a useful member of society at the expiration of his apprenticeship.

With regard to the other two apprentices, whom Mr. Corbitt states to have been removed by me from other persons, whom he also calls his agents, I have only to assure your Lordship that I have in no manner interfered with them, although in not doing so I fear not to have completely fulfilled the Orders of Council and the terms of the indentures granted. This assertion will, however, afford to your Lordship a specimen of the veracity of Mr. Corbitt. I have now only to conclude by respectfully assuring your Excellency that I have endeavoured, to the best of my understanding and ability, faithfully to discharge my duty by receiving, protecting and providing for such natives of Africa as have been condemned as prisoners of war, and by binding them apprentices to humane and good masters, in conformity with both the spirit and the letter of the Acts of Parliament and the Orders in Council in such cases had and provided.

I have, &c.

(signed) *Charles Blair,*  
Collector of Customs.

His Excellency General  
The Rt. Hon. Lord Ch. Somerset,  
Governor and Commander in Chief,  
&c. &c. &c.

A true Copy,  
(signed) *P. G. Brink,*  
Ass' Sec<sup>r</sup> to Gov<sup>r</sup>.

(Copy.)

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N° 22.

LETTER from Lord *C. Somerset* to the Commissioners of Inquiry, dated 1 June 1825, enclosing copy of the Bond signed by Mr. Corbitt, on the occasion of his taking a Prize Negro named "Malamo" to England.

Gentlemen,

Newlands, 1 June 1825.

I HAVE the honour to acknowledge the receipt of your letter of the 31st ult. and to transmit to you in reply; 1, Copy of the Bond signed by Mr. Wm. Corbitt on the occasion of his taking a Prize Negro named "Malamo" with him to England, in the year 1821; 2, Copy of the Acting Governor, Sir Rufane Donkin's authority for the Negro's accompanying Mr. Corbitt; 3, Copy of the Certificate of the Collector of Customs upon which the authority was granted; 4, Copy of the Report made to me in the month of October 1823, by the Collector and Comptroller of Customs, upon the Memorial of Mr. W. Corbitt, praying that the additional duty of one rix dollar per gallon, which had been charged upon certain rum and gin imported by him on the 10th Oct. 1823, might be refunded.

I have, &amp;c.

(signed) *Charles Henry Somerset.*

H. M. Commissioners of Inquiry,  
&c. &c. &c.

(Copy.)

KNOW all men by these presents, That we John Deane and John Murray are held and firmly bound to His Excellency Major General Sir Rufane Shaw Donkin, K. C. B., Acting Governor and Commander in Chief of His Majesty's settlement of the Cape of Good Hope, (after renouncing the beneficia ordinis, divisionis, et executionis, with the force and effect of which we declare to be perfectly acquainted) in the sum of two hundred pounds sterling, lawful money of Great Britain, to be paid to the said Sir Rufane Shaw Donkin, his certain attorney, executors, administrators, and assignees; for which payment to be well and truly made, we bind ourselves, our heirs, executors and administrators, firmly by these presents, sealed with our seals, dated the 5th day of June in the year of our Lord one thousand eight hundred and twenty-one.

Whereas in and by a certain indenture of two parts, made and concluded between Charles Blair, esq. Collector of the Customs at the Cape of Good Hope, on the one part, and William Corbitt on the other part, the said Charles Blair, esq. hath put and placed a male Negro, named Malamo, apprentice to the said William Corbitt, for the space of fourteen years from the date of said indenture, viz. 25 March 1815, the said William Corbitt hath thereby among other things covenanted and agreed not to lend or carry the said apprentice to any other colony or island, without the previous licence of the Governor and the said Collector:

And whereas the said William Corbitt, being about to depart to England for a short period, hath petitioned for leave to take the said apprentice with him, which His Excellency the Acting Governor aforesaid hath been graciously pleased to grant, on condition that the said William Corbitt should obtain the consent of the Collector of Customs, and enter into a recognizance to return the said apprentice to this settlement within twelve months from the date of his departure;

Now the condition of this obligation is such, that if the said William Corbitt, his heirs, executors, administrators or assigns, shall and do cause the said apprentice to be returned to and landed in this settlement within twelve months from the date of his departure therefrom, and in case of his decease previous to that period, shall and do produce and exhibit to His said Excellency full and satisfactory proof thereof, then this obligation shall be void and of no effect, but otherwise shall be and remain in full force and virtue; and it shall and may be lawful for the said Sir Rufane Shaw Donkin, his attorney, executors, administrators or assigns, to proceed upon and enforce this bond, and the payment of the sum of two hundred pounds sterling, and all costs attending the recovery thereof.

I William Corbitt do hereby bind myself, my heirs, executors or assigns, to indemnify the said John Deane and John Murray, or any of them, for any losses they,

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N° 22.

they, their respective heirs, executors or assigns may suffer in consequence of their having become my sureties in the previous binding for the fulfilment hereof, my person and property according to law.

(signed) *Jn<sup>r</sup> Deane.*      *John Murray.*      *W<sup>m</sup> Corbitt.*

Signed, sealed and delivered at the Colonial Office,  
this 5th day of May 1821, in the presence of

(signed) *G. Reitz.*      *J. S. Rhinius Cruymagen.*

In my presence,      (signed) *P. G. Brink.*  
A true Copy,      (signed) *P. G. Brink,*  
Ass<sup>t</sup> Sec<sup>y</sup> to Gov<sup>t</sup>.

COPY of *Sir Ruf. Donkin's* authority for the Negro's accompanying  
Mr. Corbitt.

REPLY to the Memorial of Mr. W. Corbitt, requesting permission to take  
with him to England a Negro apprentice :

“ Granted, provided the Memorialist give the usual security.”

By command of His Excellency the Governor,  
(signed) *C. Bird.*

Colonial Office, 4th May 1821.

A true Copy,      (signed) *P. G. Brink,*  
Ass<sup>t</sup> Sec<sup>y</sup> to Gov<sup>t</sup>.

COPY of the Certificate of the Collector of Customs, upon which the  
authority was granted.

I do hereby certify, that I have no objections to the Prize Negro, named Ma-  
lamo, in the service of Mr. William Corbitt, of Cape Town, proceeding to  
England with his master, should the same meet the sanction of His Excellency  
the Governor.

Given under my hand, at the Custom-house,

(signed) *Charles Blair,*  
Collector Customs.

Cape Town,  
27th June, 1821.

A true Copy,      (signed) *P. G. Brink,*  
Ass<sup>t</sup> Sec<sup>y</sup> to Gov<sup>t</sup>.

(Copy.)

EXTRACT from a Letter addressed to Mr. *John Deane*, Merchant, Cape of  
Good Hope, by Mr. *William Corbitt*, and produced to the Commissioners  
of Inquiry, 2d June 1825.

Dated London, 16th February 1822 :—Received, 3d June 1822.

“ BY the brig *Arethusa*, A. Anderson Commander, I have returned my appren-  
tice Negro, Malamo, which yourself and John Murray were bound for my re-  
turning; and I have to beg that you will be kind enough to put him into some  
comfortable situation, as I think almost the same of him as one of my own children.  
I wish, if possible, he should be sent to the free school, and when sufficiently in-  
structed to be baptized. Perhaps some person may be willing to feed and clothe  
him, for the service he may render out of school hours. Having reared him from  
a child, and knowing him to be well disposed, I feel a great interest in his welfare.  
I wish at the same time to be perfectly understood that he should be kept under  
good discipline and to an industrious employment, until I come to the Cape, and  
I should certainly keep him here with me, were it not for the restriction of go-  
vernment.

“ These are my sentiments ;—I leave it now to you to do what you think best ;  
the Commander of the vessel is bound to deliver him up to you.

“ I have written you another letter under this date, enclosing the agreement  
I made with the owner of the vessel, for the boy's passage, which I send in a more  
official

official way, because if any accident should happen to the *Arethusa*, you would have to show it at the Secretary's office. Have the goodness to take Murray with you to see the bond cancelled, and beg him to accept my hearty thanks for his kindness in being my security."

A true Copy from the original Letter,  
(signed) *John Gregory, Sec<sup>r</sup>.*

COPY of Mr. *Blair's* Note to Mr. *Deane*, dated 22 July 1822.

Mr. *BLAIR* requests Mr. *John Deane* will be so good as to send the Prize boy of Mr. *Corbitt*, which is lately from England, to the Custom-house at 2 o'clock to-day.

Custom-house, 22 July 1822.

A true Copy of the original Note,  
(signed) *John Gregory, Sec<sup>r</sup>.*

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N<sup>o</sup> 22.

N<sup>o</sup> 23.—CORRESPONDENCE between the Commissioners of Inquiry, Mr. *Duckitt* and Mr. *Blair*, relative to the Negroes sent by the latter to Klaver Valley, for the purpose of cultivating land there on his, Mr. *Blair's*, account.

N<sup>o</sup> 23.

COPY of a Letter from Mr. *Gregory* to Mr. *Duckitt*,  
dated 30th May 1825.

Sir,

Cape Town, 30 May 1825.

REFERRING to the evidence given by you before the Commissioners of Inquiry, I have received their directions to request you will transmit to them, with as little delay as possible, a list of the Prize Negroes that were sent by Mr. *Blair* (the Collector of Customs) to your late father's estate, for the purpose of cultivating land on his (Mr. *Blair's*) account.

I have, &c.

Mr. *W. Duckitt*,  
Klaver Valley.

(signed) *John Gregory, Sec<sup>r</sup>.*

A true Copy,  
(signed) *John Gregory, Sec<sup>r</sup>.*

COPY of a Letter from Mr. *Duckitt* to Mr. *Gregory*,  
dated 31st May 1825.

Sir,

Klaver Valley, 31st May 1825.

ACCORDING to your request, I have sent the list of Mr. *Blair's* Apprentices.

I have, &c.

(signed) *W<sup>m</sup> Duckitt.*

Names of Mr. *Blair's* apprentices ;—viz.

Creansa,	Zono,	Passue,
Antomela,	Capriel,	Pedro,
Namatia,	Negroote,	Domingo.
Manequo,		

A true Copy,

(signed) *John Gregory, Sec<sup>r</sup>.*

*John Gregory, Esquire*,  
Secretary to H. M. Commissioners  
of Inquiry, Cape Town.

COPY of a Letter from the Commissioners to Mr. *Blair*,  
dated 3d June 1825.

Sir,

Cape Town, 3d June 1825.

WE have the honour to request you will transmit to us the original Indentures of the ten Prize Negroes named in the margin, who are stated to have been sent by you to Mr. *Duckitt's* estate at Klaver Valley, for the purpose of cultivating land on your own account.

We have, &c.

(signed) { *John Thomas Bigge.*  
*W. M. G. Colebrooke.*

*Charles Blair, Esq.*  
Collector of H. M. Customs,  
Cape Town.

A true Copy,  
(signed) *John Gregory, Sec<sup>r</sup>.*

Creansa.  
Antonilla.  
Namatia.  
Manequo.  
Zono.  
Capriel.  
Negroote.  
Passue.  
Pedro.  
Domingo.



PAPERS RELATING TO PRIZE SLAVES

—4.—  
Documents.

COPY of a Letter from Mr. Blair to the Commissioners,  
dated 6th June 1825.

N° 23.

Gentlemen, Custom-house, Cape Town, 6th June 1825.

I HAVE the honour to inform you, that I made out no Indentures to myself, because, although entitled as others to a portion of these apprentices, I thought it inconsistent to make myself a party in both capacities, as giver and receiver. They are regularly classed so as to entitle them to their freedom; and enclosed I have the honour to send the list.

I have, &c.  
(signed) Charles Blair,  
Collector of Customs.

H. M. Commissioners of Inquiry,  
&c. &c. &c.

(Copy.)

A LIST of Apprentices of Charles Blair, Esq.

Present Names.	Date of Indentures.
Creansa - - - -	1st February - 1813.
Antimula - - - -	D° - - - -
Nematia - - - -	D° - - - -
Manequo - - - -	D° - - - -
Zono - - - -	D° - - - -
Capriel - - - -	D° - - - -
Negroote - - - -	25th March - 1815.
Passue - - - -	D° - - - -
Pedroe - - - -	D° - - - -
Domingo - - - -	D° - - - -

(signed) Charles Blair, Collector of Customs.

True Copies,  
(signed) John Gregory, Sec<sup>y</sup>.

N° 24.

N° 24.—COPY of Mr. Woeke's Bill against Mr. Blair, for Wine delivered, amounting to R. D. 255; with Copy of Mr. Pontardent's Note to Mr. Woeke, dated April 10, 1822.

Charles Blair, Esq. - - - D° - - - - to F<sup>t</sup> W<sup>m</sup> Woeke.

		R. D°
1822: April 11	For one half aum of Wine - -	25
- June 22	- one - D° - - - -	25
- Aug. 26	- one - D° - - - -	25
- Nov. 16	- one - D° - - - -	15
1823: Jan. 23	- one - D° - - - -	15
- May 9	- one - D° - - - -	15
- July 1	- one - D° - - - -	15
- Aug. 23	- one - D° - - - -	15
1824: March 24	- one - D° - - - -	15
- May 11	- one - D° - - - -	15
- July 13	- one - D° - - - -	12
- Sept. 7	- one - D° - - - -	12
- Oct. 12	- one - D° - - - -	12
- Nov. 17	- one - D° - - - -	12
1825: Feb. 9	- one - D° - - - -	12
- May 10	- one - D° - - - -	15
	R. D°	255

A true Copy of the Bill furnished to the Commissioners of Inquiry by Mr. Woeke on his examination.

(signed) John Gregory, Sec<sup>y</sup>.

## AT THE CAPE OF GOOD HOPE.

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(Copy.)

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N° 24.

My dear Sir, Wynberg, Wednesday April 10th, 1822.

I SHALL feel much obliged to you if you could send by the bearer one half aum of good Cape Madeira not much brandied; if none, the better; 'tis to drink at Mr. Blair's table. The half aum shall be returned to you the beginning of next week. Let me know the price, and the money shall be sent. The price no consequence—provided the wine is good.

Yours truly,  
(signed) *D. Pontardent.*

Addressed on the back,  
Mr. Voukers,  
D. Pontardent. Castle Street.

A true Copy of the original Note,  
(signed) *J. Gregory, Sec<sup>r</sup>.*

N° 25.—ABSTRACT from a Return of the number of Prize Negroes condemned and apprenticed at the Cape of Good Hope by *Charles Blair*, Esquire, Collector of Customs, between the 1st January 1808 and 12th February 1822.

N° 25.

Number of male and female Negroes apprenticed to individuals	-	1,490
Number of male and female Negroes assigned to the Colonial Government	- - - - -	151
Number of male Negroes assigned to the Army	- - - - -	111
D° - - - - D° - - - - to the Navy	- - - - -	123
Total Number condemned	- -	<u>1,875</u>

The above is extracted from the return signed by Mr. Blair, and transmitted to the Secretary of State in the year 1822. (signed) *John Gregory, Sec<sup>r</sup>.*

*Mem<sup>o</sup>.*—No Slaves have been condemned at the Cape since the date of this Return.

(signed) *J. Gregory.*  
20th July 1825.

N° 26.—COPY of Mr. *Stoll's* Letter to the Commissioners of Inquiry, dated 20th July 1825, relative to the expiration of the periods of apprenticeship of certain Prize Negroes, including "William Cousins;" and the manner in which, as Landdrost, he had complied with the Government advertisement of 26th April 1823.

N° 26.

Gentlemen,

Landdrost's Office, 20th July 1825.

I HAVE the honour to inform you, in answer to your letter of yesterday's date, that immediately after the Government advertisement, relative to the apprentices whose term of service had expired, appeared in the Gazette of the 26th April 1813, I had notice given to all those who resided within the Cape district, to appear at my office; and on their attending, the contents of said advertisement were communicated to the three prize boys of Mr. Blair, in common with all the others mentioned in the schedule annexed to the government advertisement above alluded to.

I have further the honour to add, that as by the said advertisement the said Prize Negroes were declared entirely free, and at liberty to engage their services as they might think fit, I did not ask the consent of their masters, and granted all those who declined remaining with their masters, liberty to engage with others.

William Cussins alias Labiani, however, agreed to stay in Mr. Blair's service, at the rate of 10 rix dollars per month,

I have, &amp;c.

H. M. Commissioners  
of Inquiry.

(signed) *J. W. Stoll, Landdrost.*

A true Copy,  
(signed) *John Gregory, Sec<sup>r</sup>.*

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N<sup>o</sup> 27.

N<sup>o</sup> 27.—LETTER from Lord *C. Somerset* to the Commissioners of Inquiry, dated 21st July 1825, enclosing Copy of Sir John Truter's opinion on the reference made to him in the Case of Edwards, upon the right of summoning numerous Witnesses upon a Trial, and the obligation of the summoning party to specify the grounds upon which he wishes them to be so summoned.

Gentlemen, Government-house, Cape Town, 21st July 1825.

I HAVE the honour to acknowledge the receipt of your letter of the 16th inst. and in reply to transmit to you herewith, a copy of the Opinion of the Chief Justice on the reference made to him by the Court of Appeals, of the Memorials of William Edwards and His Majesty's Fiscal, upon the right of summoning numerous witnesses upon a trial, and of the obligation of the summoning party to specify the grounds upon which he wishes them to be so summoned.

I have, &c.

H. M. Commissioners  
of Inquiry, &c. &c. &c.

(signed) *Charles Henry Somerset.*

In the Court of Appeals for Criminal Cases.

Wm. Edwards at the suit of H. M. Fiscal.

In dutiful compliance with a decree of the Right honourable the Court of Appeals for Criminal Cases, bearing date the 9th inst. referring to me for my opinion as to the legal right, consistent with the laws of this colony, of the Memorialist, Wm. Edwards, to have so many as 59 witnesses summoned; and whether he is by law bound to specify the grounds upon which he wishes so many witnesses to be summoned;—

The colonial law on the subject of proof by witnesses, stands as follows:—

To constitute a full proof of a fact in a judicial proceeding, two concordant witnesses are sufficient, unless the nature of the case requires more;—for instance, to prove a custom, the practice demands two witnesses. But it must be observed, that the law, in fixing in some cases the number of witnesses required, has always in view a *minimum*, and that every court is at liberty to admit so many more witnesses as in the case before it may be found necessary to ascertain the truth of a fact or facts constituting the question at issue. However, as it may happen that one of the litigating parties, for the sake of annoying his party, or for some other unwarrantable purpose, produces many more witnesses than are necessary to prove the fact or facts which he wants to substantiate, the court has a discretionary power to restrict the number of witnesses to be heard, to the number avowedly sufficient for the producent's purpose, and then to curtail what unquestionably appears to be vexatious and subversive of the ends of justice.

When therefore in a judicial proceeding an extraordinary number of witnesses has been summoned, the court has a right to know what the party wants to prove with so many witnesses; and, according to the nature of the case, such knowledge leads the court, either to the obligation to hear every one of the witnesses so summoned, or to the propriety of restricting the number to what is necessarily required.

These are the general principles of the colonial law with regard to the admission and hearing of witnesses. The object of a judicial proceeding in matter of fact, is to ascertain the truth, and to this end two witnesses are sufficient; but more being wanted, neither the party concerned nor the court is restricted to any number, until the hearing of more becomes superfluous.

The same rule holds good with respect to the repetition of summoning witnesses in the same suit.

As, however, from the decree of this Right honourable Court, whereby the above questions are referred for my opinion, it appears that the case out of which these questions arise, is that of Edwards at the suit of His Majesty's Fiscal; it is my duty, in addition, to observe, that the principles which I have stated do not apply to that case, which is a prosecution for *libel*, in which the court, on Mr. Edwards declaring "that the purport of the witnesses he wished to produce was to prove the truth of every thing contained in the Memorial, and much more,"

has

has decreed, "That no witnesses should be examined *as to the truth or untruth of the Memorial.*"

This Decree of Commissioners confirmed by the full Court, and now pending in appeal before the Right honourable Court, rests upon another principle of the colonial law ;

"That in cases of *criminal* prosecution for libel, the offence is the same whether the matter be true or false, so that the defendant is not allowed to *allege* the truth of it by way of justification." *Objecti per libellum famosum criminis veritas autorem pœnæ saltem arbitrariæ non potest subducere:* of which the reason is, *Quia libelli famosi tractum temporis ad sui compositionem desiderant, ac a sedato magis perseveranteque lædendi proposito proficiscuntur.*

If, therefore, the allegation of the truth of the matter which is deemed libellous be not attained, there can be no occasion to hear witnesses in support of it ; and it was with a view to prevent the elusion of this principle, that the court declined also hearing witnesses on the part of His Majesty's Fiscal, in proof of the falsehood or untruth of the matter, because the prosecutor could not be allowed to adduce any proof against the defendant, without entitling the defendant to cross-examine the witnesses in behalf of the prosecution, and to destroy their testimony by contrary evidence.

(signed) J. A. Truter.

Cape Town, March 17, 1824.

A true Copy, (signed) Thomas Rowles, Sec<sup>r</sup>.

(Translation.)

COPY of Mr. *Denyssen's* Letter to Sir *John Truter*, dated 10th May 1824.

Honourable Sir,

Fiscal's Office, 10th May 1824.

IN the criminal prosecution which was commenced by me *ratione officii*, on the 16th February last, against L. Cooke, Wm. Edwards, and J. B. Hoffman, the two first mentioned found good to insert a very great number of witnesses on their list, among which were the names of His Excellency the Governor, the Colonial Secretary, and other high functionaries in this colony.

The supposition that this list was framed for the purpose of vexing the witnesses mentioned therein, made me resolve, on the grounds of what is taught in the Roman law, L. 1 inf. D de testibus, and which according to the authority of Memla, Manner of proceeding, (Ed. 1783,) 2 D. L. 4 T. 65, 13 § 1, page 171, and of Matthews and Voet, in their notes at the place quoted, has been adopted in the modern practice, to postpone the summoning of the multitude of witnesses named, till such time as the commissioners, before whom the case was to be brought, should decide whether all the witnesses, and if not, which of them, should be admitted.

There existed at that time other reasons also, namely, indisposition and absence from town, why I could not summon all those witnesses to be present on the day fixed for the trial ; and finally, I felt that the examination of the witnesses whom I wished to have heard for the prosecution, would occupy the whole of the day.

After I had informed the Commissioners, on exhibiting the list of the reasons why I had not summoned the witnesses *pro reo*, the defendant in person, Wm. Edwards, found good, on the grounds of the 78th art. of the Crown Trial, by which the public prosecutor is enjoined to take care that all witnesses in support of the charge, and for the defence of the accused, are summoned for the day fixed for the trial, to move an incident against me, and to accuse me of informality.

The Commissioners were pleased, and afterwards, in appeal, the full Court, to reject the exception ; and on this ground, I therefore believe I may consider it, that the 78th art. of the Crown Trial is held by the Court as capable of exceptions such as existed in that case.

At present I again find myself placed in a similar situation. On the trial of Bishop Burnett, defendant in person, which conformably to the resolution of this day is to take place on the 31st instant, it would be necessary to summon a witness called upon by this defendant in person, namely F. W. Stædel, who lives at Witenhage.—The system which I believe I must follow for the support of my charge, requires that the evidence of Mr. F. W. Stædel should not be admitted. I have once already caused this witness to be summoned, but he did not come ; shall I summon him again, and, when he comes, contest his admissibility as a witness before

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before Commissioners? Shall I drive the opposite party, or Government, to unavoidable expense, when I feel by myself that the costs will be unnecessarily incurred?

These considerations have made me resolve to request that your Honour will bring this point under the eye of the Court, in order that I may be enabled, by an explanatory resolution of the Court, to learn the just pale of the obligation enjoined me by the 78th art. of the Crown Trial respecting the summoning of witnesses.

I have the honour to be, with due respect,

Honourable Sir,

To His Honour  
Sir J. A. Truter, Knight,  
Chief Justice.

Your most obedient Servant,  
(signed) D. Denyssen, Fiscal.

A true Copy,  
(signed) D. Denyssen, Fiscal.

A true translation,  
(signed) Hen' Murphy, Sworn Translator.

(Translation.)

EXTRACT RESOLUTION passed by His Honour the Chief Justice Sir J. A. Truter, Knight, and the Members of the Court of Justice of this Government, on Thursday the 20th May 1824.

BROUGHT to the table the letter held in advice the last court day, from D. Denyssen, His Majesty's Fiscal, to the Chief Justice, requesting that he might have an explanatory resolution of the court, respecting the obligation laid on the public prosecutors by the 78th art. of the Crown Trial, with regard to the summoning of witnesses to be present on the day fixed for the trial.

Having deliberated thereon, Resolved to declare, and it is hereby declared accordingly, That the 78th art. of the Crown Trial is too clear to need any interpretation or explanation; that also the order contained in that article is too positive to admit any deviation whatever therefrom, and therefore, that the said 78th art. as it there stands, should be strictly followed and observed. But as cases may exist, as have actually existed, in which the public prosecutor may conceive, on good grounds admitted in law, that he should not summon either a part or the whole of the witnesses called upon by the accused, the Court is of opinion (and which opinion is hereby prescribed as a rule to be in future followed and observed by the respective public prosecutors) that a public prosecutor, being in such a situation, should bring and agitate the question respecting the obligation to summon or not the witnesses called upon, or a part of them, before the court which must take cognizance of the case or accusation; and this in presence of the accused, which, with regard to a prisoner or defendant in person, who are present *in loco*, can conveniently and also ought to be done at the time that the names of the witnesses are given in; but with respect to accused persons not present *in loco*, and who give the names of their witnesses to the messenger at the time of being served with the Act of accusation and citation for trial, at their appearance on the day of the trial; but previously to its being opened, or some time before, namely, in case there be an opportunity hereto by their earlier presence *in loco*, in which case they must be expressly and duly summoned for the purpose, so that such question between the parties be discussed and decided previously to the opening and commencement of the trial, in order that the same, once opened, be commenced, continued and brought to an end without interruption.

N. B.

An extract hereof to be granted to D. Denyssen, Esq. His Majesty's Fiscal, and likewise to all the respective public prosecutors, for their information and guidance.

A true Extract,  
(signed) D. F. Berrangé, Sec'.

A true Copy,  
(signed) D. Denyssen, Fiscal.

A true Translation,  
(signed) Hen' Murphy, Sworn Trans'.

(Copy.)

W. W. Bird.

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N° 28.

N° 28.—COPY of the Indenture of a Prize Negro named Myndola, apprenticed by Mr. Blair to R. Desacotaix, on the 1st June 1813, and reapprenticed by Mr. Wilberforce Bird (acting as Chief Officer of the Customs during Mr. Blair's absence from the colony) to himself as a private individual.

THIS INDENTURE, of Two parts, made on the 1st June in the year of our Lord 1813, Between Charles Blair, esquire, Collector of the Customs at the Cape of Good Hope, on one part, and—— Desacoté, of the Commissariat, esquire, on the other part, Witnesseth: That the said C. Blair, esquire, Collector of the Customs by appointment of His Majesty, pursuant to an Order in Council bearing date the 16th March 1808, hath put, placed, and bound, and by these presents doth put, place and bind, Myndola, male Negro, which Negro, being now in Cape Town, has been declared forfeited as prize to His Majesty by a sentence of the Vice Admiralty Court in this Settlement, and is named and described, in a document hereunto annexed and signed by the said Charles Blair, to be an apprentice with the said Desacoté for the term of fourteen years from the date of these presents, in order to his being instructed in the trade of a house servant and other useful employments thereunto relating.

And the said Desacoté, for himself, his heirs and executors, doth hereby promise and covenant, to and with His Majesty, His Heirs and Successors, that he the said Desacoté shall the said Negro diligently and faithfully instruct or cause to be instructed in the said trade of house servant, and other useful employments thereunto belonging, in the best manner that he can or may teach, instruct and inform, or cause to be taught, instructed and informed; and the said Desacoté shall the said Negro carefully instruct, as speedily as possible, in the Christian religion, and shall have him baptized when sufficiently instructed, and shall permit and encourage him to attend public worship; and also, that he the said Desacoté shall provide the said apprentice with sufficient and comfortable food, clothing and other necessaries during the said stipulated time of service, and not treat the said apprentice with hardship or severity. And the said Desacoté doth further covenant and agree, for himself, heirs and executors, that he will not assign the said apprentice to any other person or persons, nor send or carry him to any other colony or island, without the previous licence of the Governor and the said Collector or chief officer for the time being; and also, from time to time, as often as he shall be required by the said Collector, or magistrate of the district in which he is resident, that he will produce the said apprentice for inspection and examination, and render a full, true and just account of the state of health, employment and treatment of the said Negro, and of the place where he shall or may be at the time of the said Return. And the said Desacoté doth hereby bind himself, his heirs and executors, in the penal sum of two thousand rix dollars, being double the supposed value of the said Negro, if he shall be sold as Slave; and that he will duly and faithfully perform all the covenants contained herein; and by any default in the due performance of all or any of the said covenants on the part of him the said Desacoté, his right to the further services of the apprenticed Negro shall, at the election of the Collector or chief officer of the Customs for the time being, be forfeited, and the remainder of the term of apprenticeship to him the said Desacoté shall from thenceforth absolutely cease and determine.

Thus done and executed at Cape Town, Cape of Good Hope, the 1st day of June 1813.

Cape Town,  
December 22d, 1814.

(signed) *Charles Blair.*  
(signed) *R. Desacotaix.*

I, William Wilberforce Bird, Comptroller of His Majesty's Customs at the Cape of Good Hope, and Chief Officer during the absence of the Collector (absent in England on leave) do hereby make over this Indenture, on the same terms, and for the remaining period, unto myself, in my private capacity as an individual.

(signed) *W. Wilberforce Bird,*  
Comptroller of Customs.

A true Copy of the original Indentures,

(signed) *John Gregory.*

—5.—

N<sup>o</sup> 29.—EVIDENCE taken by the Commissioners of Inquiry at the *Cape of Good Hope*, upon the Conduct of Mr. *Blair*, Collector, and Mr. *W. Bird*, Comptroller, of the Customs, in the disposal of Prize Negroes.

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## EVIDENCE.

(Copy.)

Cape Town, 7th May 1825.

*Jean Ellé*, a Creole; examined in the French language, at his own request.

YOU are cook to Mr. Thompson?—I am.

What were the circumstances under which you came to the colony?—I was a passenger on board the French ship "Le Victor," which was captured by an English man-of-war, and brought to the Cape. I was the son of Mr. Precourt, of Mauritius, by a slave woman, and had always been free.

Did you explain the circumstances to any one, on your arrival at the Cape?—I did not; from being unacquainted with the English or Dutch language, and from having no opportunity of communicating with any body conversant with the French language.

In what situation were you placed on your arrival, and by whom were you subsequently employed?—During the first year I was placed with a Dutchman, named Tyrholm, by whom I was ill-treated; a Mr. Allan, who was in his employ, observing this, offered to take me into his employ, and I served him for a twelvemonth; on his going to the country, I was taken by Mr. Lambert, a Dutchman, and afterwards by Mr. Murray, who subsequently hired me out to Messrs. Knubley and Thompson, for 35 R.d<sup>s</sup> per month.

Had you any knowledge of your business as a cook, before you came to the Cape?—I had the same knowledge of my business as a cook before my arrival as I now possess.

What was your age at the time you were taken in the Victor?—I was about seventeen years of age.

Were you well treated by Mr. Murray?—Mr. Murray used me ill, he kept me without clothes, and gave me nothing; I occasionally received small presents from English gentlemen who came to the house.

State the circumstances under which your services were hired to Messrs. Knubley and Thompson.—Mr. Knubley put an advertisement into the Gazette for a good cook, and Mr. Murray informed me of it; and as he did not require my services at the time, desired me to go and speak to Mr. Knubley; I did so, and after a trial, he hired me from Mr. Murray for 35 R.d<sup>s</sup> per month.

Were you satisfied with your treatment in the service of Messrs. Knubley and Thompson?—I was perfectly satisfied with my situation in their service, and had no wish to have quitted them.

What did you receive from Mr. Thompson and Mr. Knubley?—I received frequently articles of clothing from them, also money to purchase tobacco.

Were you not previously in service with any other gentlemen than those you have mentioned?—I never was.

Did you not subsequently return to Mr. Murray?—I did for a very short time, after Mr. Knubley's departure for England; but I returned to Mr. Thompson before he was joined by Mr. Cooke.

After the death of Mr. Murray, were any wages allowed to you by Mr. Cooke or Mr. Thompson?—I received no wages; but I continued to receive the same articles of clothing, &c. that were previously allowed to me.

How long after the death of Mr. Murray were you allowed to remain with Mr. Cooke?—I was some months with him before I was sent for by Mr. Bird.

Did you make objection to quitting the service of Mr. Cooke and Mr. Thompson, when sent for by Mr. Blair?—I said to Mr. Bird, who sent for me there, "I did not wish to quit a good master;" but Mr. Bird remarked, that I must go to Mr. Pigou.

Were you put in prison, and for what length of time?—I was put in prison for twenty-four hours; I was then taken out and put into a cart belonging to Mr. Pigou, and sent to his country house at Rondebosch.

Had you any communication with Mr. Blair?—When Mr. Blair sent me to prison, all he said to me was, that I deserved to be punished for not having immediately obeyed his order for my attendance.

Are you aware if Mr. Blair had any opportunity of knowing your qualifications as a cook?—Mr. Blair frequently came to the house of Mr. Murray, when I served him as a cook, and I remember his having asked if I was a good cook. Three days before my removal from Mr. Thompson's, he sent for me to the Custom-house, and made an express inquiry as to my qualifications; I told him that I considered myself a competent cook.

How long did you serve Mr. Pigou?—Three months; till the expiration of my term of apprenticeship.

— 5.—

Examination of  
*Jean Ellé*,  
7 May 1825.



—5—  
Examination of  
*Jean Ellé,*  
7 May 1825.

What did you receive for your services?—Mr. Pigou generally allowed me a rix dollar a week, which I received on Saturday when I came to town.

Were you otherwise well treated in the family of Mr. Pigou?—I have no complaint to make against Mr. Pigou; but I was dissatisfied in consequence of the forcible manner in which I had been made to serve him.

Did Mr. Pigou offer to engage you, after the termination of your service, under indenture?—After the termination of three months that I was obliged to serve him, he offered to engage me for 30 or 40 R.d<sup>s</sup> a month; but I declined, as I wished to return to the service of Mr. Thompson.

How much do you receive from Mr. Thompson?—Thirty-five rix dollars a month.

Would you have remained in the employ of Mr. Pigou, for higher wages than those that are paid to you by Mr. Thompson?—I informed Mr. and Mrs. Pigou, at the time, that although they had treated me well, I could not consent to remain in their house for any wages that they would offer, both as I was attached to the service of Mr. Thompson, who had long protected me, and as I had been taken from him by force.

The mark of *Jean* ✕ *Ellé.*

A true Copy of the original evidence,

(signed) *John Gregory, Secr.*

(Copy.)

Cape Town, 7th May 1825.

*Mr. George Thompson*; Examined.

Examination of  
*Mr.*  
*George Thompson,*  
7 May 1825.

YOU are a merchant in Cape Town?—I am a member of the firm of Borradaile, Thompson and Pillans.

Were you not lately connected in business with Mr. Lancelot Cooke?—I was.

Are you acquainted with any part of the transactions which led to the Memorial addressed by Mr. Cooke to the Lords of H. M. Treasury?—I am not acquainted with any part of the disputes which were the subject of that Memorial, not having held any communication with Mr. Cooke on the subject of them, but I am aware that they originated in the removal of a Prize Negro from our service.

Was not Jean Ellé the Prize Negro to whom you allude?—He was; he came into my service in the year 1818, and was hired by me and a Mr. Knubley (my partner at that time) from Mr. Samuel Murray, to whom he was under indenture of apprenticeship.

How long did he remain in your service?—He remained with us until the year 1820, when the departure of Mr. Knubley led to his discharge; when I became associated in business with Mr. Cooke about the end of the same year, we hired him again, and he remained with us till removed by the Collector of Customs, after the death of Mr. Murray in 1823.

What did you pay to Mr. Murray for the services of Jean Ellé, and in what capacity did you engage him?—We hired him as a cook, and paid 35 rix dollars per month to Mr. Murray.

Was any communication made to the Collector of Customs respecting this man, after the death of Mr. Murray?—There was; a short time before the man was taken from us, we made an application to Mr. Blair to be permitted to retain him in our service for the remainder of the term of his apprenticeship, a period of three or four months.

What answer was made to you by Mr. Blair?—Mr. Blair refused to allow him to remain with us, alleging that he had promised him to Mr. W. Bird; and he shortly after sent a written order for the delivery of the man to Mr. Bird.

Was Mr. Blair aware that the man had been long in your service?—I am not aware of the fact, but I presume that he was.

Did you pay any wages to Jean Ellé, after the death of Mr. Murray?—No, we did not.

Did the man express any desire to remain in your service?—He did, very strongly so, and at the time that a dienaar was sent to apprehend him and put him in prison, it was with difficulty he was induced to quit the house; two or three messengers had been previously sent, and he had refused to accompany them, although Mr. Cooke and myself had advised him to obey the summons.

What reason did Jean Ellé assign for his great reluctance to obey the summons of the Collector of Customs?—He said that he was comfortable with us, and from having been so long in our employ, he did not wish to go into service with a stranger.

At the time you hired him from Mr. Murray, was he well acquainted with his business as a cook?—He was a very good plain cook at that time.

Do you conceive that he could readily have obtained in Cape Town, wages equivalent to the sum you had paid to Mr. Murray for his services?—I think he could readily have earned those wages.

Are you aware whether his merits as a cook were known to Mr. Blair?—I am inclined to think that Mr. Blair must have been aware of his qualification, as he had been in service with several gentlemen at the Cape before he was employed by us; and, I think I have heard, with Mr. Blair himself, but of this I am not certain.

Have

## AT THE CAPE OF GOOD HOPE.

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Have you any knowledge of an offer having been made by Mr. Cooke to Mr. Pigou, to pay for a substitute for Jean Ellé, on the occasion of his assignment to that gentleman?—I remember Mr. Cooke having informed me that he had made such an offer; he did so, in pursuance of our agreement to make the overture, after finding that the man was so reluctant to leave us.

Are you aware whether such arrangements had been made in any other instance?—I am not aware of any instance in which such arrangements had been made.

Did the man return to your service after the expiration of the term for which he had been originally indentured?—He did, and has continued to serve me ever since.

What wages have you given him?—Thirty-five rix dollars a month.

During the time of his apprenticeship what allowance was made him by you or Mr. Murray?—No specific allowance; a rix dollar or two rix dollars in the month were usually given to him, and sometimes articles of clothing.

Did Mr. Murray make any specific agreement with you, to afford him these gratuities?—He did not.

Did Jean Ellé ever mention to you the circumstances under which he had been brought to the Cape?—He did; he explained to me that he had been a native of Bourbon, and had entered as a cook on board a French ship, which was subsequently taken by a British man-of-war, and brought to the Cape.

In what religion has he been brought up?—I am not aware that he professes any religion.

(signed) *Geo. Thompson.*

A true Copy,  
(signed) *John Gregory, Secr.*

Cape Town, 9th May 1825.

*Mr. J. B. Hoffman*; Examined.

HAVE you had opportunities of observing the prices of Slaves in this colony, after the period of the abolition of the Slave trade in the year 1816?—I have.

Did you remark any and what rise in their value, immediately after that event?—Not immediately, but gradually Slaves became scarce, and prices rose.

Do you remember the condemnation of any Prize Slaves at that period?—Yes, I do; they were generally published.

Do you ever remember that any difficulty occurred in obtaining masters for the Prize apprentices?—On the contrary.

From what circumstance do you infer this?—From the circumstance, that just previous to the period of abolition, even the most sickly Slaves of a cargo always found purchasers, at some price.

Can you state in what manner the Prize Negroes have been distributed?—Applications were made in writing to Mr. Blair, the Collector of the Customs; but frequently they were never attended to.

Do you know what generally becomes of the Prize Apprentices, in Cape Town, after the expiration of their terms?—They have not the privilege of a manumitted Slave, for they are obliged to find a master with whom they make a contract; they cannot take a house, as a manumitted Slave may do.

What are the terms upon which the Prize Negroes agree to serve?—They generally make agreements to serve their masters for wages, differing from 6 to 10 rix dollars per month; the masters frequently allow them to work out for others, when they obtain higher wages, on condition of receiving six or seven rix dollars per month themselves.

Do you think that many of the apprentices have learned trades, and have made themselves useful, in the terms of their apprenticeship?—Few have been instructed in trades, but they are generally good labourers, and their services are worth to their masters at least 20 rix dollars per month.

Have they adopted any religion?—Chiefly the Mahomedan.

Do you know any instances in which you have reason to believe that either Mr. Blair or Mr. Wilberforce Bird have distributed Prize Negroes in return for services rendered to them, or in payment of debts due by them?—I have heard it frequently mentioned that Mr. Theunissen, of Hottentot's Holland, and Mr. W. Duckitt, supplied Mr. Blair with the produce of their farms in return for Prize Negroes assigned to them. Charles Dixon, the livery-stable man, kept Mr. Blair's horses for some time, and he cancelled a debt due to him by Mr. Blair, amounting to more than 2,000 rix dollars, in consideration of certain Prize Negroes assigned to him. Mr. Denham, the cabinetmaker, settled his account for furniture, by the delivery of Prize Negroes to him. Messrs. Lusebrink and Hegers received Prize Negroes in payment of their shop bills.

Have you understood that Prize Negroes have been transferred with his estates by Mr. Blair?—I know that Mr. Blair advertised his estate at Stellenberg to be sold by private contract on very favourable conditions; Mr. Maasdorp was the agent, and he, as well as

— 5.—

Examination of  
*Mr.*  
*George Thompson,*  
7 May 1825.

Examination of  
*Mr.*  
*J. B. Hoffman,*  
9 May 1825.

— 5 —  
 Examination of  
 Mr.  
 J. B. Hoffman,  
 9 May 1825.

Captain Amber, the purchaser, will be able to tell what those conditions were, and how many Prize Negroes were permitted to be transferred with the land.

Have you understood that in case of the death of a master of a Prize Negro, this representative had any claim to his services?—I have understood that they were generally taken back by Mr. Blair, and then assigned; but in case of widows surviving, they have been allowed to remain with them.

Do you think that the practice has been general, of masters hiring out the Prize Negroes and receiving their hire?—Very general.

Do you think that any of the Prize Negroes have been registered as Slaves?—Yes, I do, and know with certainty one, concerning whom I wrote about six or eight months ago to H. M. Fiscal; and another, whom Mr. F<sup>r</sup> Rosseau, of Hottentot-square, brought from the estate of the late Mr. Matfield; both of these men gave me an account of circumstances which prove to me that they were of the number of apprentices of the late Mr. Tennant.

(signed) J. B. Hoffman.

A true Copy,  
 (signed) John Gregory, Sec<sup>r</sup>.

(Copy.)

Cape Town, 10th May 1825.

Mr. Thomas Thwait's; duly sworn.

Examination of  
 Mr.  
 Thomas Thwait's,  
 10 May 1825.

YOU live in Cape Town, I believe?—I do.

Are you acquainted with a Prize Negro named Cousins?—I am.

Does he live in Cape Town at present?—I do not know.

Did he ever apply to you for a situation?—He did.

About what time?—As nearly as I can recollect, in the month of October 1823.

Did you promise to obtain a situation for him?—I was prepossessed in favour of the lad, from his appearance, and recollecting that a friend of mine, Mr. Richardson, wanted a servant, I sent him out there to him, with a note strongly recommending him. Mr. Richardson agreed to take him, and the boy returned with a request from him to have him properly apprenticed at the Fiscal's office. I attended there repeatedly for the purpose, but without being able to see the Fiscal; and after speaking to Mr. Auret, the head clerk, who referred me to Mr. Blair for a certificate of the expiration of the lad's apprenticeship, I went to the Custom-house and saw Mr. Blair. When I mentioned my business, Mr. Blair said, Who is the person who intends to take the boy, who is he? is he a gentleman? I answered, that it was Mr. Richardson, who lived at Rondebosch, and that he was a gentleman. Mr. Blair then said "I'll call upon him; I will not give him a certificate." The impression upon my mind was, that Mr. Blair was vexed that the boy had left his service, and that he wished to retain him.

Did Mr. Blair say that the boy's time had not expired?—I do not recollect that he did, but I observed it to him; and indeed I had called in consequence of being informed that the boy's time had expired.

Had you made any inquiry that satisfied you that such was the fact?—Yes, I had.

Did you find that the boy had lived with Mr. Blair?—He told me that he had lived with him for 14 years, and I think he said that he had been to England with him, but he added, that Mr. Blair's treatment of him had been so severe that he would not live with him any longer.

Did he instance or allude to any particular act of severity?—I recollect one, that he alluded to: He went one day into a room where Mr. Blair was, and something happened to displease him, when Mr. Blair knocked him down on the floor; and he stated generally that Mr. Blair's treatment of his Prize Negroes was very severe.

Did you succeed in getting him apprenticed?—When I returned from the Custom-house, I felt so much interested for the lad, and so much convinced of his unjust treatment, that after stating the circumstances, I recommended Mr. Richardson to take the lad at all events.

Did Mr. Richardson take him?—Yes, he did.

Do you know whether Mr. Blair ever made any inquiry after the lad, of Mr. Richardson?—I never heard that he did.

How long did he continue to serve Mr. Richardson?—He served him for four months, at 14 rix dollars per month; and I know that Mr. Richardson engaged him again, for another period, at 20 rix dollars per month.

Do you know whether it is usual for Prize Negro apprentices whose terms are expired, to be again apprenticed by His Majesty's Fiscal?—It is.

Have you had any opportunity of knowing the manner in which the Prize apprentices have been distributed in Cape Town?—I have heard a good deal of this subject from others; and indeed I know that many persons have been refused Prize Negroes, who have had quite as good, if not better claim to such indulgence than those who have easily obtained them in numbers. I know also that several persons have subsisted upon the profits they have derived from letting out their Prize Negroes.

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## AT THE CAPE OF GOOD HOPE.

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Do you think that in such cases the masters had succeeded in teaching these Prize Negroes some trade, that rendered their services valuable?—By no means, I consider that they had been utterly indifferent to the situation of the Prize Negroes.

Then they merely gained their hire as labourers?—They did.

Did you ever apply, yourself, for any Prize Negroes?—I have; and I also hired two, for a considerable period, from Mr. Samuel Murray, at 20 rix dollars per month for each.

Was your application attended to by Mr. Blair?—I received no reply from him.

Should you have had it in your power to have taught the Prize Negroes any part of your own trade, by which they could have supported themselves after the expiration of their term of service?—Certainly; they might have learnt to become maltsters and brewers; and we should have paid them high wages at the expiration of their terms of apprenticeship.

In what situation of life was Mr. Samuel Murray?—When I first came to the colony, in 1817, he had no business; and I am certain that he lived and maintained himself upon the hire of his Prize Negroes.

Has he never been in business?—I believe that he failed before I came to the colony; he has since died.

Is the brother of Mr. Murray in Cape Town, and does he carry on business?—He is; his name is John Murray.

Have you known instances in which Prize Negroes have been resumed by Mr. Blair at the death of the master?—I know one instance, which I consider to have been attended with hardship. Mr. Collison, the wine merchant, had several of the Prize Negroes belonging to Mr. Murray, and amongst them were two distinguished for their useful qualities. On Mr. Murray's death, Mr. Collison presumed that he might continue the payment for the Prize Negroes as before, but they were very abruptly taken out of Mr. Collison's hands by Mr. Blair, with great inconvenience to his business, and given away to a Mr. William Woeke.

Do you know who Mr. Woeke is?—He is a dealer in wine, and lives in Cape Town, and is packtor at Simon's Bay.

Have you any reason to believe that there existed any motive of interest or partiality that might have induced Mr. Blair to assign so many Prize Negroes to Mr. Samuel Murray?—I believe that it was a motive of friendship, for I have understood that they lived upon friendly terms.

Have you had opportunities of knowing what the general opinion was, as to the motives of Mr. Blair in the distribution of Prize Negroes?—In frequent conversations that I have had, I have been informed that persons who had accounts with Mr. Blair, did not meet with the same difficulties in obtaining Prize Negroes that I did.

Do you observe that the Prize Negroes are upon the same footing, as to treatment, as the slaves in Cape Town?—I think precisely; if there be a difference between them, I think that it is in favour of the slaves, from the regard the owners feel for them, as their property.

(signed) *Tho' Thwait's.*

A true Copy,  
John Gregory, Sec<sup>r</sup>.

(Copy.)

Cape Town, 10th May 1825.

Mr. John Warden; duly sworn.

YOU were once, I believe, clerk to Mr. Dixon, the livery-stable man in Cape Town?—I kept his accounts for about three years; I went to him in the early part of the year 1821.

Had he any other clerk at that time?—He had not.

Had he any Prize Negroes when you first went to him?—I think that he had 11 boys, two of whom were apprenticed by the Fiscal, and for whom he paid six rix dollars each per month, and 3 females.

Were they apprenticed to him or assigned to him?—I believe that they were indentured to him; two of the girls and one of the boys died during the time I was with him.

By the Collector of the Customs?—I believe they were, but I am not sure.

Had Mr. Blair an account open with Mr. Dixon, about the time of which you have been speaking?—It was closed about the time that Mr. Blair went to England.

Do you recollect at what time that was?—I cannot state exactly what time it was, but I think that making out this account was one of the first things I did after going to Mr. Dixon's.

Had the account been of long standing?—It had been standing for two years at least.

Do you know what the amount was?—I think it was nearly two thousand dollars.

Was it for horses standing and horse and carriage hire?—It was.

Do you know in what manner this bill was paid?—Mr. Dixon told me that he had gone as far as "The Three Cups," and given Mr. Blair the account.

42.

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— 5 —  
Examination of  
Mr.  
*Thomas Thwait's,*  
10 May 1825.

Examination of  
Mr.  
*John Warden,*  
10 May 1825.

—5.—  
 Examination of  
 Mr.  
 John Warden,  
 10 May 1825.

Did he say that Mr. Blair had paid him?—No, he said that Mr. Blair had not given him any thing, but that I was to inform Mr. Dixon's wife that he had received a bill upon England for 120*l.* sterling, which he had remitted for the education of his daughter.

Was the bill receipted?—The bill was actually receipted by Mr. Dixon before he took it out to Rondebosch.

Did you see him receipt it?—I did.

Did Mr. Dixon desire you to make an entry of the payment in his books?—I recollect that he did.

Did you make the entry accordingly?—I do not recollect whether I did or not.

Did Mr. Dixon inform you of the reasons that induced him to dispense with the payment of Mr. Blair's bill?—He said that he had given it to Mr. Blair as a remuneration for giving him so many Prize Negroes.

Are you certain that these were the words of Mr. Dixon?—Not exactly the same words, but he expressed himself to the same effect.

Did you ever hear that he had given the same account of this transaction to other persons?—Yes.

Can you name any such person?—Mr. John Saunders, who lives in the Heeregraght.

Was any body present when Mr. Dixon said these words?—I cannot recollect.

Have you any reason to believe that Mr. Dixon was intoxicated when he said them to you?—None whatever.

Was it immediately upon his return from Rondebosch that he said them, or afterwards?—He first informed me immediately upon his return from Rondebosch, that he had received a bill for 120*l.* from Mr. Blair; and it was a few days subsequent that he mentioned what I have stated respecting the Prize Negroes.

Would you have been informed of the receipt of the bill, if it really had been received?—I might have been informed of it, but Mr. Dixon always kept his cash himself, and no cash book.

Had he any other clerk besides yourself?—An individual named J. O. Williams was in the habit of transacting his private business and writing his letters to England.

How long was it after this that you left Mr. Dixon?—I left him in the early part of the year 1822.

During the period in which you were with Mr. Dixon, do you recollect whether his Prize Negroes were frequently punished?—They were punished several times.

In what place?—In the Tronk.

How many lashes did they generally receive, and on what part of their body?—Generally thirty-nine lashes, and upon the bare posteriors; in one case Mr. Borchers limited the number of stripes to twenty.

Were the floggings severe, and with what instrument?—They caused bleeding, and great uneasiness in the part for a couple of days; the instruments used were rattans.

Was it usual to apply to Mr. Blair when a Prize Negro was to be punished?—It was, invariably.

Do you recollect making any such application to Mr. Blair yourself?—Yes, I do.

Will you be so good as to state the circumstances?—I rode out to Mr. Blair's house at Wynberg, and requested him to sign an order for the punishment of a Prize Boy of Mr. Dixon's, named Tom; Mr. Blair replied that he would, and on returning me the order, remarked that he was very impertinent, and deserved to be well punished, and at the same time wrote a remark to the same effect at the bottom of the note.

What step did you next take to get the boy punished?—I waited upon the Deputy Fiscal, Mr. Borchers, who countersigned the order, and the punishment was inflicted.

Did Mr. Borchers make any inquiry as to the offence of the boy?—Not upon presentation of an order from Mr. Blair, but when the boy made application for redress, he then sent for Mr. Dixon, and in several instances brought the complaint before the court.

Was the boy present, either before Mr. Blair or Mr. Borchers, when they authorized his punishment?—Before neither of them.

Did you, on behalf of Mr. Dixon, make any statement to them of the boy's offence?—None.

Did you invariably apply to Mr. Blair when the Prize Negroes of Mr. Dixon were to be punished?—Invariably.

Did he on those occasions see the Negroes themselves, and inform himself of the complaints against them, or of their defence?—He never did.

Did Mr. Wilberforce Bird ever sign the orders for punishment?—To the best of my recollection he did sign one during Mr. Blair's absence in England, when I understood that he had the control of them.

Did Mr. Dixon's Prize Negroes ever complain of his ill treatment of them?—Very frequently.

What

What did you observe that their treatment was?—In my opinion, Mr. Dixon's treatment of them was bad; he was brought before the Court of Justice in one case, and fined for it, and also in others.

Did you ever see him beat them?—I have, occasionally.

Severely or only slightly?—I thought it severe.

Was it with a stick or whip that he beat them?—Generally with a broomstick.

How were they treated as to food?—They had one good meal every day, consisting of meat, soup, and pease or rice; they had also a certain quantity of bread.

Did Mr. Dixon ever allow them money?—Each Prize Negro used to receive 2 shillings every Sunday, and a trifling sum on Christmas and New Year's days.

What quantity of clothing did they receive?—One suit of clothing in a year.

Where did they sleep?—In a loft at one end of the stable.

Was it a spacious one?—Not so, it was small in proportion to the number.

Had any of them wine?—Not those that were in the stable, that I know of.

Had they medical attendance when they were sick?—They had.

Who was the medical gentleman who attended them?—Dr. Huntley.

Is Mr. Dixon much addicted to intoxication?—Very much so.

Had Mr. Dixon any other servants in his livery stables than the Prize Negroes?—He had one European, one hired slave boy, and a boy whom he had upon contract.

Did any of the Prize Negroes become good grooms during their service with Mr. Dixon?—I can hardly answer that, but one of them now remains with Mr. Dixon, to whom he gives, according to the boy's own statement, 14 R.d's per month.

Was the European who you say was in the stables, a superintendent of the Prize Negroes?—He was coachman, and when he was in the stables he acted as superintendent.

What motives do you think that Mr. Dixon had, to desire you to inform Mrs. Dixon that Mr. Blair's bill was paid in the manner he stated?—I think that he was perfectly aware that Mrs. Dixon would be vexed when she came to know the sacrifice of so large a sum, and it was with a view to prevent her from knowing the real state of the transaction, and of anticipating any inquiry, that he put me upon my guard in case the circumstance should be mentioned.

Had you ever any reason to mention it?—Never; no inquiry was made about it.

Was Mrs. Dixon in the habit of making inquiry respecting the money that was received?—All money that was received was immediately paid to Mr. Dixon or to his wife.

Do you know whether Mr. Dixon had frequently demanded payment of his account from Mr. Blair, before he took it or delivered it to him?—I cannot say whether he had or not.

Did any particular reason exist that induced Mr. Dixon to ask for payment of his bill at the time he did?—Mr. Dixon told me that he wished to send the account to Mr. Blair, previous to his departure for England, which was then expected.

Did he say that he would take the account himself?—He did, and took it; and told me that he had delivered it to Mr. Blair upon the road.

(signed) John Warden.

A true Copy, (signed) John Gregory, Secy.

(Copy.)

Sir,

Cape Town, May 11th, 1825.

UPON further recollecting some of the questions put by you to me yesterday, I beg leave to make the following remarks. To the question, "Were all Mr. Dixon's apprentices under the control of the Collector of Customs?"—Two of them were apprenticed by His Majesty's Fiscal from an earlier importation; and one of these boys is, to the best of my recollection, him alluded to in another part of my examination as receiving 14 R.d's per month. "Did Mr. Borchers make any inquiry about the state of the case, upon application for a boy to be punished?"—When a boy ran away and lodged a complaint with him, he generally sent for Mr. Dixon, and in several cases brought it before the Court. I should likewise beg to suggest the propriety of asking Mr. Saunders, whether he has not heard Mr. Dixon lately assert, that he had received a note antedated for the purpose of settling the account in question.

I hope you will excuse me for thus troubling you, but I am anxious to throw as much light as possible upon the subject, as a corroboration of my own statement.

To J. T. Bigge, Esq.  
&c. &c. &c.

I have, &c.

(signed) John Warden.

P. S.—I likewise recollect upon Mr. Borchard's limiting the stripes to 20 instead of 39, as is the usual punishment, but without any inquiries.

Catherine  
Sarah  
Rachael  
January  
Thomas — Fiscal's

Tom  
Jack  
Sam  
George  
Little George

Kamber — Fiscal's  
Dick  
Michael  
Charles

A true Copy.

John Gregory, Secy.

Cape Town, 11th May 1825.

(Copy.)

Mr. John Saunders, duly sworn; Examined.

— 5 —  
 Examination of  
 Mr.  
 John Saunders,  
 11 May 1825.

DO you live in Cape Town?—I do.

Are you acquainted with Mr. Dixon the livery-man?—I am.

Do you recollect to have heard him say, that Mr. Blair, the Collector of the Customs, was or had been indebted to him in a sum of money?—I recollect to have heard Mr. Dixon say, about the period in which Mr. Blair was going to England, in a conversation that turned upon that subject, that he (Mr. Dixon) could not allow Mr. Blair, who had behaved to him in a very gentlemanlike way, to go to England, without taking some notice or making some acknowledgement of his kindness. He said that he had presented him with his receipted bill which was then due and owing.

Did he mention the amount of the bill?—I cannot recollect that he did.

Did he say that he had presented Mr. Blair with his receipted bill?—He said that he met him upon the road, either going to or coming from a place that he has named "Mowbray," no great way from Cape Town, and that he then gave Mr. Blair the bill, and thanked him for all favours.

Did Mr. Dixon say or describe in what manner Mr. Blair had behaved so well to him, or so much like a gentleman?—As far as I can recollect, he did not specify the way in which he had behaved, but what he said left an impression on my mind, that it was the assignment to him of so many Prize Negroes.

What reason have you for entertaining that opinion; did Mr. Dixon use any words that led you to adopt and retain it?—I made an observation upon what Mr. Dixon said, respecting his good intentions to Mr. Blair, and I said, that if Mr. Blair had assigned to me as many Prize Negroes as he had assigned to him, I should then have equally considered him a friend as Mr. Dixon had.

Was there any other word or expression used by Mr. Dixon that induced you to think that he alluded to the assignment of Prize Negroes to him?—I do not recollect.

When you made this observation, did Mr. Dixon appear to admit the purport of it, or did he make any reply?—Whether he made any observation or not I cannot recollect, but the impression on my mind was, that he appeared to admit the purport of what I said.

Did you hear any thing else from Mr. Dixon at that time, that confirmed your impression?—I do not recollect of having heard any thing else at that time.

Who was in the room at the time that this passed?—As far as I can recollect, Mr. Williams, who transacted his confidential business, was present, and I think Mr. Donough was also.

Can you recollect at what period of the day this was?—I do not recollect that.

Had you been invited to Mr. Dixon's house, or what other reason led you to visit him?—I had called in casually.

Have you ever heard Mr. Dixon make use of the same or similar expressions on any other occasion?—I remember one time being in company with Mr. Dixon, soon after Mr. Cooke's dispute with Mr. Blair; Mr. Dixon introduced the subject, having previously understood that I had mentioned what he had said respecting the presenting Mr. Blair with his account; he told me that the business was so far arranged, that in consequence of Mr. Blair having given him a note of hand for the amount of his bill, in the event of the business being brought forward, nothing would appear against him. I also now recollect, that upon meeting Mr. Dixon before this took place, and his appearing to be angry with me for having mentioned the conversation respecting Mr. Blair, and asking me why I had done so, I said I was sorry for it, but that if I was called upon to declare on oath as to the conversation, I should certainly feel myself bound to confirm what I had said.

Was Mr. Dixon in the habit of talking to you respecting his transactions with individuals and the payment of their bills?—Not regularly, but accidentally he might do so.

Had you observed to Mr. Dixon that Mr. Blair was going to England, or did he; or how was the conversation introduced?—That I cannot recollect. But I should observe, that Mr. Dixon is very unguarded in his conversations, and that when one happens to find him either much irritated by any occurrence, or much pleased, he is in the habit of talking of it.

Are you quite certain that Mr. Dixon was perfectly sober when the first conversation took place?—I rather think he was.

Did you ever apply to Mr. Blair for Prize apprentices?—I did make application by letter some time ago to Mr. W. Bird, but received no answer. Upon another occasion, when the mistress of a Prize Negress, who had left the colony, and was uncertain of her return to it, placed her under my care, I made a request through a Mr. Murdock, a clerk of Mr. Blair's, that she should remain with me, and the girl was allowed to do so.

(signed) John Saunders.

A true Copy,  
 (signed) John Gregory, Sec<sup>y</sup>.

## AT THE CAPE OF GOOD HOPE.

135

(Copy.)

Cape Town, 11th May 1825.

Mr. *Matthew Donough*; Examined.

YOU live in Cape Town, I believe?—Yes, I do.

Are you acquainted with Mr. Dixon, the livery-man?—Yes, I am.

Do you recollect to have been present at any conversation in Mr. Dixon's house, when mention was made of the remission of payment of Mr. Blair's bill by Mr. Dixon?—I recollect to have called about three years ago at Mr. Dixon's house, when a conversation was going on, in which I heard Mr. Dixon say, "they may talk, but Mr. Blair has paid me, and I have got his receipt."

Was that all that you recollect to have heard?—That is all that I recollect.

Can you state who the persons were who were present at Mr. Dixon's?—I think that a Mr. Williams was present, but I do not at this moment recollect who the others were.

Do you know Mr. Saunders the confectioner?—I know him personally.

Do you recollect whether he was present?—I cannot exactly say; he might be, for any thing I can recollect at present.

Did the conversation terminate in the way you have described?—It did; I did not particularly notice the conversation.

Was any mention made of any Prize Negroes, at the conversation you have alluded to?—Not that I have heard.

(signed) *M. Donough*.

A true Copy,  
(signed) John Gregory, Secy.

— 5.—  
Examination of  
*Mr.*  
*Matthew Donough,*  
11 May 1825.

(Copy.)

Cape Town, 12th May 1825.

Capt<sup>n</sup> *William Hollett*; duly sworn.

I BELIEVE you live in Cape Town?—I live near the Castle.

Were you here in the year 1819?—I was.

Do you remember the circumstance of Mr. Blair's estate of Stellenberg being put up to sale?—I do; I bid for it at public sale.

Had any advertisement appeared in the public papers, notifying the sale?—I think three must, for there were upwards of 100 persons attending the sale.

Was the sale in Cape Town?—No, at the estate.

Were there many bidders for it?—I don't think that there were more than three; I was the highest bidder, but Mr. Maasdorp would not let the estate be sold for the price that I offered for it.

What was that price?—I think that I offered 110,000 guilders, and the sum asked was 120,000.

Were the conditions of payment made known at the time of sale?—I think they were, they were read by the auctioneer before the sale took place.

Do you recollect whether any thing was said about Prize Negroes being attached to the estate?—Not at the sale, but it was mentioned privately to me by Mr. Blair afterwards, that the Prize Negroes would not be removed from the estate until the expiration of their terms of service.

How many were said to be upon the estate?—Six males and two females, and I believe there were two children.

Was the circumstance known to any persons besides yourself?—My securities, Mr. Dixon and Mr. Durham, informed me that the Prize Negroes would be allowed to remain.

Was any thing said respecting the characters of the Prize Negroes?—It was said that they had been Mr. Blair's Negroes, and it was supposed that he had selected the best for himself.

Did the knowledge of the circumstance, of their being allowed to remain, add value to the estate in your mind?—It certainly did.

Do you think that it was calculated to produce the same impression on the minds of others?—No doubt that it was; at the least, I should think, 20 per cent increase in the value of the estate.

Were the Prize Negroes produced at the time of sale?—They were not.

Do you think that their value was generally known?—It was known to myself; I cannot say as to others.

Was any assurance given that the indentures of the Prize Negroes would be made over to the purchaser of the estate?—No, it was said this could not be done; but when Mr. Blair offered the estate to me after the sale, he said that he would pledge his word and honour that the Prize Negroes should not be removed till after the expiration of their term.

Had



— 5.—  
Examination of  
Capt.  
W. Hollett,  
12 May 1825.

Had you made any inquiry of Mr. Blair, whether they would be allowed to remain?—Mr. Maasdorp, who had the management of the sale, informed me, that there were so many Prize Negroes attached to the estate, and that he had no doubt but that they would be allowed to remain upon it as long as they were well treated; he did not say so positively, but he gave it to be understood, that no difficulty would be made in it afterwards in treating for the estate by private contract. A few days after the public sale, I said to Mr. Blair, that I would not have bid so much for it, if I had not thought that the Negroes would be attached to it.

When you made this observation, did Mr. Blair appear to assent to it, or did he express any surprise at your having entertained an expectation of having the Prize Negroes?—He seemed to be surprised at it, and how I could have formed such an idea, for he said that they could not be regularly sold or assigned at the sale.

Was Mr. Blair present himself at the sale?—No, he was not.

Can you name any persons who informed you that the Prize Negroes would remain upon the estate?—Mr. Dixon told me that there was no doubt but that they would all remain upon the estate, if they were well treated.

Do you know whether Mr. Dixon had any authority to make this known, or did he say that he had?—I don't know that he had, and he did not say so.

When you were informed by Mr. Blair, and he pledged his word of honour, that the Prize Negroes should not be removed, had you gone to treat with him, or in what manner did the conversation arise between you?—I met Mr. Blair accidentally in the street some days after the sale; he said that he was sorry that I had not purchased the estate, and that it was worth a great deal more than I had bid for it; he asked me if I was aware of the Negroes that were upon the estate, and their value; I answered that I was, and that if I had not been aware of it, I should not have bid the sum that I did.

Did Mr. Blair appear to wish that you should purchase the estate?—He said that I might have it for 120,000 guilders, and that he would guarantee that the Prize Slaves might remain until the expiration of their terms of service; I declined the offer.

Did you understand that any other offers were made subsequently to Mr. Blair for the estate?—I did not, but I mentioned the circumstance of the Prize Negroes to Capt. Amber, who made up his mind to purchase the estate.

Were the conditions of payment immediate, or otherwise?—One third of the money was to be paid down, and the remainder in two instalments of three years, to the best of my recollection.

Did you ever apply to Mr. Blair for Prize Negroes on your own account?—Never, except on one occasion, when I had paid 330 dollars to a Mr. Taylor for a Prize Negro whose indenture he agreed to assign over to me, and for whom I was then paying the sum of 30 dollars per month as wages; three years of his indentures had expired; I applied to Mr. Blair to sanction the transfer, and he at first said that it would require consideration; after several applications to him he refused it, and a Dutch wine merchant, whose name at this moment I cannot recollect, came with an order from Mr. Blair to me to deliver up the boy to him; the boy refused to leave me, and then two dienaars were sent to take him away.

Was Mr. Blair aware that you had paid the money to Taylor?—I am not certain, but I think that I did mention to him that I advanced money to him for the boy.

Have you reason to think that such transfers of Prize Negroes for money are common?—Frequently.

Do you think that Mr. Blair is aware that these transfers are made for money?—I should think so.

Did Mr. Blair make any objection to your having the boy, when you applied to him; and what was the nature of it?—He mentioned the number of applications that were made to him for Prize Negroes.

A true Copy, (signed) William Hollett.  
(signed) John Gregory, Sec<sup>y</sup>.

(Copy.)

Cape Town, 12th May 1825.

Mr. G. H. Maasdorp (duly sworn;) Examined.

Examination of  
Mr.  
G. H. Maasdorp,  
12 May 1825.

HAVE you acted as agent at any time for Mr. Blair, the Collector of Customs, in the sale of his estate to Captain Amber?—I was not the agent of Mr. Blair, but I was requested by him to dispose of his place.

What is the name of the place?—Stellenberg.

Do you recollect at what period you were so employed?—I do not recollect the year, but it was a short time before Mr. Blair went to England; I believe in the year 1819.

What instructions did Mr. Blair give you for the sale?—He directed me to sell the estate at public auction for the sum of 125,000 or 130,000 guilders; it was advertised by Mr. Blair in the public papers, and was put up for sale by auction; it did not fetch the price that Mr. Blair asked, and therefore was not sold.

Did

Did any person afterwards make an offer of it?—Yes, Captain Amber did.

What sum did he offer?—He offered 100,000 guilders, which Mr. Blair in the first instance declined, but he afterwards accepted it, and the estate was sold to Captain Amber.

Do you recollect upon what conditions of payment?—Captain Amber paid the sum of 30,000 guilders in ready money, and he gave a mortgage for the remainder on the place in favour of those who already had claims upon it.

Do you know whether any other offers were made for the place?—None, that I know of.

Do you know the reasons that induced Mr. Blair to make the reduction in the price that you have stated?—Mr. Blair intended to go to England, and no other offer being made at the time, he thought proper to accept Captain Amber's.

Is it a large place, and does it require a number of hands to work it?—It is a large place, and has extensive gardens, but I do not think that it would require many labourers.

Did you understand it to be a condition of sale, that Mr. Blair was to transfer to Captain Amber several Prize Negroes that he had himself had upon the estate?—I never understood that; I had nothing to do with any bargain that might be made, my only business was to sell the estate.

Had you occasion to see Captain Amber upon the subject of this sale?—I had.

Did he ever propose to you that Mr. Blair should leave his Prize Negroes upon the estate?—No, he never did make such a proposal.

Have you reason to know that the sum of 30,000 guilders was paid in cash to Mr. Blair?—I have.

(signed) G. H. Maasdorp.

A true Copy,  
(signed) John Gregory, Sec<sup>r</sup>.

(Copy.)

Cape Town, 12th May 1825.

Captain John Amber; Examined.

I BELIEVE that you now live at the place that formerly belonged to Mr. Blair, called Stellenberg?—I do.

In what year did you purchase it?—A little while before Mr. Blair's visit to England, either at the end of the year 1819 or in 1820.

Did you purchase it by public auction or by private contract?—By private contract; the estate had been put up at public auction, I believe, when I was absent from the colony.

Do you know at what sum it had been bought in?—No, I do not; but I know the person who bid for it, Mr. Hollett, a shipowner, who lives in Cape Town.

Do you know what sum he bid for it?—No, I do not.

Did you make an offer subsequently to Mr. Blair, for the estate?—I did.

What sum might you offer?—One hundred thousand guilders.

Did you make any terms as to the period of payment?—I paid him down half the sum, amounting to 16,000 rix dollars or more; the remainder of the money was to continue on mortgage.

With whom did you negotiate the purchase?—I negotiated it through Mr. Smith, a gentleman who is now in the interior.

Was any delay or difficulty experienced in it?—The sale of the estate was first advertised in the Gazette; I had been disposed to make the purchase by the accounts that I had heard of it, and visited it once myself; I offered the sum of 100,000 guilders, which was refused, and I raised my offer to the sum of 110,000 guilders; some delay took place in the answer of Mr. Blair, and at last he signified his acceptance of that sum; as I was then preparing to sail for St. Helena, I said it was too late, and I declined the purchase. Upon my return, I found the place was still on sale, and they renewed their offer, which I again declined, after some negotiation that was conducted by Mr. Smith, who told me that he thought a reduction would be made in the terms; they at last agreed to accept 100,000 guilders, and a declaration was made before a notary to that effect.

Who was that notary?—I think that it was Mr. Lind.

During this negotiation for the purchase, was any expectation given to you that Mr. Blair would leave upon the estate the Prize Negroes that he had upon it himself?—I think that it was mentioned; it was said that the indentures were to be made over to me.

How many Prize Negroes were in fact transferred to you?—Ten boys and a girl.

Were these indentures made over to you?—They were, and I have them in my possession.

You had resided in this colony before this purchase?—I had visited the colony occasionally, but had not remained long during my visits.

Had you had any opportunity of knowing the value of Prize Negroes at the time?—Not in the least.

Would you have given 100,000 guilders for Mr. Blair's estate, if the Prize Negroes had not been made over to you?—I do not recollect that I took that circumstance into consideration;

I believe

— 5 —

Examination of  
Mr.  
G. H. Maasdorp,  
12 May 1825.

Examination of  
Capt.  
John Amber,  
12 May 1825.

— 5.—  
 Examination of  
 Capt.  
 John Amber,  
 12 May 1825.

I believe that the value of the Prize Negroes was represented to me by others; although I did not know it myself, several people told me that the Prize Negroes would make a great deal of difference in the value of the estate.

Did any persons use any persuasion with you to make the purchase?—Mr. Smith, whom I have mentioned, and a Mrs. Day, who was Mrs. Hodgson, used much persuasion with me to purchase the estate.

Did Mr. Smith act as agent for Mr. Blair?—Mr. Smith and Mr. Pontardent seemed to act together for Mr. Blair.

Have the Prize Negroes that were transferred to you by Mr. Blair, remained in your possession?—All except two, one whom I requested Mr. Bird to take back in Mr. Blair's absence on account of misconduct, and one whom Mr. Blair sent for, I believe on account of a claim of freedom; he was taken before Mr. Stoll, and I now see him free about the streets of Cape Town; his name was Adam; he was a very good coachman.

Did you claim any deduction from the purchase money, on account of losing the services of these two Prize Negroes?—I did not.

Did any professional person act for you in the negotiation?—Mr. Smith acted for me in some respects, but Mr. Philips the merchant was my agent, and he was one of my securities for the purchase.

Did you see Mr. Wilberforce Bird upon the subject, or had you any transactions with him respecting it?—I do not recollect that I did.

Have you been able to calculate what the value of the labour of the Negroes may have been to you, since the purchase?—With the deduction of clothing and subsistence given to the Prize Negroes, I calculate that the hire of their labour would have cost me about twelve rix dollars per month each.

Are the Prize Negroes that you have had from Mr. Blair, labourers or domestic servants?—I have a cook, a house servant, and a coachman, the others work in the garden; I have taught them myself what they know, except the labourers in the garden.

Are their terms of service nearly expired?—In the next year, I believe; some of them not quite so soon.

(signed) John Amber.

A true Copy,  
 (signed) John Gregory, Sec<sup>y</sup>.

(Copy.)

Cape Town, 15th July 1825.

Capt. John Amber; Re-examined.

Examination of  
 Capt.  
 John Amber,  
 15 July 1825.

DO you know whether the Prize Negroes that you received from Mr. Blair, had previously been on the Stellenberg estate?—The greatest part of them, I believe, had been upon the estate before I purchased it.

Have you ever received from Mr. Blair any memorandum or document, showing the date of the original indentures of the Prize Negroes?—A memorandum, of which the paper I now produce is a copy, was sent to me by Mr. Pontardent, stating the years in which the apprenticeships of all the Prize Negroes, except Adam, would expire; I never could obtain any memorandum respecting Adam's original term of apprenticeship.

(signed) John Amber.

A true Copy,  
 (signed) John Gregory, Sec<sup>y</sup>.

(Copy.)

Cape Town, 12th May 1825.

Mr. James Onslow Williams; duly sworn.

Examination of  
 Mr.  
 J. O. Williams,  
 12 May 1825.

YOU reside in Cape Town?—I do.

Were you at any time in the employ of Mr. Dixon, and in what capacity?—I was at one time clerk to Mr. Dixon, and I kept his accounts.

In what manner were the accounts kept by you, of Mr. Dixon's transactions?—I entered the charges in a day-book; and of those who kept open accounts with Mr. Dixon, I posted them in a ledger. It was customary with Mr. Dixon to have transactions of purchase and sale with individuals, when entry was sometimes made in the day-book of credit being given for all charges to a certain date.

Do you recollect whether Mr. Blair had an open account with Mr. Dixon?—He had; and I remember having entered many charges against him.

Were you employed to make up Mr. Blair's account?—I was not, having retired from Mr. Dixon's employment for a time; another clerk was engaged, who made up the account of Mr. Blair, about the time he was going to England.

Where were you at that time?—I was at that time residing at Mr. Dixon's country house near Rondebosch, being in bad health.

Did

Did Mr. Dixon make any mention to you at the time of having made up the account of Mr. Blair?—I remember Mr. Dixon informing me that he had got Mr. Blair's account made up, and that he should now get it settled, as it was of long standing, and as Mr. Blair was going to England.

Did Mr. Dixon subsequently inform you of the account being settled?—On my resuming charge of Mr. Dixon's books, I observed in the day-book that Mr. Blair had had credit given him for the whole amount of his account; I am not sure whether it was entered in the ledger; but I am quite certain that he had credit in the day-book.

Was this entry made in the handwriting of Mr. Dixon?—It was.

Was it customary with Mr. Dixon to make this sort of entry, that credit had been given when money was paid?—Mr. Dixon was by no means regular in his accounts; and it was impossible at times to know whether money had been paid or not; sometimes he put down "credit to be given for cash paid;" at other times only "credit to be given," without stating the amount or for what.

Do you happen to remember having heard Mr. Dixon make any remark upon the settlement of his account by Mr. Blair?—I think I recollect Mr. Dixon having said on one occasion, "Thank God, I have got Mr. Blair's account settled; Mr. Blair has always behaved like a gentleman, and I shall always feel obliged to Mr. Blair, as long as I live, for the manner in which he has acted towards me."

Was there any other person present when this observation was made by Mr. Dixon?—I think there were; but I cannot now recollect who they were, as I was at that time in a hurry to go away, and only remained a few minutes.

What was the impression on your mind, from the observation made by Mr. Dixon?—The assistance he had received from Mr. Blair in the services of Prize Negroes made over to him. Mr. Dixon had often said to me, "Williams, how could I have got on in my way of business, if Mr. Blair had not been a friend to me in giving me so many Negroes; how could I have ever purchased slaves, or afforded to hire such a number of servants."

Did it appear to you that Mr. Dixon alluded to these advantages in connexion with the settlement of his account with Mr. Blair?—Certainly not; and from my knowledge of Mr. Dixon, I am persuaded that he was not the kind of man to forego the payment of any thing due to him; and from the entry I afterwards saw in the day-book, I have no doubt that he either received the money due to him, or some security for the ultimate payment of it.

What number of Prize Negroes had Mr. Dixon?—I cannot recollect; he has lost some. He may have eight or ten at present.

Had you any opportunity of observing Mr. Dixon's treatment of the Prize Negroes?—I have observed him at times very hasty in his temper with them, on which occasion he would strike them with any thing that was at hand. In respect to food and clothing, they were amply provided. He always gave a certain number liberty to go out on Sundays, they took it by turns; he also gave them money.

Do you recollect whether it was usual with him to apply to Mr. Blair or to Mr. W. Bird, to have them punished?—I do not recollect, during the time I was in Mr. Dixon's employment, that he ever sent the Prize Negroes to be punished, except on occasion of any of them running away, when he adopted the usual course of sending a note to the Fiscal, to which the counter-signature of the Collector of the Customs was obtained, before the punishment was ordered to be inflicted.

Were you employed to make these applications?—I was employed to write them; and on some occasions I took them to the Custom-house for signature of Mr. Blair or Mr. Bird.

Were any investigations made by Mr. Blair or Mr. Bird, into the conduct of the Prize Negroes sent for punishment?—I do not remember Mr. Blair's having signed more than one order on application carried to him by me; the orders were much more frequently signed by Mr. Bird. On the occasion alluded to, Mr. Blair asked me some questions upon the case, and I explained to him that the boy had been taken up by the police, after an absence of nine days; when Mr. Blair signed the order for his punishment. Mr. Bird sometimes asked a question, what the Prize Negroes had been doing, before he signed the order; if he had much business to engage him at the time that the application was presented, he would take up the note and sign the order, without any inquiry.

Are you aware whether any complaints have been prosecuted before the Court of Justice against Mr. Dixon, for ill-treatment of his Prize Negroes?—It happened once or twice that Mr. Dixon was prosecuted on such complaints; I believe on one or two occasions Mr. Dixon was fined by the court; and some other complaints were found to be frivolous, when the Prize Negroes were punished.

(signed) J. O. Williams.

A true Copy,  
(signed) John Gregory, Secy.

—5—  
Examination of  
Mr.  
J. O. Williams,  
12 May 1825.

(Copy.)

Cape Town, 13th May 1825.

Mr. Charles Dixon; duly sworn.

— 5. —  
 Examination of  
 Mr.  
 Charles Dixon,  
 13 May 1825.

HOW long have you resided in Cape Town?—For eighteen years; I came in the year 1806.

How long have you been established and kept livery-stables?—Since 1809.

When was it that Prize Negroes were first assigned to you?—I think that it was in 1812.

Had you applied for any at an earlier period?—No, I did not; I did not like their appearance, and slaves were cheap at that time; Mr. Blair offered me some, but I refused them.

Did you find that those who were assigned to you afterwards became useful servants?—After six or seven years they did.

Do you recollect having said to any one in conversation, that you could not have succeeded in your business, if it had not been for the Prize Negroes you obtained?—I believe that I may have said that.

Do you recollect the year in which Mr. Blair went to England last?—I believe it is five or six years ago, but I am not certain.

Had Mr. Blair had any account with you before that time?—He had.

Do you know how long it had been standing?—A good long time.

Did you make any application to him for payment of his bill before he went away?—I gave him his bill; he had asked me for it, and said that he could not pay me until he came back again.

Did you consent to postpone the payment?—I did.

Did Mr. Blair pay the bill when he returned to the colony?—He gave me a note-of-hand for it as a security; he said he could not pay the bill.

At what period did he give you the note of hand?—I will look into my books when I go home, but I think it was after Mr. Edwards began to make inquiries about the Prize Negroes; I went to Mr. Blair, and begged him to give me something to show for the payment of the bill. He said that he could not pay me at that time, and I consented to give him time if I only had his note, bill or obligation. He then gave it me, and I have it now.

Had you given any receipt to Mr. Blair for your account, at the time you first presented it to him?—The words "Received payment" were put to the bill, as is usual in the colony, on presenting it, but I did not put my name to it.

Did you make any entry to that effect in your books?—I entered it as paid in the day-book, but not at that time.

When did you make the entry of having received payment?—I made it in the day-book when I received Mr. Blair's note of hand, and antedated it to April 1820, the date at which the account had been made up. I made no entry in the ledger.

For what purpose did you enter the bill as paid on the day the account was made up to, when you only made the entry and received the bill long afterwards?—It was to make it appear that the account was paid on the day that it was made up to.

Do you know a person named J. Warden?—Yes, I do.

Was he your clerk?—Yes, he was.

Did you ever desire him to make an entry of the payment of the bill in the books?—I cannot say; the entry in the day-book is in my own handwriting.

Are you certain that the account was not signed by you when you took it to Mr. Blair?—I am certain that it was not.

Where did you deliver it to him?—When he was passing my place at Rondebosch. He had asked me for the bill before, and I delivered it to him. My clerk (Warden) had made it out.

What reasons induced you to grant the delay that Mr. Blair asked when you gave him the bill?—I did not like to press him for the payment of his bill when he was going home in a hurry, especially as he had been a good friend to me, and had given me the Prize Negroes.

Had he kept accounts with you before that which you are now speaking of?—He had.

Had he paid them?—Yes, he had; he had paid me two bills before this last.

Were they of large amount?—I cannot say.

Did you in fact apply to him for payment of his bill after his return to the colony?—I never mentioned it to him till Edwards came to my house, and made the inquiry I have stated.

Did you expect Mr. Blair to pay your bill then, or had you given up all hopes of obtaining it?—I always expected that he would pay me some time or other.

Do you recollect the sale of Mr. Blair's estate?—I do; I was at the sale.

Did

## AT THE CAPE OF GOOD HOPE.

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Did you state to any of the persons who were likely to purchase it, that the Prize Negroes were to remain?—No, I did not.

Did any understanding exist, that they would remain?—I do not know that it did; I knew nothing of the conditions of the sale, and only went there to buy a few articles.

Previous to the departure of Mr. Blair for England, do you recollect any observation made by you respecting the settlement of his account in the presence of Mr. Saunders, your clerk, Williams, or other persons?—I do not recollect any conversation of the kind previous to the departure of Mr. Blair for England; I remember, after his return to the colony, that Mr. Saunders and Warden were in my house, and Mr. Donough; Williams may have been there when Mr. Edwards had been talking to me on the stoop of my house respecting Mr. Blair's accounts, and on that occasion I said to those persons, that Mr. Blair had always paid me like a gentleman. This is all that I recollect to have said.

Mr. Dixon produced his day-book, in which the following entries had been made, together with a note of hand, copy of which is subjoined.

He also produced an old ledger, in which entry had been made of accounts that had been discharged by Mr. Blair at former periods.

(signed) *John Gregory, Secy.*

Cape Town, 13 May 1825.

EXTRACT from Mr. Dixon's Day-book, produced this day at the Office of the Commissioners of Inquiry:

Saturday, 1st April 1820.

63. - -	Received of C. Blair, Esquire, in full of all	} R.D.
	demands to this date - - - - -	

A true Extract,

(signed) *John Gregory, Secy.*

COPY of Mr. Blair's original Note of Hand, produced by Mr. Dixon for the inspection of the Commissioners of Inquiry, 13 May 1825.

R.D' 1,441. 1. 0.

April 1st, 1820.

On demand, I promise to pay Charles Dixon the sum of Fourteen hundred and forty-one Rix Dollars.

(signed) *Charles Blair.*

A true Copy,

(signed) *John Gregory, Secy.*

Did not Mr. Williams reside at your house in the country for a short time, about the period that Mr. Blair was leaving the colony?—I have some recollection of it, but I cannot state the time; he was not in my service at that time.

Do you recollect whether it was before or after the presentation of your bill to Mr. Blair?—At the time I presented my bill to Mr. Blair at his own request, my family resided at my country house; it must have been before that time that Williams was there, but I have no recollection of it.

Do you recollect informing him of your intention of getting the bill settled before Mr. Blair's departure?—I may have said so, but I do not recollect it.

At what period did Williams afterwards resume charge of your books?—I do not remember.

At what time did you receive from Mr. Blair the several Prize Negroes you have had?—At different times from the year 1812.

Did you receive any about the time of Mr. Blair's departure for England?—I had not then received any for a long time, the last I received must have been about the year 1815.

What number had you received at the time of Mr. Blair's departure?—I had received twelve from Mr. Blair, and five others that had been transferred to me with his sanction, on the death or departure of the persons to whom they had been indentured; I have now ten.

When will these periods of service expire?—They will all be free within about two years and a half.

(signed) *C. Dixon.*

A true Copy,

(signed) *John Gregory, Secy.*

(Copy.)

Cape Town, 16th May 1825.

Mr. W. Heyward (duly sworn;) Examined.

—5—  
 Examination of  
 Mr.  
 W. Heyward,  
 16 May 1825.

HOW long have you kept the books of Mr. Durham?—About seven years.

Will you turn to the account of Mr. Blair in the books of Mr. Durham, about the year 1813?—I find one in the year 1812 and 1813, page 207 of the ledger, amounting to 947 dollars 2 stivers, and which appears to have been paid in cash on the 6th September 1813.

Is there any of a subsequent date?—On June 9th, 1814, a balance 495 R. d<sup>s</sup> is brought forward to ledger B., but no credit appears; and on 20th December of the same year the balance amounts to 882, which is again carried forward, and no credit given; and on the 9th August 1815, the balance amounted to 1,155 R. d<sup>s</sup>, which was again carried forward to folio 177; and in May 1816 the balance amounted to 1447 R. d<sup>s</sup>, again carried forward to folio 254; and in April 1817 it amounted to 1,823 R. d<sup>s</sup> 2 sk., carried forward to folio 262, and amounted in November 1817 to 1,946 R. d<sup>s</sup> 0 sk. 4 st., no credits having appeared in the above periods. In ledger C. the balance on November 16, 1818, amounted to 2,012 R. d<sup>s</sup> 2 sk.; and in ledger D. 1820 (18th March) it amounted to 2,332 R. d<sup>s</sup>, again transferred to page 204; December 19th, 1821, it amounted to 2,383 R. d<sup>s</sup> 2 sk., nothing appearing to credit. In page 95 of the present ledger, the balance in ledger D. is not brought forward, but there appears an open account, amounting on March 28th, 1823, to 929 R. d<sup>s</sup> 5 sk.; this sum is carried forward to page 118, and amounted in December 1824 to 2,317 R. d<sup>s</sup> 6 sk. It is noted, that a bill had been delivered to Mr. Blair, amounting to 2,517 R. d<sup>s</sup> 7 sk.

Does it any where appear that any payment has been made by Mr. Blair to Mr. Durham, or that any credit has been given since the date of September 1813?—None; nothing has been paid, to my knowledge.

Has any bill been delivered during this period to Mr. Blair?—I have delivered bills to him once or twice.

Would it have been in the regular course that you should have been acquainted with any payments, if such had been made by Mr. Blair?—I ought to have known of them, if they had been made, but there is no appearance of any payment or credit given.

Does Mr. Durham keep his own cash book?—No, he does not; I have kept it ever since I have been in the house.

Do you keep the day-book?—I do.

Have you any recollection yourself of any payment having been made by Mr. Blair?—I have not; it is only a week since that I called upon Mr. Blair to ask for payment of the account; and I have had a letter from Mr. Durham lately, at St. Helena, on his voyage to England, in which he requests me to call upon Mr. Blair for payment.

Can you state whether any bills have been delivered to Mr. Blair on the old account, as well as upon the later one?—I have not delivered any myself, but I know that Mr. Durham did.

What means have you of knowing that Mr. Durham delivered the accounts himself to Mr. Blair?—I have no other means of knowing than that Mr. Durham told me himself that he had been to Mr. Blair, and got no money from him.

Did you ever hear Mr. Durham say, that he had agreed to give time to Mr. Blair for the payment of his bill?—I do not recollect that he ever said so.

Do you recollect the period of Mr. Blair's departure from the colony to England?—I do.

Do you recollect whether Mr. Durham applied to Mr. Blair at that time for the payment of his bill?—I know that Mr. Durham did apply to Mr. Blair for payment, or at least some security for the payment of his bill, but could not obtain any.

Can you state any reason for the old account, amounting on the 19th December 1821 to 2,383 rix dollars, not having been transferred to the present ledger?—I cannot say.

Do you conceive that the old account, of which Mr. Durham makes mention in his letter from St. Helena, alludes to the account that was not transferred?—I think it does.

Have you asked for payment of both the accounts lately?—I have.

Did Mr. Blair admit them to be due?—He did; he said that he dared to say that they were all right.

A true Copy, (signed) W. Heyward.  
 (signed) John Gregory, Secy.

EXTRACT from an original Letter produced before the Commissioners of Inquiry by Mr. W. Heyward, and addressed to him by E. Durham, dated St. Helena, 11th February 1825.

“ BE shure to write or see Mr. Blair, & state to him that i left yester suddenly, and Could not wait on him to Balance My Ac<sup>t</sup>-- Endeavor to get the old Ac<sup>t</sup> settled by Notes—As for the new one he says he must pay by instalments.—You must push Jones about that—You must tell Blair I have meet with so many losses that i am force to go home to settle with my Creditors, & you are left to do the needful, & must Ac<sup>t</sup> upon it to settle my affairs.”

A true Extract from the original,  
 (signed) John Gregory, Secy.

(Copy.)

Cape Town, 16th May 1825.

Mr. John Murray; duly sworn.

HOW long have you resided in Cape Town?—Since the year 1807, with short absences to Rio Janeiro.

How many Prize Negroes have been assigned to you by Mr. Blair, the Collector of Customs?—Four male Negroes (two of whom have died) and one Negress. I now produce their indentures of apprenticeship.

It is stated in the Custom-house List, of which we have a copy, that thirteen Prize Negroes were assigned to you, *i. e.* to Mr. John Murray; can you account for this difference?—I am quite certain that I have only received five Prize Negroes; but there is another person, who lives in Cape Town, of the same name as myself.

What line of business do you follow in Cape Town, and how long have you carried it on?—The supply of ships; I have carried it on since 1810.

Have you employed the Prize Negroes in it, or in what other manner have they been employed by you?—They have been employed by myself in my own house, or my business. I should except one, whom I allowed Mr. Hovil, the cooper, to have the use of lately, having found him a very idle and dissipated character.

What has been the character of the other Negroes whom you have had?—The others I have no reason to complain of; some are very good.

Have they been accustomed to remain in your house at nights, or are they allowed to sleep out?—I have always taken care that they should sleep under my own roof.

Have you had occasion to punish them?—I have had occasion to confine them in the Tronk, by way of punishment; but I do not recollect that I have had any of them flogged.

In what line of business was your brother, the late Mr. Samuel Murray, engaged?—He was a general merchant and shipowner.

In what year did he fail?—I think that it must have been between the years 1810 and 1812.

Did he resume any business after that?—He entered into partnership with Mr. Henry Home, in Church-square, in the wine trade, which was afterwards dissolved by arbitration; he then again entered into partnership with the persons who acted as arbitrators for him, and upon their death he again failed.

Was your brother married, and had he a family?—He was married, but had no family; his wife died before him.

What species of wine trade was your brother engaged in?—The colonial wine trade; formerly, he was a general merchant.

Do you recollect the number of Prize Negroes that were assigned to your brother?—I think that, to the best of my recollection, they were about twenty-two.

Do you know how he employed them?—They were generally employed by himself in his business; and he also had some land at Rondebosch, and a water-mill, where they were employed.

Do you know whether your brother's Prize Negroes were well disposed, and behaved well?—On the contrary, they were continually running away; and the expense of redeeming them from the Tronk fell upon me, as my brother was not in circumstances to afford it: he lived at my house latterly with his wife.

Who succeeded to the Negroes at his death?—Some part of them are with me; two of them are with Mr. Collison; two are with Mr. Woeke, the wine-merchant.

Were any of your brother's Prize Negroes resumed by Mr. Blair at his death?—Two, out of four that had been with Mr. Collison, were removed by Mr. Blair's order.

Were they good Negroes?—They were excellent Negroes.

Do you know who has them now?—Mr. Woeke, a wine-merchant.

Did you make any application to Mr. Blair for the re-assignment of your brother's Negroes after his death?—After my brother's death, Mr. Blair sent to me to say that he required two of them; I expressed a wish that they might not be removed, except in case they were required for any of the officers or clerks of the Customs; and that as I had been at great expense in clothing and feeding my brother's Negroes, in consequence of his failures during his lifetime, I hoped that this circumstance would induce Mr. Blair to allow them to remain with me.

Did Mr. Blair appear to you to know that the two Prize Negroes were with Mr. Collison?—Yes, he did; I gave him a list of the Negroes, and a statement of the time they had to serve, and with whom they were.

Did Mr. Blair explain to you the reason for his wishing to have the two Prize Negroes for Mr. Woeke?—He did not.

What became of the remainder of your brother's Prize Negroes?—They were ordered to attend at the Custom-house, when the two I have mentioned were selected for Mr. Woeke, two remained with Mr. Collison; three I have. One, also, that I had, has died since. Two girls are in the country, one of whose term of apprenticeship is expired.

Was your late brother on terms of friendship with Mr. Blair?—I think he was; he always considered it to be an act of friendship in Mr. Blair to assign so many Prize Negroes to him.

(signed) John Murray, Strand-street.

A true Copy,

(signed)

John Gregory, Secy.

— 5.—

Examination of  
Mr.  
John Murray,  
16 May 1825.



PAPERS RELATING TO PRIZE SLAVES

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Cape Town, 18th May 1825.

(Copy.)

Mr. W. E. Sheppard; Examined.

— 5.—  
Examination of  
Mr.  
W. E. Sheppard,  
18 May 1825.

WHERE do you live?—At N° 32 Waal Street, in Cape Town.  
 How long have you lived there?—Two years and a quarter.  
 Did you live in Cape Town before that?—I did.  
 Did you ever apply to Mr. Blair or to Mr. W. Bird for any Prize Negroes; or did you obtain any or how many of them?—I have frequently applied to Mr. Blair for Prize Negroes by letter, and have received from him, at different periods, 5 male apprentices and 5 females.  
 Have any of them died in your service?—None.  
 Did the indentures accompany them?—They did, with the exception of three, whom I received from Mr. Dunbar on his leaving the Cape with his regiment.  
 Have they behaved well, and are they good servants?—With the exception of one, that I got from Mr. Dunbar, they are very good Negroes.  
 How have they been employed?—As house servants; the females have been taught needlework, and are very expert.  
 Is their time nearly expired?—Next year it will expire, I believe for *two* only.  
 I believe that you keep a store?—I do, but it is not a retail store.  
 Has Mr. Blair had an account with you since the year 1813?—I think that it commenced in the year 1814.  
 Has that account been paid?—Mr. Blair settled his account in the following manner: He sent me a piano-forte that produced on sale 200 dollars, and he paid me the balance in cash.  
 Has he had no other account with you?—Mrs. Blair has an account. Upon being told that Mr. Blair intended to leave the colony for England, I presented Mrs. Blair's account for payment. He expressed great surprise, and was angry for my not having delivered the account to Mrs. Blair previous to her departure. I replied, that it was an omission on my part, but assured him that the account was correct. He told me he could not think of paying it till he had shown it to Mrs. Blair, nor until she had stated it to be correct. He gave me at the same time a written document, promising to pay the bill if it should be sanctioned by her.  
 Do you know in what year this was?—I think that it was about April 1820.  
 What do you recollect was the amount of the bill?—It was about 1,200 dollars.  
 Has the bill been since paid?—It has not; I have applied to Mr. Blair, and he has frequently told me that he would pay me, but has requested an extension of time.  
 Did you apply to Mr. Blair for the Negroes of Mr. Dunbar?—Mr. Bird told me, on application to him, that I might have them, and that Mr. Blair had assented to my application for them.  
 Were you in the colony when the majority of the Prize Negroes were distributed?—I was in the colony at the first distribution of them.  
 Were they eagerly sought after at that time?—No, they were not.  
 What was the price of a good slave at that time in the colony?—About eight hundred dollars.  
 Did the newly imported Slaves fetch that price?—I do not think they did.

A true Copy, (signed) W. E. Sheppard.  
 (signed) John Gregory, Sec<sup>y</sup>.

(Copy.)

June 14, 1820.

ON my Return to the Cape of Good Hope, I promise to pay W. E. Sheppard his account for sundry articles purchased by Mrs. Blair, on her declaring it to be a just and true account.

(signed) Charles Blair.

(Copy.)

Mrs. Blair - - - - - D<sup>r</sup> - - - - - To W. E. Sheppard.

To the Am: of Account delivered to Mr. Blair } R D<sup>s</sup>  
 as per within acknowledgement - - - } 1238. 4. 0.

Cape Town.

A true Copy,  
 (signed) John Gregory, Sec<sup>y</sup>.

(Copy)

Cape Town, 18th May 1825.

Mr. *W. J. Birkwood*; Examined.

HOW long have you been in the colony?—I arrived in December 1809.

How soon after were you employed in the Custom-house?—Not until April 1815.

Was it part of your business to make out the indentures of Prize Negroes?—It was.

In what way?—I filled up the indenture of Prize Negroes from a list that Mr. Blair handed to me, containing the number of Negroes that each person was to have. I obtained the Negroes' names from the schedules attached to the sentences of the Vice Admiralty Court.

Did Mr. Blair or what other person make the selection of the Negroes?—The Negroes were placed in a room together, and the parties were allowed to come in and select for themselves the Negroes they wished to take. Mr. Wilberforce Bird generally attended upon these occasions. Sometimes it would happen that some of the Slaves had a ticket on them, with the name of the party for whom they had been selected.

Do you know by whom the Negroes were allowed to be chosen?—I can't say, I don't know by whom they had been selected, or who it was that put the tickets upon them.

Will you look at the indentures of a Prize male Negro named "Adam" bound to John Amber by Mr. Blair for the remaining term of apprenticeship from the date of the indenture, and say whether it is in your handwriting?—It is not in my handwriting.

Whose, then, do you believe it to be?—It is that of Mr. Murdock, who was a clerk in the Custom-house, and who is now dead.

Was it usual to fill up that part of the indenture describing the term, in the way in which the indenture before you is filled up?—I have never seen an indenture filled up in that way before.

When you came into the Custom-house, what mode was adopted in filling up the space left for the terms, in cases where the indentures were transferred from one person to another?—By an assignment written at the foot of the counterpart of the indenture, conveying the residue of the term in the apprenticeship to the assignee. In cases where the counterpart had not been given up or produced, a new one was made to correspond with the new term of the indenture, but dated with the date of the original, so that the remainder of the original term of apprenticeship might be easily calculated.

Did the applications from persons for Negroes, state the name of the individual they wished to have?—No; they only stated whether they wished to have a male or female slave, or a young boy, or one grown up.

Were the indentures filled up at the place of distribution?—Parts were filled up there, and the signature of the party was also obtained to the indenture.

Was any reference made in the indenture to the Negro's name in the Custom-house list? As far as I can recollect, the indentures that I made out contained a numerical reference to the name of the Negro in the lists made out by me.

Will you look at the lists of Prize Negroes now shown to you, and say whether you were employed in making out the originals that are in the Custom-house (referring to N<sup>o</sup> 1, 2, 3, 4, 5, 6, 7.)?—Some, I see, had been made before my time, and I can select such as I remember to have made myself. I select N<sup>o</sup> 5, N<sup>o</sup> 6, and N<sup>o</sup> 7.

From what book, or list, or documents were these lists made out?—Generally from a schedule annexed to each sentence of condemnation of the Admiralty Court, verified on oath by the person who had been employed by the agent of the captors to examine the Prize Negroes and take their marks.

Were the names and marks described in the sentences, or did the sentences refer to the schedule?—The sentences referred to the schedule in which the names and marks were set forth.

Were the ages set forth in the schedule?—Apparent ages were above or under 14.

By what authority had the ages been fixed?—By the party employed by the agents.

Were the names of the Slaves that had been recorded in the schedules attached to the sentences of the Vice Admiralty Court, preserved invariably in the indentures of apprenticeship?—They were always preserved; I took the names always from the schedule, and inserted them in the lists that I made out. In the cases of the French captains, they generally had the names of the slaves in a roll, and the schedule was generally made out from that document, after being verified.

Have you any reason to know the person by whom the lists, before your time, were made out?—It was the duty of Mr. Ord, who was first clerk to the Collector of Customs, to make them out.

How were the columns of the deaths, number of children, and their deaths, filled up?—If a certificate of the death of a Prize Negro was sent in, the certificate of the surgeon was affixed to the counterpart of the indenture, and a note was inserted in the proper column of the list.

Was this regularly observed?—I doubt that.

— 5.—

Examination of  
Mr.  
*W. J. Birkwood*,  
18 May 1825.

— 5 —  
 Examination of  
 Mr.  
 W. J. Birkwood,  
 18 May 1825.

Were the births of the children likewise entered?—They were entered whenever information was given.

In cases of parties dying, to whom Prize Negroes had been assigned, was it expected by the Collector that they should be returned to him?—It was generally considered so by him, but he would sometimes allow them to remain with the family, and at others give them to other persons. When persons also have left the colony, and have not applied for Mr. Blair's consent to the transfer, the Negroes have been taken away, and given to other persons.

Did he consider that his consent was necessary to the assignment of Prize Negroes from one person to another?—Certainly he did.

Were applications frequently made to him for consent to such assignments?—I have known several.

Did he generally comply with these requests?—He sometimes did.

Do you know by what principles he was guided, either in giving or refusing Prize Negroes in the first instance, or in giving or refusing his consent to their assignment afterwards?—I cannot state his reasons, as I really do not know them; he never assigned any reason in his answers to the applications that were sent.

Did you know the late Mr. Samuel Murray?—Yes, I did.

Do you know what the reasons were for his having received so large a number of Negroes?—He was extremely intimate with Mr. Blair; but I know of no other reason.

Was any notice taken in the schedules attached to the sentences of the Admiralty Court, of the marks of the different Negroes condemned?—Generally there was.

I observe that no such notice was taken of the marks in the Custom-house lists?—To the best of my recollection, the marks of the Negroes taken in the San Joachim were noted by me in the list.

By whom was the actual distribution of the Prize Negroes made to the parties in whose favour Mr. Blair had decided?—By the Comptroller generally.

Did you observe that a great many applications were made for them about and after the period of your arrival in the colony, in the year 1809?—I was not in the office of Customs until 1815; therefore I cannot speak from my own knowledge of the number of applications that may have been made.

In 1815 were many applications made for Prize Negroes?—A great many, generally for three or four times as many as there were to distribute.

Where were the Negroes placed after they were disembarked, and before sentence and distribution?—They were placed under the agents of the captors, and a place above the Government Gardens was generally hired for them, in which they were kept until they were delivered over to Mr. Blair.

Do you recollect whether any advertisements were inserted in the Gazettes, notifying the future distribution of the Negroes?—I do not recollect that, but I think in one instance that a notice, that some Slaves would be distributed the next morning, was posted up on the door of the Custom-house.

Were those that were distributed in your time in a healthy or sickly state, upon being landed?—I think that they were generally in a healthy state. I should except those that were taken out of La Neptune; they were brought to the Cape in a transport ship from Mauritius, and placed in quarantine at Robben Island, on account of having the small-pox.

What part did Mr. Wilberforce Bird take in the distribution of the Prize Negroes?—He was accustomed to attend at the distribution of them, and deliver them out to the parties named in Mr. Blair's list.

Do you think that a correct return could be made out, of the number of Prize Negroes that have been re-assigned by Mr. Blair?—I do not think it could be correctly done, for the memoranda of re-assignment were not indorsed on the originals and counterparts, previous to, as they were during my time. Those before my time were kept in the possession of Mr. Wilberforce Bird, the Comptroller; and any alterations that might be made in them, were made by his clerk, and under his directions.

Who were his clerks at that time?—Mr. Aspelung and Mr. Scholtz; the latter is still in Mr. Bird's office.

Were the indentures kept by the Collector of the Customs or the Comptroller?—The indentures that were executed before my time were kept by Mr. Bird, those that were executed afterwards were kept in the Collector's office.

Were they kept in a bound book?—No, the indentures themselves were kept in bundles tied together, and in sets appertaining to each ship.

In what manner were the indentures executed, of the Negroes that were taken by Mr. Blair; or were any indentures of them executed?—No regular indentures were executed, but the blank forms were filled up, containing the names of the Negroes that he took; they were apprenticed to Mr. Blair, and he signed as "Collector of the Customs" only.

Was any alphabetical list made of the names of the masters to whom apprentices were assigned?—No, there was not.

Was it usual for masters to apply to Mr. Blair when they wished to punish their Prize Negroes?—It was.

## AT THE CAPE OF GOOD HOPE.

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Was it considered necessary?—Yes, it was; the Fiscal refused to sanction the punishment of a Prize Negro, unless the application for it was signed by Mr. Blair or the Comptroller.

In what manner were these applications made?—They were made by letter addressed to the Fiscal, with a statement of the offence, and requesting to have the Negro punished in the Tronk. Mr. Blair's signature was put upon the letter.

Did Mr. Blair ever inquire into the merits of such cases?—Not generally; the letter was considered as sufficient, unless a Negro was put into the Tronk and made a complaint to Mr. Blair; in such a case, he sent for the master, and inquired into it.

Was the same practice observed by the Comptroller?—It was, in Mr. Blair's absence.

(signed) *W. J. Birkwood.*

A true Copy,  
John Gregory, Sec<sup>r</sup>.

—5—  
Examination of  
Mr.  
*W. J. Birkwood,*  
18 May 1825.

(Copy.)

Cape Town, 19th May 1825.

*John Lawrence*; duly sworn.

YOU are an inhabitant of Cape Town?—I formerly was an inhabitant of Cape Town; I reside at present on the Conterberg farm, in the Groene Kloof.

What is your occupation?—I am at present engaged in farming business; but I also pursue my trade as a smith, in which I formerly was engaged at the Cape.

Have you any Prize Negroes in your employ?—I have eight Prize Negroes, who have been in my service for many years; I received them at different times.

Were they regularly indentured to you?—They were regularly indentured to me by Mr. Blair.

Did you obtain them by application to Mr. Blair?—I addressed Mr. Blair by letter, requesting him to allow me one or two at a time.

Have you instructed them in your trade as a blacksmith?—I have, and some of them are very good workmen, but some others are inferior; they have all been generally employed at the trade.

Have you always employed them yourself?—I have; they have never been transferred or hired out.

Were you formerly in the habit of working for Mr. Blair?—I was in the habit of doing work for him occasionally, before I left the Cape about four years ago; but I have not worked for him since his return to the colony from England.

When Mr. Blair left the colony for England, had you any outstanding claims against him?—Mr. Blair paid me regularly for all the work I did for him; and I am not aware that I had any claims against him at the period of his departure. He might have been indebted to me a very few dollars, but I am confident it could not have amounted to twenty rix dollars, if he really owed me any thing. I remember his account was made up some little time before his departure, when it was regularly discharged by payment of the amount to me. I can safely declare, that Mr. Blair never took any advantage of me whatever in respect to his accounts.

(signed) *John x Lawrence.*  
mark

Witness

(signed) John Gregory, Sec<sup>r</sup>.A true Copy, John Gregory, Sec<sup>r</sup>.

Examination of  
*John Lawrence,*  
19 May 1825.

(Copy.)

Cape Town, 19th May 1825.

*Mr. Thomas Kift Deane*; duly sworn.

YOU are an inhabitant of Cape Town?—I am.

Have any Prize Negroes at any time been assigned to you?—Two Prize Negroes were assigned to me in the year 1812, and two at a subsequent period.

From whom did you receive these Negroes, and have they been regularly indentured to you?—I received them all from Mr. Wilberforce Bird, the Comptroller of the Customs, by order from Mr. Blair, who indentured them to me for 14 years as house servants; the two that were assigned to me in 1812, were a boy and a girl; and those subsequently assigned were also a boy and a girl.

Did you make application for these Negroes, and to whom?—I made application to Mr. Blair for them, by letter. I was at that time just married, and I had occasion for domestic servants.

Have these Negroes remained in your service ever since?—One man and one woman are in my house, and have constantly served me; one woman has three children, the other woman resides with the washer-woman, who serves my family; and the other man is at present at Stellenbosch, in the service of Mr. Petersen, my brother-in-law, who being in bad circumstances has required his services for some months past, and at the Negro's request I have allowed him to go.

Have

Examination of  
*Mr. Deane,*  
19 May 1825.

—5.—  
Examination of  
Mr. Deane,  
19 May 1825.

Have you apprized Mr. Blair or Mr. Bird of your assignment of the Negro's services to Petersen?—I have not; being only a temporary arrangement, I have not considered it necessary, or should have done so.

Do you receive any payment from Mr. Petersen, for his services?—None.

Has the other woman you have mentioned any children, and in what manner have they been disposed of?—The other Negress has two children, who are quite young, and remain with their master at her own request; one of the children of the Negress in my house is of an age to make herself useful in some degree, and she has occasionally been sent to school, for instruction in reading and sewing.

Has Mr. Blair ever had any accounts with you, and has he any accounts at present unsettled?—He has had accounts with me, which he fully discharged on his return to the colony from England; and he has now a small open account, but not amounting to more than 50 or 60 rix dollars, which I have never applied for, or I should have been paid.

Did you apply to Mr. Blair for the discharge of his account before he proceeded to England?—I did, and he put his name to the bottom of the bill, stating that it should be paid on his return from England to the colony; and I was perfectly satisfied with this arrangement, which Mr. Blair punctually fulfilled.

Can you recollect the amount of the bill that was discharged?—I cannot, but I can refer to my books to ascertain it; upon reference to my books, I find that the bill amounted to 593 R. d<sup>s</sup> 4 sk., and was discharged by a draft on Mr. Stoll.

Can you declare that the postponement in the discharge of Mr. Blair's bill was in no degree acquiesced in by you in consequence of any accommodation you had received from him in the assignment of Prize Negroes?—I can conscientiously declare that it had no connexion whatever with any such motive, as I considered myself much more under obligation to Dr. Hussey, who interested himself with Mr. Blair to obtain me the Negroes I had applied for, than I did to Mr. Blair himself, to whom I was not personally known at that period.

Then it was at the recommendation of Dr. Hussey that you obtained those Negroes?—It was.

(signed) T. K. Deane.

A true Copy,  
(signed) John Gregory, Secy.

Thursday evening, 19th May 1825.

Mr. Deane begs to add, that in the year 1816, Mr. Clark, deputy purveyor of hospitals, being on the eve of his departure from the colony, left a Prize Negro named Martinus in the care of Mr. Hume, surgeon of the 72d regiment, who, on quitting the Cape in the latter end of that year, requested Mr. Deane to take charge of the Negro till Mr. Clark's return. Immediately on receiving the boy, Mr. Deane reported the circumstance to Mr. Bird, Comptroller of Customs, who said that there was no objection to the arrangement. Mr. Clark has never returned to the colony, and the boy is still with Mr. Deane. He has no indenture or other document in his possession, respecting this boy.

(signed) T. K. Deane.

A true Copy,  
John Gregory, Secy.

(Copy.)

Cape Town, 20th May 1825.

Mr. Charles Taylor; Examined.

Examination of  
Mr.  
Charles Taylor,  
20 May 1825.

DID you ever receive a Prize Negro?—I did.

Was it from Mr. Blair or Mr. Wilberforce Bird?—It was from Mr. W. Bird, in Mr. Blair's absence in England, as far as I can now recollect.

How long did you retain him?—I think about nine years.

Did you ever hire him out to Captain Hollett?—I found the Prize Negro to be very ill disposed; he deserted several times from me, and was profligate and dissipated; being in the habit of coming to Cape Town, I lodged at the hotel of Captain Hollett, and he was accustomed to make my servants work for him during my stay, and in return they obtained liquor in the house; Captain Hollett stated to me, that the Prize Negro had expressed a strong wish to him not to return with me to the country; the Negro told me himself that he would not go; Captain Hollett proposed to me to let the Negro remain with him at hire, and I said to Hollett, that if he would give me a consideration for the services of the Negro, and that Mr. Blair would consent to the transfer of him, I would allow him to remain.

What sum was agreed to be given to you as a consideration?—No consideration at all was stipulated between us, but I entertained a hope that Hollett would be able to use his influence with Mr. Blair to let me have another Prize Negro in the room of that one that I had left with him; I made an application to Mr. Blair to that effect myself.

Did Mr. Blair agree to let you have one?—When Mr. Blair found out that I had lost the services of the Negro, he expressed his regret, but he said that it was then too late, as the services of the Negro had been transferred. I had frequently spoken to Mr. W. Bird upon the subject of the boy's misconduct.

Did you ever receive wages from Hollett, for the hire of the Negro?—Never, on my oath.

Did

## AT THE CAPE OF GOOD HOPE.

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Did Hollett ever pay to you the sum of 330 dollars, in part payment of a consideration of the services of the Negro?—Never; most certainly not; if the boy had remained with him, an understanding existed between us that he should pay me a certain sum for him, but always with Mr. Blair's consent to the transfer of the services of the Negro; but if Mr. Blair would have consented to give me a Negro in his room, I should have accepted of it, instead of any payment.

Do you know what was the reason that prevented the arrangement from taking place?—Mr. Blair informed me that Captain Hollett told him I had agreed to transfer the indentures of the Negro to him, and that as it had been done without his consent or any notice to him, he had immediately removed the Negro from Captain Hollett, and given him to another person.

(signed) *Charles Taylor.*A true Copy,  
(signed) *John Gregory, Secy.*

(Copy.)

Cape Town, 20th May, 1825.

*Mr. James Onslow Williams; Re-examined.*

WERE you ever in possession of an estate called Conterberg?—I was, jointly with Mr. Dashwood.

From whom did you purchase it?—A lease of it, for the term of twenty-one years, was granted to Mr. Dashwood and myself by Lord Caledon, at a yearly rent of 800 rix dollars, and under a stipulation of erecting a house and farm buildings, and also of promoting the breed of Spanish sheep.

How long did you continue in possession of it with Mr. Dashwood?—I think that it was granted in 1810, and I gave it up to Mr. Dashwood in 1815.

Have you had any Prize Negroes assigned to you at any time by Mr. Blair?—I have had sixteen Prize Negroes assigned altogether, at different times.

Did you employ any of them on the Conterberg estate?—They were all employed there.

Did you leave any, and how many, of them upon the estate when you made over your share of it to Mr. Dashwood in the year 1815?—I left eight upon it.

Did you sell your share and interest in the lease to Mr. Dashwood, and if so, how much money did you receive for it?—I did not sell it, but being involved in difficulties, Mr. Dashwood took over the property from me. He asked me to give over to him the services of my Prize Negroes, which I declined for a long time, and refused on the ground of my not having any right to dispose of the services of Prize Negroes that had been indentured to me. He desired me to think again of it, and let him know my decision when he returned to Conterberg. When he returned, I still refused to assign the Negroes; upon which he said that Mr. Blair would allow me to assign their services to him, and that I must write a letter to Mr. Blair to that effect. I therefore wrote the letter which Mr. Dashwood dictated, and I signed it, requesting the leave of Mr. Blair to assign over the services of so many of my Prize Negroes to Mr. Dashwood. I gave the letter, when I had written and signed it, to Mr. Dashwood, who said he would send it. He then demanded of me the Negroes and their indentures. Being in embarrassment at the moment, I assigned the Negroes and their indentures to Mr. Dashwood.

How many Negroes did you assign to him?—I think there were nine.

Have you reason to know that Mr. Blair was acquainted with this transaction, or that he gave his sanction to it?—About eight months after I transferred them, three of the female Prize apprentices that I had retained, run away from me; I was then employed by the East India Company, and was unable to go in pursuit of them. They were taken up, and confined in the Tronk; and as they remained there longer than a month, (which was the time allowed for the claim of Prize Negroes, and at the expiration of which they were made over to new masters,) I discovered too late that they had been assigned to other persons; and I waited upon Mr. Blair, who expressed his surprise that I had never answered the official notice that had been addressed to me, to repair to Cape Town and release the Negresses that had been apprehended, as their complaint of ill usage was found to be groundless. I said that I never received the letter; and afterwards I found that it had been given to a drunken boor who lived in my neighbourhood, and had never delivered it. Mr. Blair also, upon the same occasion, asked me, "In the name of fortune what could have induced me to write him the letter he had received, requesting his permission to assign over the services of so many Prize Negroes to Mr. Dashwood." I related to Mr. Blair the conversation that I had with Mr. Dashwood; and then Mr. Blair said that Mr. Dashwood was never authorized by him to make such a suggestion to me; but he added, As you had written such a letter to me, I could not do otherwise than assign over the Negroes to Mr. Dashwood.

Were you indebted at the time to Mr. Dashwood?—I was indebted to Mr. Dashwood, for he had advanced all the capital for carrying on the buildings on the farm, and for the purchase of the stock.

Did you come to any settlement with Mr. Dashwood upon this occasion?—No further than his taking over the farm, the stock, and the Prize Negroes, and saying to me that we had no further account with each other.

—5.—

Examination of  
*Mr.*  
*Charles Taylor,*  
20 May 1825.

Examination of  
*Mr.*  
*J. O. Williams,*  
20 May 1825.

—5.—  
Examination of  
Mr.  
J. O. Williams,  
30 May 1825.

Has he ever made any claim upon you since, on account of your share in the Conderberg estate?—He has not.

Do you recollect what might be the amount of the sum in which you were indebted to Mr. Dashwood?—I think it was about 10,000 rix dollars.

Did Mr. Dashwood, or did you, take into account the services of the Prize Negroes, whose indentures you made over to him, when you came to the mutual settlement?—I had intended to give up my property, as being insolvent; upon which Mr. Dashwood said to me, that he would take over my interest in the farm at Conterberg. We had no other settlement of accounts than this.

Were you never called upon by the Sequestrator to give up your Prize Negroes, as part of your estate?—In enumerating my property to the Chamber of Insolvent Estates, I mentioned that I had Prize Negroes, but they said that they could not touch them, as they were not my property. I was allowed to retain the Prize Negroes that I had not made over to Mr. Dashwood, and I have some of them now.

Had Mr. Dashwood any Prize Negroes at the time you made over yours to him?—He had several.

Do you know how long he retained the estate, after you ceased to have an interest in it?—I believe that he did not retain it longer than a year.

To whom did he sell it?—To Messrs. Isles and Laurence.

Do you know whether he made over the Prize Negroes to them?—He did not.

Did he keep them?—He kept them for some time, and afterwards a portion of them was assigned to Mr. Heatlie; some he kept himself.

(signed) J. O. Williams.

Had you any previous acquaintance with Mr. Blair, or did any other motive exist for his having given you so many Prize Negroes?—A long acquaintance had existed between my family in Dorsetshire and that of Mr. Blair; his father and mine were very intimate.

(signed) J. O. Williams.

A true Copy,  
(signed) J. Gregory, Secy.

(Copy.)

Mr. J. O. Williams; Re-examined.

24th May 1825.

Examination of  
Mr.  
J. O. Williams,  
24 May 1825.

WERE the indentures of the Prize Negroes that you ceded to Mr. Dashwood, regularly assigned to him?—I believe not, for at the time that a list was inserted in the Gazette, of the names of those whose terms had expired, one of those Negroes was named as being in my service. Two days afterwards I received an official note from Mr. Stoll, to produce the boy at his office; I appeared, and informed Mr. Stoll that the Negro said to be mine was with Mr. Dashwood.

What was the Negro's name?—He was named "Bekkary."

(signed) J. O. Williams.

A true Copy,  
(signed) J. Gregory.

(Copy.)

Cape Town, 20th May 1825.

Mrs. Christina Maria Lusebrink; duly sworn.

Examination of  
Mrs. Lusebrink,  
30 May 1825.

YOU live in Cape Town, and keep a store for the sale of merchandize?—I do.

Have you had many Prize Negroes or Negresses assigned to you?—I have had five, and two supposed to be dead, named Mamtassa and Bason. The former is dead, but the Negro Bason is run away; he was last heard of in the neighbourhood of Graaff Reinet. I gave up the indentures to the late Mr. Murdock, clerk of Mr. Blair, and received from him an acknowledgment, which I now produce.

How have you employed the Negroes that you received?—The females have been employed in domestic business, and the men in the house also; they have also been sent into the country, to cut wood.

Have you found them tolerably intelligent?—Some of them are good servants, others are stupid.

Have they lived in your house?—They have, generally.

Have you Slaves of your own?—I have.

Do the Prize Negroes and Slaves live together, and are they treated in the same manner?—They live together, and are treated exactly in the same manner.

Has Mr. Blair had an account at your store during the last twelve years?—He has been in the habit of dealing at the store for several years.

Have his accounts with you been regularly discharged?—They have been discharged, but at long periods. Previous to his going to England, Mr. Blair used to pay his accounts himself, and when he went away an account was owing that amounted to between 3,000 and

## AT THE CAPE OF GOOD HOPE.

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and 4,000 rix dollars. This account was discharged by Mr. Stoll, but I am not sure whether before or after Mr. Blair's return.

Had this account been of long standing?—Upwards of three years it had been standing open.

Had you applied to Mr. Blair for payment of this account before his departure?—I had, and he always said Mr. Stoll would pay me for it.

Are you accustomed to give the same length of credit to other customers as you have given to Mr. Blair?—Yes, we are, and have been great sufferers by it.

(signed) *Christina Maria Lusebrink.*

The above Evidence was read over by me to the Witness, in the Dutch language.

(signed) *Wm. Benson.*

A true Copy,  
John Gregory, Sec<sup>y</sup>.

— 5.—

Examination of  
*Mrs. Lusebrink,*  
20 May 1825.

(Copy.)

Cape Town, 21st May 1825.

*Wilhelmina Rosina Hendriksen*; duly sworn.

WHERE do you live?—In Berg Steeg, No. 6.

How long have you lived there?—Since 1818.

Are you married or single?—I am single.

I believe that formerly you were a slave?—I was.

Of whom?—Of the Widow Yzelle.

Where did Mrs. Yzelle live?—In the Long Market Street.

How long is it since you obtained your emancipation?—About ten years.

Who made you free?—Mr. Weideman, the son-in-law of Mrs. Yzelle, made me free; and Mrs. Wehrlin made my daughter free.

How many children have you?—One little girl that is nine years old.

Did your late mistress make you free by Will?—No; at the death of Mrs. Yzelle, all her Slaves were sold at public auction, but Mr. Wiedmar made me free, on account of my good services.

How many Prize Negroes had Mrs. Yzelle in her lifetime?—She had four men and one old woman; but she may have had more.

Do you know from whom Mrs. Yzelle obtained these Prize Negroes?—I do not know.

Have you ever had any Prize Negroes?—I had one Prize Negress with a child, who are now dead; another child that she had is still with me.

From whom did you obtain them?—From Mr. Wilberforce Bird.

In what year?—I think that it was in 1816.

Did any body speak to Mr. Bird for you, to obtain the Prize Negress?—Mrs. Yzelle requested of Mr. Bird to let me have the Prize Negress that had been with her, on account of my child being sick. At the death of Mrs. Yzelle, I applied to Mr. W. Bird to allow the child to remain with me, which he granted.

How old is the child?—Seven years old.

Was Mr. W. Bird an acquaintance of Mrs. Yzelle?—When he came from the country he lodged at Mrs. Yzelle's house.

How do you maintain yourself at present?—I have a retail shop, and wash linen by the month.

Was your daughter born when you were a slave?—It was.

Is it free now?—It is free now, and has been christened.

Who is the father of your child?—He has left the colony.

Do you recollect whether any other of Mrs. Yzelle's slaves were made free?—My grandmother was left free by Mrs. Yzelle's will, and also an African woman, and her two sons.

Where did you live before you lived in Berg Steeg (an Alley)?—After the Vendue, I lived at Mrs. Wehrlin's, till I was able to procure a small house for myself.

(signed) *Wilhelmina Rosina Hendriksen.*

A true Copy,  
John Gregory, Sec<sup>y</sup>.

Examination of  
*W. R. Hendriksen,*  
21 May 1825.



(Copy.)

Cape Town, 21st May 1825.

Mr. *Michael de Koek*; Examined.

—5.—  
 Examination of  
 Mr.  
*M. De Koek*,  
 21 May 1825.

YOU are first clerk to Mr. Blair, the Collector of the Customs?—I am.

How long have you held that situation?—Since the 20th November 1819.

Have the registers of the Prize Negroes been committed to your care during that period?—They have not.

In whose care have they been placed?—Under the care of Mr. Murdock.

He is dead, I believe?—He died last August.

In whose care have they been placed since Mr. Murdock's death?—I do not know exactly in whose care they have been placed; when the birth of a child is signified, it is referred to Mr. Bird, who appears to have the management of the Prize Negroes.

If the master of a Prize Negro dies, or leaves the Colony, to whom is application made for his assignment?—Such applications are made to Mr. Blair.

Have any distributions of Prize Negroes taken place since you have been employed in the Custom-house?—None.

Have no distributions of Prize Negroes been made at your house at any time?—One cargo, amounting to 155 Slaves, were placed on my premises previous to distribution, and remained there until they were distributed.

How long did they remain in your house?—They remained 23 days.

Did the people of the town come to examine them?—They did.

Was it allowed to people in the town to select their Prize Negroes?—Notice was given of the day of distribution, and previous to it a list was sent up of the names of the individuals, and the number of Slaves that each was to have.

Did the list particularize the names of the Prize Negroes, or their qualities?—The list that was stuck upon my premises did not, but another list had been previously prepared, describing the marks, ages, names, and numbers of the Negroes.

Who attended at the day of distribution?—Mr. Wilberforce Bird, and his clerk, Mr. Aspelung, and Mr. Birkwood.

Did they appear to you to select the Negroes for the different applicants?—Mr. Wilberforce Bird gave his consent to the applications that were made by individuals for Negroes, after the number of 20 had been selected for the use of the army.

Who selected the Prize Negroes for the army?—I believe a serjeant of the engineers.

Did it appear to you that the Prize Negroes for the army were selected on account of their superior strength?—I think they were.

Were the Negroes numbered?—Tickets, with the number of each Negro, were placed on their persons, on the day that the list descriptive of them was taken.

Did you supply the Negroes with food?—I did.

Of what did it consist?—Of a pound of bread, half a pound of meat, rice, and vegetables.

Did they improve in condition during their stay at your place?—They did, very perceptibly.

Were they a fine cargo of Negroes?—I don't think that a finer cargo ever came to this colony; they were all from Madagascar.

How were they clothed, and at whose expense?—They had a blue jacket, checked shirts and trowsers, and each had a blanket.

At whose expense were they clothed?—I don't know at whose expense it was furnished, but the cost was repaid to Mr. Birkwood, who was the 1st clerk to the Collector, by the individuals who obtained the Negroes.

Were any complaints made of the distribution of them?—Not that I recollect.

Were you in employment at the Custom-house during Mr. Blair's last absence in England?—I was.

Who at that time had the control and distribution of the Prize Negroes?—Mr. Wilberforce Bird entirely; he used to make transfers on the back of the indentures, and described himself as having full power, in the absence of the Collector of the Customs, to do so.

Who acted as Collector of the Customs in Mr. Blair's absence?—At first, Mr. Ellis the deputy secretary acted for him, and for about nine months after Mr. Ellis's departure for England, Mr. Dashwood acted for him.

Did either Mr. Ellis or Mr. Dashwood take any part in the distribution of the Prize Negroes?—None whatever.

(Signed) *M. De Koek.*

A true Copy,  
 John Gregory, Secy.

## AT THE CAPE OF GOOD HOPE.

153

(Copy.)

Cape Town, 21st May 1825.

Mr. W. Woeke; duly sworn.

I BELIEVE that you live in Cape Town?—I live in Cape Town, but I deal in wine in Simon's Town as well as Cape Town.

Have you at any time applied to Mr. Blair, the Collector of the Customs, for any Prize Negroes?—I have made applications to Mr. Blair whenever any Negroes were condemned or to be disposed of.

Did you obtain any?—I obtained Prize Negroes at different times, not always, and not as many as I asked.

How many Prize Negroes may you have had altogether?—I have now seven; I had eight, but I was obliged to send back one, he was so ill disposed.

Did you ever obtain two that had been previously hired to Mr. Collison, the wine merchant?—At Mr. Samuel Murray's death, I applied to Mr. Blair for two Prize Negroes that Mr. S. Murray had received; they were at Mr. Collison's at the time, but whether they had been with him before Mr. Murray's death, I don't know; Mr. Blair gave me permission to have them, and a letter to Mr. Collison containing an order to give them up; he delivered up one, but said that the other was employed in his wine store, and was unwilling to give him up directly; I waited for some time, and at last Mr. Collison sent me a message, requesting to know whether I would let the Negro to him, but I refused, and Mr. Collison then sent him to me.

Have you both of these Prize Negroes at present?—They are both with me.

Are they good servants?—One is a very good one, the other is lazy and a drunkard.

Had you ever hired any Prize Negroes of Mr. S. Murray before?—Never.

You sell wine in the wholesale trade?—I do.

Has Mr. Blair never had an account with you for wine?—Yes, he has dealt with me for some time in wine.

Is he your customer now?—He is.

Has his account been regularly paid?—It has not; he has requested me several times for the bills, but the account is still open.

What sum may be owing to you by Mr. Blair?—About 100 dollars or upwards.

How long has the account been due?—I think about three years, to the best of my knowledge.

Do you sell Cape wine only, or Foreign wines?—Only Cape wine.

(signed) F. W. Woeke.

A true Copy,  
John Gregory, Sec.

23d. May 1825.

On Monday Mr. Woeke produced his day-books from which he had extracted the several charges for wine sold to Mr. Blair at different periods, commencing 11th April 1822 and ending 10th May 1825. The items did not exceed 25 rix dollars, and the total amount due is 255 rix dollars.

Produces a letter from Mr. Pontardent, requesting wine to be sent to Mr. Blair, together with the account, and promising it should be paid.

John Gregory, Sec<sup>r</sup>.

(Copy.)

Cape Town, 23d May 1825.

Mr. John Roberts; Examined.

YOU were a clerk, I believe, in the house of Messrs. Cooke and Thompson?—I was.

Were you so on the 28 November 1823?—I was.

Do you recollect a Prize Negro of the name of John Ellé, in the service of Messrs. Cooke and Thompson?—I do.

Do you recollect that any application was made by Mr. Blair, the Collector of the Customs, for his return from the service of Messrs. Cooke and Thompson?—Yes, I do; one or two orders were sent from the Custom-house, but whether signed by Mr. Blair or Mr. W. Bird, or in which of their handwriting, I cannot tell, to deliver Jean Ellé to the order of Mr. Pigou.

What steps were taken by Messrs. Cooke and Thompson?—From what I heard them say, they had frequently told J. Ellé to leave their house, but that he had expressed his unwillingness to leave them, and Mr. Cooke said that he did not like to turn the boy out of the house.

Did you on any occasion subsequently accompany Mr. Cooke to the Custom-house?—I did; I was requested by Mr. Cooke to accompany him.

Had the boy previously left Messrs. Cooke and Thompson?—He had.

Do

— 5 —  
Examination of  
Mr. Woeke,  
21 May 1825.

Examination of  
Mr.  
John Roberts,  
23 May 1825.

—5.—  
Examination of  
Mr.  
John Roberts,  
23 May 1825.

Do you know whether he had gone to Mr. Pigou's?—He had not, for we met him on the steps of the Custom-house, waiting to see Mr. Wilberforce Bird or Mr. Blair.

Whom did you see at the Custom-house?—Mr. Cooke asked if Mr. Blair was at the Custom-house, and we were informed that he was not; while Mr. Cooke was speaking to the boy, and as far as I can recollect, was admonishing him to obey Mr. Blair's orders, Mr. Blair and Mr. Bird came up together on horseback.

Will you state what took place at that time?—Mr. Cooke said that he had called on account of John Ellé, and apologised for his not having sooner answered the summons; upon which Mr. Blair held out either a stick or a whip, and addressing Mr. Cooke, who was standing at the head of his horse, he said, "God damn you, sir, hold your tongue, or I'll knock you down;" Mr. Cooke said to me, "You hear this, Mr. Roberts—you hear this—take notice of it;" Mr. Blair added, that Mr. Cooke had behaved like a shabby fellow, or words to that effect, to his friend Mr. Pigou; and whenever Mr. Cooke attempted to speak or explain himself, Mr. Blair repeated, "God damn you, sir, hold your tongue;" and when he was riding towards the Tronk, he said, "Damn you, you are a son of a bitch."

What did Mr. Cooke do or say?—All that I recollect Mr. Cooke to have said was "Take notice of this, Mr. Roberts."

Did Mr. Cooke then leave the Custom-house?—Mr. Cooke and myself left it together.

Was Mr. Wilberforce Bird present when this conversation took place?—I think that he must have heard the first expression from Mr. Blair, but after that I think that he had gone round to the back part of the Custom-house.

Did he rejoin you before you left the Custom-house?—I do not recollect to have seen him afterwards.

Did John Ellé remain at the Custom-house?—I do not know; I have heard that he remained at the Tronk that night.

Do you recollect whether Mr. Cooke had addressed any other words than those that you have mentioned, to Mr. Blair, before the latter began to abuse him?—I do not recollect that he did.

Did Mr. Cooke tell you what his intention was, in proceeding to the Custom-house, on the day now mentioned?—He told me that he wished to explain the circumstances to Mr. Blair, of the delay in the boy Jean Ellé's return, and of the unwillingness he had felt to turn him out of his house.

Was there any other person present at the conversation you have mentioned, than Mr. Cooke, Mr. Blair, and yourself?—I do not think that any other person was present.

Do you recollect whether Mr. Blair mentioned or alluded to any thing that Mr. Cooke had said to Mr. Pigou on a former occasion?—Yes, I do; he alluded to the offer that had been made by Mr. Cooke to Mr. Pigou.

Have you any reason to know what that offer was?—Only from what I have heard himself say to me.

Will you be so good as to state that?—When the boy Jean Ellé was first applied for by Mr. Pigou, the latter expressed an unwillingness to go from Mr. Cooke; shortly afterwards Mr. Pigou called upon Mr. Cooke, and Mr. Pigou having understood, either from Mr. Cooke or the boy, that he was unwilling to go, and that Mr. Cooke was unwilling to part with him, Mr. Pigou proposed that Mr. Cooke should furnish him, Mr. P., with another servant instead; Mr. Cooke, after consulting with some professional person, was advised to offer the sum of 20 or 25 rix dollars per month, as a substitute for the services of J. Ellé; Mr. Cooke then made this proposal to Mr. Pigou, upon which the latter expressed considerable indignation, and insisted upon having J. Ellé given up.

Do you know how long J. Ellé has lived with Mr. Cooke?—I should think that he came to him in September 1820.

From whom did he obtain him?—From his predecessor in business, Mr. Kneubley.

Did Mr. Cooke pay any and what sum for hire of J. Ellé?—I think that he either paid 30 or 35 rix dollars per month for him.

To whom was this sum paid?—I used to pass this sum to the credit of the late Mr. Samuel Murray, in the books of Cooke and Thompson.

Do you know to whom J. Ellé's wages were paid, after the death of Mr. S. Murray?—I only know that I was desired to enter several sums in the books as wages to the cook J. Ellé.

Do you know whether J. Ellé received any allowance for himself, whilst he was in the service of Messrs. Cooke and Thompson?—I do not know.

Did you ever hear J. Ellé express any unwillingness to leave the service of Messrs. Cooke and Thompson?—Frequently; he has come up to my counting-house, and said as much to me.

Did he live in the house of Messrs. Cooke and Thompson?—Yes, he lived in their house.

Did you make any memorandum of the conversation that took place between Mr. Blair and Mr. Cooke?—I did, when I returned home.

To whom did you deliver it?—I had it myself for a day or two, and I think that I then gave it to Mr. Cooke, by his desire.

Were

## AT THE CAPE OF GOOD HOPE.

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Were you called upon afterwards to substantiate the contents of this memorandum on oath?—I made a declaration of the contents of the memorandum before Mr. Edwards, as a notary public.

Was the declaration read to you by Mr. Edwards?—It was.

Do you recollect whether you signed it?—I think I did.

Did Mr. Edwards explain to you the object for which the declaration was taken?—I do not recollect that he did.

(signed) *John Roberts.*

A true Copy,  
John Gregory, Sec<sup>y</sup>.

— 5.—  
Examination of  
*Mr.*  
*John Roberts,*  
23 May 1825.

(Copy.)

Cape Town, 24th May 1825.

*Mrs. Elizabeth Cornelia Weideman*; duly sworn.

WHERE do you live?—In Hottentot's-square.

Are you a daughter of the late Mrs. Yzelle?—I am.

Can you recollect how many Prize Negroes your mother received in her lifetime?—Five or six.

Do you know from whom she received them?—I believe that she got them from Mr. Blair.

At your mother's death were they returned to Mr. Blair, or what became of them?—I asked Mr. Blair for two, an old woman and a man; he said he could not let me have the old woman, as he wanted her upon his own place to take care of several Prize children; but he let me have a male negro, whom I have now.

Your mother kept a lodging-house, I believe, in the town?—She did, for the accommodation of passengers from India, as well as for inhabitants.

In what street did she live?—In Long Market-street.

Did Mr. Blair or Mr. Wilberforce Bird resort to your mother's house?—When they came to town upon any occasion they did; and sometimes Mr. Blair took up his abode at my mother's house when he came to town, for balls or such occasions.

Do you know whether they paid your mother for this accommodation, like other persons?—I do not know.

Who was your mother's executor?—The Orphan Chamber, who at my mother's death took possession of her papers.

Had your mother a female slave named Wilhelmina Rosina?—She had a slave named Meintje, who was afterwards christened Wilhelmina Rosina, she afterwards took the name of Hendrikse, as her father's name was Hendrick.

Was she sold at your mother's death?—She was sold by the Orphan Chamber.

Who bought her?—My husband bought her.

Did he afterwards make her free?—Mrs. Wehrlin requested my husband to purchase the Slave, and when he had bought her she also requested him to sell her again to her, which he declined, as she was a good slave. Mrs. Wehrlin then made an offer to purchase the freedom of the girl, to which he consented on paying the same sum that he gave for her; Mrs. Wehrlin then purchased her, and made her free.

Was Mrs. Wehrlin a friend of your mother?—She was acquainted with my mother's family in Switzerland, and was also intimate with them at the Cape.

Had the slave a daughter when she was emancipated?—She had.

Is it true that you made the slave Meintje free, on account of her good services to your mother?—My mother was always very fond of her; she was born in the house, and was a very good girl; but Mrs. Wehrlin made her free, whether on account of her good services to my mother, I don't know.

Was her child made free at the same time?—It was.

Had Mrs. Yzelle any other female slaves, that were made free after her death?—The grandmother of Meintje was made free by my mother's will. A slave woman and two children, who belonged to me, were purchased by the Orphan Chamber, and made free according to a direction of the will.

Have you seen Meintje lately; and do you know whether she is married?—I have not seen her lately; but she is not married.

Do you know how she maintains herself?—I do not know that she earns money in any other way than by keeping a retail shop, and washing for passengers.

Do you know at all what motive could have induced Mrs. Wehrlin to purchase the freedom of Meintje?—I don't know.

Was she a person in good circumstances?—She was.

Are any of her children alive?—Mrs. Wehrlin went to England, after being married to a Mr. Thompson, and was drowned. A grandchild of his is the only survivor of the family here.

Do you think that Meintje has her paper of emancipation?—I believe she has.

A true Copy,  
John Gregory, Sec.

(signed) *E. S. Weideman.*

Examination of  
*Mrs. Weideman,*  
24 May 1825.

(Copy.)

Cape Town, 25th May 1825.

Mrs. J. Fiford; Examined.

—5.—  
 Examination of  
 Mrs. Fiford,  
 25 May 1825.

DO you live in Cape Town?—I live in Market Square.  
 How long have you lived in Cape Town?—I think nearly seventeen years.  
 How many Prize Negroes have your late husband and yourself received?—At different times we have received eight.  
 What business did your late husband carry on?—That of baking; he was one of the first Englishmen that carried on that business in Cape Town.  
 Were the Prize Negroes that you received taught the business of baking?—They were.  
 Did they become skilful in it?—They did, remarkably so.  
 Do you hire them out now?—I hire them out to bakers in the town.  
 What wages do you receive for them?—The best bakers bring 25 dollars per month, out of which they receive for themselves one dollar per week; and I clothe them besides.  
 You do not feed them?—No, I do not.  
 Have you any other source of subsistence than the hire of your Prize Negroes?—Not for the present, my affairs being in the hands of the Orphan Chamber.  
 Did Mr. Fiford obtain these Prize Negroes from Mr. Blair?—Yes he did, at different times.  
 Had Mr. Blair an account with your house?—No, he had not; I believe that he dealt for bread at Wynberg.

(signed) J. Fiford.

A true Copy.  
 John Gregory, Secy.

(Copy.)

Cape Town, 25th May 1825.

Mr. J. Murray; Re-examined.

Examination of  
 Mr.  
 John Murray,  
 25 May 1825.

HAVE you the accounts of your late brother, Mr. S. Murray, relating to any of his partnership concerns?—I have the whole of his papers in my possession; they are very numerous, but I have not taken any opportunity of examining them.  
 Will you examine them, and inform me whether Mr. S. Murray had any account with Mr. Blair, the Collector of the Customs?—I will.  
 In looking over the accounts of the Prize Negroes, whose indentures are stated by you to have been delivered to Mr. Murdock, second clerk to the Collector of the Customs, I see the name of J. Ellé, who was hired to Messrs. Cooke and Thompson, and continued to remain with them for some time after your brother's death; did you receive the permission of Mr. Murdock, or of Mr. Blair, to retain this Prize Negro?—I did not receive any distinct permission to that effect, but I delivered the account that I now produce, of the Prize Negroes indentured to my late brother by Mr. Blair, and at his request.  
 To whom did you present the account?—To Mr. Murdock, as I understood, at the request of Mr. Blair.  
 Did you afterwards receive any notice or order from Mr. Blair, or Mr. W. Bird, or from any body in their behalf, to return to them any of the Prize Negroes named in the first list?—I was desired to make out the list I produce, and to cause the Prize Negroes named in it to assemble at the Custom-house, for Mr. Blair's inspection.  
 Did you, upon any occasion after you made out the account, take the Negroes, and exhibit them to Mr. Blair?—I remember that I did so.  
 Was Mr. Blair present on that occasion?—Yes, he was.  
 Were any other persons, that you can recollect?—Mr. Pontardent was present, but I do not remember any body else.  
 Did you produce to Mr. Blair all the Negroes named in the upper list?—No, I did not.  
 Did Mr. Blair inquire into the reasons for your not doing so?—He inquired where the Prize Negroes were that were not produced to him.  
 Was the Negro Jean Ellé carried to the Custom-house, and exhibited on this occasion?—I find that Jean Ellé went to the Custom-house with the other Prize Negroes.  
 Do you know at what period the Prize Negroes appeared at the Custom-house?—A few days after my brother's death, which happened on the 5th August 1823.  
 At what period was this account, that you now produce, made out?—About the same time at which the Negroes were exhibited at the Custom-house.  
 Did Mr. Blair know at that time in whose service the Negro Jean Ellé was?—He did. Jean Ellé had expressed a great reluctance to leave the service of Messrs. Cooke and Thompson, with whom he lived.  
 Did you ever receive any hire from them, for John Ellé, after your brother's death?—I never did.

Had

Had Mr. Cooke ever expressed to you any approbation of Jean Ellé's conduct in his service?—Quite the contrary; J. Ellé had run away from him twice, and was once turned away. Mr. Cooke complained to me more than once, in my brother's lifetime, of Jean Ellé's great negligence. Upon Mr. Thompson's return to the colony, the behaviour of Jean Ellé considerably improved, and he then expressed himself very well satisfied with his situation.

Do you remember J. Ellé in the service of your late brother?—Yes, I do.

Was he a good cook when he first came to live with your brother?—No, he was not. For the first two or three years of his apprenticeship he was with a person of the name of Tyrholm, an auctioneer; he came back, and was instructed by Mrs. Murray in the business of the kitchen. When my brother came to live with me, after the period of his embarrassments, he then began to let J. Ellé out for hire.

Are you at all acquainted with the present situation of any of your Prize Negroes whose terms have expired?—I had one, named Sangora, whom I employed during my brother's life, to attend my house and garden near town, and occasionally to clean it and work about the stables; when his term was expired, he hired himself before the Fiscal to a Mr. Aspeling, the son of an immediate neighbour of mine, for six dollars per month; I know that this same Negro has been hired by Aspeling (and immediately after he had made the contract with him) to Mr. Cannon, the builder, who told me that he paid either 20 or 25 rix dollars per month to Aspeling for his services.

Is Aspeling in any trade that could have required the services of a Prize Negro?—In no trade whatever; he is well known to be an idle young man; he is now lately married, and keeps a butcher's shamble.

(signed) John Murray.

A true Copy,  
John Gregory, Secy.

(Copy.)

Cape Town, 25th May 1825.

Mrs. *Wilhelmina Rosina Hendriksen*; Re-examined; duly sworn.

HAVE you brought with you the certificates of your freedom and that of your children?—I have, and now produce them.

It appears by these documents that Mrs. widow Wehrlin purchased you from Mr. Weideman; therefore you must have been wrong when you told me, the other day, that Mrs. Weideman made you free on account of your good services?—It was a mistake, Mr. Weideman had purchased me at the sale of Mrs. Yzell's estate, for the purpose of taking care of his children.

You stated also that a Mrs. Wehrlin made your daughter free, whereas it appears that your daughter was purchased by Mr. Weideman, as well as yourself, and it appears that your daughter was manumitted by him?—It was a mistake of mine; from the length of time, I had forgotten the circumstance.

It further appears, that you were sold by Mr. Weideman to the widow Wehrlin, on the express condition that you were to be manumitted at the expense of the then proprietress within three months from the date?—It was so.

What reason could Madame Wehrlin have had to purchase you and give you your freedom?—Mrs. Wehrlin knew that I was a good Slave, from having been frequently at the house, and a great friend of Mrs. Yzell's; I had requested Mrs. Yzell to make me free before her death, but she said that she could not dispense with my services, as she was then so old; I also gave a sum of money of my own to Mrs. Wehrlin to purchase my freedom, and requested her to take upon herself the trouble of procuring my freedom, as I was ignorant of the way in which it was done.

Can you recollect the amount of the sum of money that you gave to assist in purchasing your freedom?—I think it was more than 1,000 R.d<sup>s</sup>.

Can you say what the total amount of the sum was that was given to Mr. Weideman for the freedom of yourself and your daughter?—I cannot recollect.

Was the 1,000 R.d<sup>s</sup> your own money, or was it given to you by any body?—I earned the money when I was in Mrs. Yzell's family; part of it had been given to me by the person who was the father of my child; he left money with me, when he went away, to purchase the freedom of my child when it should be born.

Have you had any more children than one?—No, I have not.

When did you obtain your Prize Negress?—When I was a Slave of Mrs. Yzell's, I requested her to obtain for me the Prize Negress.

When did you obtain her?—After I obtained my freedom; the Prize Negress left Mrs. Yzell's house at the time I did.

Had the Prize Negress belonged to Mrs. Yzell?—I don't know for certain, but I have the indenture.

Is the Prize Negress with you now?—No, she is dead, as well as one of her children; another of hers, born since she came to me, is with me yet.

A true Copy,  
John Gregory, Secy.

(signed) *Wilhelmina Rosina Hendriksen*.

— 5. —  
Examination of  
Mr.  
*John Murray*,  
25 May 1825.

Examination of  
Mrs.  
*W. R. Hendriksen*,  
25 May 1825.

—5.—

Examination of  
Mrs.  
W. R. Hendriksen,  
25 May 1825.

DOCUMENTS produced, on her re-examination, by Mrs. *Wilhelmina Rosina Hendriksen*:  
25 May 1825.

Certificate, signed by the Inspector of Registry of Slaves, that Mrs. Petri, widow of the late J. J. Wehrin, did manumit her female Slave named Meintje. Dated 8th November 1817.

Certificate, signed by the Inspector of Slaves, that Mr. Johannes Weideman had sold to the widow of the late J. J. Wehrin, his female Slave Meintje; on the express condition, however, that she is to be manumitted at the expense of the present proprietress within three months after the date. Dated October 9th, 1817.

Reply to the Memorial of widow Wehrin, requesting permission to manumit the Slave named Meintje. "Granted." Dated Colonial office, November 5th, 1817.

Certificate, signed by the Inspector of the Registry of Slaves, that Johannes Weideman did manumit his female Slave named Wilhelmina, old about 21 months. Dated 9th October 1817.

Reply to the Memorial of Johannes Weideman, requesting permission to manumit his female Slave named Wilhelmina. "Granted, upon complying with the usual regulations."

Certificate, dated 8th October 1817, signed by the Inspector of the Registry of Slaves, that the Orphan Masters, on account of the estate of the late widow Yzell, having sold to Mr. Johannes Weideman a female Slave named Wilhelmina, old 21 months, the said Slave had been duly registered as the property of said Johannes Weideman.

*John Gregory, Sec.*

(Copy.)

Cape Town, 26 May 1825.

Mrs. Hendriksen attended, and produced an extract from the vendue roll of purchases made by Mr. Weideman at the sale of the widow Yzell, by which it appears that Meintje Van de Kaap, 21 years old, formerly Mrs. Yzell's Slave, was purchased by Mr. Weideman, with her child Wilhelmina Van de Kaap, aged 19 months, for R.d' 2,680, on the 28th and 31st July 1817.

(signed) *J. Gregory.*

Mrs. Hendriksen is unable to find the indenture of the Prize Negress Samina; it was made out in Mrs. Hendriksen's name. (signed) *J. G.*

*John Gregory, Sec.*

(Copy)

Cape Town, 26th May 1825.

*Mr. Francis J. Becker*; duly sworn.

Examination of  
*Mr. F. J. Becker,*  
26 May 1825.

YOU reside on your estate at Witteboom?—I do; I have resided for the space of twenty years at Witteboom, and nine years at Tygerberg.

Have you had any Prize Negroes assigned to you?—I have had twelve assigned to me, eight men and four females.

In what manner have you employed them?—In agriculture upon my estate; they are all now capable of ploughing, and of performing the labour of the vineyard.

How have the females been employed?—In domestic work.

Have you had reason to be satisfied with their conduct?—Generally I have. There is one female, named Sartje, who behaved ill at an early period.

You are in the habit of making upon your estate, every year, wine of a superior quality?—The wine that I make is much esteemed, and I receive a high price for it.

Have you considerable quantities of fruit upon your estate?—I have, at Witteboom.

Have you been in habits of intimacy with Mr. Blair, the Collector of the Customs?—I have never been intimate with him, and have not visited him.

Has Mr. Blair ever purchased wine of you?—Yes, he has.

Did he pay you for it?—He paid me, but there has always been a running account between us.

Is there an account yet open between you?—There is.

Has it been of long standing, and is the amount of it considerable?—The amount is trifling, as Mr. Blair takes but small quantities of wine from me, frequently not more than a half aum, sometimes half a pipe; the present account is not above two years standing.

Did there exist as much delay in the payment of the former as of the present account?—The delay might be about the same in former accounts as in the present.

Are you in the habit of disposing of your garden produce?—I am, of the surplus, both of vegetables and fruit, as well as of firewood.

Have you ever sold any of these articles to Mr. Blair?—Never.

Have you ever made presents of them to him or to his family?—Never.

Have you any reason to know the motive that may have induced Mr. Blair to assign to you so many Prize Negroes?—The only motive that I can conceive he had, was his wish to encourage

## AT THE CAPE OF GOOD HOPE.

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encourage the cultivation of the vine, in which Mr. Blair knew I was extensively and successfully engaged. I stated this to him in the Memorial that I presented.

You are the brother-in-law of Mr. Stoll, I believe?—I am.

Have you a numerous family?—I have eleven children.

Are you possessed of many Slaves?—I have five or six Slaves.

A true Copy,  
John Gregory, Sec.

(signed) *F. J. Becker.*

—5.—  
Examination of  
*Mr. F. J. Becker,*  
26 May 1825.

(Copy.)

Cape Town, 26th May 1825.

*John Cannon*; Examined.

YOU reside in Cape Town?—I do.

What trade do you follow?—Builder and cabinet-maker.

Did you have in your employ a Prize Negro, named Sangora?—I had, for the period of four months, last year.

From whom did you hire him?—Mr. Aspeling, who has now one of the butchers shambles.

How much did you pay Mr. Aspeling for the Boy?—25 R.d' per month.

Did you pay any sum besides to the Negro himself?—I gave him a skilling a day for wine, and the boy told me that he had hired himself to Mr. Aspeling for 6 R.d' per month.

At the period, then, of your employing the boy, his time of apprenticeship must have expired?—I do not know, but conclude that it had, as the boy told me he had hired himself for 6 R.d' per month.

To whom did the boy go, after he left your service?—To Mr. Collison the wine merchant.

Do you know how much Mr. Collison paid for him?—He paid Mr. Aspeling 20 R.d' per month, and found the boy in provisions.

(signed) *John Cannon.*

A true copy,  
John Gregory, Sec.

Examination of  
*John Cannon,*  
26 May 1825.

(Copy.)

Cape Town, 26th May 1825.

*Mr. Wm. Duckitt*; Examined.

AT what place in the colony do you reside, or have you resided?—I have, and do still reside upon my late father's estate at Klaver Valley, in the Cape District.

Do you know how many Prize Negroes were assigned to your late father?—Including those assigned to my mother, I think that there must have been altogether 30.

How many have been assigned to yourself?—Seven in all.

How did the Prize Negroes that were in your father's service conduct themselves?—Many of them very well indeed; some of them are found ill disposed; and one that I had assigned to me, has been condemned by the Court of Justice to be sent to Robben Island.

How long did it take to instruct them in agricultural labour?—Seven years, before any of them became good ploughmen, or could be left to themselves.

Have the Prize Negroes been always employed by your father in agricultural labour?—Always.

Have your own also?—When I did not at first require them, in the first instance, they worked for my father.

Were they young or old?—Five of those that I received were children, and were only fit to do light work in the stable.

Did your father ever hire out any of his Prize Negroes?—Never, to my knowledge.

What produce did he generally cultivate upon his estate?—He generally cultivated oats, for the purpose of making hay of them; but he also cultivated wheat and barley; he also reared horses.

Did he dispose of his produce?—He consumed a portion upon his estate; but he was in the habit of disposing of his hay to government, as well as to individuals.

Was Mr. Blair, the Collector of the Customs, in habits of intimacy with your father?—Yes, he was as intimate as possible with him.

Do you recollect whether Mr. Blair was a purchaser of hay from your father?—I am not aware that he did.

Can you state whether any quantities of hay have been sent by your father to Mr. Blair's residence, by way of presents to him?—I recollect that in Sir John Cradock's time, Mr. Blair had some expectation of obtaining a grant of a farm contiguous to my father's estate. He sent some Negroes to clear it, but, being disappointed in obtaining it, my father allowed him to have the produce of a part of his land, and Mr. Blair cultivated it by his own Negroes, that were to have cultivated the estate that he expected to have had. The Hottentots of the



— 5.—  
 Examination of  
 Mr.  
 William Duckitt,  
 26 May 1825.

the Institution at Groene Kloof took down the produce to Mr. Blair, and he settled with them for the carriage.

How long did this arrangement subsist?—It continued during my father's lifetime, and exists now.

How many Negroes did Mr. Blair have at your father's, to assist in the cultivation of the land?—Sometimes ten, and sometimes less.

Where were they subsisted?—My father fed them, and clothed them.

You are sure that the Negroes were not hired to your father?—No, they were not.

Is Mr. Blair charged with the cost of the produce that he receives, or with the maintenance and clothing of the Negroes that are employed in the cultivation of the land?—He has never been charged with the produce that he has received, or with the clothing and subsistence of the Negroes.

Have you ever taken an account of the quantity of produce that has been sent to Mr. Blair?—No, I have not; I have seen memorandums of the hay that was sent to him.

Did you find any account, amongst your father's papers, of the produce sent to Mr. Blair from time to time?—I found no such account; nothing more than detached memoranda; but no money accounts.—See Documents, N<sup>o</sup> 23. (signed) *Wm. Duckitt.*

A true Copy,  
 John Gregory, Secy.

(Copy.)

Cape Town, 27th May 1825.

Mr. James Molton; Examined.

Examination of  
 Mr.  
 James Molton,  
 27 May 1825.

HOW long is it since you have been employed in the House of Collison and Co. in Cape Town?—I arrived here with Mr. Collison in the month of April in 1815, as his assistant in business; and I am still with him in that capacity.

Do you recollect his having hired two Prize Negroes from the late Mr. Samuel Murray?—We have had as many as five or six from him; and at his decease, we had either four or five.

Was hire for these Negroes paid to Mr. Murray by Mr. Collison, or settled in account between them?—It was settled in account between them at last; but we had been in the habit of paying money to Mr. Murray for the Prize Negroes hired by him, and for which I have got his receipts. As well as I can recollect, we paid 15 R.d' per month, and fed, clothed, and boarded, the Negroes.

Were any of these Negroes removed from Mr. Collison's employ, at Mr. Murray's decease?—A verbal order was signified to us, that the whole of the Prize Negroes were to attend at the Custom-house; they were not sent, but we wrote to Mr. Blair, stating that it would be very inconvenient to the House to dispense with the services of the Prize Negroes at that moment, as we were then very busy, either shipping or taking in wine. Mr. Blair wrote us a note, stating, that he had given no order that the Negroes should be taken from us; for we had been under an impression that it was intended to do so, and had written to him accordingly.

What followed this notice?—We continued to employ the Negroes for nearly three months or so, as usual; when another notice came from Mr. Blair himself, that the Negroes were to attend at the Custom-house; the whole of the Prize Negroes attended. And sometime after, we received a notice from Mr. Blair, stating, that he required two of the Negroes, the best of those we had; one of them indeed was so useful, both in the house and the stores, that Mr. Collison requested Mr. Blair to allow him to remain, and on that being refused, he felt rather indignant, and said, that if that Negro was to be taken away, he would not wish to keep the others. That Negro, named Simon, and another, named Anthony, were soon after removed by Mr. Blair's order, and given to Mr. Woeke, a wine merchant.

What became of the remaining Negroes?—I am not certain whether the others became emancipated at the expiration of their terms, or whether they were returned to Mr. Blair, but two only of the number are now with us, John and Chalon.

Does Mr. Collison pay hire for them?—No, he does not; he considered that the Negroes were allowed to remain with him. But as far as my opinion goes, I should think it probable that the late Mr. Murray's brother will claim hire for them, as he holds the indentures.

Has Mr. Collison had lately a Prize Negro in his service named Sangora, whom he hired of Mr. Aspelng?—We hired this Negro of Mr. Aspelng for a twelvemonth, and paid him cash in advance for the hire of him, at the rate of R.d' 16. 5. 2. per month.

Did Mr. Collison feed and clothe Sangora during this period?—See Memorandum annexed †.

Do you recollect whether, at the period in which the two Prize Negroes whom you have mentioned were taken away from Mr. Collison by Mr. Blair, the latter was indebted to him in any sum of money?—He was indebted to the house in the sum of three or four hundred dollars at that time, for which, at Mr. Blair's departure for England, we took his note payable at his return.

Has

## AT THE CAPE OF GOOD HOPE.

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Has Mr. Collison experienced much difficulty in obtaining the labour of Prize Negroes?—Very great difficulty; he has frequently applied to Colonel Bird as well as to Mr. Blair, but without ever being able to obtain any.

What is the highest price that you pay for those you have now?—We pay as high 22 R.d<sup>s</sup> per month, not finding them in provisions or clothing.

(signed) *James Molton.*

—5—  
Examination of  
Mr.  
*James Molton,*  
27 May 1825.

A true Copy.

(signed) *John Gregory, Sec<sup>y</sup>.*

(Copy.)

+ MEMORANDUM of Boys hired from the late Mr. *Samuel Murray* by Messrs. *John Collison & Co.* who provided for them board and lodging.

		R.d <sup>s</sup>	R.d <sup>s</sup>	R.d <sup>s</sup>
1820: Jan. 14th	Simon and John, to June 14, 1820, 5 mo <sup>s</sup> a' 15 p' mo.	150		
May 27th	Antonio - - - - -	9		
June 8th	Rosette - - - - -	3		
				162
— 14th	Four boys, as above, to Sept. 14, 3 mo <sup>s</sup> —	180		
				180
Sept. 14th	Four boys, as above, to Dec. 14, 3 mo <sup>s</sup> —	180		
				180
Dec. 14th	Four boys, as above, to April 14, 1821, 4 mo <sup>s</sup> —	240		
				240
1821: April 14th	Four boys, as above, to July 14, 1822, 15 mo <sup>s</sup> —	900		
Oct. 14th	Charles - - - - - 9 mo <sup>s</sup> —	135		
1822: —	William - - - - - 2 mo <sup>s</sup> —	30		
April 14th	Aurora - - - - - 3 mo <sup>s</sup> —	45		
				1,110
July 14th	The hire of boys from this date to the decease of the late } Mr. Samuel Murray, August 7th, 1823, is placed to his } credit in his account - - - - - }			900
			R.d <sup>s</sup>	2,772

On the 7th August 1823, there were six boys in the employ of Messrs. John Collison & Co. Simon and Antonio were taken from their service by order of Mr. Blair, on or before the 8th December 1823, and, I believe, transferred to Mr. Woeke.

Rusette and Jack were left, whose apprenticeship was nearly expired, and they were emancipated on or about the 2d March 1824. John and Charles remain now in their employ.

(signed) *James Molton.*

Cape Town,  
May 30th, 1825.

Cape Town, 30th May 1825.

(Copy.)

Mr. *William Corbitt*; duly sworn.

YOU are an inhabitant of Cape Town?—I am, and engaged in business.

You have obtained, I believe, the services of some Prize Negroes from Mr. Blair, the Collector of Customs?—I have received altogether four; I first received two (a boy and a girl) and afterwards two more boys.

How many of them are at present in your service?—Two of the Negroes are at present in my house, and the Negress is at Mr. Egger's at Wynberg, where I have allowed her to reside during the last three or four years; the other boy, named Malamo, has been taken from me by Mr. Blair.

Be so good as to state the circumstances that led to the removal of Malamo from your service?—I know of no other reason, except that Mr. Blair required the boy for his own service. Previous to Mr. Blair's departure for England, I applied to him for permission to take Malamo with me to England, understanding that his permission would be necessary before the sanction of the Governor would be given; Mr. Blair accordingly gave me a written paper, stating that he had no objection, and I enclosed it with a memorial to the acting Governor, who authorized my taking the boy to England, on giving the usual security for his being returned in twelve months to the colony. Having signed a bond, under a penalty of 200*l.*, I took the boy Malamo with me, and being detained in England, I sent him back to the colony in the *Arethusa*, and defrayed the expenses of his passage, consigning him to the care of Mr. John Deane. I subsequently received a letter from Mr. Deane, informing me

Examination of  
Mr.  
*William Corbitt,*  
30 May 1825.

—5—  
 Examination of  
 Mr.  
 William Corbitt,  
 30 May 1825.

me that Malamo had been sent for by Mr. Blair, a few days after his arrival, and kept in his service.

How long had Malamo been in your family, at the period of his removal?—He first came to me in March 1815, and I sent him back to the colony in February 1822. When I first took him, he was in bad health, and in a wretched state, but by the care I took of him, he recovered and turned out very well; a better boy I never knew.

Have you seen Malamo since you returned to the colony, and has he expressed himself contented with his situation in Mr. Blair's service?—I have frequently seen him; he makes a point of coming to my house whenever he can obtain leave to visit town; he uniformly has expressed himself dissatisfied with Mr. Blair's service, and complained that he is beaten and knocked about, and that he had been flogged in the Tronk.

Do you receive any payment from Mr. Egger for the Negress you have allowed to remain with him?—Nothing, directly or indirectly. It was the wish of the woman that she should remain there; I had left her with Mr. Egger when I went to England.

Are the other two Negroes you have mentioned allowed to remain with you by Mr. Blair?—When I went to England, I left those Negroes with Mr. Luck and Mr. Deane, and during my absence Mr. Blair told Mr. Deane that he might have one of them; but on my return they were both restored to me by the persons with whom I had left them.

(signed) W. Corbitt.

A true Copy,  
 John Gregory, Sec<sup>y</sup>.

(Copy.)

Cape Town, 30th May 1825.

Jean Ellé; Re-examined.

Examination of  
 Jean Ellé,  
 30 May 1825.

DID you appear before Mr. Blair, when the other Prize Negroes of Mr. Samuel Murray were ordered to repair to the Custom-house?—I did; Mr. Blair saw me and said, Is it you, the cook; I replied, yes, that it was.

He had seen you before, in the service of Mr. Murray?—He had.

Did you learn the business of a cook from Mr. Murray?—No, I did not; I had learnt it before I came to Mr. Murray's; he took me from the service of Mr. Lambert, a Dutchman, from knowing that I was a good cook.

Did Mr. Blair ask you, or did he inquire generally, when you were at the Custom-house, in whose service you were?—Mr. Blair asked me on that occasion, whether I was in the service of Messrs. Cooke and Thompson, in the presence of Mr. J. Murray.

Did Mr. Blair say any thing, when this information was given to him?—He said nothing, that I am aware of.

During the period that you served Mr. Cooke, was Mr. Thompson in the colony, and did they keep house together?—For the first part of the time Mr. Thompson was with Mr. Cooke, it was he that hired me of Mr. Murray; sometime afterwards Mr. Thompson went to England.

In the absence of Mr. Thompson, had you ever any disputes with Mr. Cooke?—Never, but on one Christmas-day, when I had taken too much liquor, Mr. Cooke wanted me to do some work, and I refused, and left the house; I was absent for two days, and then returned and begged Mr. Cooke's pardon.

Did Mr. Cooke ever turn you out of the house?—Never, but on the occasion that I have mentioned.

You never, then, had any other dispute with Mr. Cooke, than upon this occasion?—I never had.

Mark of B, John Ellé.

A true Copy,  
 John Gregory, Sec.

Cape Town, 31st May, 1825.

Mr. Thomas Heatlie; duly sworn.

Examination of  
 Mr.  
 Thomas Heatlie,  
 31 May 1825.

HOW many Prize Negroes have been assigned to you at different times?—No indentures of any Prize Negroes have ever been assigned to me, since my last return to the colony in the year 1814. Previous to my departure, two were assigned to me, which, on leaving the colony, were given up to Mr. Dixon. They were at that time young.

How many Prize Negroes have you, then, had in your service?—Eleven altogether I have had.

Were any of these given to you or placed at your disposal by Mr. Blair?—Two were, one in 1818 and one in 1819; both of these I took out of the Tronk, where they had been confined for bad conduct.

From whom did you obtain the remainder?—Six I obtained from Mr. Dashwood, and three from Mr. Wilberforce Bird.

In what year did you obtain the Negroes that you got from Mr. Dashwood?—One in the latter end of 1817, and the other five in the month of March 1819. These last were sent to

to me from the Tronk by Mr. Dashwood, on the day I went to join the command on the frontier; one of these died at Tulbagh in May or June 1823.

Did Mr. Dashwood assign or send the Prize Negroes to you at the same time that he made over a lease of a government farm to you?—He made over the lease of the government farm, "Alexander Fountain," to me in October 1817, when the Prize Negroes were on the estate, and remained there until after the harvest, when all, except one, repaired to Mr. Dashwood's at Wynberg; there they remained until March 1819, when I received them from him.

Did you pay any consideration to Mr. Dashwood for the lease of the "Alexander Fountain" estate?—I paid him 25,000 rix dollars for the lease of the estate and stock upon it; 3,400 rix dollars for which the estate was mortgaged to the bank, and the balance was for the stock, which was very valuable.

Was there any understanding between Mr. Dashwood and yourself, that the six Prize Negroes that he had had upon the estate, should be made over to you?—He had a great many more Negroes than six, all of whom, except one, who was unwilling to leave the estate, were taken away by Mr. Dashwood. There existed no understanding between us that he should assign over the Prize Negroes to me.

Did you not purchase an estate called Green River, in February 1819, of Mr. Wilberforce Bird?—I did.

For what sum?—For 28,000 guilders.

Did you pay that sum to him, and when?—I took over a debt that was due upon it to the bank, nearly to the whole amount of the purchase money. A few hundred rix dollars, I believe, were paid down; and I continued to pay the remainder in instalments of 5,000 guilders yearly to the bank.

Were any Prize Negroes, that had been placed upon the estate by Mr. Wilberforce Bird, assigned over to you when you made the purchase?—Three Prize Negroes were left upon the estate, and were considered part of the purchase.

Had any stipulation to this effect taken place between yourself and Mr. Wilberforce Bird, previous to the conclusion of the bargain?—When I waited upon Mr. Bird to arrange the terms of purchase, he asked me 28,000 guilders for the estate, which I said was a great deal too much, and that I could not afford to give it. Mr. Bird said that he would not sell it under that sum. After some conversation with him, I said that I would agree to give him 28,000 guilders, if he would let me have four of his Prize Negroes, out of the great number that he had, and whom (I observed to him) he could not want. I told him that if he would let me have the Prize Negroes, I would give him 28,000 guilders, but that if he would not let me have them, I would only give him 22,000 guilders. He replied to this, that he could not spare four Negroes, but would give me three; but upon this condition, that if I sold the place, I should not assign over the Negroes without his consent, so as to prevent their falling into improper hands; Mr. Wilberforce Bird agreed to this, and the bargain was concluded.

Was any body present at this conversation?—Mr. Dashwood was; it took place on a Sunday morning, at the house of Mr. Bird, at Wynberg.

Was any written agreement made to the effect you have mentioned?—A short memorandum, stating that I was the purchaser of the estate for 28,000 guilders, was given either to Mr. Bird or to Mr. Dashwood; I never saw it till my return from the interior.

Did the memorandum contain any stipulation respecting the Negroes?—I think not; Mr. Wilberforce Bird had said that no mention of it should be made.

Were the indentures of these three Prize Negroes ever made over to you, and have you claimed them?—They were not; I have asked Mr. Wilberforce Bird repeatedly about them, but they have never been given up to me.

What reason did he assign for not giving them to you?—Generally trivial excuses; that he had not time, or that the indentures were at Wynberg. Mr. Blair, the Collector, had assured me, soon after the purchase of the estate, that the indentures should be made over to me.

What annual value do you give to the labour of each of the Negroes that you obtained?—They were worth, one with the other, 144 rix dollars per annum, exclusive of their food and clothing.

Have you ever tried to sell your property at Green River, since you purchased it?—I had an offer for the purchase of it on the same terms that I gave for it, provided that the Negroes were transferred with the estate; I repaired to Mr. Wilberforce Bird, to know whether he would assent to the transfer of them; upon which he said that the term of service of one of the Prize Negroes was much longer than that of the other two, and that if I would return to him the Negro Christian, or Gracia, who had a long time to serve, and whom he wanted for his son-in-law, Captain Hare, that he would allow me to transfer the services of the other two; this I refused.

Have you sold the estate since?—No, I have not; although I have more than once treated for the sale of it.

Have the Negroes remained upon the estate, or did you remove them to Tulbagh, when you went to reside there?—They followed me some little time after I went to Tulbagh. In the month of October last, one of the three Prize Negroes, named Jupiter, ran away from me, and some

— 5 —  
 Examination of  
 Thomas Heatlie,  
 31 May 1825.

some weeks after I heard that he was at Mr. Wilberforce Bird's at Wynberg, and had been with him for some time; I spoke to Mr. Stoll, who promised me to write or to speak to Mr. Bird upon the subject, and a few weeks after I saw Mr. Stoll, who told me that he had seen Mr. Bird, but that he had declined having any thing to do with the business.

Did you make any other claim for the restitution of the Negro?—I requested Mr. Williams, who acts for me on different occasions, to call upon Mr. Bird, and claim him; Mr. Bird returned the answer that is detailed in my former declaration, and that was copied from the original in this office; it was not in Mr. W. Bird's own handwriting, but it was dictated by him to Mr. Williams.

Did you send to Mr. Wilberforce Bird the two Prize Negroes named in this declaration of his, and communicated to you by Mr. Williams?—I did not.

Do you retain them still in your service?—No; one left me in January last, and one about five weeks ago.

Do you know where they are now?—No, I do not.

Have you made any inquiry after them?—No, I have not.

How does it happen that the indentures of the Prize Negroes that were made over to you by Mr. Dashwood, have never been given up to you?—I can assign no other reason for it than the delay of the Custom-house.

(signed) *Tho' Heatlie.*

A true Copy,  
 John Gregory, Sec.

(Copy.)

Cape Town, 2d June 1825.

Mr. *John Deane*; duly sworn.

Examination of  
 Mr.  
 John Deane,  
 2 June 1825.

YOU are an inhabitant of Cape Town?—I am.

Have you any Prize Negroes in your service?—I have one in my service, but he is not indentured to me.

What is his name, and in what manner did you obtain him?—His name is Martinus; I received him from my brother, Thomas K. Deane, more than a twelvemonth ago, and he had been left, I believe, with my brother by Mr. Hume, surgeon of the 72d regiment, on his departure from the colony.

Was the transfer of Martinus made to your brother and to yourself with the knowledge of Mr. Blair?—I do not know whether Mr. Blair is aware of the transfer, or of Martinus being now with me, but I have heard my brother say that either Mr. Blair or Mr. Bird was aware of the transfer.

Are you certain that your brother did not receive the indenture?—I do not think he ever did.

Are you aware, or have you ever heard, how much of his term of apprenticeship is expired?—I have never heard, nor am I aware of it.

How is the Negro employed?—He is employed generally in my store, or in grooming a horse.

What may be his age?—I imagine he must be about 28 or 30 years of age.

What allowance do you make to him?—I give him four skillings (or half a rix dollar) a week, besides his food and clothing; upon misconduct, this allowance is withdrawn, and made up at other times.

Has he behaved well?—He has behaved well during the last twelve months; he had formerly been negligent and dirty, but, within the period I have mentioned, I have only once had occasion to apply for his punishment.

To whom did you apply, and what was the punishment awarded to him?—The application was made by my brother to Mr. Wilberforce Bird, and the punishment awarded was a week's work on the tread-mill.

Have you ever had any other Prize Negroes in your service?—I had one during the absence of Mr. Corbitt from the colony, who went by the name of "Present," whom Mr. Corbitt had left with me on his departure; I had also one named Jack, who came to me upon the arrival of the brig *Arethusa* from England, having been sent back by Mr. Corbitt, in pursuance of a bond that he had given on his departure to return the Negro within a given time, and to which bond I was a party; I had also a Prize Negro, whom I had hired of a man in the market-place.

Are you aware that the Collector of the Customs had any notice of the Negro "Present" being left with you?—Mr. Wilberforce Bird had, by the information of Mr. Corbitt, who told me that when he made the application to take Jack with him to England, the Comptroller signified to him his acquiescence in the arrangement that he had made respecting "Present." Mr. Blair was then absent from the colony.

Upon the return of Jack to the colony, did you take any measures to inform Mr. Blair or Mr. Wilberforce Bird of that circumstance, or did you signify to them any wish that he should be allowed to remain with you?—I did not; the name of the boy and his arrival was published in the *Gazette*, and I conceived that it was sufficiently notorious; I went to the Secretary's office, and requested that the bond that had been given might be cancelled.

Did

Did you at any time, and how soon after the return of Jack to the colony, receive a notice from Mr. Blair to send the Negro to him?—I received a notice, I think, dated 22 July 1822, from Mr. Blair, requesting me to send Jack on the following day to the Custom-house; I accompanied him thither myself, and had an interview with Mr. Blair, who said that he wanted Jack for his own service; he then asked me what had become of the other Prize Negroes belonging to Mr. Corbitt; I explained to him that I had "Present" in my service, that the boy Tom was with Mr. Luck, and that I had the indenture of another girl who was with Mr. Egger at Wynberg, but whom I had never seen.

What observation did Mr. Blair make upon this statement?—He told me that I might keep "Present," but that the boy Tom should not remain with Mr. Luck; I explained to Mr. Blair that it was Mr. Corbitt's intention to return to the colony, which Mr. Blair, by his manner, seemed to me to doubt, but he said that in such an event happening, he should have the boy Tom again.

Had you any further conversation with Mr. Blair about the boy "Jack"?—I mentioned that I had received instructions from Mr. Corbitt to put him to school, and that he had already been sent to a school in the town, to learn to read; Mr. Blair appeared to me, from his manner, to consider that the sending the Negro to school was quite unnecessary; he said that he wanted the Negro Jack for his own service, and I therefore immediately left him with Mr. Blair.

Did you read to Mr. Blair any part of the letter you had received from Mr. Corbitt, and that you have now produced?—I did not; I only told him generally that Mr. Corbitt wished to have the Negro sent to school.

Was the Negro Tom sent back to Mr. Corbitt on his return to the colony?—He was.

In what manner had you employed the Negro Jack in your house, from the period of his return to the delivery of him to Mr. Blair?—As a shop boy; he carried out parcels, swept the shop, and cleaned the windows.

How long was this period?—About a month.

How often in a week did you allow the Negro to attend school?—The arrangement for his attending school had been made only a few weeks before Mr. Blair sent for him; he had attended school at the free school in Keerom-street, and returned, one day I remember, as it was a holyday.

Did you find the Negro Jack intelligent and attentive?—What little I saw of him, he appeared to me to be remarkably so; he was also very quiet in his disposition.

What had been the occupation of the Negro when he was in the service of Mr. Corbitt?—He had always been a houseboy.

If you had to hire such a Negro for the occupation and duty to which you put him on his return to the colony, what do you think that you would have paid for him?—Considering that the duty required intelligence and quickness, I think I should have had to pay for a Negro of his class from 15 to 20 rix dollars per month all the year round, and to have boarded and fed him.

Did you explain to Mr. Blair the manner in which you had employed the Negro Jack?—He asked me no questions relative to it; I apologised to Mr. Blair for not having reported the Negro's return to the colony, as I thought that the omission might have given him offence.

Did he complain of the omission, or appear satisfied with your apology?—He appeared to be perfectly satisfied with it.

(signed) *John Deane.*

A true Copy,  
John Gregory, Sec<sup>y</sup>.

(Copy.)

Cape Town, 2d June 1825.

*Mr. George Luck*; duly sworn.

HAVE you had in your service a Prize Negro named Tom, who had previously been assigned to Mr. Corbitt?—Upon his departure to England, Mr. Corbitt left this Negro with me.

Did he give you any and what instructions respecting him, or did he make over to you the indentures?—He simply left him with me, to remain until he should return to the colony, which he had expectations of doing.

How did you employ the Negro?—As a labourer in my store.

Did you inform Mr. Wilberforce Bird, or Mr. Blair, that Mr. Corbitt had left him with you?—No, I did not.

Did Mr. Corbitt tell you, before he went away, that he had given any such information to Mr. Blair or Mr. Bird?—No, he did not, at least I do not recollect that he did.

At what period was the Negro subsequently reclaimed by Mr. Blair?—The Negro had complained to Mr. Blair of my ill treatment of him, and Mr. Blair requested my attendance. Upon inquiring into the complaint, Mr. Blair expressed himself satisfied that I had not ill-treated

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Examination of  
*Mr.*  
*John Deane,*  
2 June 1825.

Examination of  
*Mr.*  
*George Luck,*  
2 June 1825.

—5.—  
Examination of  
Mr.  
George Luck,  
2 June 1825.

treated him, but added, that the Negro could not remain with me any longer, but desired the Negro at the same time to go home, that is, to my house.

What reason did Mr. Blair assign for taking the Negro away from your service?—None whatever.

Did you not ask him?—I did not, I thought that Mr. Blair had a right to control the disposition of the Negro.

Did he remain with you afterwards?—I never heard any thing more about it, and the Negro continued with me until the return of Mr. Corbitt, when I gave him back to him.

A true Copy,  
John Gregory.

(signed) *Geo. Luck.*

(Copy.)

Cape Town, 6th June 1825.

*D. Denyssen, Esq., His Majesty's Fiscal; Examined.*

Examination of  
*D. Denyssen,*  
*Esq.*  
6 June 1825.

DO you recollect the prosecution that was instituted against Messrs. Cooke, Edwards and Hoffman, in the year 1824, for a libel upon the Collector of the Customs, Mr. Blair?—I do.

Did you receive any, and what, instructions from His Excellency the Governor, Lord Charles Somerset, to commence that prosecution?—I received a letter, dated the Colonial Office, 30th January 1824, signed by Mr. P. G. Brink, referring certain papers that had been sent to His Excellency the Governor by Mr. Edwards, and signifying a request that, as the paper contained assertions injurious to the character of the Collector of His Majesty's Customs, I would refer to Mr. Blair in order to obtain every information for prosecuting Mr. Lancelot Cooke for defamation of a public servant.

What steps did you take in consequence of this instruction?—I first saw Mr. Blair, who, if I recollect right, was the bearer of the letter from Mr. Brink; and on perusal of the Memorial to the Lords of the Treasury that accompanied it, finding that this document contained a good deal of matter foreign to the subject of Mr. Cooke's complaint which had been preferred to the Deputy Fiscal, and that his Memorial had, apparently to me, been dictated by a spirit of revenge, I applied to the Court of justice, according to the existing regulations for criminal proceedings in such cases, for a summons for personal appearance against Lancelot Cooke and Wm. Edwards as the authors, and J. B. Hoffman as the copier of the libellous Memorial, considering, as I did, that the Memorial was a libel.

Do you conceive that Edwards, who had acted as the professional adviser of Mr. Cooke, was liable to the charge of libel in this case by the law of the colony?—I think he was, inasmuch as the contents of the Memorial were foreign to the real object of Mr. Cooke, that they were also dictated by a spirit of revenge; and I also think they were addressed to a tribunal that I did not conceive was competent to entertain the subject.

Had Mr. Cooke applied to the deputy Fiscal for redress against Mr. Blair?—He had.

Do you know what was the result of his application?—Mr. Van Ryneveld first said that he would bring the case before the proper tribunal; at the same time he thought it was his duty to try and compromise the matter. He saw the parties, and finding that, notwithstanding his endeavours, he could not succeed in settling the business in an amicable manner, he resolved to bring the complaint of Mr. Cooke before the sitting Commissioner. A delay of twelve days took place, in which Mr. Ryneveld was prevented from bringing the case forward on account of other and pressing business; and on the 13th January 1824, he received a letter from Mr. Cooke, requesting Mr. V. Ryneveld to withdraw the complaint, as he had been advised by his friend Mr. Edwards, whom he stated to be very competent and experienced in matters of this nature, that he ought to apply to the Lords Commissioners of His Majesty's Treasury for redress and satisfaction from Mr. Blair.

A true Copy,  
John Gregory, Sec.

(signed) *D. Denyssen.*

(Copy.)

Cape Town, 17th July 1825.

*D. Denyssen, Esq.; Re-examined.*

Examination of  
*D. Denyssen,*  
*Esq.*  
17 July 1825.

DO you recollect whether you had any communications with His Excellency Lord Charles Somerset respecting the prosecution of Mr. L. Cooke for libel, previous to your instituting that prosecution?—As far as I can recollect, I had not; the subject may have been mentioned by his Lordship in casual conversation; I instituted my prosecution of Mr. Cooke and Edwards upon the letter that I received from Mr. Brink.

Did the concluding paragraph of that letter appear to you to convey His Excellency the Governor's directions to you to institute a prosecution against Mr. Cooke?—I considered that this paragraph did convey an instruction to me to prosecute, but I still reserved my right of declining if I had thought that the prosecution could not be maintained, or was not warranted by law.

Had you any conversation or communication with Mr. Blair before you instituted the prosecution?—I recollect that Mr. Blair brought me the Memorial of Mr. Cooke himself, which I perused, but I had at that time very little conversation with him. He afterwards came to me and mentioned the names of certain witnesses that he wished to have examined on his

his behalf. The names of these witnesses were given in by me to the court, but it was resolved that they should not be heard.

Were you prepared with evidence at that time, that tended to explain the merits of the case, or would have disproved the allegations of the libel?—I had witnesses whose evidence would, I think, have disproved part of the charge.

Did you conceive at that time that the court would permit such evidence to have been given?—I did; and I believe that the rejection of the evidence was one of the grounds of my appeal.

Did you think that the evidence of the witnesses named by Mr. Blair would have disproved the libellous allegations of Mr. Cooke's Memorial?—I believe that they would have disproved a great part of them, and I always depended upon the cross-examination of the numerous witnesses summoned by Mr. Cooke.

Were you aware of the circumstances that were intended to have been proved against Mr. Blair by the numerous witnesses that were summoned by Mr. Cooke?—Of some I was, as also that the attempted proof would have failed.

In case the witnesses had been heard, which party would have been first called upon to establish their case?—I should have called my witnesses first, and should have had an opportunity of cross-examining the witnesses of Mr. Cooke and Mr. Edwards.

Did Mr. Blair give you reason to believe that the allegations of Mr. Cooke, respecting his disposal of the Prize Negroes, were false and unfounded?—I certainly thought that the statement of Mr. Cooke was exaggerated, but I did not expect to find that in every instance Mr. Blair would be found to have acted correctly.

Would you, in case any information of the misconduct of Mr. Blair or the officers of the Customs in the disposal of Prize Negroes had come before you as Fiscal, have thought it your duty to institute a prosecution against them?—I entertain great doubts upon this point, because I have considered Mr. Blair's appointment to the protection of Prize Slaves as emanating from the King in Council under the Act of Parliament, and I have always understood that Mr. Blair received his appointment of Collector from the Lords Commissioners of the Treasury.

A true Copy,  
John Gregory, Sec.

(signed) *D. Denysen.*

Cape Town, 6th June 1825.

(Copy.)

Mr. John Warden; duly sworn.

YOU stated in your former examination, that you saw Mr. Dixon write a receipt to the account that he was going to present to Mr. Blair; can you state whether his name was put to the receipt?—I saw the account, and gave it to Mr. Dixon, who wrote upon it "Received payment—C. Dixon."

You said, that you do not recollect whether you made any entry of the payment of this account in Mr. Dixon's books?—I rather think that I did make such an entry, but I cannot be positive; it must be made by me, if it appears in the ledger.

Did you ever see such an entry in any of Mr. Dixon's books, either soon or some time after you gave him Mr. Blair's account, which he had receipted?—I do not recollect to have seen any entry in any of Mr. Dixon's books in discharge of the account of Mr. Blair, unless I made it myself; and, subject to my answer to the former question, if any entry is found in Mr. Dixon's ledger of the payment of the bill, the entry must have been made by me, and by Mr. Dixon's order.

Do you remember whether Mr. Blair's account was posted in the ledger?—I posted it myself, but I observed that it had not been posted for some time back.

A true Copy,  
John Gregory, Sec<sup>y</sup>.

(signed) *John Warden.*

Same day.

Mr. Warden; Re-examined.

WILL you look at the ledger of Mr. Dixon now before you, and turn to folio 63?—This is the ledger of Mr. Dixon, and the entry of Mr. Blair's account is in my handwriting; I find that to the credit of the account I have entered, "By Cash in full R. d<sup>s</sup> 1441. 1." dated 1st April 1820.

From what date had you posted the books of Mr. Dixon?—The first date of my posting is the 5th April 1819, and the last is on the 11th February 1822.

A true Copy,  
John Gregory, Sec<sup>y</sup>.

(signed) *John Warden.*

-- 5.--  
Examination of  
*D. Denysen,*  
*Esq.*  
17 July 1825.

Examination of  
*Mr.*  
*John Warden,*  
6 June 1825.



(Copy.)

Cape Town, 8th June 1825.

*William Van Ryneveld*, Esquire, Deputy Fiscal; Examined.

— 5. —

Examination of  
*W. Van Ryneveld*,  
Esq.  
8 June 1825.

DO you recollect whether any application was made to you by Mr. L. Cooke, late a merchant of Cape Town, complaining of the conduct of the Collector of the Customs, Mr. Blair? —I perfectly recollect it.

Would you be so good as to state the circumstances?—The cause, I believe, of Mr. Cooke's complaint arose from some dispute respecting the services of one Jean Ellé, a Prize Negro, the circumstances of which I do not recollect; Mr. Cooke came to me, producing a written complaint, under his own signature, of the conduct of Mr. Blair towards him; on the receipt of this, I issued a summons a day or two afterwards, requiring the attendance of Mr. Blair at my office; the answer that I received was, that Mr. Blair had gone into the country, and was out shooting. Mr. Cooke called again at my office, requesting to know whether any thing had been done; and on my telling him that Mr. Blair was out in the country, Mr. Cooke insinuated something that implied a wish on the part of the authorities to screen Mr. Blair; I endeavoured to convince him that this was not so, and issued another requisition to Mr. Blair. Previous to his attendance, I had used my endeavours with Mr. Stoll and several of Mr. Blair's friends, to endeavour to prevail upon Mr. Blair to come to some amicable arrangement with Mr. Cooke. Mr. Stoll told me that he had spoken to Mr. Blair, but that he felt that the conduct of Mr. Cooke had been of such a nature towards him, that he could not think of making up the matter. Mr. Blair afterwards attended at my office, accompanied by Mr. W. Bird; I either read the complaint of Mr. Cooke to Mr. Blair, or gave it to him to read, when Mr. Blair expressed himself very indignant at Mr. Cooke's conduct; that if the expressions imputed to him were true, he had uttered them in the heat of passion, but that Mr. Cooke's conduct had greatly irritated him. From the circumstances, it appeared to me to be more expedient to bring the case before the sitting Commissioner, than to make any further attempt to compromise the matter, and I informed Mr. Blair that such was my intention. There were at that time about thirty or forty causes before the sitting Commissioner, and this of Mr. Cooke not appearing to me to require any immediate haste, I did not bring it forward for some days. Mr. Cooke, in the interval, called at my office, and requested that the prosecution should not be commenced until I should hear from him again; the consequence was, that the cause laid dormant for some days longer. He called again, and after expressing to me his thanks for the trouble he had given me, he said that he had been advised by Mr. Edwards to give up the criminal prosecution, and commence a civil action against Mr. Blair. I told Mr. Cooke that I considered the case to be of so much importance, that I requested him to give me a notice in writing of his wish to withdraw the prosecution, which he agreed to do, and I received a letter from him to that effect.

See Documents,  
N° 13.

Are the letters that passed on this occasion in your possession?—No, they are not; I gave them over to the Fiscal, Mr. Denyssen.

(signed) *W. C. Van Ryneveld*, Dep<sup>r</sup> Fiscal.

A true Copy,

John Gregory, Sec.

(Copy.)

Cape Town, 8th June 1825.

*Mr. John Russell*; Examined.

Examination of  
*Mr. Russell*,  
8 June 1825.

DO you keep a school in Cape Town, in which Prize Negroes are instructed?—I am English master of the free school in Keerom-street, where Slave children and Prize Negroes are sent to receive instruction.

Do you recollect that a Prize Negro named Tom was sent to the school by Mr. Deane of this town?—I do; the Negro was sent on a holyday, and his name was not entered in the school books.

Did he ever come again?—I do not recollect that he did.

Do you know what the reason was for his not coming again?—I did not know the reason till some time afterwards, when I learnt that he had been taken away from Mr. Deane.

Who was it that brought the boy Tom to your school?—Mr. Rutherford had spoken to me respecting the admission of Mr. Deane's boy Tom to the school. Mr. Deane sent him, but as it was on a holyday his name was not inserted in the books.

If he had continued to attend the school, what would have been the hours of his attendance?—Our school hours are from eight till eleven in the forenoon, and from one till four in the evening; but the scholars attend as it may suit the convenience of the parents or masters, and some of them attend only for an hour in a day, and some of them only once or twice in a month; I have no authority to compel their regular attendance.

(signed) *John Russell*.

A true Copy,

John Gregory, Sec.

(Copy.)

Cape Town, 8th June 1825.

*Samboo*, (a Prize Negro;) Examined.

YOU are in service with Mr. Blair?—I am a house-boy, and clean every thing for the table.

Can you state how many years you have served him, and how many you are still engaged to serve?—I do not recollect how long I have been in Mr. Blair's service; all I have heard is, that I am engaged to serve him fourteen years; I do not know how long I have still to serve.

Have you ever been in the service of any other master?—I never have.

Have you been instructed in the Christian religion, and do you attend Church?—I have not been instructed, and I do not attend church; I never have been at church.

Are any of the Negroes in Mr. Blair's service, Christians?—Not that I know of.

Have you a wife?—I have; her name is Rosina, and she lived with Mr. Amber till lately, she is now at Wynberg.

Have you any children, and where are they?—I have five children alive; the youngest is with her mother, and the three elder are at Simon's Town in service; the remaining one is with Mr. Moore, the baker, at Wynberg.

To whom are they in service, and who placed them out?—Mr. Blair sent them to Simon's Town; one girl is with Mr. Balston, one with Mr. Miller, and one with Mrs. Savery.

Have you seen them, and are they well-treated?—I saw them last week, and they made no complaints.

Are you well treated by Mr. Blair?—I have not been beaten by Mr. Blair since I last complained to the Commissioners; I have not too much work, and I have no complaint to make about my clothing and subsistence.

Does Mr. Blair beat his Prize Negroes?—I am in the house, and have not seen Mr. Blair beat any of his Negroes. There are seven Negroes in the garden and three in the stable, and I have not seen them beaten.

Have you heard them complain of being beaten?—I have not.

Is there a boy named Malamo in Mr. Blair's house?—There is; he formerly was with Mr. Corbitt, and is now house-boy with me.

Does he behave well?—He behaves well, and is a clever boy.

Is he well treated by Mr. Blair?—He is.

Has he ever been beaten by Mr. Blair?—About two months ago, I remember, Mr. Blair struck him, with his fist, on his face.

Are you aware of the cause of his being struck by Mr. Blair?—I am not; the boy can explain this for himself.

Have you any complaints to make?—I have no complaints to make, except that my children are all apprenticed out, and I wish the one which is with Mr. Moore, a baker at Wynberg, should be returned to his mother; it is only six years old. I further wish, that the Commissioner would find out how long I have to serve, as I do not know.

Have you ever asked Mr. Blair how long you have still to serve?—I have not.

What money does Mr. Blair give you?—He gives me two shillings every Sunday, and the same to the other Negroes.

The foregoing questions and answers having been read over to the witness *Samboo*, he declared them to be perfectly correct.

*John Gregory*, Sec.

— 5.—  
Examination of  
*Samboo*,  
8 June 1825.

(Copy.)

Cape Town, 8th June 1825.

*Malamo*, (a Prize Negro;) Examined.

YOU are in service with Mr. Blair?—I am.

Do you know how long you have still to serve?—I think about three years.

What is your occupation?—A house servant.

What work do you perform?—I perform a good deal of work; *Samboo* and myself do all the work of the house, with two Negroesses as house maids.

Are you well provided with food and clothing?—I am.

Does Mr. Blair treat you well?—He does not treat me well, he very often knocks me about.

What cause do you give to Mr. Blair for this treatment?—He beats me for very little cause. He gets up in a passion sometimes, and strikes me with his fist; and he once beat me with a stick, and once with a *samtok*. Some weeks ago, when he came home from hunting, about twelve o'clock, he saw me cleaning knives, and he asked me why they were not done, and I said that I had other business in the morning, cleaning the fireplaces; on this Mr. Blair struck me, with his fist, in the mouth, and made it bleed. I left the house, intending to come

Examination of  
*Malamo*,  
8 June 1825.

— 5.—  
Examination of  
*Malamo,*  
8 June 1825.

\* Constables.

to town to speak to my old master, Mr. Corbitt, but the dienaars\* at Rondebosch Jail stopped me; and when Mr. Blair came, I was flogged in the Tronk. Mr. Blair has often struck me since with his fists.

Have you ever complained of this treatment to Mr. Corbitt?—I have answered Mr. Corbitt's inquiries, and said that Mr. Blair treated me very badly.

You went to England with Mr. Corbitt?—I did.

Were you always well treated by Mr. Corbitt?—Mr. Corbitt was a very good master, he never once flogged me.

How long were you in Mr. Corbitt's family?—Seven years.

What was your business?—I served in the house, and attended on the family.

Were you always well fed and clothed?—I was.

Were you ever instructed in the Christian religion?—I was not.

Were you ever sent to school by Mr. Corbitt?—I went to school at Wynberg, before Mr. Corbitt went to England; and on my return to the Cape, Mr. Deane sent me to school one day, and the next day Mr. Blair sent and took me away from Mr. Deane's house.

What employments were you put to by Mr. Deane?—I sometimes worked in the store, and sometimes in the house.

Did Mr. Deane treat you well?—He did.

How long were you in his house?—About three weeks before Mr. Blair took me away.

Have you always been employed in house service?—Mr. Blair at first put me in the stable, and afterwards took me into the house.

Have you ever seen Mr. Blair strike any of his other servants in the manner you have described?—I have sometimes seen him strike them with his fist, but not with a samtok or a stick.

Have you any other complaints to make than those you have already mentioned?—I have not.

The foregoing questions and answers were read over by me to the witness Malamo, who declares them to be perfectly correct.

*John Gregory, Sec.*

Cape Town, 16th June 1825.

Malamo attended, for the purpose of stating to the Commissioners of Inquiry, that the day before yesterday Mr. Blair flogged him with a samtok, because the candle was not fixed properly in the lamp, and the tallow dropped upon the glass of the lamp.

*John Gregory, Sec.*

(Copy.)

Cape Town, 26th June 1825.

*Mr. Henry Buckton; Examined.*

Examination of  
*Mr.*  
*Henry Buckton,*  
26 June 1825.

WHAT situation have you filled in the Vice Admiralty Court of this colony?—That of deputy registrar, and marshal, and examiner.

In what year did you receive these appointments?—Upon the formation of the Court of Vice Admiralty in the year 1807, and soon after the arrival of the Earl of Caledon.

By whom were you appointed?—I received my appointment as deputy registrar from Colonel Grey, who was the registrar of the court; that of deputy marshal from Mr. Dennis O'Brien, and that of examiner from the court.

Did you keep the records of the Court of Vice Admiralty from its first institution?—I did.

How long did you continue to hold the offices of deputy registrar and marshal?—Till the year 1813, inclusive.

Was it customary to receive and file schedules of the number of Negroes on board the different Prizes, when the seizing officer delivered in the ship's papers?—I think it probable that, in some of the cases, schedules of this description were amongst the papers delivered in; if they were amongst the ship's papers, they of course would be filed.

Were any, and what, steps taken by the agents of the captors, or by the officers of the court, to ascertain and identify the number of Negroes taken as prize?—By the questions in the additional standing interrogatories, and by the evidence of the usual witnesses in answer to them, the number of the Prize Negroes was judicially ascertained.

Was any officer of the court ordered to remain on board the Prize Ships after seizure, and until the Negroes were landed?—There was not.

Then the Prizes with Negroes remained in the hands and under the custody of the captors?—They did.

Was the number of Negroes, taken and condemned as forfeited, expressed in the sentence of the court?—The numbers and sexes of these were set forth in the sentences.

Had

## AT THE CAPE OF GOOD HOPE.

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Had the court any custody or care of the Negroes, after they were landed?—Until they were condemned, the court had its control over the Negroes as over all other Prize property, but they were in the hands and custody of the Prize agents.

Do you recollect whether any long periods occurred between the seizure and condemnation of the several Prizes?—I recollect that a long period elapsed between the death of Mr. Cassels, who was appointed by Mr. Hartley as his deputy on his departure to England, and return of the former to the colony; with that exception, I do not think that any long time elapsed before condemnation of the Prizes.

Was there any schedule of the names and numbers of the Negroes attached to the sentences of the court?—I think that all the Prize Negroes were condemned by interlocutory decrees, and that no schedules were referred to.

Did the interlocutory decrees of the court refer to the number of Prize Negroes that were on board the vessels at the time of the capture?—The interlocutory decrees were governed by the answers taken to the standing interrogatories respecting the number of Negroes on board and alive at the time of the capture.

(signed) *Henry Buckton.*A true Copy,  
John Gregory, Sec.

—5—  
Examination of  
Mr.  
*Henry Buckton,*  
26 June 1825.

(Copy.)

Cape Town, 27th June 1825.

Mr. *W. Woelke*; Re-examined.

YOU have stated in your former evidence, that you had been in the habit of allowing credit to Mr. Blair in your books, for wines purchased from you during the last three years, and you have exhibited four books, from which it appears that a sum of 255 rix dollars is still due to you by Mr. Blair; be so good as to state whether you are in the habit of allowing as long credit to your customers in general?—Some of my customers pay me ready money, and some at intervals of a month or more, according to my opinion of the credit of the individuals; a few of my customers have had as long credit as Mr. Blair, and some of these perhaps longer.

Examination of  
Mr.  
*W. Woelke,*  
27 June 1825.

What may have been the consideration with you for affording long credit to Mr. Blair?—Mr. Blair has been long resident in the colony, and was the friend of my late father-in-law, Mr. Sebastian Van Reenen, I therefore felt induced to afford him such accommodation; and, as I before stated, he frequently asked me for the account.

(signed) *F. W. Woelke.*A true Copy,  
John Gregory, Sec.

(Copy.)

Cape Town, 27th June 1825.

Mrs. *C. M. Lusebrink*; Re-examined.

WAS the account alluded to in your former evidence, as having been settled by Mr. Stoll, the last account that Mr. Blair has had with you?—The account alluded to was paid by Mr. Stoll by instalments at successive periods; and after Mr. Blair's return to the colony, a further account was presented, amounting to six or seven hundred rix dollars, which was paid also by Mr. Stoll. Subsequent to the transmission of that account, articles were delivered to Mr. Blair, and the account for them is still open, to the amount of 700 or 800 rix dollars. The account will be presented at the end of the year.

Examination of  
*Mrs. Lusebrink,*  
27 June 1825.

You have before stated, that you were accustomed to give the same length of credit to other customers as you had done to Mr. Blair; can you state that you have not afforded Mr. Blair greater accommodation than you have generally done to others who have dealt with you, either as to amount or to the periods in which the debts have remained undischarged?—An inspection of my books would show that I have granted much longer credit to other customers, even for a period of six or seven years, and for larger sums than Mr. Blair has been indebted to me.

(signed) *C. M. Lusebrink.*

Read over the evidence, in the Dutch language, to the Witness.

(signed) *W. Benson.*A true Copy,  
John Gregory, Sec.

(Copy.)

Cape Town, 27th June 1825.

Mr. *W. Heyward*; Re-examined.

CAN you state whether it has been usual with Mr. Durham to afford to his customers similar accommodation and as long credit as he appears to have allowed to Mr. Blair?—I can only state that it has not been customary with Mr. Durham to do so. There are many outstanding claims in the books of Mr. Durham, and which may not be recovered, but these have not all remained without some proceedings being adopted with a view to recovery. There may be some however that have not been urged, as well as in the case of Mr. Blair.

Examination of  
*Mr. Heyward,*  
27 June 1825

Has

— 5. —  
Examination of  
Mr. Heyward,  
27 June 1825.

Has it been customary to afford greater indulgence to the government servants, in the discharge of their accounts, than to the inhabitants?—It has; the usual credit afforded by merchants and tradesmen, in Cape Town, is from three to six months, but it is frequently a reason for allowing greater accommodation to persons in office; that it might not be the interest of a tradesman to disoblige them.

Are you aware if this consideration may have weighed with Mr. Durham in affording so much accommodation to Mr. Blair?—I am not aware that it did.

(signed) *W. Heyward.*

A true Copy,  
John Gregory, Sec.

(Copy.)

Cape Town, 30th June 1825.

Mr. C. Dixon; Re-examined.

Examination of  
Mr.  
Charles Dixon,  
30 June 1825.

YOU have stated in your former evidence, that after Mr. Edwards began to make inquiries in 1824, you begged Mr. Blair to pay his account or give you a note or obligation for the amount; and you produced a note of hand you had received from Mr. Blair, dated 1st April 1820; was that date affixed to it by yourself or by Mr. Blair?—The date of the note of hand must have been inserted by Mr. Blair.

Where was the note of hand written by Mr. Blair?—In one of my front parlours; I had asked Mr. Blair two or three times to settle the account, and he said that he could not conveniently do so, and he offered the security of a note of hand, which I asked him as a favour to antedate so as to correspond with the date of the account; and Mr. Blair wrote the note of hand which I produced, and gave it to me accordingly.

Did you make the entry in your day-book, of having received from Mr. Blair in full of all demands, in his presence?—No, I did not make the entry in his presence; as soon as he had written the note of hand he went out, and I immediately afterwards made the entry in the day-book which I have produced.

Did you inform Mr. Blair of your intention of making such an entry in the book?—I did, when I asked him to give me the note of hand; and I requested him to antedate it that I might make it appear in my book that the account had been settled long ago, being apprehensive, as I said, that Mr. Edwards would give trouble, as he had been making inquiries about Prize Negroes.

Have you been in the habit of affording the same accommodation of long credit, in account with your customers in general?—I have in many instances, and who have never paid me at all after long periods.

(signed) *C. Dixon.*

A true Copy,  
John Gregory, Sec.

(Copy.)

Cape Town, 15th July 1825.

Mr. John Murray; Re-examined.

Examination of  
Mr.  
John Murray,  
15 July 1825.

UPON a former examination, you said that you would look for an account between your late brother and Mr. Blair the Collector of the Customs; have you been able to find it?—I have looked over my brother's papers, and have been able to extract the account that I now produce, of wine that appears to have been sold from time to time by my brother to Mr. Blair.

Are you executor or administrator of your brother's effects?—No, I am not.

Has any settlement of his affairs taken place since his death?—At my brother's death, in 1823, I advertised and gave notice that I would settle any claim outstanding against him for that year, but there has been no other settlement of his affairs; I believe that upon a dissolution of partnership between my late brother and Mr. Home, some arrangement of the debts due to it took place, and that payment of the accounts was made and received.

In whose possession do you think that the books and accounts of the partnership now are?—In the possession of Mr. Henry Home.

From what account or book is the one taken, that you now deliver?—It is from a ledger of my late brother's, in my possession.

Is there any appearance of the account having been settled?—Nothing appears to Mr. Blair's credit in the ledger.

(signed) *John Murray.*

A true Copy,  
John Gregory, Sec.

(Copy.)

Cape Town, 16th July 1825.

Mr. George Thompson; Re-examined.

Examination of  
Mr.  
George Thompson,  
16 July 1825.

ARE you aware that Mr. Cooke, formerly your partner, has complained of the injurious consequences that resulted to him from his detention at the Cape, in consequence of the proceedings that were instituted against him for a libel on the Collector of Customs?—I was not aware that he had done so.

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Are you enabled to state at what period of last year it had originally been Mr. Cooke's intention to have left the colony?—I recollect that our partners in London fully expected him there by the month of February 1824, and that Mr. Cooke himself intended to have left the Cape by the month of December 1823.

At what period did he actually sail for England?—On the 16th April 1824, in the Asia.

Have you any reason to believe that his detention at the Cape arose from any circumstances of a commercial or domestic nature?—No; I believe that he was detained here solely by the proceedings that were instituted against him.

What may have been the nature and extent of the injury which Mr. Cooke represents himself to have suffered in his commercial transactions, in consequence of his detention in the colony?—I really have it not in my power to answer this question; our partnership was dissolved shortly after Mr. Cooke's return to England; and I am not competent to say what may have been the nature or extent of the losses he sustained in consequence of his detention here.

A true Copy,  
John Gregory, Sec.

(signed) *Geo. Thompson.*

— 5 —  
Examination of  
Mr.  
*George Thompson,*  
16 July 1825.

*Mr. Geo. Thompson; Re-examined, 16th July 1825.*

What were the circumstances that prevented Mr. Cooke from leaving the colony, from the month of December 1823 to the month of April 1824?—I am not aware of any thing that could possibly have detained him, except (as I have before stated) the prosecution that was carried on against him. There were many ships sailing for England at that season of the year, and I recollect that his whole attention was occupied in the law proceedings.

Do you believe, or are you aware that Mr. Cooke, or yourself as his partner, sustained any loss by the prosecution that was instituted against him, and by the delay that it may have caused in his departure for England?—With regard to my own interest, I do not conceive that I sustained any loss from the prosecution or the delay in his departure, nor do I think that our firm did; but with regard to its effects upon the individual interests of Mr. Cooke, I am unable to afford any information. I do not know what his speculations may have been, and therefore cannot say whether any or what loss may have been sustained by him. The house of Messrs. William Borradaile, Sons and Ravenhill, in London, are likely to possess some information upon this subject.

(signed) *Geo. Thompson.*

A true Copy,  
John Gregory, Sec.

(Copy.)

Cape Town, 19th July 1825.

*Mr. Wm. Thomson; Examined.*

YOU were bookkeeper, I believe, to Mr. Home, when he was in partnership with the late Mr. S. Murray?—I was.

Did you keep the books of that partnership?—I did; I made the entries from accounts of wine sold and money received by Mr. S. Murray, and that was handed over by him to Mr. Home

Upon the termination of it, or in the course of it, do you recollect that any account was open between Mr. Blair, the Collector of the Customs, and Messrs. Home and Murray?—It appears by the accounts that were given in by Mr. S. Murray, that wine was sold at different times, during the partnership, to Mr. Blair.

Do you find or have you reason to believe that the wine was paid for by Mr. Blair, or his account settled?—At the close of the partnership, about the end of the year 1814, the accounts were handed over by the Trustees to Mr. Ley, for the purpose of collection, and he went to the house of Mr. Blair, to demand payment of a bill due to the concern of S. Murray and Co., amounting to about 483 rix dollars, and received for answer that the account had been already settled with Mr. Murray; Mr. Home, upon receiving the partnership accounts from the Trustees, as being the only creditor of the partnership, did not dispute this; but I am not aware that any document in proof of payment was produced.

Do you recollect whether Mr. Home ever received any Prize Negroes from Mr. Blair?—I believe that he did; the first that he received were from Mr. Robertson, the prize agent, and they were afterwards confirmed by Mr. Blair; he also had some others directly from Mr. Blair; he had six altogether.

(signed) *Wm. Thomson.*

A true Copy,  
John Gregory, Sec.

(Copy.)

Cape Town, 19th July 1825.

*Antho J. Ley; Examined.*

DID you act as clerk to Mr. Home during and after his partnership with the late Mr. S. Murray?—I have been clerk to Mr. Home since December 1799, and am in that situation at present.

Were you employed to collect the debts due to the firm of S. Murray and Home, when they were handed over to the latter, at the dissolution of the partnership?—I was.

Examination of  
*Mr. A. J. Ley,*  
19 July 1825.

Do

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Examination of  
Mr. A. J. Ley,  
19 July 1825.

Do you recollect whether you presented any bill to Mr. Blair, the Collector of the Customs, for wine delivered to him by the partnership?—There was an account in the books of the firm, open against Mr. Blair, for the sum of 483 rix dollars; I gave the bill to Mr. Pontardent, a friend of Mr. Blair, and I received from him in answer, that Mr. Blair had given a bill to Mr. Samuel Murray for 1000 rix dollars, and expected to receive the balance, deducting the amount of the bill that I claimed. I made a report of this answer in writing to the gentlemen who acted as arbitrators in the concern of Messrs. Murray and Home, and they reported it to Mr. Home; after this, Mr. Murray came to me, and asked me what answer I had received from Mr. Blair, with which he appeared to be dissatisfied, and shook his head, requesting me at the same time not to apply again to Mr. Blair, as he would himself call upon me, and pay the amount of the bill of 483 rix dollars; this he never did.

At what period did this take place?—In the year 1815.

Has Mr. Home to your knowledge ever received the amount of Mr. Blair's account?—He never did.

You never saw Mr. Blair yourself about it?—No, I never did.

Do you know who kept Mr. Murray's private accounts?—I believe he kept them himself.

Has Mr. Home remained satisfied with the report that you made of the payment of Mr. Blair's account, or has he never demanded it of him?—Mr. Home has looked to Mr. Murray for payment, and consulted a lawyer once about recovering it, but he has never demanded payment of the bill from Mr. Blair.

(signed) A. J. Ley.

A true Copy,

John Gregory, Sec.

(Copy.)

Cape Town, 19th July 1825.

Mr. Peter Auret; Examined.

Examination of  
Mr. P. Auret,  
19 July 1825.

YOU were employed as the clerk in the office of the Fiscal, in the month of April 1823?—I was.

Was it any part of your duty at that time to attend to the contracting of Prize Negroes after their terms of apprenticeship had expired?—It was not; my duty consisted of prosecuting cases before the sitting Commissioner of the Court of Justice.

Who, then, was charged with the contracts of Prize Negroes?—Mr. De Wet, the second clerk.

Do you recollect that an application was made to you by Mr. Thwaites, for the purpose of contracting to Mr. Richardson a Prize Negro whose term had expired?—I cannot recollect.

(signed) P. Auret.

A true Copy,

John Gregory, Sec.

(Copy.)

Cape Town, 21st July 1825.

Mr. F. W. De Wet; Examined.

Examination of  
Mr.  
F. W. De Wet,  
21 July 1825.

YOU are employed, I believe, in the Fiscal's office?—I am.

Is it your duty to attend to the applications of Prize Negroes for passes or for contracts with new masters, when their apprenticeships are expired?—This duty is performed either by myself or Mr. Borchers or Mr. Itzen, clerks in the office of the Fiscal.

Is it the business of Mr. Auret to attend to these applications?—No, it is not; he is charged with all cases that are to come before the sitting Commissioner of the court.

Do you recollect a Government advertisement in the year 1823, that declared the apprenticeship of several Prize Negroes, indentured in the year 1809 by the Collector of the Customs, to have expired, and directing the Fiscal and the landdrosts of the different districts to call the several apprentices before them, and after informing them of their condition, to suggest to them that they must enter into new engagements?—I do.

Was this direction pursued by the Fiscal?—It was, towards those Negroes whose masters lived in Cape Town.

In an application of a Prize Negro who had been named in this advertisement, would you think it necessary to apply to the Collector of the Customs for a certificate of the expiration of his indenture?—Certainly not; we keep a list of those Prize Negroes who have been declared to be free by the Government.

(signed) F. W. De Wet.

A true Copy,

John Gregory, Sec.