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Class B.

CORRESPONDENCE

WITH

THE BRITISH COMMISSIONERS,

AT

**SIERRA LEONE, THE HAVANNAH,
RIO DE JANEIRO AND SURINAM,**

RELATING TO

THE SLAVE TRADE.

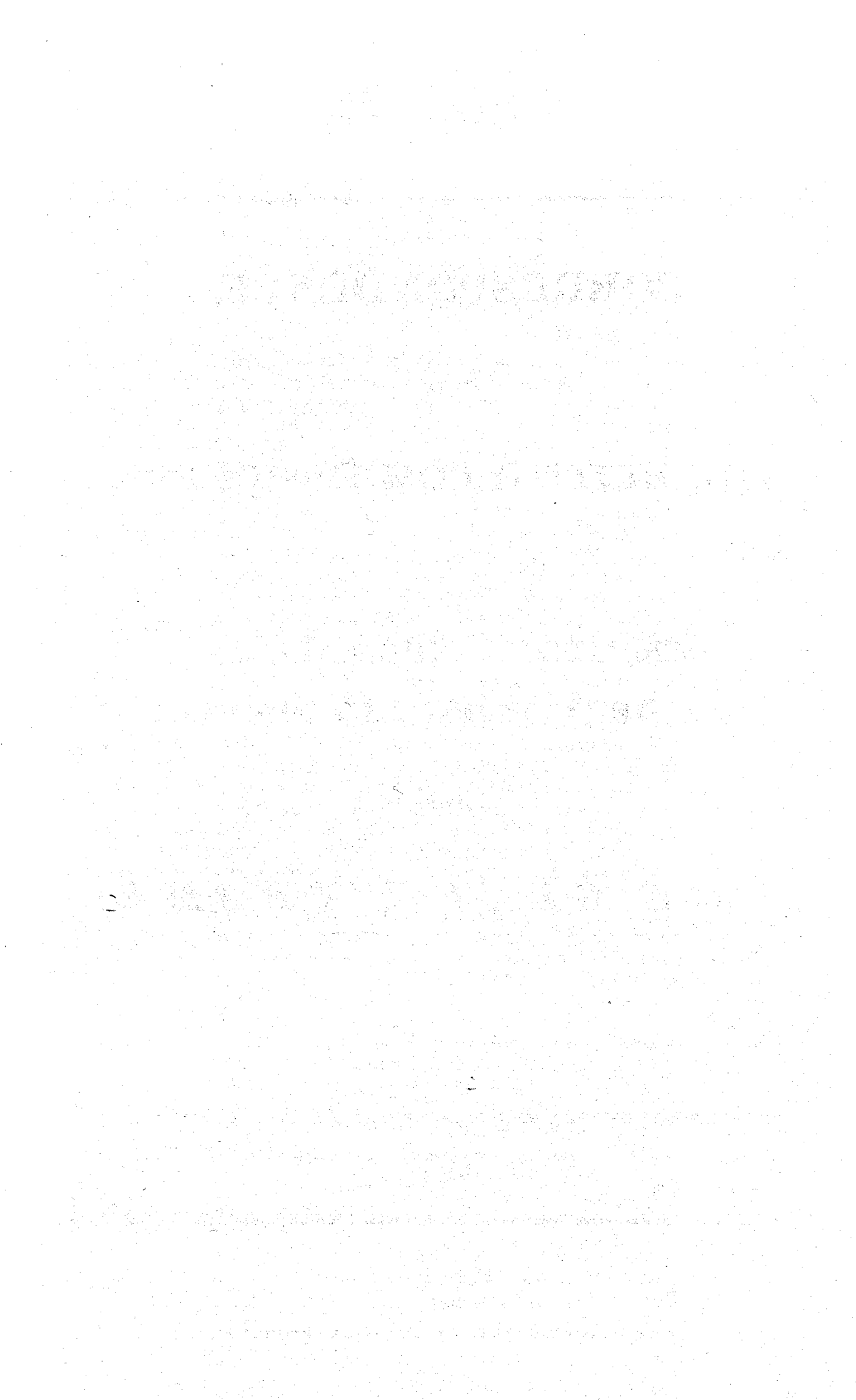
1823. 1824.

*Presented to both Houses of Parliament, by Command of His Majesty,
1824.*

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Class B.

CORRESPONDENCE

WITH THE

BRITISH COMMISSIONERS.

SIERRA LEONE. (General.)

No. 1.

Messrs. Gregory and Fitzgerald to Mr. Secretary Canning.—(Received July 11.)

SIR,

Sierra Leone, April 29, 1823.

IN the Despatch which we have now the honour to address to you, we propose to resume the communication of those Reports respecting the state of the Slave-trade, which, by the Letter of the Marquess of Londonderry, dated the 10th of March 1822, we are directed "to continue to transmit " from time to time, founded upon the most authentick intelligence that our " situation enables us to collect."

We pursue in this Report our former mode of considering the Coast of Africa to the Northward of the Equator as divided into three Sections:—

The first Section extending from Sierra Leone Northward, and comprising all the Slave-trading Stations usually visited by British Cruizers:—

The second comprising the space between Sierra Leone and Cape Coast:—

The third running from Cape Coast to the Equator.

In the first Section to the Northward of Sierra Leone we have not any intelligence of existing Slave-trade, further than some indistinct reports of Shipments from *Bissao*, which may be supposed to have actually taken place; inasmuch as the Trade is always carried on at that Settlement and at *Cacheo* in as great extent as the opportunities of exportation will admit.—Complaints continue to be made of predatory attacks on the African Towns in the vicinity of the *Rio Nunez*, for the purpose of supplying Slaves for those Shipments;—it is added that these attacks are not only countenanced but often led by Portuguese Subjects of the Settlements just mentioned. A petty warfare was until lately carried on between *Bateman* and *Pearce*, two Native Chiefs descended from British Slave-dealers formerly resident on the *Rio Nunez*. The captives taken by both Parties in this warfare were sold to the Slave-dealers of *Bissao* and *Cacheo*.

When the boats of His Majesty's Ship *Owen Glendower* visited the Rio Nunez, in the beginning of the Month of March, this warfare was considered as terminated by decisive successes on the part of Bateman;—and within the present Month we have had information of the arrival of some trade from that River at the Isles de Los. The resumption of trade is regarded as a decisive indication that the Country on the banks of the River has returned to a settled state; as long as war continues, however inactive the hostility, business is almost at a stand.

The trade of the Rio Nunez is considered of great importance; the returns to be obtained from it in hides, ivory, wax, and other Articles of African produce, render it next to the *Gambia* in the means and opportunities of beneficial commerce—unless so far as the pursuit of the Slave-trade will lead the Traders in particular instances to *Bissao* and *Cacheo*, the general advantages of a superior market for the disposal of their own Articles and for the purchase of European Commodities, will induce them to resort in preference to the British Settlements at the *Isles de Los*, or to this Colony.

We have much satisfaction in being enabled to state, upon the authority of information constantly received from sources, upon the authenticity of which the fullest reliance may be placed, that no Slave-trade has existed in the *Rio Pongos* since the date of our last Report,—nor, in fact, since the capture of the Spanish Schooner *Rosalia* in that River, by Lieutenant Hagan, commanding His Majesty's Brig *Thistle*, on the 9th of January 1822.

The state of things in that River has continued nearly as it was described in our last Report; apparently with some further advance towards the establishment of a system of legitimate commerce.—We are, however, rather fearful of being too sanguine in our statements touching a reformation of such recent commencement. We, therefore, subjoin the grounds of our belief:

The advance to which we allude is inferred from the following facts and circumstances;

The person named *William Lawrence*, residing at Domingi, a short distance within the entrance of the River, who was mentioned in our last Report as having been at Sierra Leone for the purpose of making arrangements for legitimate commerce under British protection, has applied for, and obtained through the intervention of *Mr. Kenneth Macauley*, one of the Members of Council for the Colony, a lot of building land in Free Town, for the purpose of erecting a residence for his trading people and for himself in his future visits.

It is said that this proceeding, and the previous visit of Lawrence to Free Town, have excited much jealousy among the other Traders of the Rio Pongos, who have not hesitated to avow their suspicion that Lawrence has been studying to promote his own exclusive objects to the injury of the characters and the interests of his neighbours.

In confirmation of these suspicions they advert to a recently prior scheme of Lawrence for bringing down the Foulah Traders to the banks of the River, where that people are much dreaded, on account of the force in which they come, and of the absolute dominion which they assume and exercise during their stay, although the professed object of their coming should be purely commercial.

It is true that Lawrence made a journey not long ago to Teembo, the capital of the Foulahs;—he was there at the time of *Mr. O'Beirne's* arrival on the Mission from Sierra Leone, and was mentioned in that Gentleman's narrative as having used his influence in a friendly way to engage The King to expedite the despatch of the Mission on its return. This kindness Lawrence would probably render with greater alacrity and earnestness, as it appears his own object was to lead the commerce of the Foulahs in a different course from the direct line to Sierra Leone, into which *Mr. O'Beirne* wished to turn it. Neither of those travellers was successful in his negotiation; but the extended

intercourse commenced by their expeditions, and followed up by others, has already made considerable progress, notwithstanding the unfavourable circumstances of local wars and dissensions in the Country. This improved facility of enlarged communication may be considered in itself a great benefit, as well as the means of introducing a multitude of further advantages.

Among the journies that have most materially contributed to the improved state of intercourse, we should mention one by *Captain Laing*, of the Royal African Colonial Corps, into the Country of the Solyma Nation, about 400 miles East of Sierra Leone. This journey was undertaken at the instance of the Merchants of the Colony, for the purpose of bringing down the Gold-trade. The object has been in some degree accomplished. Captain Laing had previously made some journies of less extent, at the instance of the Colonial Government, for the purpose of re-establishing good understanding among some of the discordant Chiefs in the vicinity of Sierra Leone.

The jealousy entertained by the other Chiefs of the River Pongos, respecting Lawrence's attempt to bring down the trade of the Foulahs, as well as of his recent efforts to establish a commercial intercourse with this Colony, is to be attributed to the narrow and selfish notions by which Africans are generally influenced in judging of such matters. The interest of the individual is the only impulse to action in their ordinary affairs. New and enterprising designs for the advancement of the general interest are beyond their ordinary conception, and when any individual of superior intelligence among them devises such a plan, and takes any measure for carrying it into effect, they are impressed with a persuasion that he is seeking his own aggrandizement, by the compromise or the destruction of all around him. They dread besides, above all things, the introduction of powerful Strangers, who, as they conceive, will always seek ultimately to get the Country into their own hands.

A little reflection might shew, however, that the Foulahs, if once induced to turn their trade to the River, would not confine their dealings to any Individual, but would barter with those whose terms they should find most inviting, although, certainly, their numbers and overbearing characters must make them unpleasant visitors, where a power adequate to controul them does not exist. But the introduction and establishment of a regular commercial intercourse with a rising British Settlement, presents benefits of such general extent and influence, without any vicious accompaniment to restrain or countervail, that the slightest consideration must be sufficient to remove any distrust connected with them. Accordingly we find that the jealousy which arose from Lawrence's visit to Sierra Leone has begun to subside, in the experience already diffused, that all participate in the advantages of a more active commerce with the Colony.

Since the return of Lawrence from Free Town, in October 1822, he has sent for further supplies of coffee plants for the use of the principal Persons settled on the banks of the Rio Pongos. These plants were forwarded to him in abundance, through Mr. Kenneth Macauley, from the farm of the Chief Justice, near Free Town. A part of the plants sent at this time was employed in forming a spacious plantation on the lands of *S. E. Lightburne*, of whom particular mention is made in our last Report. This plantation was laid out under the direction of a Frenchman, formerly a Planter in St. Domingo, who was specially engaged by Mr. Lightburne to come from America for the purpose. We learn by the latest accounts that this plantation comes on well. The others, and among them that of Lawrence, have suffered by the influence of the dry season upon the young plants.

A small vessel named the *Dolphin*, owned and commanded by *Benjamin Pearson*, a Citizen of the United States of America, arrived at Mr. Lightburne's factory in the Month of October last, from Charleston, with trade-goods and passengers. These passengers were chiefly persons of colour, Emigrants from the United States, required to remove themselves in consequence of

having taken part in some disturbances at Charleston. Some of the individuals were accompanied by their families. The intention of these Persons in coming to the Rio Pongos has not been ascertained; many of them perished soon after their arrival in the River by the fever of the Place, and before the commencement of the year 1823, most of the survivors found their way to Sierra Leone. The *Dolphin*, according to the latest accounts, was still at anchor not far from Mr. Lightburne's factory, unable to proceed to sea, through the loss of nearly all her seamen.

The arrival of this Vessel in the Rio Pongos gave rise to suspicions and reports of Slave-trading-objects,—either originally contemplated in her voyage from the United States, or likely to result from the opportunity of sending off by her, either the remaining Slaves of those purchased for the Spanish Schooner *Rosalia*, taken by *Lieutenant Hagan* in the *Thistle*, on the 9th of January 1822; or else a full cargo from the factory of *Ormond*, who avows his determination to resume the Slave-trade as soon as a favourable opportunity shall be presented to him.

Nothing has hitherto occurred to give credibility to the rumours of the probable employment of the *Dolphin* for such a purpose;—and some who have a personal knowledge of *Pearson*, the Owner and Master, express a firm persuasion that he would not engage his Vessel in the Slave-trade.

Another surmise gave the same destination to a Schooner recently built in the River by *Ormond*, and now completed. This surmise appears more credible as *Ormond* has, according to several concurring reports, all proceeding from respectable authority, never ceased to express a fixed resolution to return to his former Slave-trading habits, as soon as it should be safe for him to do so. More recent representations, however, give credit to him, for a growing disposition to renounce a traffick, the pursuit of which appears indeed in a great measure to be rendered henceforth impracticable, in the situation in which he is placed.

It is certain that the portion of the Slaves of the *Rosalia* not given up to *Lieutenant Hagan*, when that Vessel was taken by the *Thistle*, are still in the Villages adjacent to *Ormond's* factory under the charge of *Francisco Freire*, late Master of that Vessel; and it is also certain that now, for a period of fifteen Months, no Slave-trade has existed in the River. The Slaves of the *Rosalia* remaining with *Freire* and *Ormond* are about sixty in number.

We must, however, again repeat here the conviction expressed in our preceding Report, of the expediency of causing this River to be visited occasionally, and even frequently, by His Majesty's Cruizers, lest the Traders, still new in the abandonment of the Slave-trade, and not yet confirmed in the pursuits of lawful commerce, should, through want of due superintendence, relapse into their former vicious pursuits.

The importance of bestowing this attention will appear more clearly from the fact that, during the short period, of abandoned Slave-trade, and growing legitimate commerce, that has elapsed since the capture of the *Rosalia*, the exports of African produce from the adjacent Settlements of the *Isles de Los* have increased beyond all conception. Among these Exports was a quantity of Wax, which, although amounting only to five or six tons, is worthy of particular notice, as it is now, for the first time, made an article of industry and trade on the banks of the *Rio Pongos*. A larger supply may, consequently, be expected in future years. The other articles included in these Shipments are Hides, (about 5,000,) also recently, for the first time, exported,—and Palm-oil to the amount of 30,000 gallons, collected from two of the Islands, *Tamara* and *Factory*, and from an extensive range of Country on the opposite Coast. A quantity of Ivory, not much exceeding one ton, was also included.*

* The Rio Pongos sends supplies of Rice to Sierra Leone.

There are now in the *Isles de Los* three considerable mercantile Establishments; two of these are on *Crawford's Island*, where the Military Station is fixed; and the third is on *Factory Island*. The Island of Tamara is entirely occupied by a Native population, industriously and profitably employed in the cultivation of rice, and in extracting oil from the fruit of the palm trees with which the Island abounds. Of the establishment on *Crawford's Island* the more considerable is in the hands of the Agents of *Messrs. Macauley and Co.*, and its transactions are in a great measure blended with those of that Firm at Sierra Leone. The second belongs to *Mr. Proctor*, a resident Merchant, Owner of a small Vessel, the Cutter *Hope*, which made two trips from the Island to England in the year 1822, with cargoes of African produce, and returns in trade-goods adapted to the African market. The establishment on *Factory Island*, belonging to *Mr. Samo*, is one of extensive business. *Mr. Samo*, besides contributing largely to the freight of *Mr. Proctor's* Vessel, has loaded a Brig, the *Humbletonian*, for England, almost entirely on his own account.—All these Establishments have small trading-vessels and Agents on board of them, as well as on shore, constantly employed in disposing of trade-goods in the Rivers and along the Coast; and in collecting the products of the Country in return. The distance of the *Isles de Los* from the part of the Continent immediately opposite, is about five hours sail; from the *Rio Pongos* is about ten or twelve hours. The *Rio Pongos* lies more to the Northward.

The average length of the voyage from the *Isles de Los* to Sierra Leone, or back from Sierra Leone to the Islands, is one day, and from this fact it is argued that notice may be given immediately of the entrance of any suspected Vessels into the *Rio Pongos*, and that, consequently, the immediate observance of the River by the Cruizers cannot be absolutely necessary,—still our opinion of the expediency of occasional and even frequent visits to the River by the Cruizers, remains unaltered.

The boats of the *Owen Glendower* visited the *Rio Pongos* in the Month of March, in pursuance of orders given by *Commodore Sir R. Mends*.

The state of things at the different Factories was found by the Officer commanding the boats, to be precisely the same as we have described it.

The boats had previously visited the *Rio Nunez*, as we have already mentioned. Another detachment had visited the River *Casamanza*, and the Portuguese Settlement of *Bissao* and *Cacheo*. In the course of these visits one Vessel was found off *Bissao* under *French* Colours that was supposed to be engaged in the Slave-trade. We consider it incumbent on us to notice these visits and the result of them thus far, without entering in any way upon those details which belong more properly to the Parties immediately concerned.

In the second Section, or the range of Coast Southward from Sierra Leone to Cape Coast, the roads of *Gallinas* continue most prominently distinguished for constant and active Slave-trade. From the date of our last Report, nearly until the close of the year 1822, rarely less than three Vessels were to be found either at the anchorage in the Roads, or moving about among the adjacent Stations where Slaves might be found, or where provisions could be procured for the subsistence of the cargo of Slaves in the return voyage, or where wood or water could be most conveniently taken on board.

It is also found that these movements are convenient for avoiding Cruizers, and for keeping aloof from all Vessels of unfriendly or doubtful appearance, until it can be ascertained whether they may be approached with safety.

The Flags generally found at the *Gallinas* actively engaged in the Slave-trade are, that of *France* principally, that of *Spain* in a less degree, and that of the *Netherlands* in a less degree still. The Spaniards are generally fearful of waiting for the collection of Slaves to form a Cargo at a Station so near to this Colony; and they very rarely encounter the hazard. They prefer running

at once to the great Slave-markets of *Bonny* and *Calabar*, if, on touching to enquire at two or three of the principal intermediate Stations, such as *Gallinas* and *Trade Town*, they find that they cannot be supplied at once, which the state of the stock in the Factories at those Places will rarely admit.

The Vessels belonging to the Netherlands generally assume a French character.

The extracts from the Log-book of the Netherlands Schooner *Aurora*, inclosed, together with the information obtained from *Alexander Boswell*, a seaman belonging to that Vessel, and from *François Hataulx*, a seaman belonging to the French Schooner *Hippolyte*, contain, collectively, what may be regarded as an exemplification of the number of Slave-trading Vessels at the *Gallinas*, and of the movements of those Vessels for a space of three Months, from the last days of July to the last days of October 1822, the part of the Season considered most favourable for the Slave-trade. It will not be necessary to enter into the same details here, but merely to collect the general results by inference from the facts stated in those Documents.

The total number of Vessels engaged in the Slave-trade at the *Gallinas*, during these Months, was four,—a Spanish Schooner, the name of which is unknown,—a French Schooner named *La Petite Eugenie*, or rather a Netherlands Schooner under French colours, commanded by *Monsieur Canes*,—the Netherlands Schooner *Aurora*, commanded by *Benjamin Liebray*,—and the French Schooner *Hippolyte*, *Captain Galon*.

Of these, two had sailed with full cargoes of Slaves—one of the two was the Spanish Schooner destined for the Havannah; and the other was *La Petite Eugenie* for Surinam.

The Slaves for the other two were completely collected when the arrival of His Majesty's Ship *Cyrene*, from the neighbouring Station of *Cape Mount*, with the *Aurora* under detention, and the despatch of two boats to demand the Slaves purchased for that Vessel, led to acts of hostility towards the crews of the boats which were repelled with such effect as to cause the surrender of the Slaves of the *Aurora*, and to render the voyage of the *Hippolyte* altogether abortive.

It is to be inferred that the means of collecting Slaves so as to despatch the Vessels with an average complement, which may be taken at 90 for 100 of the number that they can carry,—is in the proportion of one Vessel to a Month, when the number that the Vessel can carry is limited within 200 to 250 Slaves. This would give a total yearly export of about 3,000 Slaves from *Gallinas*, which may be considered, as nearly as the matter can be ascertained, a correct estimate. The *Hippolyte*, according to the information given by *François Hataulx*, was to carry 140 Slaves; the *Aurora* was to take 220. The Vessels that come to the *Gallinas* are generally small Schooners. The estimate that has been here made may be considered as taken on a high scale. We have, however, heard the gross number of this export laid down at eight, and sometimes at ten thousand, and even at more thousands than that; but these numbers must have been calculated without any authentick grounds,—certainly without any grounds of such obvious accuracy as the facts that we have stated.

In further proof of the correctness of this calculation, in the general sense in which alone such calculations can be made or taken, we may mention the fact that for a Vessel carrying 150 Slaves, the time allowed to complete the collection of the cargo is usual from 40 to 50 days, from the delivery of the goods, which are always paid in advance for them. For 200, two Months are required, and the number is very rarely made up at the day, so that it is either necessary to wait over the stipulated time, or to sail without the full complement. Thus the *Hippolyte*, which arrived on the 27th August, and was to take only 140 Slaves to be supplied in 40 days, was still at *Gallinas* when the *Cyrene* arrived in the last days of

October, to claim the Slaves of the Aurora. This was above 60 days after the arrival of the Hippolyte.

The Aurora was to take 220 Slaves: she had been already three months on the Station. This tardiness in supplying a sufficiency of Slaves for two or three small Vessels does not allow us to believe that the Place commands any great influx of Slaves. Considering that the Spanish Schooner, and La Petite Eugenie, had sailed with their full complements in the course of the same three Months, and allowing that they carried an equal number—that is, 360 for the two—the total supply for exportation in those Months would be 720. Thus the total annual export of Slaves from the Gallinas appears fairly calculated at not more than 3,000.

The course of the trade at *Gallinas*, as at the other considerable Slave-markets, is to contract with the King or Chief Headman, *Siaca*, for the supply of the total number of Slaves wanted, and to deliver to him the goods paid in advance for the purchase of them. He makes subordinate contracts with the inferior Headmen, and with Slave-dealers of the vicinity, who undertake to furnish scores or dozens of Slaves according to their means of procuring them. The fulfilment of the general contract depends upon the performance of the subordinate engagements, and these are rarely made good at the time stipulated, the general delivery of the Slaves and the despatch of the Vessel are retarded equally in consequence.

Reports circulated at Sierra Leone, towards the latter part of the year 1822, would induce a belief that the tract of Country from which the Slaves were drawn, that were required for the supply of the exports from the Gallinas, had extended to the banks of both the minor Rivers, which unite their streams about forty miles above Free Town to form the great River of Sierra Leone. It was further stated, that new paths were about to be opened by the Chiefs on the banks of those Rivers, for the special purpose of sending down Slaves to the Gallinas for sale. We had strong reasons to apprehend that these statements, if not actually true at the time, would be speedily realized, in consequence of the cessation of the Timber-trade of Sierra Leone, and of the consequent loss of the beneficial employment, and of the supplies of all Articles of Foreign growth and manufacture, previously furnished by that trade to a very large population, and a great extent of Country spreading into the interior from the banks of those Rivers, and embracing the tracts from which the labouring hands were at that time said to be daily removed for the purpose of selling them into Slavery.

In a Paper which was shewn to us at that time, by a Person who possesses the best means of information on this matter, it was calculated that the Slave-trade as it had been carried on in the River of Sierra Leone, in the years immediately preceding the Abolition, furnished employment for upwards of two thousand families resident on the banks of the streams, by the union of which the River is formed. These families were occupied either in the trade itself, or in various labours subservient to it, but principally in raising provisions for the subsistence of the Slaves, while they remained in depôt preparatory to embarkation, and subsequently on the voyage to the Colonies. From the time of the Abolition of the Slave-trade, to the rise of the Timber-trade, the state of the population on these banks is represented to have been destitute and wretched in the extreme. Cultivation was discontinued through the want of an immediate and adequate market for the produce. The Foreign commodities, which custom had rendered so familiar in use as to be in a great measure necessary, could only be obtained in scanty supplies from the Coast, by the sale of Slaves at the Gallinas, or in the *Sherbro*, or at the other side the *Scarcies*, or the Rio Pongos.

The introduction and establishment of the Timber-trade, under the able direction of a few meritorious individuals, extirpated in a short time those vicious habits, turning the hands of the people to profitable labour, and fixing their minds in the pursuit of virtuous industry which soon led to affluence.

The multitude of labourers and assistants required in the preparation and carriage of this timber, in the various works of felling, squaring, hauling, floating and shipping, left not an idle arm in the adjacent Country. The women and young persons were employed in ministering to the men. The payments made for these services and for the timber itself, in British goods of the descriptions most sought by Africans, diffused wealth and joy throughout the Country, until, unfortunately, in the year 1821, the demand for the timber ceased suddenly and almost entirely. The Country Proprietors, as well as the shipping Merchants, were left with a dead stock on their hands, on which considerable time, labour and cost had been expended. The labourers were left unpaid by their Native Masters, and without further employment. The Merchant held forth for a time the hope of a favourable change, but when two Seasons had nearly elapsed, (from the early part of the Year 1821, until the approach of the close of 1822) without realizing the hope, it was regarded as altogether delusive. Then it was that the danger arose of a renewal of the Slave-trade, in order to supply wants which had become indispensable, and to provide for which no other means were left; but happily the favourable change, although long deferred, has at length taken place, and it may, therefore, be hoped that the hazard of a lapse, so much to be deprecated, is now effectually averted for a considerable time, during which measures of permanent efficiency may be adopted to prevent its future return.

Nothing can afford so certain a security against the recurrence of an evil so appalling in its approximation to the Colony of Sierra Leone, as the employment of this timber, or of a certain quantity of it, in the construction of Ships in His Majesty's Dock Yards, for which service it is particularly adapted. It is very naturally supposed that if the timber shall once be known to be employed and approved in that service it will grow into general estimation, and be introduced into general use in consequence.

The occasional recurrence of particular instances of Slave-trade, or the more general relapses caused by the failure of the resources previously supplied by better commerce, are by no means to be assumed as evidence of undiminished attachment to that trade in the Districts adjacent to Sierra Leone, and connected immediately with the commerce of Free Town. On the contrary, it is a fact well ascertained, that the character and objects of the Colony, the authority of its Government, and, above all, the immediate and beneficial influence of its legitimate commerce, operating in declared and direct hostility to that trade, have generally diminished the previous devotion to it, however strongly fixed by the depraved habits of accumulated ages. It may be regarded as certain that it is only in times of particular and pressing distress that Slaves will be sold from these Districts; and every Year of favourable time will leave less reason to apprehend the danger in future.

The Statement annexed to this Report, furnished circumstantially in verbal communication to Mr. Fitzgerald, by an intelligent Trader of Sierra Leone, whose dealings are intimately connected with the Gallinas, describes in minute details the vicious and depraved habits, and the abject wretchedness of condition; the injustice, oppression and unfeeling cruelty, extinguishing all regard to the dearest ties of natural affection; the total neglect of cultivation, and the dependence upon the neighbouring Countries for the common necessities of life; which are among the evils created by the determined pursuit of the Slave-trade at that Station.

We do not see any reason to entertain a hope of the speedy attainment of such a reformation at the Gallinas as that which has taken place in the Rio Pongos; but as it is of the utmost importance to the progress of the general Abolition of the Slave-trade among the inhabitants of the Coast of Africa, that due efforts should be made for the repression of the unrestrained traffick, the existence of which, at a place so near to this Colony, must be regarded as a most offensive and grievous outrage, we

would recommend that a small Cruizing Vessel should be specially charged with the superintendence of this Station, with liberty to extend the range of her operations to a certain distance on each side, as the occasions of the service on which she would be placed might demand. The Vessels that trade for Slaves at Gallinas are, it is true, generally *French*, and are, therefore, not subject to the provisions of the Treaties of Mixed Commissions; but it is ascertained that even French Vessels will not pursue the business of the traffick openly, within view of a Flag engaged in the restraining service.—The proceedings in the trade are altogether suspended as soon as a Cruizer appears, and her presence for any length of time disconcerts the operations of the Traders in such a manner as frequently to render the voyage in a great measure ineffective.

Another advantage, of scarcely less importance, would arise in the increased facilities which the legitimate commerce of the Traders of Sierra Leone would enjoy, when they could pursue their trade under the immediate protection of a British armed Vessel, or under the knowledge that such protection is near at hand. The two-fold influence of the repression of Slave-trade, and of the promotion of lawful commerce, leaves little room to doubt that the presence of such a Vessel would be attended with the happiest effects.

We trust, therefore, that we may not be thought to presume too far in recommending this suggestion to favourable consideration. We further trust that in making this recommendation, we may not be thought to have interfered improperly with the direction or management of the Naval affairs of the Station—for, in truth, we do no more than convey to you, Sir, as we are bound to convey, the known opinion of all those who are capable of judging of the matter in this Colony—that the Gallinas, for the reasons that we have mentioned, as well as for others, should be placed under the special superintendence of an armed Vessel, stationed in the immediate vicinity for the purpose. Information received at various times subsequent to the capture of the *Aurora*, intimated that Vessels were employed in trading for Slaves at Gallinas. His Majesty's Brig *Snapper*, Lieutenant *Rothery*, commanding, despatched from Sierra Leone on a special Mission to the American Settlement at *Cape Mesurado*, visited a French Brig and Lugger off Cape Mount, with part of their Slaves already on board. This was on the 2d of February;—shortly after this intelligence was communicated at Sierra Leone, it was known from other sources that some Slave-trading Vessels, stated to be French, but supposed to belong to some of the Flags of the Mixed Commissions, were at the Gallinas. A small Vessel, late the Spanish Schooner *San Rafael*, fitted out as a tender to His Majesty's Ship *Bann*, was sent to look after those Vessels, but they had sailed with Slaves before she arrived. This was in the Month of March.

In the Month of April a respectable European Trader of Sierra Leone was cast on shore in a small Vessel near the Gallinas.—His exertions to recover the property taken from the wreck through the influence of *Siaca*, Chief of the Gallinas, detained him for some time in the principal Town belonging to that Chief. He found the Slave-trade going on with unabated activity. Two Vessels were at the anchorage, both come for Slaves. One of these was a *French* Vessel, the Commander of which had made seven successful voyages in the trade. The other was a *Spanish* Vessel, whose Commander had made three successful voyages. It appears, therefore, that these successes are made matter of boast.

The Master of the Spanish Vessel resides at the Havannah, and was the brother-in-law of the late *Johan Krauze*, who commanded the Schooner *Joseph*, trading for Slaves under the pretended character of a Swedish Vessel, but condemned as the property of Spanish Subjects by the British and Spanish Mixed Court in June 1822. Krauze, it is understood, sent for this person soon after the condemnation of the *Joseph*, to take away himself and the Slaves collected by him at the Gallinas for the cargo of that Vessel. These Slaves

collected for that Vessel were transferred to another, which arrived shortly after the return of Krauze to the Gallinas; but a fresh store was collected in their place. Krauze, and *Galon*, the Master of the *Hippolyte*, going out in a boat at Christmas time, were overset on the bar of the Gallinas and drowned; but the Slaves he had collected were preserved, and it was understood that they would be delivered to his brother-in-law, the Commander of the Spanish Vessel seen at the Gallinas by the Trader who communicated this part of our information. That Commander was well known at Gallinas. Krauze has had a regular Slave-trading establishment at that Place for several years.

In that part of our second Division of the African shore which extends from Gallinas to *Cape Coast*, we have reason to think that the Slave-trade has considerably diminished. The American Settlement at *Mesurado*, although not possessing strength to impose any direct restraint, has, by its mere presence and object, a strong controuling influence, and the armed Schooner employed in connection with it, acts with a corresponding effect. No instance has occurred for a considerable time of a Vessel being found on the Coast engaged in the Slave-trade under the Flag of the *United States*, and the American Cruizers are extremely cautious of interfering, even by visitation, with Vessels bearing the Flags of other Powers. The influence attending the presence of the American Cruizers consists, therefore, simply in the view; but it may be of importance to know that, even in this sense, that influence is considerable.

The legitimate commerce introduced on the adjacent Coast by the Settlement at *Mesurado* will, we may fairly hope, be speedily attended with the same auspicious results which have marked the progress of the commerce of similar character established at Sierra Leone, and at the other British Settlements on the Coast.

The Corvette *Cyane*, Captain *Spence*, bearing the Flag of the United States, sailed from Sierra Leone for *Mesurado* in March, having in company with her the small Cruizing Vessel recently attached to the Settlement, which was previously repaired and refitted. Captain *Spence* proposed to remain for a short time at *Mesurado*. The presence of such a Vessel as the *Cyane*, in connection with the Settlement, and the additional arrangements which will probably take place with the Native Chiefs, under the superintendance of Captain *Spence*, cannot fail to establish for the Settlers a higher consideration with the Natives, whose respect is always proportionate to the strength of the Parties with whom they have to transact business—or rather to the fear which that strength inspires. Captain *Spence*, it would appear, has been induced to protract his stay at *Mesurado* longer than he had at first intended, for he proposed to return to Sierra Leone early in April, and he has outstayed the whole of that Month: he did not intend to go further down the Coast.

In the same view in which we have regarded the Settlement at *Mesurado*, but in a diminished degree, we have to mention a small factory and plantation established in the River *Sestos*, by a single British Subject, Mr. *Isaac Spence*. Even this establishment is not without its effect in discountenancing and repressing Slave-trade, and promoting lawful commerce and industry. Mr. *Spence* is Owner of two large Brigs, the *Ranger* and *Elizabeth*, one of which, the *Ranger*, he commands. The outward cargoes of both these Vessels from the Port of London, consisting of tobacco and British goods assorted for the African trade, are disposed of either at Mr. *Spence's* factory or on the Coast adjacent, and returns are obtained in African produce—principally in Palm-oil, and in round and cut dollars.

A Settlement of this description, formed by an individual amidst the uncivilized tribes of Africa, on a part of the Coast several hundred miles distant from the more powerful Colonies, maintaining itself by its integrity and industry, and by the benefits which its upright dealings communicate, is worthy of high commendation. Mr. *Spence* is desirous of placing his factory

under the protection of His Majesty's Government, by causing it to be recognized as a dependency of the Colony of Sierra Leone. He proposes to form plantations of coffee and arrow root in the ensuing rainy season: supplies of plants and roots are to be furnished to him from the same quarter that the supplies for the plantations on the Rio Pongos have been previously obtained.

It may not be immaterial here to notice an occurrence in which Mr. Spence's Settlement was instrumental in the preservation of the lives of a number of British Subjects a short time since.

On the 27th of June 1821, the Ship *Union Islands*, of Liverpool, *William Muir*, Master, proceeding to Calabar with a large crew, and having supernumerary seamen on board for the service of the Ships already at that Place, from Liverpool, in the Palm-oil trade, was wrecked off *Great Drawen*, near the *Kroo Country*; the people on board, with the exception of a few, got on shore by the aid of the boats,—but the people of the Country, the most barbarous on the Coast of Africa, immediately plundered them of every article that they had brought on shore, stripping them of all their clothing in most instances, and leaving those who were most favoured merely a shirt, or a pair of trowsers.

In this condition, scarcely receiving the most wretched subsistence, and dreading every moment the sacrifice of their lives, these unfortunate men were invited to the Kroo Country, the inhabitants of which, by constant intercourse with Sierra Leone, and by the long residence of the greater number of them there, in the character of free labourers, were disposed to relieve the sufferings of so many distressed Englishmen.

Information was, at the same time, conveyed from the Kroo Country to Mr. Spence, who immediately gave directions to conduct the sufferers to his factory, and sent goods to pay for any supplies that might be given to them, and for any services that they should require. Those who survived the cruel treatment of the Savages on whose Coast they were wrecked, and who had strength to perform the journey, were kindly received and hospitably entertained by Mr. Spence, who clothed them and brought them in his Vessel to Sierra Leone. There a liberal subscription was made for their further relief, and they were despatched for England with every necessary supply.—We annex to this Report a number of the Sierra Leone Gazette, containing a particular relation of this affair.

When we venture to believe that, from the Gallinas, Southward, as far as Cape Coast, no extensive Slave-trade has existed in the time that has intervened since the despatch of our last Report, we include among the grounds of this belief, according to our former practice, the facts, that no capture has been made by any of His Majesty's Cruizers between Gallinas and Cape Coast, and that few Vessels have been met in that interval engaged in the traffick,—very few indeed belong to the Nations that are Parties to the Mixed Commission Treaties.

In the List of the Vessels visited in the course of his cruize, published by Lieutenant Rothery, who went down the Coast in July 1822, in His Majesty's Brig *Snapper*, and returned in December, only one Vessel is mentioned as having been visited within the range, bearing a Flag belonging to the Commissions. This was the Schooner *De Souza*, *Jose Antonio Bancas*, Master, under Spanish Colours, boarded the 6th July, off Cape Mount. Lieutenant Rothery's statement of the Vessels boarded by him was published in the Sierra Leone Gazette of the 14th December 1822, which is amongst the Papers annexed to this Report.

His Majesty's Ship *Cyrene*, Captain *Grace*, ran along the Coast in the same track, after she had taken the Netherlands Schooner *Aurora*, in the end of October. The *Cyrene* returned to Sierra Leone in the first week in February 1823. Captain *Grace*, it appears, has not given the List of Vessels

visited by him for publication in the Gazette; but it is known that he did not, in this part of his run, fall in with any vessel bearing any of the Flags of the Commissions. A vessel detained by him off Trade Town, on the 10th of November, named *La Caroline*, was supposed to belong to Subjects of His Majesty The King of the *Netherlands*, but no proof was found to warrant the institution of proceedings in the British and Netherlands Mixed Court.—A particular statement of the circumstances of the Case has, we believe, been communicated to the Admiralty.—*La Caroline* sailed from the Danish Island of *St. Thomas* with a destination for *Calabar*; but the Master was induced to open a trade by *King Wise*, of Trade Town, whose son he brought as a passenger from *St. Thomas*, whither this youth had been sent to complete his education. No other of His Majesty's Cruizers has detained or visited any Vessel belonging to the Commissions to the Northward of Cape Coast since the date of our last Report.

Passing Cape Coast, and entering into the third Section of our Division, we come at once to a region of unlimited Slave-trade, extending over the whole range of the *Bights of Benin* and *Biafra*, as far as the Equator. The Traders are of all the Nations engaged in the traffick, but principally *Portuguese*. It did appear immediately after Commodore Sir Robert Mend's cruize in the last year, that the Portuguese Slave-trade was in a manner altogether transferred from the Bight of Biafra to the Stations in the Bight of Benin. This transfer was supposed to have been made for the convenience of markets immediately adjacent to the shore, and of anchorage close to the markets, and with a view to facilities of escape far beyond those of the Rivers of the Bight of Biafra, proved to be no longer inaccessible to the Cruizers, as they were before conceived to be.

This information was communicated by *Lieutenant Hagan*, commanding His Majesty's Brig *Thistle*, and was, without doubt, correct at the time. Lieutenant Hagan visited the Bights in the Month of June 1822, and the information was communicated on his return from that cruize. But on a subsequent visit by the other Vessels of the Squadron, it was found that the Rivers *Bonny*, *Calabar*, and *Cameroons* were still among the favourite haunts of the Slave-traders, and that *Portuguese* Vessels were actively engaged in the trade in all those Rivers, notwithstanding the extraordinary numbers under the Portuguese Flag seen at the Slave-trading Stations of the Bight of Benin. The Portuguese Brig *Commerciant*e was taken in the Cameroons by the boats of His Majesty's Ship *Driver*, commanded by *Lieutenant King*, on the 7th of September 1822; and the Portuguese Schooner *Conceição*, taken at Sea, by His Majesty's Ship *Bann*, *Captain Phillips*, had also embarked her Slaves in that River.

We are not sufficiently informed to be enabled to express an opinion whether an increased number of Vessels had been fitted out for the Slave-trade from the Ports of *Brazil*. But in our Abstracts of the several Cases which have come before us for adjudication in the course of the year 1822, and in our Despatches accompanying those Abstracts, and in a collective form in our last general Report, we have had occasion to notice several facilities given to Portuguese Vessels for the pursuit of illegal Slave-trade, in the Stations immediately to the Northward of the Equator, under pretexts connected apparently with objects of legitimate commerce.

The first and the most simple of these facilities was "a permission to call at the Island of *St. Thomas* and at *Prince's Island*." This permission was included in the regular passports for legal Slave-trading voyages to *Molembo* and *Cabinda*, South of the Equator. The Vessels having this permission, as soon as their arrival at the Islands, or their approach to them, afforded a favourable opportunity, ran into *Calabar* or *Cameroons*, and there entered at once upon illegal Slave-trade.

More recently, the passports for legal Slave-trade in the *Portuguese Terri-*

tories on the South of the Equator contained a permission to call at the Islands and at the Cameroons "for purposes of lawful commerce in gold, ivory, and Palm-oil,"—and in instances still more recent such permission has been extended to the Coast of *Mina*. The permission for legal trade in the Cameroons was employed for Slave-trade in that river; and the permission for legal trade on the Coast of *Mina* was employed for Slave-trade on that Coast.

A progressive laxity in those who superintend the outfit of the Vessels destined for the traffick, and the despatch of the passports and other papers necessary to the voyage, is distinctly observable in the introduction and enlargement of these permissions to call at Stations, North of the Equator; and in the present state of this matter it can be nothing else than a gross abuse in all the Parties concerned.

The mischievous effects of this abuse are not confined to the facilities which it affords to illegal Slave-trade. We find that it has led to a systematic practice of the foulest perjury on the part of the Masters, Officers and seamen of the several vessels that are induced by these facilities to engage in Slave-trade to the Northward of the Equator.—They swear, without reserve or hesitation, that any Place where they happen to have taken in their Slaves to the North of the Equator is *Molembo* or *Cabinda*; and in some instances in which they have been taken in immediate connection with some of the Northern Stations, they have even sworn that they took their Slaves on board at *Molembo* or *Cabinda*, South of the Equator; and that they afterwards came to the North in order to obtain provisions at *St. Thomas's*, which they overshot by the force of the currents, or that they came in virtue of their permission for lawful trade in the *Coast of Mina*, to sell the remainder of their outward cargo of tobacco, having on board at the time their return cargo of Slaves.

A roving trade of any kind is so clearly incompatible with the Slave-trade, that the association can be attributed only to the design of giving facility to illegal traffick; which facility, in every instance that has come under our notice, has been followed by actual illegal trade, and generally also with the foulest perjury.

This perjury was particularly barefaced in the testimony of the Master and Surgeon of the *San Antonio de Lisboa*, taken by His Majesty's Ship *Bann*, Captain Phillips, off *Porto Novo*, and condemned in the British and Portuguese Court on the 23d of December.

The Master and the Surgeon swore that the Slaves were taken on board at *Molembo*, South of the Line,—that the Vessel was on the way thence to *Prince's Island* for a supply of provisions, but was carried to the Northward by the influence of the current, and being off *Porto Novo*, it became necessary to communicate with the land in order to obtain immediate sustenance. The Slaves proved that they were purchased near to *Porto Novo*, and were embarked immediately from that Place the day before the capture. The Slaves will always defeat perjury of this kind by simply proving the Place of the embarkation, and the time that they have been on board. *Francisco Xavier Leão* of *Bahia*, was the Owner of the *San Antonio de Lisboa*. The name of the Master was *Jose Machado*; his assistant in perjury, the Surgeon, was named *Felippe Serra*.

In the case of the *Commerciante*, taken in the Cameroons, it was sworn, in like manner, that the Slaves were taken on board at *Molembo*; and also in the case of the *Estrella*, taken in June 1822, by *Lieutenant Hagan*, off *Lagos*. But in both those instances, as in that of the *San Antonio de Lisboa*, and a multitude of others, the perjury was refuted by the authentic testimony of the Slaves, as to the actual Place of embarkation.

Another abuse which we have for some time remarked, but abstained from noticing in an official or public manner until we should have distinctly ascer-

tained it, in point of fact, is an overcharged estimation of the tonnage of the Vessels engaged in the *Portuguese* Slave-trade, so as to enable them to carry an extraordinary number of Slaves. Our attention was drawn to this matter by a difference between the tonnage, as charged in the certificate of the payment of Lighthouse duties, and as it was inserted in the passport. Having regarded it as an indispensable obligation of duty to read all the Papers found on board prize Vessels, we were severally struck with this difference in the same instance, and having communicated with each other upon it, we agreed in attributing it to a design of enabling the Vessel to carry an overcharged number.

In the case of the Schooner *Nova Sorte*, detained by His Majesty's Brig *Snapper* on the 12th of October 1822, off *Mina Piccaninny*, and liberated by a Decree of the British and Portuguese Court on the 5th of February last, the tonnage by the passport was 140 tons, and the tonnage by the receipt for Lighthouse duties, was declared to be, according to measurement by skillful persons, 84 tons and a half. The Commissioners were of opinion that the tonnage in the lesser estimate was correct, and having recently before agreed that no Vessel under 100 tons burthen could, according to the Convention, be entitled to demurrage under the Eighth Article of the Instructions for the Mixed Commissions, they directed the Registrar not to allow demurrage in calculating the damages to be awarded to the Claimant of the *Nova Sorte*. The Proctor for the Claimant prayed an admeasurement, the result of which was, that the Vessel measured eighty-three and fifteen ninety-fourths, English tons.

It was obvious that the tonnage, as given in the passport, must be an extravagant overcharge, and the claim for demurrage was abandoned without further observation.

The *Magdalena da Praça San Thome*, taken by His Majesty's Ship *Bann*, Captain Phillips, on the 29th of September, off *Prince's Island*, and condemned in the British and Portuguese Court on the 23d of January last, presented a fresh instance of the cruel practice, so common in the local Slave-trade of the Portuguese African Islands, of crowding excessive numbers into Vessels of very small dimensions. The *Magdalena* was a Schooner-boat of twelve or thirteen tons. She had on board of her, at the time of capture, thirty-three Slaves, embarked at *Cape Lopez*, about 1 deg. 20 min. South of the Equator.

We think it likely that the relaxation in official strictness, touching the enforcement of the restraints imposed by the Convention, by the National Laws and the Royal Ordinances and Regulations, has arisen in Brazil, as it has been ascertained to have arisen in the Portuguese African Islands, from the revolutionary movements, followed by the establishment of Provisional Governments. These Governments and the Officers employed under them, consisting of individuals of the Place, personally interested, or immediately connected with those who are, easily dispense themselves from the rigorous enforcement of laws, which Officers, acting under the authority of the Crown, and responsible for the fulfilment of their instructions, would have felt themselves bound to maintain.

We noticed in the case of the *Spanish* Schooner *San Rafael*, detained by His Majesty's Ship *Bann*, and released by the British and Spanish Mixed Court, that the prohibitions against engaging in the Slave-trade, which were before found in the Spanish passports, were omitted in the new forms, which was entirely in the Spanish Language, and expressed merely a destination "for the Island of St. Thomas and the other Portuguese Islands, for the purpose of trading at them." ("*Para commerciar en ellas.*")

We find that in this Report we have been led into great length of detail, but we trust that the interest attached to the subject of our communication, and our desire to give correct information respecting it, will excuse us.

We shall be happy if our notice of the matters communicated can tend to expedite the establishment of legitimate commerce, on any part of the African Coast that has come within the range of our observations,—or to suggest the means of correcting any of the crimes and abuses into which the depraved nature of the Slave-traders is necessarily prone to lapse.

The remarks which we have to offer on the cases of the Slave-trade of illegal character carried on by *Portuguese Vessels* on the South of the Equator, will be most properly noticed, in the first instance, in the Special Reports of the particular Cases, the most important of which, the decision respecting the Slaves of the *Sinceridade*, detained on the 3d December 1822, 0 deg. 8 min. South of the Equator, by His Majesty's Ship *Bann*, Captain Phillips, remains yet to be despatched.

With respect to the co-operation of armed Vessels, under Foreign Flags, for the suppression of illegal Slave-trade, we have little to communicate. Since the departure of the American Schooner *Alligator*, in the Month of January 1821, no Cruizer under the Flag of the *United States* has been upon the Coast until the arrival of the *Cyane*, Captain Spence, in March last. We heard of a *French Squadron*, consisting of a Brig and two Schooners, having sailed from Goree on a cruize down the Coast, at the close of the rains of 1822, and in the Month of February it was reported at Sierra Leone that a *French Squadron* was off the *Gallinas*, but of the proceedings of these squadrons nothing whatsoever is in any way known.

With the greatest respect, we have the honour to be, &c.

(Signed)

E. GREGORY.

EDWARD FITZGERALD.

The Right Honourable George Canning,
&c. &c. &c.

P. S.—We beg leave, Sir, to apologize for the appearance of several emendations in the foregoing Sheets. The writer of them has been suddenly seized with illness, and time will not allow of their being re-copied, that they might be laid before you in a correct form.

E. G.

E. F.

First Inclosure in No. 1.

Extracts from the Log-Book of the Netherlands Schooner Aurora, Benjamin Liebray, Master, during her stay at the Gallinas prior to her capture by His Majesty's Ship Cyrene, Captain Grace; shewing the Vessels on that Station engaged in the Slave-trade in the interval from the 27th of July to the 8th of October 1822; and their manœuvres on the appearance of strange Vessels.

Du Vendredi 26 au Samedi 27 Juillet.

Mouillé sur la rade de Gallinas. Trouvé trois batimens sur la rade de Gallinas.

Du Lundi 6 au Mardi 7 Août.

Ecrit par une occasion deux Lettres à Saint Thomas.

Du Vendredi 9 au Samedi 10.

Appareillé et fait un bord à l'Ouest pour attrapper le Cap Mont; à 11½ heures vu une voile au S. S. O. de nous; vire de bord et recourue sur Gallinas; des deux navires mouillés, un est appareillé et suivi comme nous la borde du S. Ouest.

Du Samedi 10 au Dimanche 11 Août.

Le temps assez beau: le bâtiment en vue (un trois mats) est venu chercher la rade de Gallinas; il y a mouillé à 4½, ayant arboré le pavillon Americain à sa corne d'artimon; à 5½ heures le bâtiment qui avait levé l'ancre et pris la borde comme nous a revire de bord et est revenu chercher le mouillage; il y étant assuré son pavillon d'un coup de Canon; à 6 avons revire et continue notre borde du Sud vers l'Est jusqu' 8 heures, revire jusqu'à 11; de 11 jusqu'à notre arrivée sous le Cap Mont. A 10 heures nous est venu abord des piroques de tous les environs; profité d'une pour informer de notre position.

Du Dimanche 11 au Lundi 12 Août 1822.

Le tems devenu mauvais; *retourne du mouillage à 8 au Matin.* La Goelette Espagnole à la voile est venue mouillé à coté de nous.

Du Lundi 12 au Mardi 13 Août, -

A 1 h. une Goelette sans pavillon a mouillé en terre de nous.

* * * * *

Du Mardi 8 au Mercredi 9 Octobre 1822.

La brise s'étant levée nous sommes venu mouiller à Gallinas ou nous avons trouvé les autres Goelettes. A la point du jour aperçu une Goelette mouillé dans le Sud de nous; avons hissé notre pavillon et assuré d'un coup de canon auquel il n'a pas répondu et a appareillé. Avons appareillé aussi et pris la borde du Nord aussi que la Petite Eugenie auquel il a tiré plusieurs coups de canon que l'ont fait mettre en travers et a paru la visiter; couru au large fait diverses manœuvres jusqu'à midi.

Du Mercredi 9 au Jeudi 10 Octobre.

La dite Goelette ayant visité l'Eugenie a eu l'air de nous chasser jusqu'à 5 heures du soir que nous les ont perdu de vue ainsi que la Petite Eugenie que nous a paru retourner au mouillage.

Du Jeudi 10 au Vendredi 11.

Courant la borde au large. Continue pendant toute la nuit.

Du 12 Samedi au 13 Dimanche.

A huit heures du soir sondé; trouvée 27 brasses d'eau; avons mis à travers jusqu'au jour que nous sommes venu mouiller en rade de Gallinas ou nous avons trouvé la Petite Eugenie.

Du Mercredi 23 au Jeudi 24 8bre 1822.

Beau tems, à 11½ aperçu un Navire dans le N. O. courant sur le Cap Mont.

Du Mercredi 23 au Jeudi 24 8bre 1822.

A 5 h. diminue de voile, le dit navire nous paraissant être un bâtiment de guerre; avons viré de bord.

* * * * *

Du Lundi 30 Septembre au Mardi 1 Octobre.

Prété une ancre à la Goelette de M. Canes (La Petite Eugenie) qui a perdu toutes les siennes.

Du Mardi 8 au Mercredi 9 Octobre 1822.

La brise s'étant levée sommes venu mouiller à Gallinas ou nous avons trouvée une autre Goelette.

Second Inclosure in No. 1.

Translation of Extracts in French, and other Extracts from the Log-Book of the Netherlands Schooner Aurora, during her stay at the Gallinas, prior to her Capture by His Majesty's Ship Cyrene, Captain Grace, shewing the Vessels on that Station engaged in the Slave Trade in the interval from the 27th of July to the 8th of October 1822, and the manœuvres on the appearance of strange Vessels.

From Friday the 26th to Saturday the 27th of July;

ANCHORED in the Roads of Gallinas.—Found three Vessels in the Roads of Gallinas.

From Monday the 6th to Tuesday the 7th August;

Wrote by an opportunity two Letters to St. Thomas.

From Friday the 9th to Saturday the 10th August;

Weighed anchor and made a tack to the West in order to reach Cape Mount; at half-past eleven saw a sail to the South West of us; tacked and ran back on Gallinas; of the two Ships at anchor, one weighed and made, as we did, a stretch to the South West.

From Saturday the 10th to Sunday the 11th August;

The weather sufficiently fine; the Vessel in sight (three masts) came into Gallinas Roads and anchored there at half-past four, having hoisted the American Flag at the point of the gaff; at three quarters past Five, the Vessel, which had weighed anchor and taken the offing as we did, tacked about and returned to the anchorage, having supported her Flag by firing a gun; at Six we tacked and continued our course from the South towards the East until Eight o'clock; then tacked again until eleven, and from eleven until our arrival under Cape Mount; at ten, canoes from all the vicinity came on board of us, we availed ourselves of one to gain information of our situation.

From Sunday the 11th to Monday the 12th August ;

The weather became bad ; returned to the anchorage at eight in the Morning, the Spanish Schooner under sail came to anchor close alongside of us.

From Monday the 12th to Tuesday the 13th August ;

At one, a Schooner without Colours came to anchor within shore of us.

Note.—(The entries for the Month of September do not contain any thing worthy of notice. The Aurora remained generally at the Gallinas, occasionally making short trips to Sugaree and Cape Mount).

From Tuesday the 8th to Wednesday the 9th October 1822 ;

The breeze having risen, we came to anchor at Gallinas, where we found the other Schooners ; at break of day we perceived a Schooner at anchor to the South of us ; we hoisted our Flag and confirmed it by a gun, which was not answered, and the Schooner weighed anchor ; we weighed anchor also, and took offing to the North, so likewise did La Petite Eugenie, at which the strange Schooner fired many guns, which caused her to lie to, and she appeared to search her ; we ran farther out, and made various manœuvres until noon.

From Wednesday the 9th to Thursday the 10th ;

The Schooner above-mentioned having searched the Eugenie, appeared to be in chase of us until five o'Clock in the evening that we lost sight of her, as well as of La Petite Eugenie, which appeared to us to return to the anchorage.

From Thursday the 10th to Friday the 11th ;

Running along the offing ; continued so during the night.

From the 12th, Saturday, to the 13th, Sunday ;

At eight o'Clock in the evening sounded, found 27 fathoms of water ; we lay to until day-light, when we came to anchor in Gallinas roads, where we found La Petite Eugenie.

From Wednesday the 23d to Thursday the 24th ;

Fine weather ; at half-past eleven saw a Ship in the North-West running for Cape Mount.

From Wednesday the 23d to Thursday the 24th ;

At five o'Clock took in sail, the Ship before-mentioned appearing to us to be a Ship-of-War, we tacked to the South.

Note.—(The Ship here mentioned was the Cyrene, by which the Aurora was taken immediately after.)

Extracts from another Log-Book intended apparently for Memoranda to be afterwards fairly copied :

From Monday 30th September to Tuesday 1st October ;

Lent an anchor to the Schooner of M. Canes, (La Petite Eugenie) which has lost all her own.

From Tuesday 8th to Wednesday 9th October ;

The breeze having risen, we came to an anchor at Gallinas, where we found another Schooner

Alexander Boswell, a seaman belonging to the Aurora, who speaks English very well, states, in answer to some questions suggested by the entries on the Log-book of the Aurora, during her stay at the Gallinas :

26th to 27th July.—That on the arrival of the Aurora at Gallinas, on the 26th to the 27th of July, two Vessels only were at anchor there, the Aurora made the third. One of the two was a large Spanish Schooner ; the other was a small Schooner carrying a French Flag. (This was La Petite Eugenie, stated by François Hataulx to be a Netherlands Vessel.

6th to 7th August.—That he does not know what the opportunity was by which the Master of the Aurora states that he wrote two Letters to St. Thomas, from the 6th to 7th August, The Spanish Schooner did not sail from Gallinas until long after, and La Petite Eugenie sailed still later.

9th to 10th August.—That the three masted Vessel mentioned in the Log-book under this date, was under American Colours. She came for ivory and palm-oil ; she could not approach the shore for want of a sufficient depth of water ; she passed down to Leeward.

12th to 13th August.—A hermaphrodite Brig, not having any Colours, anchored in shore of the Aurora towards Cape Mount ; she appeared to be an American lumber Ship ; she sailed the next day.

After the sailing of the Spanish Vessel for the Havannah, and of La Petite Eugenie, only one Vessel remained at the Gallinas with the Aurora. This was the French Schooner l'Hippolyte. No other Vessel took Slaves there, or anchored there for the purpose of taking Slaves, but those mentioned. When the Vessels that took in Slaves there moved from the anchorage, they did not go

far, generally not above half a day's sail, as to Sugaree and to Cape Mount; from Gallinas to Sugaree is a run of four or five hours, with a good breeze; to Cape Mount about the same; Cape Mount can generally be seen from Gallinas, but Vessels in the Roads of Gallinas can be seen from Cape Mount only in very clear weather.

The armed Schooner that searched La Petite Eugenie, and chased the Aurora on the 9th October, was an American.

François Hataulx, a seaman belonging to the French Slave-trading Schooner l'Hippolyte, the Master and a detachment of the crew of which Vessel joined in the attack on the boats of the Cyrene, states, that the Hippolyte arrived in Gallinas roads on the 27th August. The Vessels in the roads at that time were La Petite Eugenie, the Spaniard, and the Aurora. La Petite Eugenie was there before all; she carried the Netherlands Flag. She sailed about a fortnight before the capture with Slaves, (that is, about the 10th of October); her destination was for Surinam. The Master's name was Monsieur Canes. The Spaniard had sailed previously for the Havannah; she sailed about a fortnight after the Hippolyte arrived, (that is, about the 10th of September). The Hippolyte was the only French Vessel. The Eugenie, the Spaniard, the Aurora, and the Hippolyte were the only Vessels that came to the Gallinas for Slaves during this time. The Aurora and the Hippolyte remained at Gallinas after the sailing of the Spaniard and La Petite Eugenie. They remained until they were taken. The Hippolyte, after the capture, was allowed to go to Martinique with those of her crew, and of the crew of the Aurora that desired it.

Siaca, the King and principal Slave-dealer at the Gallinas, had bargained for 140 Slaves for the Hippolyte; and 220 for the Aurora were to be in readiness; those that were given up were little boys and girls taken from the Slaves of both Vessels, and picked up among the Traders; the prime Slaves were all kept back.

This person states, that there are fourteen or sixteen white men resident at Gallinas, all connected with the Slave-trade; among them are two Spaniards, formerly Master and chief Mate of a Vessel, the crew of which seized her with half her Slaves on board and carried her off, leaving the Master and his companion on shore. This was about two years ago; the Master and Mate have remained at the Gallinas ever since, trading with the stock left to them. The other white men are principally Americans or English, they all use the English language. One of the Englishmen is a very young man of small stature (Jesse Owlet); he is Secretary to Siaca, that is, he writes his letters and keeps his accounts. A School is kept where the children of the principal people are taught the English language. All the white people are engaged in the Slave-trade.

Third Inclosure in No. 1.

Information respecting the Gallinas, communicated in Substance by a Trader who is accustomed to visit that part of the Coast, January 25, 1823.

SIACA, the King of the Gallinas, is the principal resident Slave-dealer and general-merchant. His chief Town is called Kindama, his residence is there. He has several other Towns inhabited chiefly by Slaves, or by people employed in keeping Slaves. The Towns that were burned by Captain Grace, or rather by the boat's crew of the Cyrene, in consequence of the Inhabitants having fired upon them, when going in search of the Slaves of the Netherlands Schooner Aurofa, were Terah and Tadia. Terah is a Town near the water-side, occupied mostly by Kroomen, who employ themselves in attending on the Slave-ships; and Tadia is a Town belonging to a man named Bokari, who is second in authority to Siaca, and next to him in extent of Slave-dealing and general trade. Of the Europeans who appear to be settled at the Gallinas, the most prominent and active is Juan Cruz, or Johan Krauze, late Master of the pretended Swedish Schooner Joseph, condemned at Sierra Leone in the Mouth of June 1822, as a Spanish illegal Slave-trader. This individual is in expectation of a Brig and a Schooner to take away the Slaves that he has collected: the number of these is very considerable. Cruz sent them into the bush when the Cyrene appeared. Cruz took half the cargo of a Spanish Slave-trading Vessel that came to the Gallinas a short time since, under an engagement to pay for it in Slaves. The Slaves that are collected by him are kept in his factory at a Town called Debeah, which belongs to a Chief named Vanni, called by the English Stephen Rogers. Cruz had loaded three guns at this factory for the purpose of firing upon the English, if they had come there at the time that the boat's crew of the Cyrene went in search of the Slaves purchased for the Aurora; but the English did not come. This Town of Debeah is on the water-side.

Since this information has been communicated, intelligence has been received of the death of Krauze, who was drowned by the upsetting of a boat in passing the bar of the Gallinas. Monsieur Galon, late Master of the French Schooner Hippolyte, and four European seamen perished at the same time. Several other white men reside constantly at the Gallinas, most of them English or Americans. These men conceal their names, and are known only by the appellations of Tom or Bill. To the Traders who go from Sierra Leone they speak only the language of the Country, wishing to be considered as Foreigners who cannot speak English. Those who are particularly fearful of being recognized go into the Country on the arrival of the Canoes from Sierra Leone,

and remain absent until they depart on their return. These white men are all in the Slave-trade; they make journies into the Country in order to purchase Slaves at the Towns in the interior, and to make themselves known for the purpose of causing Slaves to be sent down for sale to their factories.

A young man named Owlet, lately resident at Sierra Leone, is at present Clerk or Secretary to Siaca, keeps his accounts and writes his letters. This young man had been in the service of Government at Sierra Leone, and was subsequently employed by some of the Merchants; recently again he was an Assistant Writer in the Office of the Registry of the Mixed Commissions, but being improvident he was involved in difficulties, and left the Colony with a small supply of trade-goods, which he hoped to sell advantageously. At a very short distance from the Colony, on the Southern shore of the Sherbro', he was robbed and stripped of his clothes by the people of the canoe in which he took his passage, and being left naked and destitute he with difficulty made his way to the Gallinas, where he engaged in the service of King Siaca. (A.)

The person who communicated this information did not know any thing particular of any of the other white men residing at the Gallinas. He contradicted the statement of François Hataulx, of the French Schooner Hippolyte, as to the establishment of Schools for general instruction by some of the Europeans. The branches of the families of English descent, named Cleveland and Caulker, resident at or near Gallinas, have schools for the instruction of their own children, who are numerous in consequence of the unlimited extent of their female connections, but there is not any general School. The instruction given in these family schools is confined to reading and writing the English language, and to simple arithmetick. A few children belonging to Chiefs of the Country may be occasionally included in these schools as matter of particular request and favour. For more advanced education the children are sometimes sent by Slave-trading Vessels to the Foreign Colonies where they may obtain the instruction likely to be most advantageous in the business of that trade. Mr. William Cleveland, who resides at a Town called Tasso, near Gallinas, has a School of the description above-mentioned. (B.)

The Traders of Sierra Leone resort to the Gallinas to purchase Country cloths. Scarcely any other article in which they can deal is to be obtained there. Their trade has now been altogether spoiled by the Slave-dealers, for, although these Traders do not purchase Country cloths, they have ruined the bar, which is the general standard of calculation on the Coast of Africa, so that double the quantity of baft, beads or tobacco, is now required for each cloth; of tobacco, two pounds is now the price of a piece of cloth,—that is, about 2s. 6d. Sierra Leone currency. These cloths are sold at Sierra Leone for 5s each. They are also sent from Sierra Leone in great quantity, to be bartered for rice in the Sherbro', midway between the Gallinas and the Colony. The Slave-traders looking for their indemnification to the vast profits to be realized in the subsequent sale of their Slaves, think nothing of giving a greater price at the first purchase. To the Traders whose profits are limited, similar advances would be ruinous. The Slave-traders give two fathoms of white baft for a bar, and other trade-goods in proportion. The Sierra Leone Traders give but one fathom. The difficulties thrown in the way of the Sierra Leone Traders, by the Slave-dealers, have caused the Sierra Leone canoes to stop recently at a Place called Crim, a little nearer to the Colony than Gallinas; there they await those who may be disposed to deal with them, and it appears likely that the trade will go on better in this way, as the opposition of the Slave-dealers was occasioned, not so much by any desire to purchase the same articles, as by feelings of resentment at the thought of having their names and their proceedings discovered and reported.

No rice is to be obtained at the Gallinas, and but very little palm-oil. The people are so much devoted to the Slave-trade, and it is found so easy to purchase provisions with the goods derived from that trade, that they will not take the trouble to cultivate the ground even for their own subsistence. Cassada is the only article raised for this purpose. The rice that they consume is obtained from the Sherbro'.

The River Gallinas is large, the entrance is not direct from the trading Place of the same name at the River's mouth. It is necessary to go out from that Place and to pass round the bar. After pulling up the River a day and a half or two days, the canoes come to a place where a Town, called Kemmo, of considerable trade, stands some distance from the bank. At that Place the River still continues large, and it is understood that it extends far into the Country. But the Traders proceed no farther than Kemmo, rarely even so far; the Chiefs on the banks of the River are now at war and it is not safe to go thither.

The Gallinas has a number of creeks and streams, by means of which, as well as by paths of connection, communication is maintained with a vast tract of Country, both laterally and towards the interior. By canoes navigating the creeks and streams, and by the adjacent paths, the Slave-dealers come down with their trains in unlimited numbers, without any interruption to their progress.

The approach to the Station from Seaward is extremely difficult for all large Vessels on account of the small depth of water. The bar is very dangerous even to boats, which cannot at all times easily get over, nor pass in safety through the banks within. The concurrence of local circumstances will, it is to be feared, render the Gallinas a den of incorrigible Slave-dealers as long as the Slave-trade shall maintain itself on the Coast.

(A.) The Letters sent by Siaca to Captain Grace were written by Owlet, whose hand writing was easily recognized and proved before the Registrar of the British and Netherlands Mixed Court.

(C.) Several sons of Africans of superior condition are sent to Sierra Leone for education; more generally to learn some trade or business in a private family, and the common use of the language, than to obtain a knowledge of books.

The condition of Slaves in the Country and round Gallinas is extremely abject. They are kept almost naked; they are not allowed to join in the sports or in the society of the free people; and if, occasionally, they should be admitted to any familiarity, by particular indulgence, they are subject to be deprived of it at the caprice of a moment, with insulting taunts upon their abject condition, to which cuffs and kicks, and other acts of the most degrading violence, are generally added. If they are fit for sale they may be sold on the most trifling provocation, and almost at the pleasure of their Masters.

In this, their condition is much worse than that of the people or domestick Slaves of the Chiefs of the Rio Pongos, for there, by the customary Law of the Country, the family Slaves, or "the people," of a Chief, as they are commonly called, cannot be sold, unless when condemned by regular palaver. The Chief is bound, moreover, to protect them and to maintain them properly, taking their labour and service in return; and if he should fail in these duties, the Slaves are at liberty to place themselves under the protection of any other Chief whom they may choose. The Chief to whom they thus transfer themselves is bound to receive them and to hold them unharmed, unless the Master should prove the complaint to be unfounded, and thus entitle himself to regain possession of them.

The situation of the Slave-women at the Gallinas is the most pitiable that can be imagined, they are alternately subject to the most toilsome labours, (C.) and to the lusts of their Owners, and if by any lapse of natural affection, they happen to have children by other men, they are liable to be separated from their infants at any moment that the interest or the will of the Master may doom them to sale. The child is taken from the arms and from the breast of the mother, and neither the complaints and lamentations of the parent, nor the piercing cries of the babe, can excite a feeling of remorse in the obdurate heart of the barbarous despot, or of the inhuman traffickers.

A very common mode of obtaining an extraordinary supply of Slaves upon urgent occasions, such as the obligation to complete the delivery of a cargo of Slaves by a particular day, is, by the collusion of the principal Chiefs and Dealers with their wives. These wives are generally beyond number, the husbands have long ceased to cohabit with the greater part of them. Some they have merely betrothed to them, and have not yet commenced cohabitation with them. The women thus separated from their husbands are allowed to go abroad without restraint, and to form intrigues with men whom, when they entangle, they betray. These men, according to the custom of the Country, forfeit ten Slaves for the violation of the conjugal rights of the husband. Two of these Slaves are for the costs of settling the palaver by the judgment of the Chiefs and Elders; the remaining eight are for the compensation of the injury done. The woman is by Law liable to punishment if the husband chooses to make palaver for her; but in cases of this nature they receive presents of cloth and ornaments and other marks of favour, instead of being prosecuted and punished for their criminal conduct. All these things are publick and undisguised. So little shame is there attendant upon the moral depravity of the collusive prostitution, or upon the abuse of the forms of justice, to render that prostitution a source of base lucre to the Parties conspiring, and an instrument of oppression to the victims of the conspiracy. Rum, the incentive of all corruption and depravity, is in unlimited circulation, in order to promote acts of this description, while the Slave-ships are present.

Disputes arising from other causes and accusations resulting from those disputes, are also frequent. The palaver is to be settled in these instances likewise by the Chiefs and Elders assembled for the purpose. This is the Law of the Country, but as the King, or the most powerful Chief, is Master of the Law, and possessed of the means of influencing the subordinate Chiefs, he can always manage to have the judgment in his favour. Any person who becomes obnoxious to him may, therefore, reckon upon being cut off, or sold, or reduced to poverty with his family, by extravagant penalties in Slaves.

When the Vessels, come for the purpose of carrying away Slaves from the Gallinas, have landed the goods brought for the purchase of them, they seldom remain for any length of time stationary at that place, but keep cruising about for observation and for the preservation of the health of the crew by exercise. They anchor occasionally at Sugaree and at Cape Mount for the purpose of taking in wood, water and rice, for the subsistence of the Slaves; they purchase any Slaves that may be offered to them at those Places, and convey them to the general depôt at Gallinas. When the whole number intended for the cargo is collected, the Coast and the Sea for a considerable distance are carefully observed. Then all the boats and canoes are collected from the Vessels at the anchorage, and from the Towns on the Coast, and towards four o'Clock, if every thing be favourable, the Slaves are all at once embarked. The rapidity of this embarkation is so great that it rarely occupies above an hour, and is often accomplished in one trip. As soon as all are on board, the Vessel sets sail, so as to get clear of the land before it is dark, and thus before the next morning she is far out at Sea, beyond all danger of falling in with Cruizers.

(C.) The weakness of frame which in other Countries, however little civilized, induces the more powerful sex in a spirit of generous forbearance and courtesy to take upon itself every work of severe labour, and to leave to the females the more delicate and more appropriate task of fulfilling domestick duties, is made in Africa, and more especially among the Nations upon the Coast addicted to the Slave-trade, the ground of treatment altogether opposite; inasmuch that, with very few exceptions, even the labours of the field are performed by women.

Fourth Inclosure in No. 1.

Extract from the Royal Gazette and Sierra Leone Advertiser of Saturday August 18, 1821.

WE have been enabled to collect a more particular statement of the circumstances of the Shipwreck mentioned in our two last numbers.

The *Union Islands*, of Liverpool, William Muir, Master, sailed from that Port on the 17th May, on a trading voyage to the coast of Africa, for palm-oil, ivory, and other country produce. This voyage to the Coast was favourable for forty days—that is, until the 26th June. At four o'Clock in the morning of the 27th June, being then about three miles from the Coast off Nieffou, she struck on a rock, and immediately floated off again. Her head was put about in order to get off the shore, but she struck once more on the same ledge, and beat on and off several times; so that, in several parts, her bottom was beaten in. By continual pumping, she was kept afloat for about three quarters of an hour, when she went down in seven fathoms water off Drew-town, near Nieffou. The jolly-boat was cleared away, and as many as could, got into her; the Master jumped off the quarter deck, and got on board her; his brother made the attempt, and was drowned; two others were drowned in the same way. At this time the long boat floated from the deck, and some attempted to get on board her, but were washed off again on taking hold. They were fortunate, however, in regaining the Ship. The attempt was renewed with better success: she was cleared and kept at convenient distance, and the rest of the people who clung to the rigging, the upper part of the masts being above the water, were enabled to get on board her; some by swimming, others by floating on oars or spars, or pieces of wood, until they were picked up.

When all were collected, they made for the shore: it was now broad day-light, and they were seen from the shore. The people came off in canoes, and plundered them of every thing that they could seize. When they reached the shore, they were plundered again; their boats and oars were seized, and the clothes torn off their backs. The Captain had put a few shirts over his clothes, and all were taken from him but the under one.

In this state they were taken up to Nieffou town, to Tom Freeman the headman, the fellows who plundered them laughing at their misery in the most barbarous manner!—Tom Freeman, and the other headmen, gave them some food—sometimes they got cassada; sometimes, but very rarely, a little rice. Two black men who had gone to England on board a trading vessel, and were returning in the *Union Islands*, were seized and kept as Slaves, Captain Spence, of the Brig *Elizabeth*, heard of their distress, and sent them some tobacco to procure the means of subsistence, with a Letter directing them to make the best of their way along shore to his factory in the River Sestos. The Captain had gone off in a canoe to the *Union*, of London, which passed on her way to Cameron and Calabar. He first swam to the canoe, which was at some distance from the shore. Another man, seeing that the Captain succeeded, followed his example, and also got on board. This man had a wooden leg; but he made his way through every thing, better than any of the others. The chief Mate, Mr. Arnold, also got off in a canoe. The rest of the sufferers made the best of their way along the shore towards Captain Spence's factory: but as they had to travel through the rains, and to swim over several large rivers, or to pass them with the aid of pieces of wood, the natives rarely having the kindness to assist them with canoes, many were obliged to stop behind on the way, and to come on very slowly. One man died on the way, another, an apprentice, died on the night of getting on board the *Elizabeth*.

The total number that arrived at Sierra Leone on board the *Elizabeth* was seventeen; four of these went to England in that Ship, thirteen remain at Sierra Leone, of whom four are sick in hospital. The others are supplied with rations by order of the Acting Governor. A subscription has been raised for the purposes of supplying them with the additional comforts necessary to their reduced condition; and they have, in general, experienced much private liberality.

About twenty were unable to join the *Elizabeth*; they remained in the Kroo country, and would be as well attended as the nature of their situation would admit, Captain Spence having sent them further supplies, and recommended them to the Kroo Chiefs.—The Colonial Schooner sent for the purpose will, it is hoped, by this time, have released them altogether from their dependence on Negro hospitality.

Fifth Inclosure in No. 1.

LIST of Ships and Vessels boarded by the Boats of His Majesty's Gun-Brig Snapper, Lieutenant Thomas Henry Rothery, Commander, between 5th of July and the 4th of November 1822.

Time Boarded.	Where Boarded	By whom Boarded.	Name of Vessel.	Name of Master.	Name of Owner.	No. of Men.	No. of Guns.	Where from.	Where Bound.	Wh re be- longing.	Lading with.	No. of Days out.	Under what Colours.	To whom Consigned.
July 5	Off River Gallinas	Mr. Cowie, Ma.	Schr. L'Espoir (a)	M. Seray	M. Denis	22	2	Nantes	St. Jago de Cuba	Nantes	Wood and water complete, cargo all discharged	Fifty days	French	Mr. Wright.
	Ditto	Ditto	Do. Maria (a)	Gugot	King and Sons	16	0	Nantes	Uncertain	Ditto	Run and tobacco, cargo complete	Fifty days	Ditto	Uncertain.
	Ditto	Ditto	Do. Pitt (b)	James Vesey	King and Sons	9	0	Bristol	Rirol	Bristol	General cargo	Four months	English	King and Sons.
6	Off Cape Mount	Ditto	Do. de Sousa (c)	Jose Ant. Bousas	Master	12	0	St. Tho. W.I.	Uncertain	St. Thomas	Wood and water complete, cargo discharged	Two months	Spanish	Master.
50	Off Jacques Jacques	Lieut. Rothery	Do. Adonis (d)	E. Buckill	James Read	10	6	London	Cape C. & London	London	Trade goods, ivory, gold dust &c.	Twelve months	English	Owner.
Aug. 7	Off Mina Picanny	Ditto	Brigant. Nova Sorte (e)	Estra Cazada Lima	Vens. Mij. de Alexandre	19	0	Bahia	Molemo	Bahia	Tobacco and rum, cargo complete	Sixty six days	Portuguese	Owner.
8	Off Whydah	Mr. Cowie, Ma.	Schr. Caridade (f)	Wachin de Brago	Jose Ant. de Faria	21	0	Ditto	Ditto	Ditto	Ditto, half cargo discharged	Three months	Ditto	Owner.
	Ditto	Ditto	Ship Vigilante (g)	J. Felcivano	J. Jose Maste Silva	38	0	Ditto	Ditto	Ditto	Wood and water complete, cargo discharged	Left Bahia Sept. 1822	Ditto	Ditto.
	Off Porto Nova	Ditto	Brig St. Ant. de Lisbon (h)	Joze Machado	Fran. Cavier Leare	21	0	Ditto	Ditto	Ditto	Run and tobacco, cargo nearly discharged	Sixty days	Ditto	Ditto.
	Ditto	Ditto	Brig Conceicao (i)	M. Joncq. de Almada	L. Jose Pezeira Rocha	28	2	Molemo	Bahia	Ditto	Ditto, cargo partly discharged	Forty days	Ditto	Ditto.
	Ditto	Ditto	Schr. Juliana	Joze Ezequil Leal	Ditto	28	2	Bahia	Poro Nova	Ditto	Ditto, cargo nearly complete	8 M. from St. Thomas	Ditto	Ditto.
9	Off Badagary	Lieut. Rothery	Brig Bom Chamimho (k)	Jua Pedro de Souza	T. Aphoncea de Moura	26	1	Ditto	Molemo	Ditto	Ditto, cargo nearly complete	Three months	Ditto	Owner.
	Off River Lagos	Ditto	St. Divina Providencia (l)	J. Baptiste Cohelo	Master	32	0	Ditto	Ditto	Ditto	Ditto, cargo discharged	Ditto	Ditto	Ditto
	Ditto	Ditto	Brig Amazona (m)	Martino Joze Baptiste	Antonio P. Joze Rocha	27	2	Ditto	Ditto	Ditto	Ditto, cargo partly discharged	Ditto	Ditto	Ditto
	Ditto	Ditto	Brig Bora Hora (n)	M. Joze de Foncalne	M. Jancy Joze Leara	24	2	Ditto	Laqos	Ditto	Ditto, cargo complete	Fifty-five days	Ditto	J. J. de Valler.
Sept. 4	Off Isle de Rohe	Mr. D. Cowie	Bg. Paquete Deviana (o)	C. Maveudelis	Joze Raposa Feira	25	0	Ditto	Molemo	Ditto	Ditto, cargo all discharged	Three months	Ditto	Owner.
Oct. 12	Off Quita	Mr. Cowie	Brig Juno (p)	G. Lawson	J. A. Parker	16	0	New Bedford	New Bedford	New Bedford	Whaling	Ditto	American	Ditto.
	Off Mina Picanny	Mr. Cowie	Schr. Neiruno (q)	M. A. Agliter	Rio Risal	9	2	Bahia	Trading	Bahia	Rum and tobacco, cargo discharged	Two months	Portuguese	Ditto.
			Brigant. Nova Sorte (r)	Estra Cazada Lima	Vens. Mij. de Alexandre	19	0	Ditto	Molemo	Ditto	Wood, water and yams, cargo discharged	Seventy days	Ditto	Owner.
16	Off Pono	Lieut. Rothery	Brig Emilie (s)	F. Polland	Palmar and Hamilton	8	2	New York	Trading voyage	New York	General cargo	Three months	American	Owner.
	Ditto	Ditto	Schr. St. Antonio (t)	Fran. Speio	M. Alken	25	1	Matanzas	Little Popo	Matanzas	Tobacco, cloth, &c. cargo partly discharged	Seven months	Portuguese	Ditto.
17	Off Whydah	Ditto	Do. Urdo (u)	Manl. del Col. Rios	Master	25	1	Bahia	Molemo	Bahia	Rum and tobacco, cargo landed	Eight months	Ditto	Ditto.
	Ditto	Ditto	Brigant. Zachro (v)	J. Naro de Silva	Vienta de Pachi de Sa	23	0	Molemo	Whydah	Ditto	Ditto, cargo partly discharged	Ditto	Ditto	Ditto.
	Porto Nova	Ditto	Schr. Constituar (w)	J. Louis de Arango	J. de Cochine de Lima	22	0	Bahia	Porto Nova	Ditto	Ditto, cargo	Ditto	Ditto	Ditto.
	Badagary	Ditto	*Schr. Juliana (x)								Ditto, all discharged	Ditto	Ditto	Owner.
	Ajuda	Mr. Cowie	Brigant. Fe (y)	F. A. de Souza	A. J. de Souza	20	4	Bahia	Bahia	Bahia	Ditto, ditto	Four months	Ditto	Ditto.
	Ditto	Ditto	Do. Lusitania (z)	Michl. A. Nelo	Joze Joscq. Machlado	20	0	Ditto	Ditto	Ditto	Ditto, cargo partly complete	Four months	Ditto	Ditto.
21	At Sea	Lieut. Rothery	Brig Edward (aa)	M. Liancourt	M. Lancelor	21	2	Nantes	Martin & trad. roy	Nantes	Trade goods	Three months	Ditto	Ditto.
Nov. 4	Ditto	Ditto	Do. Nautilus (ab)	Hy. Covell	A. Banker	15	0	New Bedford	New Bedford	New Bedford	Whaling &c.	1st September	French	Ditto.

* Same vessel as above, boarded by Mr. Cowie, Master.
 † Same vessel as above, boarded by Lieutenant Thos. H. Rothery.
 (a) These two French schooners, although under pretence of trading for ivory, &c. were evidently fitted up for Slaves. Maria weighed, as if wanting to escape.
 (b) This vessel was completely prepared for receiving her Slaves. Evidently waiting for Slaves, and had passports for Molemo.
 (c) Passport for Molemo, dated May 2d, authorising her to carry 353 Slaves.
 (d) None.
 (e) Passport for Molemo, dated May 2d, authorising her to take 235 Slaves. Boarded by H. M. ship Driver July 13th, 1822. Water complete.
 (f) Passport No. 7, to carry 675 Slaves.
 (g) None.
 (h) Passport, No. 6, dated 20th March, to carry 508 Slaves.
 (i) None.
 (j) Passport, No. 5, dated 28th February, for 449 Slaves, from Molemo, and was all ready for taking them in. Wood, water, &c. complete.
 (k) This vessel was boarded in passing through Acera Roads with a cargo of rum and tobacco, and since came here.
 (l) This vessel was detained, the Cabiceer having sent 132 Slaves on board as requested.
 (m) None.
 (n) This vessel was detained, the Cabiceer having sent 132 Slaves on board as requested.
 (o) This vessel was boarded in a very short time, and all ready for taking Slaves in at a very short notice.
 (p) August 2d, left Molemo, and was all ready for taking Slaves.
 (q) This vessel was boarded by H. M. ship Bann 22d September 1822.
 (r) This vessel was boarded by H. M. ship Bann 22d September 1822.
 (s) This vessel was boarded by H. M. ship Bann 22d September 1822.
 (t) This vessel was boarded by H. M. ship Bann 22d September 1822.
 (u) This vessel was boarded by H. M. ship Bann 22d September 1822.
 (v) This vessel was boarded by H. M. ship Bann 22d September 1822.
 (w) This vessel was boarded by H. M. ship Bann 22d September 1822.
 (x) This vessel was boarded by H. M. ship Bann 22d September 1822.
 (y) This vessel was boarded by H. M. ship Bann 22d September 1822.
 (z) This vessel was boarded by H. M. ship Bann 22d September 1822.
 (aa) This vessel was boarded by H. M. ship Bann 22d September 1822.
 (ab) This vessel was boarded by H. M. ship Bann 22d September 1822.
 (ac) Wood and water complete, and all ready for taking in Slaves.
 (ad) Passport, No. 17, for 221 Slaves.
 (ae) Intending to trade to the River Bojor.

No. 2.

E. Gregory, Esq. to Mr. Secretary Canning.—(Received August 18.)

SIR,

Sierra Leone, June 4, 1823.

I DEEM myself unhappy that it should be my fate to communicate to you the loss of my valued and much respected Friend and Colleague, *Mr. FitzGerald*, whose death took place yesterday Morning, after a short suffering from a malignant fever.

His Majesty has been deprived by this event of an invaluable Officer, whose labours were constantly directed to promote the humane objects that had been confided to his trust, with that attention to the faithful discharge of his judicial duties which accorded with his virtuous character.

Mr. FitzGerald's Colleagues in the Mixed Commissions have to lament an Associate whose talents and industry, and conciliatory disposition, made him to be esteemed, from the willingness with which they were ever exerted in the common cause which united them.

To me, Sir, I may be permitted to add, with feelings of the deepest affliction, Mr. FitzGerald's loss is irreparable; united to him as I had been by His Majesty's Commission for a period of some years, I was acquainted with his transcendent virtues and extensive abilities, which were of the utmost benefit to me in the discharge of my official duties. To his temperate and moderate counsels; to his advice and assistance in the difficult and trying situations in which we were sometimes placed by untoward circumstances; I was highly indebted; and I owe it to his memory, Sir, to say, that if it should be deemed that the British Commissioners have performed their duty to the satisfaction of His Majesty's Government, the praise would be due to Mr. FitzGerald—not to me; unhappy am I, Sir, that he is not a witness of this my humble tribute of respect for his virtues.

I have this day addressed a Letter, of which the inclosed is a copy, to Governor Sir Charles M'Carthy, who is at present on his way to the River Gambia, informing him of Mr. FitzGerald's death.

I conclude that Sir Charles M'Carthy on his return to thi Colony will take such steps as the Treaties authorize him, to fill up, temporarily, the present Vacancy in the Mixed Commissions of British Commissioner of Arbitration.

At present there is no prize business before the Mixed Courts.

I have the honour to remain, &c.

(Signed) E. GREGORY.

The Right Hon. George Canning,
&c. &c. &c.

Inclosure in No. 2.

E. Gregory, Esq. to Sir C. M'Carthy.

SIR,

Sierra Leone, June 4, 1823.

WITH the most profound sorrow I communicate to Your Excellency the loss which His Majesty's Government has sustained in the person of *Mr. FitzGerald*, His Majesty's Commissioner of Arbitration in the Courts of Mixed Commission established in this Colony, whose death took place yesterday Morning, after a very short illness.

I grieve that it should be my duty to communicate this unhappy event to Your Excellency, persuaded that Your Excellency, acquainted with the virtues of which Mr. FitzGerald was eminently possessed, will deplore in his death the loss of an invaluable publick Officer.

I have the honour to be, &c.

(Signed)

GREGORY

His Excellency Brigr.-General Sir Charles M'Carthy,
&c. &c. &c.

No. 3.

E. Gregory, Esq. to Mr. Secretary Canning.—(Received August 20.)

SIR,

Sierra Leone, June 11, 1823.

SIR CHARLES M'CARTHY has not arrived at Sierra Leone, from the Gambia, and the Vacancy in the Mixed Commissions, occasioned by the death of Mr. FitzGerald, has not been filled up. There is no Prize business before the Courts.

In addition to the death of Mr. FitzGerald, my Foreign Colleagues and I have to regret the death of Mr. *Frederick Sawyer*, who, since the establishment of the Mixed Commissions, in the Year 1819, filled the Place of First Clerk in the Registry Office, with much credit to himself and with great satisfaction to the Commissioners. Mr. Sawyer died on the 26th of May last: his Situation, the salary of which was defrayed by the Foreign Governments concerned, as well as by the British Government, has been filled on the authority of the Commissioners, Foreign and British, by Mr. *Henry Chuber*, who was recommended by his personal merit, and by his qualifications as Proctor and Attorney in the Courts of Mixed Commission, and in the Colonial Courts of Justice.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) E. GREGORY.

No. 4.

E. Gregory, Esq. to Mr. Secretary Canning.—(Received September 17.)

(Extract.)

Sierra Leone, July 24, 1823.

UPON the death of my respected Friend and Colleague, *Mr. FitzGerald*, on the 3d of June last, I did not think it expedient, in the absence of Governor Sir Charles M'Carthy, to take immediate proceedings in order that the *Vacancy* which that unhappy event had occasioned in the Courts of Mixed Commission might be filled. There was not any business before the Courts which called for such proceedings, and advices had been received in the Colony, that Sir Charles M'Carthy's return from the Gambia might soon be expected.

But on the 12th of June, a Petition was presented in the British and Spanish Court of Mixed Commission, by one of the Proctors of the Court, on behalf of Captain *Phillips*, commanding His Majesty's Ship *Bann*, stating that the Schooner *San Raphaël*, whose Case was reported to you, Sir, by the Commissioners, in their Despatch (marked Spain) of the 22d of April 1823, had been sent to this Colony by Captain Phillips, in order to her being disposed of by the British and Spanish Court of Mixed Commission. The *San Rafael*, as a Tender, had accompanied the *Bann* as far as the Island of Ascension. Captain Phillips had quitted the *Bann* at that Island, to proceed to England on account of ill health, and the Tender having become burthensome to the *Bann*, as taking from her Officers and men, she had been despatched to Sierra Leone. It was stated in the Proctor's Petition that the *San Rafael* was in a bad condition, and further, that if the Court did not dispose of her, as was prayed, the Officer on board had instructions to abandon her.

As the *San Rafael* had been already before the Court, I was willing that she should be disposed of by sale, rather than she should perish by abandonment. But I did not think that I alone had sufficient authority to order her

sale; I was unwilling to assume an authority on the occasion, more particularly as I did not conceive that the Treaty contemplated the absence of a British Commissioner; it being directed by the Treaty that, in event of the death of a British Member of the Mixed Commission, in the absence of the Governor or Lieutenant-Governor, the vacancy should successively be filled, *ad interim*, by the Principal Magistrate, and by the Secretary of the Colony. I therefore wished, in order to proceed with proper authority, that the vacancy in question should be filled according to the provisions of the Treaty.

Understanding that doubts existed amongst some of the Members of His Majesty's Colonial Council, as to who should be held to be the Principal Magistrate of the Colony, upon the death of Chief Justice FitzGerald, I deemed it to be most prudent to address myself to His Majesty's Colonial Council, which administered the Government of the Colony in the absence of Sir Charles M'Carthy; with a view that the Members of the Council might determine amongst themselves, who should be held to be the Principal Magistrate, or who should undertake to fill the Situation vacant in the Mixed Commission by the death of Mr. FitzGerald.

I accordingly addressed a Letter, of which the inclosed is a copy, to the Acting Colonial Secretary, with a request that it might be laid before the Council; to represent that some business had been brought before the British and Spanish Court of Mixed Commission, which I did not think that I possessed sufficient authority to dispose of, being alone, as a Commissioner in that Court; to submit to their consideration whether it would not be proper, in order to the despatch of that business, that the vacancy in the Situation held by Mr. FitzGerald should be filled by the Principal Magistrate of the Colony, according to the provision of the Treaty of the 23d of September 1817, and should the Council be of opinion that it would be proper that the Situation should be so filled, I begged that such arrangement might be made that the Gentleman holding the Situation of Principal Magistrate might enter upon the duties attending the Situation of Commissioner of Arbitration.

I inclose a Copy of the Letter that I received from the Acting Colonial Secretary, in reply to my Communication. In this Letter it is stated that the Council, being of opinion that the Situation of His Majesty's Commissioner of Arbitration should be filled without delay, had accordingly sworn in the *Honourable D. M. Hamilton*, Member of Council, to that Office, who would enter on the duties of the same forthwith.

Being thus associated with Mr. Hamilton, the sale of the Schooner *San Rafael* was ordered by us jointly, and the sale accordingly soon took place.

Mr. Hamilton did not fill the vacant Situation of Arbitrator in the British and Portuguese, and British and Netherlands Mixed Commissions; there was nothing that required me at that time to have a Colleague under those Commissions.

On the 11th instant, *Sir Charles M'Carthy* returned to Sierra Leone, from his visits to the Forts on the Gold Coast, and to the Settlement on the River Gambia.

I took an early opportunity to call upon Sir Charles M'Carthy, to request his attention to the Vacancy that had been occasioned in each of the Courts of Mixed Commission, by the death of Mr. FitzGerald. Sir Charles M'Carthy informed me that it was his intention to appoint Mr. Hamilton to fill the Vacancy; that he had already notified this intention to Lord Bathurst.

Accordingly I received this Morning a Letter from Sir Charles M'Carthy, transmitting a Copy of the Commission issued by Sir Charles, appointing *Mr. Hamilton* Commissioner of Arbitration, and *Mr. George Rendall* Secretary or Registrar, vice Hamilton, until further Instructions from Europe. I inclose herewith, Sir, for your information, Copies of these Documents.

This Commission only authorizes Messrs. Hamilton and Rendall to act in the British and Spanish Court of Mixed Commission. Sir Charles M'Carthy

did not make mention of the Appointments under the two other Mixed Commissions : but Mr. Hamilton has exhibited to me the Original Commissions, under which himself and Mr. Rendall are to act, in the British and Portuguese, and British and Netherlands Mixed Commissions ; as also a Certificate of his having taken the Oath, prescribed by the Treaties to the Commissioners on entering upon the duties of their Office.

You will be pleased to observe, Sir, that the Commission to Mr. Hamilton expresses the "doubts that had arisen, whether, according to the true intent and meaning of the said Treaty," (the Treaty of the 23d of September 1817), "the said Office of Commissioner of Arbitration must necessarily be filled and executed by the Governor in person, or whether the Governor may not fill the said Office by such other Person as he may consider competent thereto, and who may most conveniently discharge the duties of the same." I would beg leave, Sir, to submit these doubts to your consideration, and respectfully to solicit that you may be pleased to give your Instructions thereon, in order that no questions may be raised hereafter upon the legality of the proceedings of the Mixed Courts, as they are at present constituted ; and that, upon future occasions of Vacancies, the course to be pursued by the Local Government, and by His Majesty's Commissioner concerned, may be clearly specified.

I have communicated to Mr. Hamilton, for his information and guidance, the contents of the Despatches that Mr. FitzGerald and myself had, from time to time, the honour to receive from His Majesty's Secretary of State for Foreign Affairs.

I have the honour to remain, &c.

(Signed) E. GREGORY.

The Right Hon. George Canning,
 &c. &c. &c.

First Inclosure in No. 4.

The British Commissary Judge to the Acting Colonial Secretary.

SIR,

Sierra Leone, June 12, 1823.

THE lamented death of Mr. FitzGerald has occasioned a vacancy in the situation held by him, of His Majesty's Commissioner of Arbitration in the British and Spanish Mixed Commission, established in this Colony for the prevention of illicit Traffick in Slaves.

No matters of business, since the death of Mr. FitzGerald, have occurred until this day, which required that, the vacancy in the situation of His Majesty's Commissioner of Arbitration should be filled ; but on this day a matter of business has been brought before the British and Spanish Court of Mixed Commission, which I do not think that I have sufficient authority, satisfactorily to dispose of, being at this present moment alone as a Commissioner in the British and Spanish Mixed Commission.

The Treaty of the 23d September 1817, entered into by His Majesty and His Catholick Majesty, establishing a Mixed Commission on the Coast of Africa, provides the manner in which a vacancy, occasioned by the death of a British Member of the African Mixed Commission, is to be filled.

The absence of Sir Charles M'Carthy, Governor, and the absence of a Lieutenant-Governor, of this Colony, make it to be my duty to request of you, Sir, to submit to the consideration of His Majesty's Colonial Council, at as early a period as possible, whether it will not be proper, in order to the despatch of the business now before the British and Spanish Mixed Commission, that the present vacancy in the situation held by Mr. FitzGerald, should be filled by the Principal Magistrate of this Colony, according to the provision of the Treaty of the 23d September 1817 ; and should His Majesty Colonial Council be of opinion, that it would be proper that the situation of His Majesty's Commissioner of Arbitration should be so filled, I would beg that such arrangement may be made that the Gentleman holding now the situation of Principal Magistrate of this Colony, may enter with as little delay as possible upon the duties attending the situation of His Majesty's Commissioner of Arbitration.

I further beg, Sir, that I may be favoured with the determination of His Majesty's Colonial Council upon the question, which I deem it my duty to request that you will submit to their consideration. And I have the honour to be, &c.

(Signed) E. GREGORY.

The Hon. Joseph Reffell,

*Second Inclosure in No. 4.**The Acting Colonial Secretary to the British Commissary Judge.*

SIR,

Secretary's Office, Sierra Leone, June 14, 1823.

I HAVE had the honour of laying before His Majesty's Colonial Council your Letter of the 12th instant, requesting of me to submit to their consideration the propriety, in order to the despatch of business now before the British and Spanish Mixed Commission, that the present vacancy in the situation held by the late Mr. FitzGerald, should be filled by the Principal Magistrate of this Colony, according to the provision of the Treaty of the 23d September 1817; and I am directed to acquaint you, in answer, that the Council being of opinion that the situation of His Majesty's Commissioner of Arbitration should be filled without delay, as submitted in your Letter, have accordingly sworn in the Honourable D. M. Hamilton, M. C. to that Office, who will enter on the duties of the same forthwith.

I have the honour to be, &c.

Edward Gregory, Esq.

(Signed) J. REEFELL.

*Third Inclosure in No. 4.**The Governor of Sierra Leone to the British Commissary Judge.*

SIR,

Government House, Sierra Leone, July 23, 1823.

WITH reference to the Letter I had the honour of addressing you on the 21st instant, I herewith inclose a Copy of the Commission I issued, appointing Daniel Molloy Hamilton, Esq. Commissioner of Arbitration, in the room of the late Edward FitzGerald, Esq. and George Rendall, Esq. Secretary or Registrar, vice Hamilton, until further instructions from Europe.

I have the honour to be, &c.

Edward Gregory, Esq.

(Signed) C. M'CARTHY.

*Fourth Inclosure in No. 4.**Commission of the Governor of Sierra Leone, appointing D. M. Hamilton, Esq. Commissioner of Arbitration, and George Rendall, Esq. Secretary or Registrar, of the British and Spanish Court of Mixed Commission.*

By His Excellency Sir Charles M'Carthy, Knight, Captain-General and Governor in Chief of the Colony of Sierra Leone, the Settlement of Saint Mary, in the River Gambia, the British Forts on the Gold Coast, and the other British Territories and Possessions on the Western Coast of Africa, between Latitude 20 deg. North, and 20 deg. South, Vice Admiral, Chancellor and Ordinary of the same, Brigadier-General and Commander in Chief of His Majesty's Forces thereon, and Colonel of the Royal African Colonial Corps of Light Infantry.

WHEREAS by the Thirteenth Article of the Regulations for the Mixed Commissions, forming an integral part of the Treaty between His Britannick Majesty and His Catholick Majesty The King of Spain, for the purpose of preventing Their respective Subjects from engaging in any illicit Traffick in Slaves, signed at Madrid, the 23d day of September, in the Year of our Lord 1817, the Two High Contracting Parties have agreed, that, in the event of the death of one or more of the Commissary Judges, or the Commissioner of Arbitration, composing the above-mentioned Mixed Commission, their Posts shall be supplied, *ad interim*, in the following manner:—on the part of the British Government, the vacancies shall be filled successively in the Commission, which shall sit within the Possessions of His Britannick Majesty, by the Governor, or Lieutenant-Governor, resident in that Colony, by the Principal Magistrate of the same, and by the Secretary: And whereas Edward FitzGerald, Esquire, the Commissioner of Arbitration appointed in this Colony, on the part of the British Government, died at Free Town, in the said Colony, on the 3d day of this instant Month of June, and doubts having arisen whether, according to the true intent and meaning of the said Treaty, the said Office of Commissioner of Arbitration must necessarily be filled and executed by the Governor in person; or whether the Governor may not fill the said Office, by such other person as he may consider competent thereto, and who may most conveniently discharge the duties of the same. And we having taken into our consideration the impracticability of our executing the duties of the said Office, and that our so executing the duties of the same, would be highly detrimental to the service of our Sovereign Lord His Britannick Majesty, from the necessity there would be in such case of our constant residence at or near Free Town, whereby our necessary attendance, as of late, on the Gold Coast, and at present in the River Gambia, must either be dispensed with, or the duties of the said Office neglected, or otherwise we must act in such Office for a short time during our residence at Free Town, and on our departure therefrom, a new Commissioner of Arbitration must be appointed, which must necessarily at various times

retard the business of the said Commission. And we having lately appointed Daniel Molloy Hamilton, Esquire, Acting Chief Justice and Judge of the Court of Vice Admiralty, in the said Colony, in the room of the said Edward FitzGerald, Esquire, deceased, and he being, by virtue of such Office, the Principal Magistrate of the said Colony in our absence; and we having taken into consideration the constant residence at Free Town, the Capital of the said Colony, and the Place where the said Mixed Commission has always sat, of the said Daniel Molloy Hamilton, and his fitness and abilities to perform the functions of the said Office of Commissioner of Arbitration; have named, made, constituted, appointed, and deputed, and do, by these presents, name, make, constitute, appoint and depute him, the said Daniel Molloy Hamilton, Esquire, to be His Britannick Majesty's Commissioner of Arbitration, in this Colony of Sierra Leone, under and pursuant to the said Treaty, and an Act of Parliament made in the 58th Year of the reign of His late Majesty King George the Third, intituled "An Act to carry into execution a Treaty made between His Majesty and The King of Spain, for preventing Traffick in Slaves," to have, hold, and execute the said Office, with all the rights, privileges and emoluments to the same belonging, till such time as a Successor shall be appointed thereto by His Majesty, and shall enter on the duties of the said Office. And the said Daniel Molloy Hamilton having been appointed by His late Majesty King George the Third, to be Secretary or Registrar to the said Mixed Commission, pursuant to the said Treaty and Act of Parliament, and he having taken the Oath required by the said Act of Parliament, and having entered upon and performed the duties of the said Office, from the commencement of the assembling of the Members of the said Mixed Commission till the present time; and it being requisite now, in consequence of the appointment of the said Daniel Molloy Hamilton to the Office of Commissioner of Arbitration, that a fit and proper person should be appointed to execute the duties of the said Office of Secretary or Registrar, during the time the said Daniel Molloy Hamilton shall continue in the said Office of Commissioner of Arbitration; and we, reposing special confidence in the loyalty and ability of George Rendall, Esquire, have appointed, and do hereby appoint, the said George Rendall to be Secretary or Registrar to the said Mixed Commission, pursuant to the said Treaty, and Act of Parliament, for and during the time the said Daniel Molloy Hamilton shall hold the said Office of Commissioner of Arbitration, or until he, the said George Rendall, shall be otherwise superseded by us or His Majesty.

In witness whereof we have signed these presents, and have hereunto affixed the seal of the said Colony of Sierra Leone, at Bathurst, in the River Gambia, the 15th day of June, in the Year of our Lord 1823, and of His Majesty's reign the fourth.

(Signed) C. M'CARTHY.

By His Excellency's command. (Signed) J. W. WETHERELL, Private Secretary.

No. 5.

Mr. Secretary Canning to the British Commissioners at Sierra Leone, The Havannah, Rio de Janeiro and Surinam.

(Circular.)

Foreign Office, August 1, 1823.

I SEND to you herewith, for your information and guidance, a Copy of the Correspondence on the Slave Trade, which has been laid before Parliament in the course of the last Session.

I am, &c.

(Signed) GEORGE CANNING.

*His Majesty's Commissioners at Sierra Leone,
The Havannah, Rio de Janeiro, and Surinam.*

No. 6.

Mr. Secretary Canning to Messrs. Gregory and FitzGerald.

GENTLEMEN,

Foreign Office, August 5, 1823.

I HAVE to acknowledge the receipt of your several Despatches, up to the 29th of April last, inclusive; and to express to you The King's most gracious approbation of the mode in which you have in general executed the arduous duties entrusted to your care.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners, Sierra Leone.

No. 7.

E. Gregory, Esq. to Joseph Planta, Jun. Esq.—(Received Jan. 30, 1824.)

SIR,

Sierra Leone, September 6, 1823.

CONSIDERING that it may be required of His Majesty's Commissioners, by the Authority under which they have the honour to act, that they should transmit to the Department for Foreign Affairs, *Duplicates* of the Despatches that they may from time to time have occasion to address to that Department; I beg leave to explain to you, for the information and satisfaction of His Majesty's Secretary of State, that I have been prevented from forwarding *Duplicates* of the Despatches that it has been my duty, lately, to address to the Department, on subjects connected with my Situation.

The calamitous sickness that has visited this Colony within the last four Months, has not only deprived me of the invaluable assistance of Mr. FitzGerald, in my Official labours, but it has taken from me the aid of three Gentlemen who assisted me as Writers; and I have been left to seek, oftentimes in vain, the assistance required by me, promptly to forward the original Despatches that I have alluded to.

It is only very lately that I have been so fortunate as to engage the services of the Amanuensis who writes this Despatch, but even his services have been withheld from me by sickness.

I have further, Sir, to explain to you, and to beg of you to have the goodness to represent it to His Majesty's Secretary of State, should occasion require it, that it has been matter of infinite regret to me, as it was to Mr. FitzGerald, that our Despatches could not always be written with that precision and nicety of hand writing, that would have served at once to please and to save the invaluable time of those to whom the Despatches were addressed.

It is inconceivable, Sir, the trouble and labour which Mr. FitzGerald and myself had in the despatch of the Correspondence which we had the honour to hold with the Department for Foreign Affairs. Often to re-copy what had been written by an Amanuensis, and almost on all occasions, to copy a great part of the Correspondence, were tasks imposed upon us by the want of such Writers as we would have wished to have had, for the satisfaction of the Department under which we acted. I may be permitted, Sir, to say, that, with a view to that satisfaction, I sought and obtained from England, at some expence, the services of a young Gentleman of much promise; but, shortly after his arrival here, his name was added to the list of those whose death I have occasion to deplore.

I beg your indulgence, Sir, for thus trespassing on your valuable time. The object of this trespass will not, I trust, be deemed trivial by you, as it has been to explain, what otherwise might be taken to have been remissness or inattention on my part.

I beg to assure you, Sir, that my best endeavours will be exerted to obtain, in all matters, the approbation of the Department under which I have the honour to act; and I dare, therefore, hope that its indulgence will be extended to me, on occasions such as those that I have stated, when my desires to obtain that approbation have been accompanied by my regret, that the want of skilful Assistants prevented me from giving perfect satisfaction.

I have the honour to be, &c.

*Joseph Planta, Jun. Esq.
&c. &c. &c.*

(Signed) E. GREGORY.

No. 8.

Mr. Secretary Canning to E. Gregory, Esq.

SIR,

Foreign Office, November 4, 1823.

I HAVE received your Despatch of the 24th of July, giving an account of the proceedings which took place, on the occasion of the *Vacancy* which occurred in the Commission, by the death of *Mr. FitzGerald*; and submitting a doubt, whether, according to the Treaties, a Vacancy in the Office of one of the Commissioners must necessarily be filled up, and executed in person, by the Governor of the Colony in which the Commission is situated, (where there is a Governor) or whether the Governor may not fill the said Office, by such other Person as he may consider competent thereunto.

I have to state to you, in answer, that, taking the whole bearing of the Treaties, and the emergency of the case, the Governor, Sir Charles M'Carthy, appears to have acted on the occasion, in accordance with a fair interpretation of the spirit of the Treaty, on principles of reciprocity as between the Contracting Parties, and with a due regard to the beneficial exercise of the duties required under the Treaty.

In the particular instance, however, no question of the legality of the proceedings could well in any manner arise; since I have to acquaint you, that His Majesty has graciously signified His intention, of confirming, "*ab initio*," the provisional nomination made by Sir Charles M'Carthy, in the person of *Daniel Molloy Hamilton, Esq.* to fill the Office of Judge Arbitrator under the Treaties, vacant by the death of Mr. FitzGerald.

I have further to acquaint you, for your information, that The King has been graciously pleased to nominate *James Woods, Esquire*, to the Office of Registrar to the Mixed Commission, vacant by the promotion of Mr. Hamilton.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners at Sierra Leone.

No. 9.

Mr. Secretary Canning to the British Commissioners at Sierra Leone.

(Extract.)

Foreign Office, November 6, 1823.

I AM glad to mark my sense of the satisfactory explanation which you have afforded, as to the principles on which the Commission has proceeded, in the appointment of a *Marshal of the Court*, and of the clear account which you have given of the charges rendered in by that Officer, under the directions of the Court, in each particular Case.

These charges, in themselves, appear, on the whole, to be but just and reasonable: it is not therefore necessary, in answering your Despatch, that I should enter into a detail on each separate item of them; and the principal point, indeed the only point on which it remains necessary that I should give you special Instructions for your guidance, is, as to the quarter from whence these charges are to be paid.

The expences appear to arise, either out of the personal services rendered by the Marshal, and by others under his superintendance, and under the directions of the Court, or else out of the necessity of supplying certain articles for the due and decent subsistence of the Slaves, prior to emancipation: as such, they are essentially necessary to the adjudication of the Cases, in the just

and humane spirit of the Treaty ; and are consequently properly chargeable upon the proceeds of the prizes, in each particular Case, to be deducted prior to the division of the moities of those proceeds, the one for the Foreign Government and the other for His Majesty's Treasury. The latter moiety to be distributed afterwards to the Captors under the Acts of the 1st and 2d George IV. cap. 99.

To the admission of this principle, it is not presumed that the Foreign Government will be inclined to make any objection, since it is in the necessary furtherance of an object, which is common both to the Foreign Power and to Great Britain, namely, the due execution of the Treaty between them : nor can the Captors object to the practice, since in all grants of this description it has been usual to lay the burthen of adjudication upon the proceeds ; and since, in this particular grant, the Act which gives to the Captors the moiety, entitles them only to the nett proceeds which would belong to His Majesty under the Treaties.

You will therefore consider yourselves authorized to act upon the principle here laid down ; and you will invite the Foreign Commissioners to concur with you upon these points, if not definitively, at any rate provisionally : and an instruction will forthwith be prepared, to His Majesty's Ministers to the several Powers with whom those Treaties were concluded, under which your Commission was instituted, urging them to confirm to their Commissioners, wherever difficulty or doubt arises, the decisions given according to the opinions expressed in this despatch.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners at Sierra Leone.

No. 10.

Mr. Secretary Canning to Messrs. Gregory and Hamilton.

GENTLEMEN,

Foreign Office, November 17, 1823.

YOUR Despatches of December of the last Year, relative to the practice of Commanders of British Ships in demanding, and enforcing, the embarkation of Slaves from the Coast, have been submitted to His Majesty's Advocate-General ; and I have to acquaint you, in conformity with the opinion of that Officer, that the demand of Slaves from Native Chiefs, on the plea that they were held under contract for embarkation in Vessels on the Coast, is not within the Provisions of the several Treaties, and is consequently illegal ; it is also objectionable as interfering with the Territorial Rights of Third Parties : in all Cases of this sort, therefore, which come before you, you will do well to confine yourselves strictly to the several Treaties and Acts of Parliament.

For your further information on this point, I herewith furnish you with the Copy of a Letter addressed under my direction, to the Secretary to His Majesty's Treasury, upon the subject of the Claims brought forward by the Captors of the *Rosalie*, the *Diechoza Estrella*, and the *Aurora*, for a moiety of the proceeds of the condemned Vessels, and a bounty upon the Slaves that were on board of them.

I also forward to you for your information, the Copy of a Letter addressed under my direction to the Secretary to the Admiralty, upon the Case of the *Sinceridade*, and of the attack on the Gallinas River, as detailed in the statements of His Majesty's Naval Officers, and in your Despatches to me.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners at Sierra Leone.

*First Inclosure in No. 10.**Joseph Planta, Jun. Esq. to George Harrison, Esq.*

SIR,

Foreign Office, November 17, 1823.

I HAVE received and laid before Mr. Secretary Canning your Communications of the 11th of April, and of the 23d and the 31st of October 1823, expressive of a wish, on the part of the Lords of His Majesty's Treasury, to know Mr. Canning's sentiments on the Papers therein inclosed, respecting the claims of Captors under the Slave-trade Treaties, to a moiety of the proceeds of the condemned Vessel, and a bounty on the Slaves found on board of them, in the cases of the *Rosalia*, the *Dichosa Estrella*, and the *Aurora*.

All these Vessels were captured at a period at which it was not lawful, by the Treaties then existing, for a Ship of War, cruising under those Treaties, "to detain any Vessel whatever, not "having Slaves actually on board."

It appears from the Papers sent home by the Commissioners at Sierra Leone, under whom these Vessels were condemned for illegal Slave-trade, that, at the time at which the Vessels were detained, there were not any Slaves on board of any one of them; but that, in each case, the Captor brought about afterwards the embarkation of Slaves, and then carried the Vessel and the Slaves to Sierra Leone for adjudication.

In the case of the *Rosalia*, in which the Slaves were embarked in consequence of a negotiation entered into by the Captor on shore, Mr. Canning, in his Instruction to the Commissioners at Sierra Leone, of September 25, 1822, had already declared his opinion that the conduct of her Captor, Lieutenant Hagan, was highly reprehensible, in resorting to an expedient which was unauthorised and illegal, with a view to bring the Vessel colourably within the Treaty.

The Lords Commissioners of the Admiralty, to whom Mr. Canning made a communication upon the subject, coincided with him in this opinion. It has been satisfactory to Mr. Canning to learn from your Letters of the 23d and the 31st of October 1823, that the Lords of His Majesty's Treasury also "fully and entirely concurred in the sentiments expressed by Mr. Canning," in his Instruction above-mentioned, upon this subject.

Mr. Canning further learnt from your Letters, that, in concurrence with these sentiments, their Lordships had declined to recommend to His Majesty to grant to the Captor of the *Rosalia*, any proportion of the proceeds of that Vessel, or any bounty on the Slaves.

From the Papers, Class B., on the Slave-trade, laid before Parliament in the course of the last Session, it appears that, in the case of the *Dichosa Estrella*, the Slaves who were on shore, or said to have been ready for embarkation, were embarked subsequently to the capture, upon a requisition from Captain Knight, the Captor of the Vessel; and that in the case of the *Aurora*, Captain Grace, the Captor of the Vessel, who suspected that some Slaves had been embarked, and afterwards landed, obtained the embarkation of the Slaves subsequently to the capture, by a summons, followed by an act of force, as regarding the Native Chiefs.

The cases of these Vessels are somewhat different from the case of the *Rosalia*, and there is, in each of them, an evident design or attempt to carry on illegal Slave-trade, as referred to by the Commissioners in their condemnation; but it does not appear to Mr. Canning, that these circumstances are such as could in any ways authorise the capture, or legalize the act of the Captors in bringing about, subsequently, the embarkation of the Slaves.

Mr. Canning submits, therefore, to The Lords of His Majesty's Treasury to consider, whether their Lordships will recommend to His Majesty, in these cases, the grant to the Captors of a moiety of the proceeds, or a bounty upon the Slaves; bidding me to express, at the same time, his decided opinion, that His Majesty's Naval Officers should be, by all proper means, discountenanced in any departure from their Instructions, and should be constrained to regulate themselves strictly by the Treaties, in detaining any Vessels for illegal Slave-trade.

In respect to the incidental points arising out of these cases as the Treaties now stand, (i. e. with their additional Articles), Mr. Canning directs me to acquaint you that he has given Instructions to His Majesty's Commissioners, to insert in their sentence of condemnation, provided no judicial inconvenience may thereby incur, the number of Slaves that were actually seized and found on board, at the time of the capture, so far as the fact shall have been ascertained by the evidence given.

I am further to acquaint you, that, in the special case of the liberation of a Vessel attended by the emancipation of the Slaves on board, Mr. Canning has enjoined to His Majesty's Commissioners, that, if they should give to the Captors some Minute of the authority by which they are discharged from the custody of the Slaves, they should be careful to avoid confounding such Document with the ordinary Certificate of Emancipation, lest, under such a Document, a claim should be instituted, on the part of the Captors, for the bounty which is presumed to be due, only in the cases of Slaves found, at the time of capture, on board of Vessels which have been afterwards condemned for illegal Slave-trade.

Mr. Canning begs to suggest, for the consideration of their Lordships, that in any case in which bounty on Slaves, or the moiety of proceeds of condemned Vessels are claimed by the Captors, under the Treaties, their Lordships should, if they feel the necessity of any further information before they decide on such claims, have the goodness to signify the same to Mr. Canning, who will direct such information to be transmitted to them on the doubtful points, as the Correspondence in this Department can supply; and Mr. Canning will give Instructions to the Commissioners,

as the case may demand, for forwarding to him such further information as the Lords of His Majesty's Treasury may require, and the Commissioners may possess, or be enabled to obtain, upon the case in question.

On the Minute of their Lordships, purporting that they had directed that the opinion of the Law Officers of the Crown should be taken on the question:—whether a retrospective effect can be attached to the Article of the 10th December 1822, additional to the Treaty with Spain of the 23d September 1817;—I am to acquaint you that I have, by direction of Mr. Canning, transmitted to His Majesty's Law Officers some further Documents which may be useful to them in the decision of this question. And I have, at the same time, submitted for their opinion the question:—how far it would be advisable to propose any addition to the Treaty for restricting the period for delivering in appeals under its provisions.

On the observation contained in one of the inclosures of the Minute, that, if a retrospective effect is not attached to the Article in question, it will be advisable that the Commissioners should pronounce further sentence of condemnation (and Mr. Canning supposes, also sentence of liberation), in cases which they had adjudged upon the principle of the Article, but before the Article was concluded; Mr. Canning desires that I would observe to you, that he apprehends, if a farther sentence were required, a new hearing of the Case might, in such instances, very properly be demanded, either by the Parties, or by the Foreign Commissioner; and that such a proceeding would, in many cases, produce very serious inconvenience and expence, and that from the distance of time, and other circumstances, it would not be likely to answer the ends of justice.

Mr. Canning is inclined to think that it would be advisable that the confirmation, if necessary, of such sentences should be obtained by a general declaration of the High Contracting Parties to the Treaties.

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

I am, &c.
(Signed) J. PLANTA, Jun.

Second Inclosure in No. 10.

Joseph Planta, Jun. Esq. to J. W. Croker, Esq.

Sir,

Foreign Office, November 17, 1823.

I HAVE received, and laid before Mr. Secretary Canning, your Communication of the 11th of May 1823, forwarding sundry Reports from Sir Robert Mends, of the proceedings of His Majesty's Squadron on the Coast of Africa. These Reports, together with other Papers upon the same subject from His Majesty's Commissioners at Sierra Leone, having been submitted to His Majesty's Advocate-General; I am directed by Mr. Canning to state to you, in concordance with the Report of that Officer, that the practice which the Commanders of British Vessels had adopted of demanding Slaves from Native Chiefs, on the plea that they were held under contract for embarkation in Vessels on the Coast, is not within the provisions of the several Treaties for the suppression of illicit Traffick in Slaves, and is consequently illegal; it is also objectionable as interfering with the Territorial Rights of Third Parties. The Cases of the attack on the Gallinas River, and of captures made on that principle, as stated in Commodore Mends's Letters, are objectionable on these grounds. In the Case of the *Sinceridade*, as described in Captain Phillips's Letter of March 21, 1823, the King's Advocate sees no reason to differ from the opinions and judgment of the Commissioners, as it is not general inference from collateral circumstances, however accurate and strong, but the evidence of a particular fact of having embarked a Slave or Slaves, that was at the time made the test of illegality, warranting condemnation in such Cases.

I am directed by Mr. Canning to request that you will lay this Letter before The Lords Commissioners of the Admiralty, for their Lordships information, and for such Communication as their Lordships may deem it right to make to His Majesty's Naval Officers upon this subject.

J. W. Croker, Esq.
&c. &c. &c.

I am, &c.
(Signed) J. PLANTA, JUN.

No. 11.

Mr. Secretary Canning to Messrs. Gregory and Hamilton.

GENTLEMEN,

Foreign Office, November 17, 1823.

REFERRING you to the Act of the 1st and 2d George 4. cap. 99, the 6th Section of which enacts that there shall be paid a *Bounty* of £10 for every Slaves seized and found on board of any Vessel, condemned by the Commissioners, appointed under the Treaties with Foreign Powers for repressing illicit Traffick in Slaves; I have to acquaint you, that a difficulty has

occurred to the Lords of His Majesty's Treasury, in deciding in certain Cases upon the Claims set forward for the Bounty allowed by the Act:—That this difficulty has arisen from their Lordships not being made acquainted by the Documents on which the Claim is supported, whether, or not, the Slaves, for whom Bounty is claimed, were found on board at the time of capture; and that this difficulty would be best obviated, by the insertion in the sentence of condemnation under the Commissions, of a Clause, stating; so far as can be ascertained from the evidence given, whether any and what number of Slaves, *were seized and found on board* at the time of detention and capture.

I have, therefore, to instruct you to suggest to the other Commissioners acting with you, that such a Clause should be inserted as above, provided no judicial inconvenience may thereby occur.

In reference to a question which has arisen, whether in the special Case of the liberation of a Vessel, attended, however, by the emancipation of the Slaves, a certificate of emancipation should be granted by the Commissioners, I have to state to you, that the only Case in which it appears that the Commissioners are enjoined to grant a certificate of emancipation, is, as by the seventh Article of the Regulations, in the Case of adjudged unlawful trading.

I have further to remind you that, in taking upon yourselves the power of delivering over Slaves for emancipation, in Cases which are not properly Cases of forfeiture, you can be justified only by very special circumstances, and the sanction of Government obtained on a statement of the particular facts.—It may not be unsuitable in such Cases, that the Captors should have some Minute of the authority by which they are discharged from the custody of the Slaves, and their responsibility therein; but you will be careful not to confound such a Document with the ordinary Certificate of emancipation, prescribed by the Treaty; and you will act on such occasions according to the nature of each particular Case, and so as to make the Record, or Minute of your judgment, strictly to correspond with the principle on which you are acting.

Upon the point of the examination of Witnesses in open Court, I have to state to you that if, as it appears, such a course of proceeding is found to be more suited to the nature of the questions now raised, than was the practice at first in use in the Court at Sierra Leone, it is not precluded by the interpretation heretofore put upon the terms of the Treaty.—It should however be very cautiously used, and with the greatest moderation and harmony of agreement between the Commissioners, and by their authority, and should be used in the first trial of the Case, rather than as a new investigation of fresh points by the Commissioners of Arbitration, when recourse is had to his judgment in the second stage of the business.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners, Sierra Leone.

No. 12.

E. Gregory, Esq. to Mr. Secretary Canning.—(Received February 2, 1824.)

SIR,

Sierra Leone, November 20, 1823.

I HAVE the honour to acknowledge the receipt of your Letter of the 5th of August last, wherein you mention that you had received the Despatches which my late Colleague, *Mr. FitzGerald*, and myself, had the honour to address to you up to the 29th of April last, inclusive; and wherein you are pleased to express His Majesty's most gracious approbation of the mode in which the Commissioners had in general executed the duties entrusted to their care.

I am most profoundly affected with this mark of His Majesty's most gracious condescension, in noticing with favour the labours of His faithful Servants.

In acknowledging with the most respectful feelings of gratitude this most gracious condescension of His Majesty, I may lament, in proportion to the very great value of His Majesty's approbation, that Mr. FitzGerald does not exist to reap the reward of his talents and of his virtues.

To Mr. FitzGerald I attribute the mode in which the duties of our situations were executed. I must acknowledge that all praise belonged to him,—none to myself.

Devoted to His Majesty's service, I have the honour to remain, &c.

(Signed) E. GREGORY.

The Right Hon. George Canning,
 &c. &c. &c.

No. 13.

Messrs. Gregory and Hamilton to Mr. Secretary Canning.—(Received March 23.)

(Extract.)

Sierra Leone, January 1, 1824.

THE number of Cases adjudicated under the British and Spanish Mixed Commission, in the Year 1823, was two. One of those Cases was deemed to be a Case for liberation; the other a Case for condemnation.—Under the latter Case, some Slaves were decreed to be emancipated; but the number of these Slaves has not been ascertained, they having been landed in a sickly state at Cape Coast.

The number of Cases adjudicated under the British and Portuguese Mixed Commission, in the Year 1823, was four. Of those Cases, two were deemed to be Cases for liberation, and two for condemnation.—Under the two latter Cases, 199 Slaves were emancipated.

There were not any Cases of adjudication, in the Year 1823, under the British and Netherlands Mixed Court of Justice.

We beg leave to inclose a general List of Cases adjudicated under the Mixed Commissions to this date. You will perceive, Sir, that the number of Cases adjudicated, during the past Year, is six; the number of Slaves emancipated 199; that the total number of Cases adjudicated since the establishment of the Mixed Commissions, is 46, of which number five were Cases for liberation; and that the total number of Slaves emancipated is 3,915.

We have the honour to be, &c.

(Signed) E. GREGORY.
 D. M. HAMILTON.

The Right Hon. George Canning,
 &c. &c. &c.

Inclosure in No. 13.

List of Cases adjudged in the Courts of Mixed Commission at Sierra Leone, betwixt the 1st of January 1823, and the 1st of January 1824.

No. of Cases adjudged betwixt June 1819, and 1st Jan. 1824.	No. of Vessels liberated betwixt June 1819, and 1st Jan. 1824.	No. of Cases adjudged betwixt 1st Jan. 1823, and 1st Jan. 1824.	NATION.	NAME of VESSEL.	CLASS.	Condemned.	Liberated.	No. of SLAVES Emancipated.	Total number of Slaves emancipated betwixt June 1819, and the 1st of Jan. 1823 - 3716
41	5	1	Spanish	San Rafael - -	Schooner	"	Liberated	"	
42	"	2		Maria La Luz -	"	Condemned	"	"	
43	"	3	Portuguese	Conceição - -	"	Condemned	"	166	
44	"	4	"	Magdalena - -	"	Condemned	"	33	
45	"	5	"	Sinceridade - -	"	"	Liberated	"	
46	"	6	"	Nova-Sorte - -	"	"	Liberated	"	
									Total number of Slaves emancipated betwixt June 1819, and the 1st of Jan. 1824 - 199
									Total number of Slaves emancipated betwixt June 1819, and the 1st of Jan. 1824 - 3915

(Signed)

E. GREGORY.
D. M. HAMILTON.

No. 14.

Mr. Secretary Canning to the British Commissioners at Sierra Leone and Surinam.

GENTLEMEN,

Foreign Office, January 1, 1824.

I HAVE to acquaint you, for your information, and the information of the other Gentlemen forming the Board of which you are Members, that a Communication has been made to this Court by the *Netherlands* Ambassador, purporting that the *Netherlands* Frigate, the *Dageraad (Aurora)*, of 32 guns and 250 men, Captain *Van der Hart*, bound for the Coast of Guinea, and the East Indies, has been furnished with a Copy of the Treaty of the 4th of May 1818, between His Majesty and The King of the *Netherlands*, and of the several Documents annexed thereto.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners Sierra Leone and Surinam.

No. 15.

Messrs. Gregory and Hamilton to Mr. Secretary Canning.—(Received March 23.)

SIR,

Sierra Leone, January 5, 1824.

WE beg leave to solicit your commands upon two questions: first, whether we shall, as heretofore, pay into the Military Chest of this Colony the *British moiety* of the *nett proceeds* of the sale of vessels condemned as Prize, under the Mixed Commissions, and transmit the accounts of the sales of such Vessels direct to The Lords Commissioners of His Majesty's Treasury? Second, whether, in the absence of Spanish Commissioners, we shall continue to pay into the Military Chest the *Spanish moiety* of the *nett proceeds* of the sales of Vessels condemned as Prize under the Spanish commission?

The *British moiety* of the *nett proceeds* of the sales of Vessels condemned as Prize under the Mixed Commissions has been paid into the Military Chest, and the accounts of the sales of such Vessels have been transmitted direct to their Lordships, in conformity with the positive Instructions of their Lordships, transmitted to the British Commissioners under date of the 26th of July 1820, which Instructions were confirmed by the late Marquess of Londonderry in his Lordship's Letter to the Commissioners, dated the 10th of September 1820.

The *Spanish moiety* of the *nett proceeds* of the sales of Vessels condemned as Prize under the Spanish Commission has been paid, in order to its better security, into the Military Chest, since the departure of the Spanish Commissioners in the Month of April 1821, as signified in the Letter of Mr. Fitzgerald and Mr. Gregory to Mr. Harrison of the Treasury, dated the 16th of August 1821, which Letter was forwarded, under the same date, by the British Commissioners to the late Marquess of Londonderry.

The Lords Commissioners of His Majesty's Treasury, under date of the 13th of February 1822, signified their approval of this mode of disposing of the monies belonging to Spain, arising from the sales of Prize Vessels.

We have the honour to be, &c.

(Signed) E. GREGORY.
D. M. HAMILTON.

The Right Hon. George Canning,
&c. &c. &c.

No. 16.

Mr. Secretary Canning to the British Commissioners at Sierra Leone, The Havannah, Rio de Janeiro and Surinam.

(Circular.)

Foreign Office, January 31, 1824.

IN reference to the Letter which was addressed to you by the Secretary of State, at the time of your Appointment, specifying the *Allowances* which His Majesty had been graciously pleased to annex to the performance of the services, for which you are appointed to the Situation which you now hold; I have to remind you, by His Majesty's command, that in the computation of the period of service, after which a *Pension* may eventually be granted to you, that period only can reckon, during which you are upon service at your Post; and I have further to state to you, that counting from the 5th of this Month one half only of the *Salary* attached to your present Situation, can be granted to you, during the period at which you are absent from your Post. You will therefore be precise in stating the periods of your departure from your Post, and of your return thereto, that the salary to be received by you, may be computed accordingly.

I am, &c,

(Signed) GEORGE CANNING.

*His Majesty's Commissioners at Sierra Leone,
The Havannah, Rio de Janeiro, and Surinam.*

No. 17.

Mr. Secretary Canning to E. Gregory, Esq.

SIR,

Foreign Office, February 6, 1824.

THE King has been graciously pleased to appoint *Daniel Molloy Hamilton, Esquire*, to be His Majesty's Commissioner of Arbitration, in the Boards of Commission, of which you are the Commissary Judge, at Sierra Leone, for preventing illegal Traffick in Slaves.

The King has, likewise, been pleased to appoint *James Woods, Esquire*, to be Registrar to the said Commissions.

Mr. Hamilton will concert with you the mode of entering regularly upon his Appointment; and you will communicate to him the Instructions which were addressed by His Majesty's Secretary of State to Mr. FitzGerald and yourself, and which it is intended that Mr. Hamilton should consider as equally addressed to him,

I forward to you, herewith, His Majesty's Commission, appointing Mr. Hamilton and Mr. Woods, together with yourself, to these Situations.

I am, &c.

(Signed) GEORGE CANNING.

The British Commissary Judge at Sierra Leone.

No. 18.

Messrs. Gregory and Hamilton to Mr. Secretary Canning.—(Received April 26.)

SIR,

Sierra Leone, February 7, 1824.

WE had the honour to receive, on the 1st instant, your Despatch, with its Inclosures, of the 17th of November 1823, in which you inform us, that the Despatches of His Majesty's Commissioners, wherein they requested Instructions for their guidance, as to the legality of the practice of the Commanders of British Ships, cruising under the Treaties for the prevention of the illicit Traffick in Slaves, in demanding and enforcing the *embarkation of Slaves* from the Coast, had been submitted to His Majesty's Advocate General; and, that you had to acquaint us, in conformity with the opinion of that Officer, that the demand for Slaves from Native Chiefs, on the plea that they were held under contract for embarkation in Vessels on the Coast, is not within the provisions of the several Treaties, and is, consequently, illegal; that it is also objectionable as interfering with the territorial rights of third Parties.

We beg to inform you, Sir, that we shall conform to your recommendation to confine ourselves strictly, in Cases of the sort upon which you have been pleased to instruct us, to the several Treaties and Acts of Parliament.

We beg leave to express how much we feel grateful for your condescension in favouring us, for our information, with Copies of the Letters addressed under your direction to the Secretary of His Majesty's Treasury, and to the Secretary to the Admiralty; the first Letter being upon the subject of the Claims brought forward by the Captors of the *Rosalia*, the *Dichoza Estrella*, and the *Aurora*, for a moiety of the proceeds of the condemned Vessels, and a bounty upon the Slaves that were emancipated, as belonging to them; the second Letter being relative to the Case of the *Sinceridade*, and of the attack on the Gallinas River, by the boats of His Majesty's Ship Cyrene.

We have the honour to be, &c.

(Signed)

E. GREGORY.

D. M. HAMILTON.

The Right Hon. George Canning,
 &c. &c. &c.

No. 19.

Messrs. Gregory and Hamilton to Mr. Secretary Canning.—(Received April 26.)

SIR,

Sierra Leone, February 9, 1824.

WE had the honour to receive, on the 6th instant, your Despatch of the 1st of November 1823, (marked *Portugal*), stating that you had referred to His Majesty's Advocate-General the Despatch which His Majesty's Commissary Judge had the honour to address to you on the 7th of June 1823, for an opinion, whether a sentence pronounced in full Court by the Mixed Commission under the Treaties for the suppression of illegal Slave-trade, is final; or whether a *New Trial* may, in such case, be granted.

That the opinion of The King's Advocate, which you had to give us, for our guidance and information, is, that a new trial cannot be granted on any rules of analogy derived from the practice of the Courts of Common Law, or other-

wise than as matter of special exemption arising out of some conduct of the litigant parties, of fraud or surprize on the Court.

We are happy, Sir, to have this Instruction upon so important a point under the Treaties. And we are glad to learn that, in the particular Case of the *Nova Sorte*, The King's Advocate is of opinion that the Commissioners were perfectly right in refusing the prayer for a new trial.

We have the honour to be, &c.

(Signed)

E. GREGORY.

D. M. HAMILTON.

The Right Hon. George Canning,
&c. &c. &c.

No. 20.

Messrs. Gregory and Hamilton to Mr. Secretary Canning.—(Received April 26.)

SIR,

Sierra Leone, February 9, 1824.

WE beg leave to acknowledge the receipt, on the 1st instant, of your Despatches to the 17th of November 1823.

Referring us to the Act of the first and second George 4th, cap. 99, the sixth Section of which enacts that "there shall be paid a Bounty of £10 for every Slave seized and found on board of any Vessel condemned by the Commissioners appointed under the Treaties with Foreign Powers for repressing illicit Traffick in Slaves," you acquaint us that a difficulty had occurred to the Lords of His Majesty's Treasury, in deciding in certain Cases upon the Claims set forward for the Bounty allowed by the Act. That this difficulty had arisen from their Lordships not being made acquainted by the Documents on which the Claim is supported, whether or not the Slaves, for which Bounty is claimed, were found on board at the time of capture; and that this difficulty would be best obviated by the insertion, in the Sentence of condemnation under the Commissions, of a Clause stating, so far as can be ascertained from the evidence given, "whether any and what number of Slaves were seized and found on board at the time of detention and capture."

You, therefore, instruct us to suggest to the Commissioners acting with us, that such a Clause, as above, should be inserted, provided no judicial inconvenience may thereby occur.

We do not see that any judicial inconvenience can occur by the insertion in the Sentences of condemnation of a Clause, such as the one stated by you, which shall prevent the recurrence of the difficulty that has occurred to the Lords of His Majesty's Treasury, in deciding upon the Claims set forward for the Bounty allowed by the Act of Parliament. We will, therefore, act upon your Instruction, and, in future Sentences of condemnation, we will cause, the concurrence of our Foreign Colleagues being obtained, that a Clause stating whether any and what number of Slaves were on board of the condemned Vessels at the time of their detention and capture, so far as the same may be ascertained from the evidence given, shall be inserted in such Sentences.

We beg leave to suggest that the enquiries of the Commissioners, as to the number of Slaves that may be on board of Slave-vessels at the time of their capture, would be greatly facilitated, if His Majesty's Naval Officers, who are authorised under the Treaties to make captures of such Vessels, were instructed to ascertain with precision, on the instant of the capture, the number of the Slaves that may be on board of the captured Vessels, in the presence of the Masters, or principal Person or Persons of such Vessels, who may be intended to be sent before the Mixed Court as Witnesses, and who may thus

be enabled to satisfy the enquiries of the Commissioners upon the point to be ascertained. In the eighth Article of the Instructions for the Cruizers under the Convention with Portugal; the sixth Article of the Instructions for the Cruizers under the Treaty with Spain; and the third Article of the Instructions for the Cruizers under the Treaty with the Netherlands, it is provided that the Captor of a Slave-ship "shall deliver to the Master of the detained Ship a signed Certificate of the Papers found on board, as well as of the number of Slaves found on board at the moment of detention."

We would beg leave, also, to suggest, that the fulfilment of this Instruction be enjoined to His Majesty's Naval Officers employed under the Convention and Treaties; as well as that it be enjoined to them to take, on all occasions of capture, the most efficacious measures, in order that the best possible proof may be afforded to the Commissioners, as to the number of the Slaves on board of Slave-ships detained by them.

We shall bear in mind the observations made in your Despatch, relative to the question that had arisen, whether in the special Case of the liberation of a Vessel attended by the emancipation of the Slaves, a Certificate of emancipation shall be granted by the Commissioners. As we shall also attend to your observations upon the point of the examination of Witnesses in open Court.

We have the honour to be, &c.

(Signed) E. GREGORY.

D. M. HAMILTON.

The Right Hon. George Canning,
 &c. &c. &c.

No. 21.

Mr. Secretary Canning to the British Commissioners at Sierra Leone, and at Rio de Janeiro.

GENTLEMEN,

Foreign Office, February 10, 1824.

I HEREWITH furnish you with ten Copies of *Articles* signed at Lisbon on the 15th of March 1823, *additional* to the *Convention* for preventing illegal Traffick in Slaves, which was concluded at London on the 28th of July 1817, between The King and *His Most Faithful Majesty*.

You will consider these *Articles* as binding upon you, for the guidance of your conduct in giving effect to His Majesty's intentions in regard to the Stipulations therein recorded.

You will communicate these *Articles* to your Colleagues in the Board of Commission of which you are Members, and you will invite them to act in conformity with the tenour thereof.

I am, &c.

(Signed) GEORGE CANNING.

*The British Commissioners at Sierra Leone,
 and at Rio de Janeiro.*

No. 22.

Messrs. Gregory and Hamilton to Mr. Secretary Canning.—(Received April 26.)

SIR,

Sierra Leone, February 10, 1824.

WE had the honour to receive, on the 6th instant, your Despatch of the 4th of November 1823, stating, that you had received the Despatch

of His Majesty's Commissary Judge, of the 24th of July 1823, and with reference thereto, that, taking the whole bearing of the Treaties, and the emergency of the case, Sir Charles M'Carthy appeared to have acted on the occasion, in accordance with a fair interpretation of the spirit of the Treaty, on principles of reciprocity as between the Contracting Parties, and with a due regard to the beneficial exercise of the duties required under the Treaty.

That, in the particular instance which was referred to you, Sir, no question of the legality of the Proceedings, could well, in any manner, arise, since His Majesty had graciously signified His intention of confirming, *ab initio*, the provisional nomination made by Sir Charles M'Carthy in the Person of Mr. Hamilton, to fill the Office of Judge Arbitrator, vacant by the death of Mr. Fitzgerald. And stating, further, that His Majesty had been graciously pleased to nominate Mr. James Woods to the Office of Registrar to the Mixed Commissions, vacant by the promotion of Mr. Hamilton.

We have the honour to be, &c.

(Signed)

E. GREGORY.

D. M. HAMILTON.

The Right Hon. George Canning,
 &c. &c. &c.

No. 23.

Messrs. Gregory and Hamilton to Mr. Secretary Canning.—(Received April 26.)

(Extract.)

Sierra Leone, February 11, 1824.

WE had the honour to receive, on the 6th instant, your Despatch of the 6th of November 1823.

We are happy, Sir, to learn that the Despatch, therein referred to, was considered by you to afford a satisfactory explanation of the principles on which the Commissioners had proceeded, in the Appointment of a *Marshal of the Court*, and the charges rendered in by that Officer, under the directions of the Court.

We shall act, Sir, upon your Instructions, relative to the charges of the Marshal, in future cases in which his services may be required.

We have the honour to be, &c.

(Signed)

E. GREGORY.

D. M. HAMILTON.

The Right Hon. George Canning,
 &c. &c. &c.

No. 24.

Mr. Secretary Canning to Messrs. Gregory and Hamilton,

GENTLEMEN.

Foreign Office, April 8, 1824.

IN reference to the subject of your Despatch, (marked General) of the 5th of January last, I have to acquaint you, that it appears to be expedient that you should, in the absence of the Spanish Commissioners, pay into the Military Chest the *Spanish moiety* of the *nett proceeds* of the sales of prizes, and that you should continue to pay into the Military Chest the *British*

moiety of the nett proceeds of the sales of prizes. In respect to the accounts of those sales you will send them, in duplicate, to His Majesty's Secretary of State for Foreign Affairs, who will transmit to His Majesty's Treasury such Papers as it may be necessary to furnish to that Department upon the subject.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners, Sierra Leone.

No. 25.

Mr. Secretary Canning to Messrs. Gregory and Hamilton.

(Extract.)

Foreign Office, April 25, 1824.

I HAVE the satisfaction to convey to you His Majesty's gracious approbation of the circumspection, and diligence, and due regard to your duty, which have marked your conduct upon the difficult and doubtful Cases which have come under your investigation, since the date of those Despatches, the receipt of which I acknowledged to you in my Despatch of August 5, of the last year.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners, Sierra Leone.

No. 26.

Mr. Secretary Canning to the British Commissioners at Sierra Leone, The Havannah, Rio de Janeiro, and Surinam.

(Circular.)

Foreign Office, April 30, 1824.

I HEREWITH transmit to you, by The King's Command, for your information and guidance,—Copies of the Act of the Legislature (5 Geo. 4, cap. 17,) providing that British Subjects, and Persons residing within the British Dominions, who shall be concerned in the Trade in Slaves, contrary to the Statues now in force, shall be adjudged to be guilty of Piracy, and be subject to the Penalties which are visited upon that crime according to the Laws of England.

I am, &c.

(Signed) GEORGE CANNING.

*His Majesty's Commissioners at Sierra Leone,
The Havannah, Rio de Janeiro, and Surinam.*

No. 27.

Mr. Secretary Canning to the British Commissioners at Sierra Leone and Surinam.

GENTLEMEN,

Foreign Office, May 6, 1824.

I HAVE to acquaint you, for your information and guidance, that Instructions, under the Treaty with the Netherlands for the prevention of the Slave Trade, have been furnished to the following Ships and Vessels of His

Majesty's Navy; *Isis*, of 50 guns, Thomas Forrest, Commander; *Maidstone*, of 42 guns, Charles Bullen; *Eden*, of 26 guns, John Lawrence; and *Surinam*, of 18 guns, Charles Crole; and that the Instructions, which had been issued to His Majesty's Ships *Gloucester* and *Cyrene*, have been recalled and cancelled.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners at Sierra Leone and Surinam.

No. 28.

Mr. Secretary Canning to Messrs. Gregory and Hamilton.

GENTLEMEN,

Foreign Office, May 7, 1824.

I FURNISH you, for your information, with the Copy of an Instruction which was given to *Mr. J. P. Clarke*, on proceeding to his Post, as His Majesty's Consul-General at the Cape de Verdes,* directing him to collect and transmit to His Majesty's Secretary of State for Foreign Affairs; to the Commanders of His Majesty's Ships upon the Coast, and to yourselves, whatever intelligence he may be able to procure for facilitating the execution of the Treaties and Acts of Parliament, and of His Majesty's Instructions thereupon, respecting the Slave-trade.

Advices have recently been received of the arrival of *Mr. Clarke*, at his Post at *St. Jago*.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners, Sierra Leone.

* See No. 33.

No. 29.

Mr. Secretary Canning to Messrs. Gregory and Hamilton.

GENTLEMEN,

Foreign Office, May 7, 1824.

IN reference to your Despatch, (marked General) of the 9th of February 1824, I furnish you, for your information, with the Copy of a Letter which has been addressed under my direction, by one of the Under Secretaries of State for this Department, to the Secretary to the Admiralty, recommending the adoption of the suggestion which you had made, that His Majesty's Naval Officers might be specially instructed upon certain points, with a view of obtaining evidence as to the number of Slaves who may be on board of Slave-trading Vessels at the time of their detention.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners at Sierra Leone.

Inclosure in No. 29.

Joseph Planta, Jun. Esq. to J. W. Croker, Esq.

SIR,

Foreign Office, May 7, 1824.

I AM directed by Mr. Secretary Canning to send to you, to be laid before the Lords Commissioners of the Admiralty, the accompanying Copy of a Despatch from His Majesty's Commissioners at Sierra Leone, written in reference to an Instruction given to them, that, in their Sentences of condemnation of Vessels for illegal Slave-trade, they should insert a Clause, stating, whether any and what number of Slaves were on board of the condemned Vessels at the time of their detention, so far as the same may be ascertained,—and I am to request, that you will be pleased to submit to their Lordships, that it appears to Mr. Canning that it would much facilitate the execution of the Instructions given to His Majesty's Commissioners, if His Majesty's Naval Officers, acting under the Treaties for the prevention of Slave-trade, were enjoined to pay particular attention to the suggestions contained upon this subject in the inclosed Communication.

I am, &c.

J. W. Croker, Esq.
&c. &c. &c.

(Signed) J. PLANTA, JUN.

No. 30.

D. M. Hamilton, Esq. to Mr. Secretary Canning.—(Received May 16.)

SIR,

Sierra Leone, March 31, 1823.

IN obedience to the Instructions of the 20th of February 1819, I have the honour herewith to inclose, a certified Copy of the Registry of Slaves that have been emancipated by the Courts established at this Place for the prevention of illicit Slave-traffick, for the period between the 5th day of July 1822, and the 5th day of January 1823.*

I have the honour to be, &c.

(Signed) D. M. HAMILTON, Registrar.

The Right Hon. George Canning,
&c. &c. &c.

* The Inclosure gives an account of the Registry of 1254 Slaves.

No. 31.

D. M. Hamilton, Esq. to Mr. Secretary Canning.—(Received September 22.)

(Extract.)

Sierra Leone, July 21, 1823.

I HAVE the honour to inform you that Sir Charles M'Carthy, the Governor of this Colony, has been pleased to appoint me to perform the duties of Commissioner of Arbitration to the Mixed Commissions, established at this Place for preventing the illicit Traffick in Slaves, in the room of the late Mr. Fitzgerald, till such time as His Majesty's pleasure respecting a Successor to that Gentleman shall be known.

I have the honour to be, &c.

The Right Hon. George Canning, (Signed) D. M. HAMILTON.
&c. &c. &c.

No. 32.

G. Rendall, Esq. to Mr. Secretary Canning.

SIR,

Sierra Leone, August 15, 1823.

I HAVE the honour to transmit, herewith, a certified Copy of the Registry of Slaves emancipated by the Courts of Mixed Commission, established in this Colony for the prevention of the illicit Traffick in Slaves, for the period between the 5th of January 1823, and the 5th day of July last *.

I have the honour to be, &c.

(Signed) G. RENDALL, Acting Registrar.

The Right Hon. George Canning,
&c. &c. &c.

* The Inclosure gives an account of the Registry of 230 Slaves.

No. 33.

Mr. Secretary Canning to the British Consul-General at the Cape de Verd Islands.

SIR,

Foreign Office, October 28, 1823.

I SEND to you herewith, for your information, a Copy of the Treaties concluded between this Country and Spain, Portugal and The Netherlands, for repressing illicit Traffick in Slaves.

I send to you, likewise, a Copy of the several Papers which have been laid before Parliament, relating to the execution of those Treaties.

I have to desire that you will transmit to me any information which you may be able to obtain, respecting the carrying on of the Slave-trade, either by any of His Majesty's Subjects, or, contrary to Treaty, by the Subjects of Foreign Powers.

You will furnish to His Majesty's Ships upon the Coast, whatever intelli-

gence you can procure, which may facilitate the execution of their Instructions under the Treaties, and under the several Acts of Parliament (copies of which I also inclose to you), upon the subject of the Slave-trade.

You will forward to His Majesty's Commissioners at Sierra Leone, whatever accounts you may collect respecting the proceedings of Slave-traders.

I am, &c.

J. P. Clarke, Esq.

(Signed) GEORGE CANNING.

No. 34.

J. P. Clarke, Esq. to Mr. Secretary Canning.—(Received April 5.)

(Extract.)

Villa de Praia, St. Jago, January 20, 1824.

I HAVE the honour to acquaint you of my arrival at Bonavista, on the 22d day of December 1823, after a passage of 35 days. I proceeded from thence on the 5th, and arrived here on the 6th instant; and have great pleasure in stating, for the information of His Majesty's Government, that the Authorities have evinced every respect to His Majesty's Commission.

So short a time has elapsed since my arrival, that I have not been able to gain any information, that militates against the existing Treaties, relative to the Slave Trade.

I have the honour, &c.

(Signed) J. P. CLARKE, Consul-General.

The Right Hon. George Canning,
 &c. &c. &c.

No. 35.

G. Rendall, Esq. to Mr. Secretary Canning.—(Received March 23.)

SIR,

Free Town, Sierra Leone, January 24, 1824.

I HAVE the honour to acquaint you, that, from the 5th day of July 1823, to the 5th day of January 1824, no Slaves have been registered in the Office of the Registrar to the Courts of Mixed Commission, established in this Colony for the prevention of illicit Traffick in Slaves.

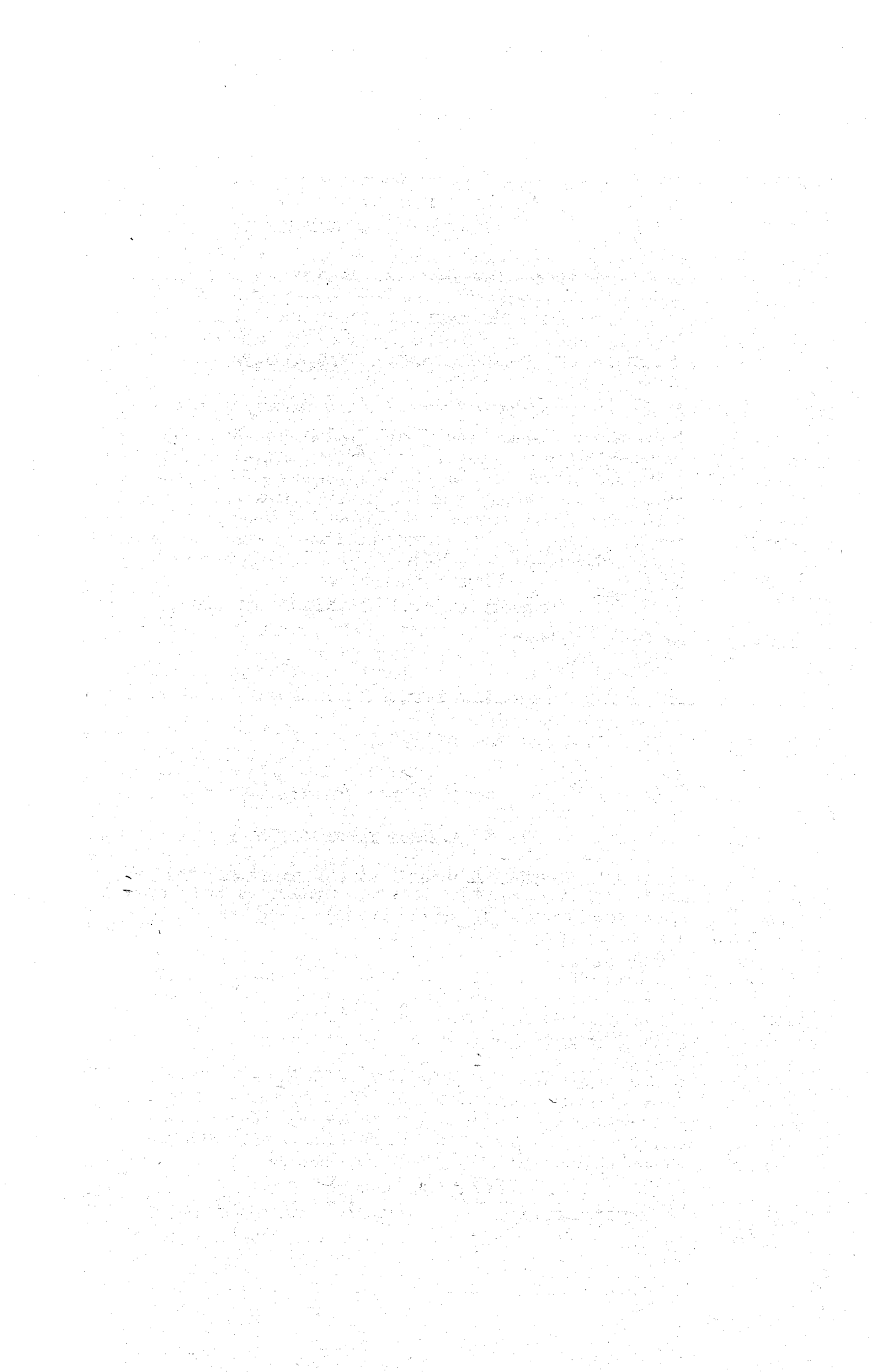
In the Case of the Schooner *Maria La Luz, Don Jacinto Llobet*, Master, condemned in the British and Spanish Court of Mixed Commission, on the 8th day of September 1823, the Slaves having been landed at Cape Coast, no Registry of them could take place here. The number stated to have been so landed, was 183. The survivors of whom were, by the Court, declared to be emancipated.

I deem it my duty to state also, that in the Case of the Spanish Schooner *Fabiana, M. M. de Compos*, Master, still pending in the British and Spanish Court of Mixed Commission, the Slaves, viz: 50 men, 12 women, and 56 children, being in the whole 118, were landed by the Captors on the 21st day of October 1823, and handed over to the Colonial Government.

I have the honour to be, &c.

The Right Hon. George Canning,
 &c. &c. &c.

(Signed) G. RENDALL.



SIERRA LEONE. (*Spain.*)

No. 36.

Messrs. Gregory and Fitzgerald to Mr. Secretary Canning.—(Received June 30.)

SIR,

Sierra Leone, April 22, 1823.

THE Case of the Spanish Schooner *San Rafael*, an Abstract of which accompanies this Despatch, is remarkable for the circumstances of the detention. The Declaration of the Captor, among the many grounds alleged in it, does not impute any embarkation of a Slave or Slaves, for the purposes of the Traffick, during the voyage in which the detention took place; neither did any such act appear in the scanty Evidence which was furnished to the Court.

The Master of the *San Rafael* was on shore at Whydah at the time of the capture, employed, most probably, in purchasing Slaves, as the Vessel was evidently fitted out for that Trade. The Pilot and Boatswain, and the rest of the Crew, were allowed to land at Princes Island, consequently, there was not any Person belonging to the Vessel forthcoming, to be examined by the Commissioners, nor to claim her, nor to receive her, when it was found that no ground of condemnation existed upon the shewing of the Captor himself.

The indulgence of the wish of the Pilot and crew of the *San Rafael* to land at Princes Island, might, probably, have been caused, in a great measure, by a mistaken notion, prevalent among the Captors and Proctors, that the Commissioners are bound to condemn in all Cases in which the detained Vessel is not claimed. This notion has never been countenanced by the Commissioners to the extent, that a detained Vessel not claimed, is to be condemned in the absence of all Evidence to criminate her. The Decisions of the Commissioners have uniformly rested upon the Evidence obtained in every Case, and upon the application of the corresponding Provisions of the Treaties to that Evidence.

The inconvenience of having no Person to receive the Vessel upon her being liberated, fell, in the present instance, so forcibly upon the Captor, that we have reason to hope that the Masters and crews of captured Vessels will, in future, be sent with them for the purposes of justice.

The resource of a condemnation to realise and preserve the value of the Vessel, which was adopted in the Case of the Spanish Schooner *Rosalia*, because there was not any Person capable of taking charge of her on the part of the Owners, was not any longer available in the Case of the *San Rafael*. The Commissioners had not any other means, to dispose of, or to preserve the Vessel. She was, therefore, left in the hands of the Captor.

An application made by the Captor to be exonerated from liability to demurrage, on the ground of being led into the error of the detention, by a voluntary and reprehensible fault on the part of the Master of the detained Vessel, was thought to be premature in the absence of the other Party; but the Vessel, and the Articles of the outward cargo still on board, were appraised by order of the Court, at the Captor's instance.

The Case of the Spanish Schooner *Nuestra Senora de Regla*, taken by His Majesty's Ship *Morgiana*, Captain Strong, is mentioned in the Declara-

tion of the Captor of the San Rafael, as a precedent, according to which he conceived it his duty to detain that Vessel. But the Case of the Regla was different in every material point. There was one Slave on board, who was proved to have been embarked for the purposes of the Traffick, and all the Commissioners present agreed that the one Slave was sufficient. The Master, it is true, was on shore near the place of capture, and the opportunity was presented to him of claiming his Vessel in the same manner as in the present instance; but the two Mates, the Boatswain, and the crew of the Regla were brought to Sierra Leone for examination, so as to enable the Commissioners to do justice impartially in the Case.

We have thought it right to state these matters in detail, in order to furnish the means for any explanations which may become necessary, touching the Case of the San Rafael; for the same reason the Abstract of the Case is made more comprehensive than is usual, and a Copy of the Declaration, with Copies of the written Decisions delivered by us on the Case, accompany this Despatch.

We have the honour to be, &c.

(Signed)

E. GREGORY.

EDWARD FITZGERALD.

The Right Hon. George Canning,
 &c. &c. &c.

First Inclosure in No. 36.

Abstract of the Case of the Spanish Schooner San Rafael, Francisco Chinchurreta, Master, liberated on the 29th of January 1823.

THE Schooner San Rafael, Francisco Chinchurreta, Master and ostensible Owner, was detained by Captain Phillips, of His Majesty's Ship Bann, on the 27th of August 1822, in Latitude 6 d. 19 m. North; Longitude 2 d. 26 m. East.

The San Rafael, after the capture, was despatched for Sierra Leone, where she arrived on the 15th of November, but, from the peculiar circumstances of the Case, the Agent abstained from taking any proceedings until the arrival of the Captor from his cruize to the Southward; consequently the Case was not brought before the Court until the Month of January 1823.

It appeared by the Papers of the Vessel, that the San Rafael sailed from the Havannah, on the 19th of February 1822. She had a Royal Passport for "free commerce for a voyage to the Island of St. Thomas and the other Portuguese Islands, and thence back to the Port of her destination."

This Paper is entirely in the Spanish language; no mention is made in it of any restriction to legitimate commerce for "gold, ivory, palm-oil and cloths," as we have seen in the other Spanish Passports; neither is there any mention made of the Slave-trade in the prohibitory forms that we have been accustomed to find, either inserted in the body of the Document, or indorsed by a memorandum on the outside, denouncing the penalties of the Law and of the Royal Ordinances on any violation which should be committed in this matter.

There is a Note of Indorsement correcting the amount of tonnage, set down in the body of the Passport at two hundred and nineteen tons and a half, to one hundred and nineteen. The Passport is dated the 13th of February 1822.

It appears by a bill of sale executed by Cuesta, Manzanal y Hermano, a Company of Merchants resident at the Havannah, to Francisco Chinchurreta, as well as by the Passport, that Chinchurreta was, at least ostensibly, the sole Owner; but the bill of sale being only dated on the 5th of February 1822, about fourteen days before the sailing, at a time when the outfit for the voyage may fairly be supposed to be in an advanced state, is liable to the suspicion of being a mere colourable transfer.

There are two log-books, one a rough one and the other apparently copied from that. From these we collect that the San Rafael came in sight of the Coast of Africa, on the 8th April, in Latitude 4 d. 46 m. North. On the 12th, she was off Piccaninny Bassa, in Latitude 5 d. 43 m. The entries are continued without any thing remarkable until the 19th of April, from which day they cease in the fair copy. The Latitude on that day is 5 d. 9 m. North.

The rough entries in the other book are continued in a very imperfect and irregular manner, intended, apparently, to denote the mere passing of the day, or, if any thing further, to serve as memoranda to guide the memory of the party making them, in matters purposely disguised. It could be ascertained, however, by these entries, that the San Rafael had gone to the Southward, and had been in some Port, and that the Master was not on board of her at the time. The Captor stated in Court, in consequence of some observations from the Bench upon this Paper;—that he had learned from the crew that they had been at the Island of Annabona, where they took in *tarina* as provisions for the Slaves, of which the homeward cargo was to consist.

Nothing beyond the particulars already enumerated could be collected from the Ship's Papers.

The other evidence consisted of the Declaration of the Captor, and of some Affidavits in confirmation of some of the facts alleged in the Declaration. The Declaration is very long. The following Abstract comprehends all the material points:

After stating the Latitude and Longitude in which the detention took place, and that the San Rafael, at the time of the capture, was sailing under Spanish Colours, and that she was armed with two guns, six-pounders, the Declaration adds, that "the Mate who stated the Master to be on shore at Whydah, declared the Vessel to be bound from the Havannah to St. Thomas, with a crew of twenty-two men"

The Declaration then states, that the cause of the detention of the Vessel is,—“that she was cruising off Whydah, without any Master on board; that she endeavoured to elude His Majesty's Ship by every possible means, resolutely carrying sail, notwithstanding a heavy fire of grape and musketry, until the musket-shot drove the men from their sweeps, which she used in the light airs; that she was fully prepared for the reception of Slaves, her irons on board; that her guns and muskets were all loaded, the former with grape; and in short—every preparation made for action.”

The Declaration then states, that “instead of pursuing the honest intent of her destination, the San Rafael had been cruising off and on the Port of Whydah for four Months, during which time several piratical acts had been committed by a Spanish Schooner, particularly one on an English Vessel commanded by a Captain Foster.”

A former voyage found to have been made by the San Rafael, in the Slave-trade, partly with the same crew, is mentioned in the Declaration as having strengthened the Captor's persuasion, that the present voyage was in the Slave-trade. The Declaration says, moreover, “that the people who have been all engaged in the same trade, are hired on the condition that they shall receive their wages if the cargo arrives safe, and none if it does not; and that if the Vessel be condemned by the Court they will lose their pay; that she is a Vessel not calculated for commercial purposes from her build, and that she has always been a Privateer or Slave-vessel, and that as the Spanish Government have agreed, according to the tenour of the first and second Articles of the Treaty of the 23d of September 1817, wholly to abandon the Slave-trade, the Captor has deemed it his duty, without infringing on the tenth Article of the said Treaty, to bring the Vessel before the Court for being on the high seas, fitted out for the reception of Slaves, and for warlike purposes, and for being within five or six days sail of the Port of her destination for nearly four Months without ever going near it, thereby causing great suspicion of the honesty of her intentions, and making it the Captor's duty, according to his belief, to bring her to the nearest Court of Justice for adjudication.”

The Declaration further adds,—“as a corroboration of her illicit conduct,” that the Captor “sent the San Rafael the Morning after the capture to anchor off Whydah, where she remained for 56 hours without any claim being made personally, or by writing, by the alleged Master.”

It is also stated in the Declaration, that the first Pilot and all his crew requested to be landed at Princes Island; and that the Captor “not requiring his presence as evidence on his behalf before the Court, and at the same time being a great saving by not having to support them, complied with their wishes by allowing them to go on shore.”

This Abstract contains all the material allegations offered on the part of the Captor, in support of his supposed rights to detain the San Rafael.

The Declaration was filed on the 14th January 1823.

In consequence of the absence of the Master at the time of the capture, and of the landing of the first Pilot, and of the rest of the crew at Princes Island, there was not any Claim nor any Person belonging to the San Rafael forthcoming to be examined.

The whole of the Evidence, in addition to the Ship's Papers, and the Declaration of the Captor, consisted of Affidavits in corroboration of the matters contained in the Declaration.

One of these was the Affidavit on lodging the Papers of the San Rafael in the Registry of the Court, by Captain Phillips.

This Affidavit, filed the 14th day of January, states, that the San Rafael was detained,—“by reason that the said Schooner was employed in the Trade in Slaves, contrary to the existing Treaties entered into between His Britannick Majesty and His Catholick Majesty The King of Spain”

An Affidavit of Lieutenant Hudson, proves the opportunity given to the Master of the San Rafael, to claim and defend his Vessel, by anchoring off Whydah, where the Master appeared to be then residing, and remaining there for 56 hours,—as stated in the Declaration.

An Affidavit by Francisco Guandiola states, that the Deponent was a seaman on board of the Spanish Schooner Josefa, lately condemned in the British and Spanish Court, and further, that the Deponent went on board of the San Rafael, when that Vessel was in course of outfit at the Havannah for her present voyage, in order to obtain payment of a debt due to the Deponent from one of the seamen of the San Rafael, named Augustin: that the said Augustin told the Deponent that the said Schooner was about to proceed to the Coast of Africa, and that it was intended to bring from thence 200 Slaves in her, she having brought but 150 last voyage,—and further, that the said Schooner was in every respect perfectly fitted for a Slave-trading voyage, and that he saw her sail from the Havannah in that state.

The Marshal of the Court, upon a survey made by the order of the Commissioners upon the Petition of the Captor, declared, that the San Rafael “was furnished with leg and deck Slave-irons, Slave-coppers, a ground tier of leaguers, fore and aft poopoo tubs, mess-kids, and iron hatchway gratings, such as are usually furnished to Vessels fitted-out for the Slave-trade,—that she was sup-

“plied with a great quantity of farina, rice, and medicines, also with pistols, muskets, powder, ball, cartridge and cutlasses.”

The Commissioners, when they came to pronounce their Judgment upon the evidence, the material facts of which have been thus minutely recapitulated, found that, although there were unquestionable proofs of Slave-trading intent and outfit, there was not any proof of the embarkation of a Slave for the purposes of the traffick, in any part of the voyage in which the detention took place—consequently they could not condemn the Vessel.

The Captor subsequently applied to the Court, by Petition, for the benefit of that provision of the eighth Article of the Regulations for the Mixed Commission, which declares the Master of the detained Vessel not entitled to demurrage in the event that the Captor should appear to have been led into the error of the detention, by “a voluntary and reprehensible fault” on the part of the Master of the detained Vessel.

The Court did not think it proper to pronounce upon this matter at present,—it was ordered that the Petition should remain on the file of the Court.

On a further Petition from the Captor, a Commission was issued for the appraisement of the San Rafael, and the goods, wares, and merchandize on board of her; the Vessel remained in the hands of the Captor, as the party responsible to the Owner; no person belonging to her having been brought to the Colony to whom she could be restored: and the Court having no means of well disposing of her without a Decree of condemnation.

(Signed) E. GREGORY.
EDWARD FITZGERALD.

Second Inclosure in No. 36.

Declaration of Captain Phillips.

I, CHARLES PHILLIPS, Esquire, Commander of His Britannick Majesty's Ship *Bann*, hereby declare, that, on the 27th day of August 1822, being in or about Latitude, 6 deg. 19 min. North; Longitude, 2 deg. 26 min. East; I detained the *San Rafael*, sailing under Spanish Colours, armed with two guns (six-pounders), commanded by Francisco Chinchurreta. The Mate, who states the said Captain to be on shore at Whydah, has declared her to be bound from the Havannah to St Thomas, with a crew consisting of 22 men; and I do further declare, that the cause of her detention is, that she was cruising off Whydah without any Master on board; that she endeavoured to elude His Majesty's Ship by every possible means, resolutely carrying sail, notwithstanding a heavy fire of grape and musketry, until the musket shot drove the men from their sweeps, which they had used in the light winds; that she was fully prepared for the reception of Slaves, her irons, &c on board; that her guns and muskets were all loaded, the former with grape; and in short every preparation was made for action; that her destination was for the Island of St. Thomas from the Havannah, which she had left seven Months ago, and instead of pursuing the honest intent of her destination, she had been cruising off and on the Port of Whydah for four Months, during which time several piratical acts had been committed by a Spanish Schooner, particularly in one instance on an English Vessel commanded by a Captain Foster; that the Schooner had been employed in the Slave-trade; that the Boatswain and part of her crew were in her during her last voyage; and that she is manned by people who have been all engaged in the aforesaid trade; that they are hired on the conditions,—that they shall receive their wages if the cargo arrives safe, and none if it does not; and that if the Vessel be condemned by your Honourable Court they will thus lose their pay; that she is a Vessel not calculated for Commercial purposes from her build, as she has always been either a Privateer, or Slave-vessel, and that as the Spanish Government have agreed, according to the tenor of the first and second Articles of the Treaty of the 23d September 1817, wholly to abandon the Slave-trade, I have deemed it my duty, without infringing on the tenth Article of the said Treaty, to bring this Vessel before your Honourable Court, for being on the high seas, fitted for the reception of Slaves, and for warlike purposes, and for being within five or six days sail of the Port of her destination for nearly five Months, without even going near it, thereby causing great suspicion as to the honesty of her intention, and making it my duty, according to my belief to bring her to the nearest Court of Justice for adjudication. As a corroboration of her illicit conduct I sent her into Whydah Roads to anchor, the Morning after her detention, where she remained 56 hours; that the alleged Master, or Captain, who appears to be the sole Owner, neither, by writing or in person, made any claim for the Vessel, or stated any reason why she remained there so long, although the Officer on board had communication with the shore by a canoe, and that I consequently was led to believe that no such person exists, or if he does, that he considers himself acting contrary to the Laws of his Country, which he cannot support, and that in the latter belief, I am borne out by the statement of the Master of the Spanish Schooner *Antonio* (a case nearly similar to this, but which I allowed to pass, considering the decision of the Court in the *San Rafael's* Case would be a guide for my future proceedings, without incurring any greater risk by her detention), who was boarded by us since off Whydah, who saw the said alleged Master and sole Owner, and who told him that if the *San Rafael* was taken, it was the fault of the crew, meaning that they had not used every endeavour to escape.

When all these points are taken into consideration, I trust you will consider me borne out in her detention, particularly as her case may be a means likely to stop the Spaniards trafficking in

Slaves on this Coast, as in this kind of Vessel they cruize off the Port, where they mean to obtain their Slaves from, never remaining at anchor a single night, avoiding every thing like a Man-of-War, keeping their Captain, Supercargo, or Agent, on shore to collect their cargo, and which, when ready, the Schooner goes in to embark; that unless, by one of the greatest chances in the world, a Man-of-War goes in at the precise moment, which is scarcely possible, from their smallness in number on this Coast, there is no chance of catching them, or even then, if the Vessel-of-War does not sail well; consequently they must escape, and the trade will thus go on unchecked; but, if the San Rafael is condemned under the first and second Articles of the aforesaid Treaty, as it is clear she came for no other purpose than to embark Slaves, prepared as she was in every way for their reception, so conscious of it was her Captain and Owner, that he has not even attempted to defend her; that I trust your Honourable Court, appointed *purposely for the suppression of the Slave Trade, and anxious, I am sure,* to bring delinquents to punishment, will consider this as a Case meriting the strictest scrutiny, and as an example of the utmost consequence to Slave-dealers. I have kept the Schooner with me, until I had an opportunity of sending her, in company with another Vessel, to Sierra Leone, or until my arrival at that Port, as it was near the conclusion of my cruize, fearing some accident might happen on her passage, similar to what did occur to the Prize of the Iphigeia.

Enclosed you will receive all the Papers I have been able to collect on board her, in number six, among others will be found a rough and fair log, noting every occurrence that happened on board the Schooner until her arrival at Whydah, and from that period it seems every remark ceases, more than that they anchored on the 21st of April last, which can only be discovered by the Latitude and Longitude; from thence forward, no remark has been made respecting her proceedings. What was I to suppose from such an event, but that she was acting in a way contrary to the common ends of justice, which clearly demanded my bringing her before your Tribunal for adjudication.

On the Bann's arrival off Princes Island, a second time, the first Pilot, together with all his crew, requested to be landed, and not requiring their presence as evidence on my behalf before the Court, and at the same time being a great saving, by not having to support them, I complied with their wishes by allowing them to go on shore.

It now, alone, remains for me to cite a Case relevant to my own, which is that of the Schooner Nuestra Senora de Regla, Santiago Mazano, Master, captured by His Majesty's Ship Morgiana, on the 10th August 1819; a Case which occurred before the Law was altered, constituting one Slave a sufficiency for condemnation; having, like the San Rafael, no Log-book,—being, like the San Rafael, fitted for Slaves,—but at a time when it was not criminal for a Subject of Spain to Traffick in Slaves.—At present Spain not only condemns the trade by her Publick Manifestoes, but in her internal Regulations; makes it one of the gravest crimes that a Subject can commit; and thus in every way is the conduct of the San Rafael more criminal than that of the Regla, with the exception of her having one Slave on board, when most likely the succeeding Night of the capture of the San Rafael, she would have had 200, as she was perfectly ready to receive them, and immediately off the Port where her Agent was residing for that purpose.

The Regla's capture was off the Kroo Country, a Nation in amity with ourselves, and where no Slaves are shipped. The San Rafael is voluntarily abandoned by her Officers and crew; the Regla I believe was defended,—the one betrays conscious guilt,—the other apparent innocence; but I have dwelt long enough on the subject, to shew the Honourable Court, I trust, circumstantially, that the San Rafael is guilty of Trafficking in Slaves, and that she falls under the first and second Articles of the Treaty, and with this belief, I throw the Case into the hands of a Tribunal, whose decision I must abide by, and in whom I have the highest confidence. I have further to state that, on the capture of the San Antonio de Lisboa, I found by her Log-book, that the St. Antonio, Spanish Schooner, formerly alluded to in my Letter, went into Porto Nova, on the 29th ult., to purchase Slaves there, but not finding any there, proceeded further down the Coast, for that purpose, which is a clear proof of the intention of the Spanish Schooners on that Coast.

His Britannick Majesty's Ship Bann.

(Signed) CHARLES PHILLIPS.

Witnesses, { (Signed) JOHN HUDSON, Senior Lieutenant.
ALEXANDER STEWART, (2) Surgeon.

Third Inclosure in No. 36.

Mr. Gregory's Opinion on the Case of the Spanish Schooner, San Rafael, Chinchurreta, Master, given on the 27th of January, 1823.

NONE of the crew of this Vessel having been brought to Sierra Leone for examination, her history to the time of her detention, can only be gathered from the few Papers belonging to her that have been lodged in the Registry. These Papers consist of a Bill of Sale, a Passport, Muster-roll, Mediterranean Pass, and of Two Log-books. From these Papers it would appear, that the Schooner belonged to Francisco Chinchurreta, of the Havannah; that Chinchurreta sailed in the Schooner as Master; that he obtained from the Authority of the Havannah a Passport, dated the 13th of February 1822, authorizing him to proceed to St. Thomas, and other Portuguese Islands, for purposes of a Free Trade; that the crew consisted of 23 men, and that

she sailed from the Havannah on the 20th of February 1822. By the Log-books, it appears that the San Rafael made the Coast of Africa, near Petit Bassa, in about Lat. 5 d. 43 m. North, on the 12th of April; that from thence she went down to the Bight of Benin. The entries in one of the Log-books are discontinued altogether on the 20th of April; the general entries in the other Book are discontinued on the 21st of April, but from that day to the 15th of August, short entries of the course of the Vessel, with a Note of the Observations taken each day, are made. It would appear as if the Vessel had touched on the 21st of April, at one of the Stations in the Bight of Benin, and that, subsequently, she had left that Station, and had gone as far as St. Thomas, and the Equator, and had returned to her former Station in the Bight, about the 15th of August.

On the 27th of August, in Lat. 6 d. 17 m. North, and Long. 2 d. 20 m. East, the San Rafael was detained by His Majesty's Ship Bann, Captain Phillips.

In Captain Phillip's Declaration, it is not stated that the Vessel had any Slaves on board at the time of her detention, nor at any time previous. The reasons given by Captain Phillips for her detention are many; those that bear upon the question of the legality or illegality of the detention, are—that the Vessel was fitted for the reception of Slaves, and that she had long been hovering off the Port of Whydah under suspicious circumstances.

The point, then, on which I am to decide, is, whether an intent to take on board a cargo of Slaves, will subject a Vessel to forfeiture under the Treaty of the 23d of September 1817.

Although His Catholic Majesty has engaged, by the 1st Article of the Treaty, that the Slave-trade shall now be abolished throughout His Dominions, yet the provision of the Treaty under which Slave-vessels may alone be detained, remains unaltered. That Provision which is contained in the 10th Article of the Treaty, expresses, that "the full commission of a Slave-trading act, by the embarkation of a Slave for the Traffick, shall only warrant the detention of a Slave Ship." I say that this Provision remains unaltered, for it remains so in principle, although an enlarged construction has been put upon it by superior Authority, to the effect—that the fact of a Slave having been on board for the Traffick, and re-landed, shall warrant the detention of a Vessel, and her condemnation. This construction still turns on the principle, that the full commission of the crime of Slave-trading, by the embarkation of a Slave, is only to warrant the detention and confiscation of a Slave-vessel.

This principle has been the guide of the Commissioners, when Cases have appeared that required a reference to it; and it has been the guide of the Cruizers upon this Coast, with a very few exceptions, from the time of their being first furnished with Instructions under the Treaty, to the present period. These exceptions, which arose from the zealous desire of Officers to check the nefarious Traffick in Human Beings at an important stage of the Traffick (when the Slaves were collected in depôt on shore) were not supported by the decisions of the Commissioners.

The Case which first gave rise to the expression of the opinion of the Commissioners upon the construction of the 10th Article of the Treaty, was that of the Rosalia. In that Case actual Slave-trade was proved; it was proved that Slaves had been actually purchased, and collected in depôt at the Factory of a chief Slave-dealer, in order to their being embarked on board of the Rosalia at a safe opportunity; but it was not proved, or attempted to be proved, that any Slave had been put on board at any time by the Master of the Rosalia, or the Native Slave Dealers. The Captor caused the Slaves to be embarked, and then declared that he had seized the Vessel. The Commissioners were of opinion, that this embarkation by the Captor was not an embarkation within the meaning of the 10th Article of the Treaty.

By their opinion on the Case of the Rosalia, the Commissioners regulated their decision upon the principal point in the Case of the Dichosa Estrella, which was, that it was alleged by her Captor, that four Slaves had been embarked on board of that Vessel for the Traffick. The Commissioners deemed that this ground could not be sustained, as the embarkation of these Slaves turned out to be the act of the Captor, and not of the captured.

The decision given by the Commissioners in the Case of the Rosalia, has received the approbation of superior Authority, so far as that decision was confined to the construction put by the Commissioners on the 10th Article of the Treaty.

If, in a Case where the intent to trade in Slaves was carried into effect by the actual purchase and collection of Slaves, the Commissioners did not deem themselves warranted to decree the confiscation of the Vessel, on board of which the Slaves were soon to have been embarked, I do not see how they could be justified in decreeing the condemnation of a Vessel in a Case where the mere intent to Traffick in Slaves be only proved.

With respect to the present Case of the San Rafael, the Slave-trading outfit of the Vessel is only proved; much suspicion may be raised by this outfit, and the circumstances of the Vessel being so long upon the Coast, but no actual Slave-trade is proved. The Captor has deprived himself of some advantage, by permitting the total absence of the Spanish crew. The crews of Slave-vessels, in spite of themselves, often furnish matter that serves to throw light upon the transactions in which they may have been engaged. By their absence in this Case, the opportunity, at least, of investigation is lost.

If I were permitted to decide the point which this Case involves, by the measure of expediency, I should certainly say, that it would be proper, in order to prevent the commission of Slave-trading acts, that the intent to trade in Slaves should cause the forfeiture of a Slave-vessel; but, besides that I am bound to bear in mind the spirit of the stipulations of the Treaty, I must not overlook the general understanding that has prevailed amongst all—that no Slave-vessel can be detained, unless a Slave shall have been on board for the purposes of the traffick. Many proofs of this understanding might be given:—it is needless for me to cite them now, as

the experience of those who hear me will testify, that scarcely a Vessel is detained with Slaves on board, and brought hither for adjudication, but what has been boarded whilst the Traffick was pursued on shore, or about to be pursued. Captain Phillips himself, frankly states, in his Declaration, that he met with a Spanish Schooner, the San Antonio, whose Case was nearly similar to the present Case, but which he, Captain Phillips, allowed to pass, considering that the decision of the Court in the Case of the San Rafael, would be a guide for his future proceedings, without incurring any greater risk by her detention, thereby shewing that the step that he had taken in regard to the San Rafael was one of novelty.

Adverting to the Case of the Nuestra Senora de Regla, cited by Captain Phillips, as being a Case wherein the decision of the Commissioners exceeded the letter of the Treaty, to forward the ends for which the Treaty was framed, I think that there is a wide difference betwixt that Case and the present Case, and that there would be an essential difference betwixt a decision given in this Case with a view to further the humane objects of the Treaty, and the decision that was given in the Case of the Nuestra Senora de Regla.

The facts proved in the Case of the Nuestra Senora de Regla, were these:—the Vessel was fitted out for the Slave-trade; she went to Petit Bassa, where the Traffick in Slaves was strictly forbidden to Spanish Subjects to engage in that Trade; she commenced the Trade; one Slave was put on board of the Vessel at Petit Bassa, for the purposes of the Traffick; the Vessel was blown out to sea, where she was met with by one of the British Cruizers, with this Slave on board. In the Case of the San Rafael, the only fact proved is her Slave-trading outfit; no Slave-trading on shore at Whydah is shewn to have taken place, and no Slave for the Traffick was on board at the time of the detention.

In the Case of the Nuestra Senora de Regla, a Slave for the Traffick having been found on board, the decision of the Commissioners, condemning the Vessel, was evidently in the spirit of the Treaty, for the crime of Slave-trading was fully committed, by the embarkation of this one Slave; but in the Case of the San Rafael, no Slave having been embarked, a decision of Condemnation would be opposed, both to the letter and to the spirit of the Treaty, which, throughout, directs that the guilt, if I may so express myself, of the Vessel, shall be determined by the proof of the embarkation of a Slave for the traffick.

Considering that the intent to trade in Slaves cannot warrant the detention and condemnation of a Slave Vessel, I am of opinion, that the San Rafael was not legally detained, and that she is not liable to condemnation under the Treaty.

(Signed)

E. GREGORY.

Fourth Inclosure in No. 36.

Opinion of Mr. Fitzgerald, His Britannick Majesty's Commissioner of Arbitration, in passing Judgment on the Case of the Spanish Vessel, San Rafael.

THE Spanish Schooner, San Rafael, Francisco Chinchurreta, Master and ostensible Owner, sailed from the Havannah, on the 19th day of February 1822. She had a Royal Passport for free commerce (*para libre comercio*), for a voyage to the Island of St. Thomas, and the other Portuguese Islands, and thence back to the Port of her departure. This Paper is entirely in the Spanish language; no mention is made in it of any limitation to legitimate commerce for gold, ivory, palm-oil and country cloths, as we have seen in other Spanish Passports, issued subsequently to the total abolition of the Slave-trade, in any of those prohibitory forms in which we have been accustomed to see it, either included in the body of the Document, or indorsed by a memorandum on the outside, denouncing "the penalties of the law, and of the Royal Ordinances on any violation that should be committed in this matter."

There is a Note of Indorsement, correcting the amount of tonnage set down in the body of the Passport at two hundred and nineteen tons and a half to one hundred and nineteen. The Passport is dated the 13th of February 1822.

It appears by a bill of sale from Cuesta, Manzanal y Hermano, that a company of Merchants resident at the Havannah, under that firm, had, for a price stated, sold the San Rafael to Chinchurreta, so that he was, at least ostensibly, the Owner;—I say ostensibly, because the bill of sale is dated on the 5th of February 1822, so short a time before the sailing of the Vessel on the 19th, that the transfer must naturally be suspected to have been merely colourable.

There are two log-books, one a rough one, and the other apparently copied from it. From these we collect that, on the 8th of April, the San Rafael came in sight of the Coast, in Latitude 4 d. 46 m. North. On the 12th, she was in Latitude 5 d. 43 m. East, off Piccaninny Bassa. The entries are continued without any thing remarkable until the 19th of April, from which day they cease in the fair copy. The Latitude on that day is 5 d. 9 m. North.

The rough entries in the other book are continued in a very imperfect manner, intended merely to note the passing of the day, or, if any thing more, the notes are designed for purposes of deception. It may very naturally be inferred that the object of this deception was to carry on a Traffick for Slaves; but no further information respecting that or any other object can be gleaned from the Ship's Papers.—From the Papers of the Ship I proceed to notice those of the Captor.

The Declaration written immediately after the capture, states, that the Captor, Captain Phillips,

of His Majesty's Ship Bann, " on the 27th day of August 1822, being in or about Latitude 6 d. 19 m. North, Longitude 2 d. 26 m. West, detained the San Rafael, sailing under Spanish Colours, armed with two guns, six-pounders, commanded by Francisco Chinchurreta." The Declaration adds here, that " the Mate, who stated the Captain to be on shore at Whydah, has declared her to be bound from the Havannah to St. Thomas with a crew consisting of 22 men."

The Captor then declares, that the cause of the detention is, " that she was cruising off Whydah without any Master on board; that she endeavoured to elude His Majesty's Ship, by every possible means, resolutely carrying sail, notwithstanding a heavy fire of grape and musketry, until the musket-shot drove the men from the sweeps, which she had used in the light winds; that she was fully prepared for the reception of Slaves; her irons on board; that her guns and muskets were all loaded, the former with grape; and in short—every preparation made for action." Mention is then made of certain piratical acts said to have been committed by a Spanish Schooner, which might be suspected to be the San Rafael; that " instead of pursuing the honest intent of her destination, the San Rafael remained cruising off Whydah for four Months." Former voyages discovered to have been made, partly with the same crew, in the Slave-trade, strengthened the persuasion of Captain Phillips that this voyage was to be in the same trade. The Declaration states further: " that the people who have been all engaged in the same trade, are hired on the condition that they shall receive their wages if the cargo arrives safe, and none if it does not; and that if the Vessel be condemned by this Court they will lose their pay; that she is a Vessel not calculated for commercial purposes from her build, as she has always been a Privateer or Slave-vessel, and that as the Spanish Government have agreed, according to the tenor of the first and second Articles of the Treaty of the 23d of September 1817, wholly to abandon the Slave-trade, he (the Captor), has deemed it is duty, without infringing on the tenth Article of the said Treaty, to bring the Vessel before this Court for being on the high seas, fitted for the reception of Slaves, and for warlike purposes, and being within five or six days sail of the Port of her destination for nearly five Months, without even going near it, thereby causing great suspicion of the honesty of her intentions, and making it the Captor's duty, according to his belief, to bring her to the nearest Court of Justice for adjudication."

Captain Phillips adds further,—" as a corroboration of her illicit conduct, that he sent the San Rafael the Morning after the capture to anchor off Whydah, where she remained 56 hours, without any claim being made personally, or by writing, by the alleged Master."

The Declaration further says, that all the seamen belonging to the San Rafael were allowed to land at Princes Island. The Declaration has the following statement respecting this matter:

" On the Bann's arrival off Princes Island, a second time, the first Pilot, with all his crew, requested to be landed, and not requiring their presence as evidence on my behalf before the Court, and at the same time being a great saving by not having to support them, I complied with their wishes, by allowing them to go on shore."

This Abstract contains all the material allegations of the Declaration in support of the supposed right to detain the San Rafael.

There is not any claim, the Master having been away from the Vessel at the time of capture, and all others belonging to her having been allowed to depart subsequently, there is not any person who would claim.

The evidence by which the allegations of the Captor are substantiated, consist entirely of Affidavits.

The Affidavit of Captain Phillips, on lodging the Ship's Papers in the Registry of the Court, declared, that " on the 27th day of August 1822, being in Latitude 6 d. 19 m. North, and Longitude 2 d. 28 m. East, he detained the Schooner called the San Rafael, whereof Francisco Chinchurreta, was Master, by reason that the said Schooner was employed in the Trade in Slaves contrary to the existing Treaties entered into between His Britannick Majesty and His Catholick Majesty The King of Spain."

The Affidavit of Lieutenant Hudson proves the opportunity given to the Master of the San Rafael to claim and defend his Vessel, by anchoring off Whydah, where the Master was understood to be.

The Affidavit of Francisco Guandiola proves the outfit and destination of the San Rafael to have been for the Slave-trade. This Affidavit is founded on information given to the Deponent on board of the San Rafael, at the Havannah, in December 1821, and by his personal observation at the same time. Francisco Guandiola was then a seaman on board of the Josefa, lately condemned in this Court, which Vessel was fitted out for the Slave-trade at the same time and place.

The Marshal of the Court, upon an inspection ordered by the Court at the instance of the Captor, reports that " the San Rafael has now on board of her most of the Articles of outfit peculiar to the Slave-trade, such as Slave-irons, gratings for the hatchways, fore and aft poopoo-tubs, &c." The proof of outfit for the Slave-trade is therefore clear.

Coming now to the application of the Law, as established by the Treaty with His Catholick Majesty, to the facts as far as they are established by the evidence which I have recapitulated, it is proper to observe, at the outset, that the only legal ground for the detention of Vessels under these Treaties, is that declared in a general way in the Affidavit of Captain Phillips on filing the Papers of the San Rafael, that is, for being employed in the Trade for Slaves; and it is further required that such employment should be proved by the most decisive acts.

The provision of the Treaty, which is more particularly applicable in the present Case, is the tenth Article, as the Captor appears to have been well aware, when he says in his Declaration, " I have deemed it my duty, without infringing on the tenth Article of the said Treaty, to bring the Vessel before your Honourable Court."

The words of the tenth Article are these :

“ No British or Spanish Cruizer shall detain any Slave-ship not having Slaves actually on board ; and in order to render lawful the detention of any Ship, whether British or Spanish, the Slaves found on board of the Vessel, must have been brought there for the express purpose of the traffick,—and those on board of Spanish Ships must have been taken from that part of the Coast of Africa, where the Slave-trade is prohibited conformably to the tenour of the present Treaty.”

The Slave-trade is now altogether prohibited to the Subjects of Spain, and therefore the distinction contained in the last Clause of the tenth Article is done away.

The meaning of the first Clause of the tenth Article is rendered more clear in this respect, that it is agreed between the High Contracting Parties that, “ if there shall be proof that a Slave or Slaves had been, for the purpose of illicit traffick, put on board a Vessel in the course of the voyage on which she was captured, such Vessel might be justifiably detained by the Cruizers, and finally condemned by the Commissioners.”

If the Commissioners could be disposed, as I trust they never could be, to go beyond the fair extent and the fair limitation of the authority for the condemnation of Vessels charged with illegal Slave-trade, as established in the provisions that I have read, a recent Instruction from the Superior Authority, to which they look for the due guidance of their decision, and for the correction of any errors into which they may casually fall, would recall them to their true course,—inasmuch as it reminds them, that the extension of the provisions of the tenth Article of the Treaty with Spain, which has just been cited, while it enables them to act up to that extension, strictly limits the propriety of condemnation to the Cases which may come under that extended provision.

The question now is, whether the Case of the San Rafael comes under the original provision of the tenth Article, declaring what shall be legal cause for the detention of Spanish Vessels liable to be charged with violating the Treaty ; or does it come under the extension of that provision in the sense just stated.

It is obvious that it does not come under either, for it is not alleged, neither does it in any way appear, that any Slave or Slaves were on board of the San Rafael at the time of the capture, nor that any had been on board, for the purpose of illegal trade, at any time during the voyage on which she was detained.

It is obvious, therefore, that the San Rafael cannot be condemned.

I should not think it necessary to say any thing further, if the Captor had not adverted to the Case of the Nuestra Senora de Regla, taken by His Majesty's Ship Morgiana, and condemned in this Court in its earliest sittings, in the Year 1819, as a Case relevant to this of the San Rafael.

Whatever relevancy there may be in any other point, there is at least a clear distinction in the main point, that the Nuestra Senora de Regla had on board at the time of capture one Negro, who was considered by all the Commissioners that sat in the Case, to be a Slave embarked for the purposes of the traffick.

It is true, as Captain Phillips says in his Declaration, that the Slave-trade was at that time prohibited to Spanish Subjects; only to the Northward of the Line,—but it is also true that the detention of the Regla took place within the range of the prohibition.

It is true, that the Case of the Regla occurred, as Captain Phillips expresses it in the Declaration,—before the Law was altered, constituting one Slave a sufficiency for condemnation. But what Captain Phillips calls an alteration of the Law, was in fact, little more than the confirmation of the construction of the original provision on this head, adopted upon mature consideration and ample discussion in the Case of the Regla.

Having been one of those who were concerned in forming that decision, and having taken part in all the arguments and deliberations connected with it, the Spanish Court being then composed, as the Portuguese and Netherlands Courts are now, of the three remaining Members of the Commission, in consequence of the inability of the Spanish Commissary Judge to act through severe sickness. While I have to regret that I did not make any note of the reasonings that were employed—I can well recollect all that was material in the sentiments of the other Commissioners, as well as in my own.

The Commissioners who sat on the Case were Mr. Gregory the elder, then His Majesty's Commissary Judge ; Don Joze Camps, the Spanish Commissioner of Arbitration ; and myself, the British Commissioner of Arbitration. It was not for a moment matter of doubt with any one of the Commissioners named, that one Slave was sufficient to warrant condemnation. The only way in which a doubt was intimated, was on the part of the Spanish Arbitrator : in this manner ; that there being only one Negro on board, and the fact of his being a Slave being strenuously denied by the people of the Regla, the proof of an embarkation of Slaves for the purposes of the traffick was so much the more doubtful than if there had been a considerable number, or even if there had been two or three more, or even one more. Mr. Camps being finally satisfied that the one Negro found on board of the Regla was there as a Slave for the purposes of the traffick, no further question was made of the sufficiency of that one to warrant a Decree of condemnation, and the Nuestra Senora de Regla was condemned accordingly, with a particular reservation.

That reservation was a right to the Master, not merely to appeal to the Havannah, but also to come into this Court and prove his title to the proceeds of the sales consequent upon the condemnation, at any time within twelve Months, and to receive those proceeds if he could bring proofs sufficient to refute those upon which the condemnation was founded.

This reservation was made on the ground that the opportunity offered to the Master, of coming to Sierra Leone to assert his claim and to defend his Vessel, might not have been understood by

him, or might not have been thought eligible, and that he might, within a reasonable time, avail himself of some other opportunity.

The opportunity that had been offered to him, was nearly the same as that offered in the present Case, by approaching the shore, and shewing a disposition to communicate, and making efforts to give effect to that disposition. But, in that instance, Lieutenant Head held up in his hand, in a boat close to the shore, a letter which he made signs to the Master to come and take, and he did not desist until the Master, and a party that was with him, shewed a determination to fire on the boat if she should approach farther.

The two Mates of the Regla, however, and the remainder of the crew, were brought to Sierra Leone. These were not only competent to furnish the evidence required by the Treaty; but the Mates were fully qualified to defend the Cause of the Vessel, and they did in fact make a very able and a very persevering resistance to the efforts of the Captors for the condemnation; the Case was decided by the Negro himself, and by the facts and circumstances which he stated, proving him to have been treated on board of the Regla, as a Slave destined for the Traffick.

Thus the Case of the Regla differs from that of the San Rafael, not only in the first and most material point of having had a Slave on board for the purposes of the Traffick; but also in the further material point, that, although in the Case of the Regla, the Captain was absent, as well as in the Case of the San Rafael, yet the other Officers and all the seamen were present in that Case; whereas in this, there is not a single Person to claim the Vessel, nor to defend her cause, nor to receive her in the event of her liberation, nor to give evidence to the Commissioners upon the matters connected with the detention, according to the provisions of the Treaty to that effect.

On these last points I have been led to expect some allusion, on the part of the Captors, to the course followed by this Court in the Case of the Rosalia, taken by Lieutenant Hagan, commanding His Majesty's Brig Thistle, on the 9th of January 1822, in the Rio Pongos. The Slaves brought on board of that Vessel, appeared to the Commissioners to have been embarked at the instance of the Captor, in a manner that would not be considered to correspond with the kind of embarkation of Slaves for the traffick, which is to be regarded and required as proper cause for condemnation according to the Treaty.

In that Case also, as well as in the Case of the Regla, although the Master was absent, there were men belonging to the Vessel, who by no means abandoned the legal defence; but did in fact defend the Vessel by their evidence, perseveringly, and effectually: for, upon their evidence, confirmed by the testimony of the Negroes, and by other testimony, including that of the Captors themselves, the Case was declared to be a case for restitution, if any body could be found to whom the restitution could be made.

As no Person of that description could be found, it appeared to me that the best course to be adopted, was to make the Case in some measure a reserved Case, the final settlement of which would be most properly arranged by Superior Authority, and for this purpose to cause the Vessel to be sold, and the proceeds to be realized and retained, to be applied as the judgment of the Superior Authority concerned shall ultimately direct.

The objects could be affected by the Commissioners in no other way than by a Decree of condemnation, for without such a Decree, the Vessel could not be sold, but must remain to rot in the Harbour of Sierra Leone. A Decree of condemnation was, therefore, adopted, with special explanations of the grounds upon which it rested, and of the objects for which it was intended to provide.

The whole of the Case, with the opinions stating the propriety of a Decree of restitution, if a Claimant had appeared, or any Person competent to take charge of the Vessel; and the ultimate adoption of a Decree of condemnation with the special grounds of that Decree, which was itself special, was reported to His Majesty's Government, and the result has been, a full concurrence in the opinions in favour of a restitution, if any Person competent to receive the Vessel had been present; but an equal disapprobation of the Decree of condemnation finally passed, giving at the same time full credit to the motives by which that Decree was suggested.

The Commissioners, consequently, are not now at liberty to pass a similar Decree, even if a similar Case should be brought before them, but the present Case is by no means similar in the point in which alone similarity could be supposed to exist; for in the Case of the Rosalia, as I have already observed, the seamen were not allowed to depart from the Vessel, before she was brought to adjudication, but were forthcoming in due course to be examined in the Cause.

But even, if the Commissioners could still hold themselves at liberty to pronounce a Decree of condemnation, and if they could hold themselves warranted in other respects, in a case of detention so manifestly illegal, to condemn the Vessel, on the ground that there is not any Person present to claim, or to receive her; still the Commissioners would be bound to look at the cause and the circumstances attending the absence of all such Persons, and to guard against the establishment of a practice, of the admission of a precedent, which by allowing every person found on board of the detained Vessel at the time of her detention, to depart from her before her arrival at the Place of adjudication, would necessarily make every Case of detention a Case of no claim, and of no proper evidence to support or to annul the detention. Such a practice would go altogether to supersede the functions of this Court, and to do away the provisions of the Treaty, for the confirmation of detentions legally made, and for the reparation of the wrongs committed in those that are illegal. It would be the introduction of a system so opposite to a fair and legal course of proceedings, and to impartial and effectual investigation and trial according to the Treaties, that the Commissioners are bound in duty to pronounce their opinions in the strongest manner against it, before it has yet become matter of habitual usage.

If the first Pilot and the Crew of the San Rafael had been brought to Sierra Leone, they would in all probability be held competent to claim the Vessel, and to take charge of her upon her restitution. The inconvenience of their absence will, in this respect, be most severely felt by the Captors themselves; but there is another view in which the consequences may be still more injurious to them. Those very Persons, however, urgent in their wishes to depart at the earliest opportunity, will, probably, avail themselves of that very opportunity to accuse the Captors of having sent them away, on purpose that their evidence might not be forthcoming to prove the illegality of the capture, and thus, what was asked and granted as a favour, will be employed to fasten a foul imputation on the character of those who granted it. In framing the decision in the present Case, the Commissioners cannot condemn the Vessel, for the reasons already mentioned; and as there is no Person to whom restitution can be made, they cannot in effect restore. Their desire is to frame their decision consistently with justice according to the Treaty, and at the same time with as little loss or inconvenience to any of the Parties, as circumstances will admit. The San Rafael is therefore left in the hands of the Captor, to be employed by him in the way that may seem to him best suited, to enable him to meet the responsibilities incurred by the detention.

29th January 1823.

(Signed) EDWARD FITZGERALD.

No. 37.

Mr. Secretary Canning to Messrs. Gregory and Fitzgerald.

GENTLEMEN,

Foreign Office, June 2, 1823.

I HAVE received your Despatch (marked Spain,) of the 15th of August, 1822, inclosing a Statement of the Case of the Schooner *Joseph*, and requesting Instructions for your conduct in certain other Cases therein mentioned.

With respect to the particular Case of the *Joseph*, there does not appear to be any reason to object to the applications of the principles of Law on the Evidence referred to, as stated in the Papers inclosed in your Despatch. Since the connection of that Ship with Matanzas, and the employment of it in the Spanish Trade prohibited by Treaty, fully warrant the construction put upon the Character of that Ship in the final Sentence.

As to any further Instructions, with a view to meet Cases which may possibly arise, I have to observe to you in the first instance, that, as His Majesty's Commissioners, you are to act to the best of your judgment, according to the Treaties and Acts of Parliament under the Oath which you have taken; and that it would be vain to attempt to foresee and provide for every variety of Case that may by possibility occur.

I think it only necessary further to caution you, NOT to consider those Clauses in the Treaty, which contain general Declarations of illegal participation in Slave transactions, as grounds of Condemnation of Ships or Cargoes ostensibly belonging to OTHER Powers, not Parties to such Treaty.

I add, for your information, the Copy of a Letter which has been addressed to the Admiralty by my direction, respecting the means resorted to for the capture of the *Joseph*.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners, Sierra Leone.

Inclosure in No. 37.

Joseph Planta, Jun. Esq. to J. W. Croker, Esq.

SIR,

Foreign Office, June 2, 1823.

I TRANSMIT to you the Extract from a Despatch which has lately been received from His Majesty's Commissioners at Sierra Leone, dated 15th August last, enclosing a Statement of the

Proceedings in the Mixed Commission Court, at that Colony, in respect to the Spanish Schooner *Joseph*:—and I am directed by Mr. Secretary Canning to request you will lay these Papers before the Lords Commissioners of the Admiralty, and call their Lordships particular attention to the circumstance, that Lieutenant Clarkson, of the *Iphigenia*, effected the capture of the *Joseph* while on board the United States Schooner *Augusta*; in order that their Lordships may judge how far it may be advisable to discourage the use of such means (unauthorised by any of the Treaties) on future occasions.

I am, &c.

J. W. Croker, Esq.
&c. &c. &c.

(Signed) J. PLANTA, Jun.

No. 38.

Messrs. Gregory and Hamilton to Mr. Secretary Canning.—
(Received September 17.)

SIR,

Sierra Leone, August 14, 1823.

WE have had the honor to receive your Despatch, (marked Spain,) of the 16th of May 1823, inclosing ten copies of certain Articles explanatory of, and additional to the Treaty of the 23d of September 1817, concluded at Madrid, for preventing illegal Slave Trade; which Explanatory and Additional Articles were signed at Madrid, on the 10th of December 1822, between the Plenipotentiaries of His Majesty and The King of Spain duly authorised to that effect.

We shall, agreeably to your Instructions, consider these Articles as binding upon us, for the guidance of our conduct, in giving effect to His Majesty's intentions in regard to the stipulations therein recorded.

We have the honour to be, &c.

(Signed) E. GREGORY.

D. M. HAMILTON.

The Right Hon. George Canning,
&c. &c. &c.

No. 39.

Messrs. Gregory and Hamilton to Mr. Secretary Canning.—(Received
January 15, 1824.)

SIR,

Sierra Leone, September 10, 1823.

WE have the honour to acknowledge the receipt of your Despatch, (marked Spain) of the 2d of June last, with the Copy of a Letter inclosed therein, addressed by Mr. Planta to the Secretary to the Admiralty, relative to the Spanish Schooner *Joseph*, adjudicated in the British and Spanish Court of Mixed Commission at this Colony, in the course of the last Year.

We are happy to understand from you, Sir, that the Mixed Court was fully warranted in the construction put upon the character of that Ship in the final Sentence.

With respect to Cases similar to that of the *Joseph*, as well as in other Cases, we shall act to the best of our judgment according to the Treaties and Acts of Parliament, under the oath which we have taken, bearing in mind your caution, that we shall not consider those Clauses in the Treaty, which contain general Declarations of illegal participation in Slave transactions, as grounds of Condemnation of Ships or Cargoes, ostensibly belonging to other Powers, not Parties to such Treaties.

We have the honour to be, &c.

(Signed)

E. GREGORY.

D. M. HAMILTON.

The Right Hon. George Canning,
&c. &c. &c.

No. 40.

Messrs. Gregory and Hamilton to Mr. Secretary Canning.—(Received February 2, 1824.)

SIR,

Sierra Leone, September 10, 1823.

WE have the honour to lay before you a Report of the Case of the Spanish Schooner *Maria La Luz*, captured by the boats of His Majesty's Ship *Owen Glendower*, in New Calabar River, in 4 deg. 24 min. North Latitude, and 7 deg. 11 min. East Longitude, on the 3d of July 1823.

The *Maria La Luz* at the time of her capture, was about to depart from New Calabar River, with a cargo of Slaves for Saint Jago de Cuba. On the approach of the capturing boats, she was abandoned by her crew, who, at the same time relanded the greater part of the Slaves.

The Vessel was taken possession of by the British, and the Slaves that had been relanded were given up to them by the Chief of New Calabar, and put on board of the Schooner; but, unfortunately, when leaving the River, the Schooner was run on shore, through the ignorance of a Native Pilot, and was totally lost. The Slaves were conveyed on board of the *Owen Glendower*, and were subsequently landed at Cape Coast, by Sir Robert Mends, on the ground of their ill health.

You will observe, Sir, by the inclosed Report of her Case, that some of the crew of the *Maria La Luz* stated, that the French Flag had been used on board of her, doubtless for the purpose of eluding the search to which, as a Spanish Vessel, she was liable from British Cruizers, under the Slave-trade prevention Treaty; under the circumstances of the Case, as proved in evidence, we did not hesitate so to judge of this use of the Flag of France, and to treat the Case as it merited according to the Treaty.

The *Maria La Luz* was sentenced to have been liable to condemnation at the time of her capture, and her Slaves were decreed to be emancipated.

By our direction, a Letter was addressed by the Acting Registrar to the Colonial Secretary, requesting that he would communicate to His Excellency the Governor, the fact that the Negroes of the *Maria La Luz* had been landed at Cape Coast by Sir Robert Mends. Should these Negroes not be sent hereafter to Sierra Leone, we propose to take such measures as may ensure to them the receipt of the certificates of their emancipation, which may be of use to them in the present unsettled state of affairs in the Country about Cape Coast.

A Schooner was captured in Old Calabar River, by Commodore *Sir Robert Mends*, on the 10th of June last; she is named the *Conchita*, and is from Saint Jago de Cuba; her character is not determined; she had a Danish Flag; her Log-book, which was kept in the Spanish language, states her to be a Danish Vessel. Sir Robert Mends, the Captor, declares her to be a Spanish Vessel.

The Papers alleged to belong to this Vessel were brought into the Registry of the Mixed Court on the 29th of August, and the Proctor for the Captors wished to institute immediate proceedings against her; but neither the Vessel, nor any person who could properly depose to particular facts relating to her detention, and to her Papers, had been sent to Sierra Leone by Sir Robert Mends, and no proper reason was assigned why she had not been sent to this Place for adjudication, as we conceive she ought to have been sent upon her capture without delay.

We, accordingly, did not think it right that proceedings should be instituted as against the Vessel, until her arrival at Sierra Leone, or until her absence was properly accounted for.

We have the honour to be, &c.

(Signed)

E. GREGORY.

D. M. HAMILTON.

The Right Hon. George Canning,
 &c. &c. &c.

Inclosure in No. 40.

Report of the Case of the Spanish Schooner Maria La Luz, Jacinto Llobet, Master, condemned on the 8th of September 1823.

THE Declaration of the Captor in this Case, Commodore *Sir Robert Mends*, was brought into the Registry on the 29th of August 1823, with a Paper, the only one that was stated to have been found on board the *Maria La Luz* at the time of her capture. This Declaration, dated on board of His Majesty's Ship *Owen Glendower*, off New Calabar River, the 6th of July 1823, stated, that *Sir Robert Mends* sent the boats of His Majesty's Ship *Owen Glendower*, under the command of Lieutenant *Pringle Stokes*, up the River of New Calabar, situated in 4 d. 24 m. North Latitude, and 7 d. 11 m. East Longitude; that on entering the River, Lieutenant *Stokes*, on the 3d of July, found and took possession of a Schooner abandoned by her crew, and having on board seven Slaves, one of whom was in irons; that this Vessel had dropped down to the entrance of the River, and was on the point of sailing with 221 Slaves on board, when, perceiving the approach of the boats, she put back and landed all the Slaves except seven; that on the following day, 184 Negroes were sent on board by the Chief of New Calabar River, as composing the cargo of this Vessel, which he declared to be Spanish, and that these Slaves had been purchased by her Captain from him and his people, and landed from the Vessel on the approach of the English boats; that seven of the Spanish seamen, composing part of the Schooner's crew, delivered themselves up to the Captor; that, on taking possession of the Schooner, a white Flag and an American Pendant were found, but no Papers, except a small Note written in the Spanish language, and signed *Llobet*; that she was armed with one long nine-pounder; that she appeared to be about 190 tons, and was provided with a sufficient quantity of provisions, water, and every other necessary for a voyage to the Island of Cuba, with 221 Slaves; that this Vessel was recognised by Lieutenant *Stokes*, and the Officers and men under his orders, to be the same which, on the 4th of June 1823, in the same place, fired on the boats of the *Owen Glendower* when they were proceeding to examine her with English Colours displayed.

This Declaration further stated, that the said Schooner in coming out of the New Calabar River was, through the ignorance and carelessness of a Native Pilot who had the charge of her, run on shore, and, notwithstanding every exertion was made to get her off, was totally wrecked on the 5th of July 1823; that the Slaves were all taken into the boats, and taken on board of the *Owen Glendower*.

The Slaves were subsequently landed from the *Owen Glendower*, at Cape Coast, as appeared from a Declaration of *Sir Robert Mends*, dated on board of the *Owen Glendower*, off Cape Coast, the 6th of August 1823. This Declaration stated that the Slaves having become unhealthy, and the *Owen Glendower* being unavoidably detained off Cape Coast, for the defence of the Forts against the Ashantee army, her return to Sierra Leone being uncertain, it was indispensably necessary, under these circumstances, to land the Slaves at Cape Coast, to be taken care of in the Castle by the Government of the Place, as their longer detention on board would be attended with greater loss amongst them, with the danger of spreading the contagion through the Ship. It was not stated what was the nature of the contagious disorder which prevailed amongst the Slaves, but by an Affidavit of an Officer of the *Owen Glendower*, made in the course of the proceedings in the Case, it appeared that only 183 Slaves were landed at Cape Coast from the *Owen Glendower*, as belonging to the *Maria La Luz*, and that the number of deaths that occurred amongst them, betwixt the period of their capture and landing at Cape Coast, was therefore eight. On the 29th of August, the Proctor for the Captor prayed that a monition might be issued, citing the Master, or others interested in the Vessel, to appear before the Mixed Court. A monition was accordingly issued on the next day.

Two of the seven seamen who had delivered themselves up to *Sir Robert Mends* after the capture of the Schooner, and who had been sent by *Sir Robert Mends* to Sierra Leone in an English trading Vessel, with some of the Officers of the *Owen Glendower*, were examined upon the standing Interrogatories.

These seamen deposed, that "the voyage of the *Maria La Luz* commenced at Saint Jago de Cuba, and was to have ended there; that the Master, who was named according to the one, *Jacinto*, according to the other, *Jacinto Llobet*, was a Native of Barcelona; that there were about twenty Officers and mariners on board, exclusive of the Master; that there were ten

Spaniards, four Italians, and others of different Nations; that they were hired at Saint Jago de Cuba by the Master; that they all went on board at the same place; that the Schooner sailed under French Colours; that they did not see any other colours on board; that they proceeded from Saint Jago de Cuba to New Calabar River, and there traded in Slaves; one of the seamen said, that 221 Slaves, and the other that 231 Slaves, were embarked on board of the Schooner."

In the Depositions of these seamen no mention was made of the re-landing of the Slaves of the *Maria La Luz*, which Sir Robert Mends, in his Declaration respecting the capture of the Vessel, had stated as having taken place on the approach of the English boats. The Commissioners required of the Proctor for the Captor to prove that the Slaves were re-landed from the *Maria La Luz*, as stated by Sir Robert Mends, and to prove that the Slaves that were delivered to Sir Robert Mends by the Chief of New Calabar, were the same that had been purchased by the Master of the Schooner, embarked on board of that Vessel, and re-landed from her by her crew.

This proof was given on the 4th of September, by the Proctor for the Captor, by the Affidavits of six of the seamen of the *Maria La Luz*: they deposed as follows, viz.: "that they embarked upwards of five Months ago, (that is, from the 5th of September), at the Port of Saint Jago, in the Island of Cuba, as seamen on board of a Spanish Schooner, called the *Maria La Luz*, proceeding on a voyage to the Coast of Africa for Slaves, and commanded by Don Jacinto Lobet, a Native of Barcelona, in Spain; that the Captain was the person who engaged them for the voyage, and he paid each of them the sum of 25 Spanish dollars as one Month's advance; that the crew consisted of 21 in number, all Spaniards, except four, who were Italians; that they fitted out at Saint Jago de Cuba, with a cargo of goods suitable for the African trade, and sailed from that Place, on or about the 13th day of March last, and without touching at any Port arrived at New Calabar, in the Bight of Biafra, about the middle of last May; and Deponent, Andrew Gomez, states, that the Owner of the *Maria La Luz* is a Merchant, residing at Saint Jago de Cuba, of the name of Jean Jacques; and Deponent, Joze Azucere, saith, that the said Jean Jacques sold the said Schooner to the Captain, Don Jacinto Lobet; and Deponent, Simon Anguere, saith, that, previous to his embarkation, Spanish Colours were always used on board of her; but all the Deponents declare, that they sailed from Saint Jago de Cuba without hoisting any Colours, but on their approaching towards the Coast of Africa, the Captain ordered a white Flag to be hoisted.

That immediately upon their arrival at New Calabar, they commenced trading for Slaves, and had collected 25, when, on the 4th of June 1823, they observed a great many English boats advancing towards them, displaying English Colours, upon which they immediately got under weigh in the Schooner, and went further up the River, where they landed their Slaves by the Captain's orders, and, in concert with the war canoes, opened a fire on the boats—that two or three days after the departure of the boats from the River, they re-embarked the Slaves, and continued purchasing others; and when they had bought to the number of 221 Negroes, they dropped down to the entrance of the River, and were on the point of sailing for Cuba, when they received intelligence of the approach of the boats a second time. That they immediately returned with the Schooner to New Calabar where they landed some of their Slaves, and abandoned the Vessel. That on the 3d day of July 1823, these Deponents were taken by the English boats and conducted on board His Majesty's Frigate, the *Owen Glendower*. The six seamen, who deposed as above, further swore, that, "at the time when the boats of the *Owen Glendower* were approaching the said Schooner, Don Jacinto Lobet ordered the whole of the Slaves then on board, amounting to the number of 221, to be landed; and Deponents say, that the Slaves so landed were the identical Slaves that were afterwards delivered up by King Agu, Chief of the River New Calabar, as composing the cargo of Negroes purchased from him by the said Don Jacinto Lobet.—That the said Captain, Don Jacinto Lobet, absconded at the time when the crew and Slaves abandoned the Vessel, and has never since been heard of, or seen by any of these Deponents, nor are they able to form any conjecture as to where or whence he is gone." An Affidavit made by an Officer of the *Owen Glendower*, shewed that 183 Slaves belonging to the *Maria La Luz*, were landed at Cape Coast from the *Owen Glendower*.

Upon this evidence, the case was decided on the 8th of September. The Commissioners were of opinion that the *Maria La Luz*, being owned by a Spanish Subject; navigated by a Spanish crew; fitted out at a Spanish Port; and designed to return to that Port with a cargo of Slaves; must be taken, in the absence of all proof to the contrary, to be a Spanish Vessel, and as such liable to the operation of the Treaty of the 23d of September 1817. The Commissioners were of opinion that, as a Spanish Vessel, she had violated that Treaty, by having had on board Slaves intended for the Traffick, and were, therefore, of opinion that she was liable to condemnation at the time of her capture, and that the Slaves belonging to her should be emancipated.

(Signed)

E. GREGORY.

D. M. HAMILTON.

Sierra Leone, September 10, 1823.

No. 41.

Messrs. Gregory and Hamilton to Mr. Secretary Canning. — (Received February 2, 1824.

SIR,

Sierra Leone, November 20, 1823.]

IN our Despatch of the 10th of September, we had the honour to address you, informing you of the adjudication of a Spanish Vessel, named the *Maria La Luz*, and of some circumstances relating to a Vessel named the *Conchita*, that had been taken by *Sir Robert Mends*, commanding His Majesty's Ship *Owen Glendower*.

We have now the honour to acquaint you with certain proceedings, that have recently passed in the British and Spanish Court of Mixed Commission, relative to a Spanish Schooner named the *Fabiana*.

The *Fabiana* was brought to Sierra Leone on the Evening of the 16th of October. On the next day her arrival was reported to us by the Principal Clerk of the Mixed Commissions, and by the Medical Officer attached to the same. In the Report of the Medical Officer it was stated that the *Fabiana* had on board 170 Negroes, of both sexes, the whole of which number, with the exception of three men and three women, were in a healthy condition. The Report of the Clerk stated, that two Negroes had died on the passage from Bonny River, the place of capture, to Sierra Leone.

On the 18th of October a Petition was presented by the Proctor for the alleged Captor, *Sir Robert Mends*, praying that all the Negroes might be landed, on the ground of the great sickness that then prevailed, and of the great mortality that had existed amongst them.

The matter of this Petition being considered to be quite at variance with the statement contained in the Report of the Medical Officer, it was withdrawn by the Proctor for the Captor, and another Petition, referring to the matter of that Report, as a ground for the landing of the sick Negroes only, was substituted in its stead. It had been represented to the Proctor for the Captor, that a landing of the Negroes, who were in a healthy state, would not be expedient, until the Papers of the Vessel had been brought into the Registry, and until the Commissioners were satisfied that she had a Spanish character. The sick Slaves were landed in the Evening of the 18th of October.

On the 20th, the Papers alleged to belong to the *Fabiana* were brought into the Registry, and presented to the Commissioners with an Affidavit of a *Mr. Batt*, acting Second Master on board of His Majesty's Ship *Owen Glendower*, who brought the *Fabiana* to Sierra Leone.

The Affidavit made by *Mr. Batt* was to the effect, that the Papers delivered in by him were the same as were given by the Mate of the Schooner to *Lieutenant Gray*, the Officer in charge of the boats capturing the Schooner, and afterwards given to *Mr. Batt*.

The Papers stated to belong to the *Fabiana* seemed to shew that she was a Spanish Vessel, which had sailed from the Havannah on the 5th of May 1823. There were some Clearance Papers from the Authorities of that Place, allowing her to sail from thence for the Island of *St. Thomas* for purposes of a traffick of a licit nature.

To her Passport a Note was subjoined, expressing, that "the *Fabiana* was to return from *St. Thomas* with articles of a legal commerce, and on no account was she to return with Slaves, as the Traffick in Slaves was prohibited by several Royal Orders, and by the Penal Code." The name of her Master was *Manoel de Maria*.

On the 21st, a Petition was presented by the Proctor for the Captor, praying that all the Negroes on board of the *Fabiana* might be landed. This Petition was granted, and the Negroes were landed on the same day. On the 21st also, a Paper purporting to be a Declaration of Mr. Joseph Batt, was presented to the Commissioners. This Declaration was as follows, viz.

“ I, Joseph Batt, acting Second Master of His Majesty’s Ship *Owen Glendower*, do hereby declare, that on the 14th day of September 1823, being in about 4 d. 28 m. North Latitude, and 7 d. 21 m. East Longitude, the Vessel or Schooner called the *Fabiana*, sailing under Spanish Colours, armed with one long six-pounder gun, commanded by Manoel de Maria, was seized by the boats of His Majesty’s Ship *Owen Glendower*; that the Captain of the said Schooner *Fabiana*, declared her to be bound from Bonny River to the Havannah, with a crew consisting of 21 persons, including the Captain and Mate, the greater part of whom were Spaniards; that on the boats boarding her, she had every appearance of having just landed her Slaves; coppers large enough to cook for 200 persons were fitted up, with every other article and apparatus usual in those Vessels, and necessary for the maintenance of Slaves; that the Captain, Mate and Crew, excepting two sailors, went on shore to Bonny.

“ That on the 16th day of September, after the said Vessel had been so taken, King Peppel, one of the Chiefs of Bonny, delivered up 120 Slaves, stating that they were the Slaves that were landed from the said Schooner on the Evening of the 8th of September 1823, and that they were only a part of her cargo, the rest having been lost in the hurry of landing them.”

The general practice in the Courts of Mixed Commission had been, that the Commander of a capturing Vessel should send into the Registry a Declaration, stating the circumstances of, and the reasons for, the detention of a Vessel suspected to be engaged in the illegal Traffick in Slaves. No such Declaration was sent into the Registry in the present case. The Declaration before the Commissioners was merely that of a very subordinate Officer of the *Owen Glendower*, which Ship was alleged to have detained the *Fabiana*.

Besides this departure from the general practice of the Courts of Mixed Commission, the Declaration of Mr. Batt was in itself defective, as it did not state that the detention of the *Fabiana* was made under the authority of Sir Robert Mendis, the Commander of the *Owen Glendower*, to which Ship Mr. Batt was attached. In the Affidavit of Mr. Batt, made upon bringing the Papers of the *Fabiana* into the Registry, it was stated that the *Fabiana* was taken by the *Owen Glendower*, commanded by Sir Robert Mendis. It is always expected, that the Affidavit made in regard to the Papers of a detained Vessel, and the Declaration detailing the circumstances of the detention, should agree with regard to the person by whom the detention was made, Further, no reason was given for the absence of a Declaration on the part of Sir Robert Mendis; nor were the circumstances attending the detention clearly explained. Taking all these matters into consideration, we, on the 24th, intimated to the Proctor for the Captor, that we would hold a Court to receive proof, touching these matters, and touching the absence of the Master and inferior Officers of the *Fabiana*, and to consider of the other matters of the Case, as soon as the Captor should be ready to offer such proofs.

On the 4th of November, an Affidavit of Mr. Batt was presented to the Commissioners by the Proctor for the Captor, with Depositions of two of the seamen of the *Fabiana*, and with a Petition praying that a Monition might be issued, citing all Parties in the Case to appear before the Court.

Mr. Batt in his Affidavit, after re-stating most of the matters contained in his Declaration, deposed, that “ the Captain and Mate of the said Schooner *Fabiana*, together with all the crew, except two, by their own consent

“ and request, were allowed to go on shore to Bonny on the day the seizure
 “ was made, that the Instructions of Commodore Sir Robert Mends to him,
 “ Mr. Batt, and to the Officer in charge of the boats employed on the expedi-
 “ tion, at the time of their quitting His Majesty’s Ship Owen Glendower,
 “ were to the effect, that in the event of any captures being made, any Vessel
 “ so captured, was to be immediately despatched to Sierra Leone under
 “ the charge of the Deponent, without waiting to report the same to the
 “ Commodore.”

The two seamen of the *Fabiana*, amongst other matters, with which we will not now, Sir, trouble you, deposed that the Captain and crew, excepting themselves, went on shore at the River Bonny at the time of the capture of their Vessel.

Upon a consideration of the facts disclosed in Mr. Batt’s Affidavit, that the *Fabiana* was sent hither for adjudication at the discretion of a subordinate Officer of the *Owen Glendower*, that her detention was not expressly sanctioned by the Commander of the *Owen Glendower*; we were of opinion, that such a sending in, for adjudication, was irregular, inasmuch as it appeared to be opposed to the letter and to the spirit of the Treaty with Spain. We conceived that that Treaty solely vested in the Commander of a Ship of the Royal Navy, properly authorized to make seizures of Vessels suspected to be engaged in the Traffick in Slaves, the discretion to send in for adjudication, Vessels detained by him, or under his authority by boats of his Ship.

The limitations to the right of search are such, under the Treaty, that it appears to be the very foundation of that right, that it should be exercised with the greatest precaution by the Commanders of Ships of War, to whom the Instructions under the Treaty are issued;—that, consequently, the more important right of sending in a Vessel for adjudication should only be exercised by those Commanders, in order that the Powers concerned in the Treaty, may be fully assured that such right will not be exercised, but upon a mature consideration of the reasons for her detention, and upon a proper reference to the Commander’s Instructions.

We, therefore, did not think ourselves authorized to proceed further with the Case, unless the Proctor for the Captor should give us good reasons why we should adopt a contrary course, and this we signified to the Proctor on the 4th of November, intimating to him at the same time, that we would hold a Court for the purpose of hearing him, should he think fit to address us. He has not hitherto expressed any desire to do so.

The *Fabiana* remains under the care of the Prize Master.

We entreat, Sir, your attention to the point of irregularity in this Case, which it has been our duty to bring under your view, in order that the inconvenience, which may follow the continuance of such irregularity, may be prevented by such measures as you, Sir, in your wisdom may think fit to adopt.

It may not be unlikely that the irregularity which prevents, for the present, our proceeding with the Case of the *Fabiana*, may be removed hereafter by Sir Robert Mends, the alleged Captor. Should it be removed, we think that it may be proper to proceed with the Case.

It is said that Sir Robert Mends is at present at Cape Coast, and that he may be expected here about Christmas.

We have the honour to be, &c.

(Signed) E. GREGORY.

D. M. HAMILTON.

The Right Hon. George Canning,
 &c. &c. &c.

No. 42.

Messrs. Gregory and Hamilton to Mr. Secretary Canning.—(Received April 26.)

SIR,

Sierra Leone, January 20, 1824.

WE have had the honour to address to you, on the 20th of November last, a Despatch, acquainting you with certain proceedings that had then recently passed in the British and Spanish Court of Mixed Commission, respecting a Spanish Schooner, named the *Fabiana*.

Towards the conclusion of that Despatch, we stated, that we did not think ourselves authorised to proceed further, at that time, with the Case of the *Fabiana*, unless the Proctor for the alleged Captor should give good reasons why we should pursue a contrary course; that we had signified the same to the Proctor, intimating to him, besides, that we would hold a Court for the purpose of hearing him, should he think fit to address us; that, up to the date of our Despatch, the Proctor had not expressed any desire to do so.

We further stated, that it might not be unlikely that the irregularity which prevented our proceeding with the Case, might be removed by Sir Robert Mends, the alleged Captor, on his arrival hither from Cape Coast; and that, should the irregularity be removed, we thought that it might be proper to proceed with the Case.

His Majesty's Ship *Owen Glendower*, arrived at Sierra Leone on the 14th December 1823, but without Sir Robert Mends, who had, unhappily, died at Cape Coast on the 4th of September.

Until the 20th of December, nothing further was done in the Case of the *Fabiana*, except that a Petition was presented towards the end of November, by the Proctor for the alleged Captor, praying that some of the Stores of that Vessel might be landed, in order to their better security; but the Petition was subsequently withdrawn, as it was conceived that the Stores would, without causing expence, be as safe, at that Season of the Year, on board of the Vessel as on shore.

On the 20th of December, a Declaration was tendered of Lieutenant Gray, dated on that day, on board of His Majesty's Ship *Owen Glendower*, then lying in this Harbour. Lieutenant Gray was the Officer who commanded the boats of the *Owen Glendower*, that made the capture of the *Fabiana*, as stated in our Despatch abovementioned.

In his Declaration, Lieutenant Gray stated, that he was deputed by Commodore Sir Robert Mends, Captain of the *Owen Glendower*, with part of the crew, and two boats of that Vessel, to seize and detain any Vessels which he, Lieutenant Gray, might find in the River Bonny, under the Spanish, Portuguese, or Netherlands Flag, trading in Slaves. Lieutenant Gray then stated the circumstances of the capture of the *Fabiana*, in the River Bonny, and proceeded to declare, that, having orders from Sir Robert Mends to send such Vessels as he, Lieutenant Gray, might capture, direct to this Port, for adjudication, and finding her supplied with a sufficient stock of provisions, and other necessaries, for that purpose, he sent her to this Port forthwith. Lieutenant Gray further declared, that Sir Robert Mends died before he returned to the *Owen Glendower*.

With the Declaration of Lieutenant Gray, was presented a Petition of Mr. Macauley, as Agent for the Captain of His Majesty's Ship *Owen Glendower*, her Officers and crew. This Petition prayed that the Commissioners would direct the usual Monition to issue in the Case.

Upon the 24th of December, we heard Mr. Macauley in open Court in support of his Petition.

Mr. Macauley stated, that it had not been intended that the Case of the *Fabiana* should have been brought before the Court, immediately after the arrival of the Vessel at Sierra Leone; that the intention of Sir Robert Mends had been, that the Vessels captured by Lieutenant Gray, should be sent to Sierra Leone to await his arrival, in order to his, Sir Robert Mends, bringing their Cases before the Court; that, if Sir Robert Mends' intention had been followed, and Sir Robert Mends had lived to arrive at Sierra Leone, his Declaration of the capture would have been filed, and the Case would have been adjudicated in the usual manner.

The proceedings against the Vessel had not been commenced by Mr. Macauley.

Mr. Macauley stated, that he was prevented by the circumstance of Sir Robert Mends' death, from filing his Declaration, but he conceived that if Captain Stokes, who succeeded Sir Robert Mends in the *Owen Glendower*, were here, that it would be competent for him to file a Declaration in the Case. That Captain Stokes' Declaration could not at present be filed, by reason that Captain Stokes had proceeded to England from Cape Coast. Mr. Macauley stated, that, for these reasons, he had filed the Declaration of Lieutenant Gray, who had made the capture of the *Fabiana*.

Mr. Macauley particularly urged the unavoidable absence of Captain Stokes, as a reason why the want of a Declaration of the Senior Officer of the *Owen Glendower*, at the time of the capture of the *Fabiana*, should not prevent the issue of a Monition. Mr. Macauley seemed to place Captain Stokes in the situation of the Captor of the *Fabiana*. Mr. Macauley read part of a Letter which Captain Stokes had addressed to him from Cape Coast, stating, that he would share in the benefit to be derived from the Condemnation of the *Fabiana*, as Captain of the *Owen Glendower*, the capture of the *Fabiana* having taken place on the 14th of September, ten days after the death of Sir Robert Mends.

Mr. Macauley, with reference to the opinions that had been expressed by us,—that a Declaration placed the Captor of a Vessel to be adjudicated before the Court, and fixed upon him the responsibility attending the adjudication, asked us whether we would admit Captain Stokes' Letter, or such part of it as related to the *Fabiana*, as an acknowledgment on the part of Captain Stokes, that he would take upon himself the responsibility attending the adjudication of the *Fabiana*, or, in effect, whether we would admit that Letter, or such parts of it as were applicable to the Case in question, instead of the usual Declaration.

Taking the matters urged by Mr. Macauley into consideration, we gave our opinions upon them in open Court on the 15th instant.

The principal reason for our not proceeding with the Case, when it was first brought before us, was, as you are informed, Sir, by our former Despatch, the irregularity of the act of Lieutenant Gray, in capturing and sending the *Fabiana* hither for adjudication, at his sole discretion, contrary, as it appeared, to the letter and to the spirit of the Treaty with Spain. The want of a Declaration on the part of Sir Robert Mends, who was set forth in the Papers as the Captor of the *Fabiana*, was another irregularity which required that we should not proceed immediately with the Case.

In deciding upon the matters urged by Mr. Macauley, in support of his Petition for a Monition in the Case, as already mentioned, we expressed our opinions, that it appeared from the Papers before us, that Lieutenant Gray had captured the *Fabiana*, and had sent her hither, not that she should await the arrival of Sir Robert Mends, in order to his bringing her before the Court, as stated by Mr. Macauley, but, in order that she should be promptly brought to adjudication; that this act was irregular, as it was done by a

subordinate Officer of the Owen Glendower, unauthorised by the Treaty to send in Vessels for adjudication.

That it had been conceived, that, if this irregularity could have been removed by Sir Robert Mends, the Case might have been prosecuted in the usual manner, but it was now doubted, upon an extended consideration of the Case, whether the irregularity could have been removed by Sir Robert Mends, as the capture, and the sending for adjudication, had been the sole act of an unauthorised Person.

At all events, Sir Robert Mends was no more, and the original irregularity, as before, existed to stop our proceedings.

The impediments in the way of our proceeding in the Case, were greatly increased by the knowledge of the fact, that the capture of the *Fabiana* had been made ten days after the death of Sir Robert Mends, in whose name the prosecution had been commenced, and by the fact of a Pretender to the benefits to be derived from the Condemnation of the Vessel, or, which was the same, that another Captor had sprung up in the Case.

We conceived, Sir, that Cases for adjudication ought to come before the Commissioners unembarrassed by such questions as the Case of the *Fabiana* now involved. We conceived that it ought not to be for the Commissioners to determine who shall be the Prosecutor in a Case, but that the Prosecutor shall be determined before the Case be brought into the Court for prosecution.

With regard to Captain Stokes' Claims, to be considered as the Captor of the *Fabiana*, we expressed an opinion that we could not admit that his Letter to Mr. Macauley brought him formally before the Court. That it was not to be overlooked that the Case was burthened with an irregularity which did not arise from any act of Captain Stokes, and that Captain Stokes was not aware of this irregularity, as he had proceeded to England from Cape Coast without having any knowledge of the view which the Commissioners had taken of the Case. We stated that we were unwilling, however, to close the proceedings in the Case against Captain Stokes, as there was not any particular reason which called for a speedy decision. That if Captain Stokes should choose, hereafter, to appear formally before the Court, the Commissioners would consider how they should act with respect to him, but we wished it to be clearly understood that we did not pledge ourselves to admit him as the Captor in the Case.

Expressing the above opinions we did not direct the issuing a Monition.

We were inclined to think that as the capture and sending in for adjudication appeared to be the acts of an unauthorised or incompetent Person, that the Case did not come under the operation of the Treaty, and that, as it stood, it could not be adjudicated by the Mixed Court.

Mr. Macauley then asked whether the *Fabiana* might not be sold by order of the Court; the proceeds of her sale to be lodged in the Registry of the Court. We did not see any objection to the sale of the Vessel, and, upon the motion of Mr. Macauley, she was ordered to be sold accordingly.

In our former Despatch we took leave, Sir, to draw your attention to this Case. We (now that all the circumstances of the Case have been presented to you), respectfully request that it may again be taken into your consideration, and hope that we may be honoured with your Instructions upon the particular points which the Case involves.

Of forty-six Cases that have, to the present period, been adjudicated in the several Courts of Mixed Commission, there are, we believe, only two Cases of adjudication which bear any analogy to the present Case of the *Fabiana*. One of those Cases was that of the Portuguese Brigantine *Conde de Villa Flor*. That Vessel was taken by the boats of His Majesty's Ship *Iphigenia*, commanded by Sir Robert Mends, and no Declaration was given in to the

Registry by that Commander. But in that Case, Sir Robert Mends, who was at Sierra Leone when the Conde de Villa Flor was brought hither, informed himself of the circumstances of the capture, and the proceedings were commenced and almost brought to a close under the view of Sir Robert Mends, so that the want of a Declaration in that Case, can only be considered as a mere informality.

The other Case, was that of the Spanish Schooner Joseph. The Case of the *Joseph* certainly approaches very near to the Case of the *Fabiana*, but in that Case, which involved many points for consideration, the question of the capture by a Lieutenant of the *Iphigenia*, and the want of a Declaration of the Commander of that Ship, did not come so naked before the Commissioners, as does the point which is involved in the Case of the *Fabiana*.

The *Joseph* was captured at the Gallinas, by a detachment from the *Iphigenia*, whilst the *Iphigenia* was lying in this Harbour. The *Joseph* arrived at Sierra Leone before the *Iphigenia* quitted the Harbour. The *Joseph* was not immediately brought into this Court, but was, in the first instance, prosecuted in the Court of Vice Admiralty. Sir Robert Mends, who commanded the *Iphigenia*, was absent from Sierra Leone when the Case of the *Joseph* was brought into the Mixed Court; but as the *Joseph* was brought into this Harbour, whilst Sir Robert Mends was still within it, the question of the capture, by the Lieutenant of the *Iphigenia*, did not attract particular attention.

The principal object of attention, was the fact that the detachment from the *Iphigenia*, was on board of the United States Schooner *Augusta*, when the *Joseph* was detained. This fact gave rise to some discussion betwixt the Parties in the Case. The Commissioners decided in favour of the Captor; but they have since learnt from you, Sir, that the means by which the *Joseph* was detained, are not altogether to be encouraged.

We think it right, Sir, to observe, for your further information in the Case of the *Fabiana*, that two seamen of that Vessel deposed, on their examination upon the standing Interrogatories, that the *Fabiana*, at the time of her capture, was about to sail from the River Bonny for the Havannah, with about 230 Slaves on board; that perceiving the capturing boats, she put back and landed the Slaves, who were afterwards given up to the English by the Native Chiefs.

We have the honour to be, &c.

(Signed)

E. GREGORY.

D. M. HAMILTON.

The Right Hon. George Canning,
&c. &c. &c.

No. 43.

Mr. Secretary Canning to the British Commissioners at Sierra Leone and The Havannah.

GENTLEMEN,

Foreign Office, February 25, 1824.

I HEREWITH furnish you, for your information and guidance, with the Copy of a *Declaration** which His Majesty's Ambassador at Madrid and the Spanish Minister of State concluded and signed at Madrid, on the 2d of February 1824, in correction of a Clerical Error which had crept into the Additional Article, of the 10th December 1822, to the Treaty between His Majesty and The Catholick King, for the prevention of illegal Traffick in Slaves.

I am, &c.

(Signed)

GEORGE CANNING.

His Majesty's Commissioners at Sierra Leone and The Havannah.

* See Class A. Spain,

SIERRA LEONE. (Portugal.)

No. 44.

Messrs. Gregory and Fitzgerald to Mr. Secretary Canning.
(Received June 2.)

SIR,

Sierra Leone, April 22, 1823.

WE have the honour to address to you, in connection with our present Despatch, a Statement of the first part of the Case of the Portuguese Schooner *Sinceridade*, terminating with the restitution of the Vessel. The Case respecting the Slaves found on board of the *Sinceridade*, at the time of her detention, was reserved for further consideration.

The *Sinceridade* was taken on the 3d of December 1822, by His Majesty's Ship *Bann*, Captain Phillips, in Lat. 0 deg. 8 min. South; Long. 5 deg. 26 min. West.

The *Sinceridade* had on board of her at the time of capture, one hundred and twenty-three Slaves, embarked at Fetiche Point, near Cape Lopez, in about 1 deg. 20 min. South Lat. The Territory of Cape Lopez is not subject to the Crown of Portugal, neither is it within the range of Coast in which the Slave Trade is preserved and declared legal for Portuguese Subjects, by the second Article of the Convention.

The illegality of this embarkation was urged in argument in various forms, as being contrary to the direct object of the Treaty and Convention, between His Britannick Majesty and His Most Faithful Majesty, for the purpose of preventing their Subjects from engaging in any illicit Traffick in Slaves. It was thence contended, that this illegality should countervail and outweigh the consideration of the restraint imposed on the detention of all Portuguese Merchantmen and Slave-ships to the Southward of the Equator, by the Fourth Article of the Instructions for Ships-of-War, annexed to the Convention:—Art. 4. “No Portuguese Merchantman or Slave-ship shall, on any pretence whatever, be detained, which shall be found any where near the Land, or on the High Seas, South of the Equator, unless after a chase, which shall have commenced North of the Equator.”

The Commissioners considered the terms of this Article to admit no exception, but the single one included in it,—of detention after a chase, commencing North of the Equator. No chase of that description had preceded the capture of the *Sinceridade*; consequently the detention was illegal, and the Commissioners felt themselves bound to decree—that the Vessel should be restored, reserving for further consideration the Case of the Slaves found on board of her at the time of capture.

We trust, Sir, that it will be satisfactory to you to be informed, that an arrangement has taken place respecting the Slaves, by which they are exempted from being personally liable to restitution. That arrangement has been framed by the Parties, under the sanction of the Court, upon the principle of a reserved Case. The amount for compensation of the Slaves, to be paid in the event of a decision in favour of the Claimants, upon the point reserved, is estimated according to the original cost, with the expences incurred.

The amount thus calculated, is to be received in full satisfaction, if, upon a question reserved, as to the right to receive compensation under the circum-

stances of illegality, connected with the place of embarking the Slaves, and the want of a legal Passport for the voyage, such question should be determined in favour of the Claimant.

This question is to be decided by the two Governments, or by those to whom they may refer it.

If the decision should be—that the illegality of the Place of Purchase, and Shipment, and the further illegality of the want of a Passport, extinguish the right to compensation for the Slaves, all further claim respecting them is renounced.

A composition for all other damages, is included in the arrangement. We shall have the honour to transmit to you, Sir, the particulars by the next conveyance. The total amount very little exceeds ten pounds for each Slave.

With the greatest respect, we have the honour to be, &c.

(Signed) E. GREGORY.

The Right Hon. George Canning,
&c. &c. &c.

EDWARD FITZGERALD.

P. S. We beg leave, Sir, to inclose herewith, for your information, Copies of the written Opinions delivered by us in open Court on the Case of the *Sinceridade*.

(Signed) E. G.
E. F.

First Inclosure in No. 44.

Abstract of the Case of the Portuguese Schooner Sinceridade, J. Gomez de la Roche, Master, liberated on the 13th of February 1823.

THE Declaration of the Captor, Charles Phillips, Esquire, Commander of His Britannick Majesty's Ship Bann, states, "that, on the 3d day of December 1822, being in or about the Latitude of 0 deg. 8 min. South; and Longitude, 5 deg. 26 min. West; he detained the *Sinceridade*, sailing under Portuguese Colours, commanded by Joze Gomez de la Roche, who declared her to be bound from Cape Lopez to Pernambuco, with a crew consisting of 14 men, and having on board 123 Slaves, said to have been taken on board at Cape Lopez."

The Declaration concludes thus, "and I do further declare that the *Sinceridade* was fallen in with to the Southward of the Line, without any regular Passports."

This Declaration is without a date, but it is to be supposed that it was made out, as it ought to be, immediately upon the detention. The Declaration is attested by John Hudson, and by Alexander Stewart, second Surgeon.—Mr. Hudson is one of the Lieutenants of the Bann.

The time and place of the capture, as well as the other circumstances included in the Declaration, are, therefore, to be considered as marked and authenticated with perfect precision on the part of the Captors,—the circumstances of the locality being of the utmost importance towards the decision to be passed upon the Case, inasmuch as the detention took place so very near to the Line,—but still distinctly to the South of the Line.

In a Memorandum, found in the private Note-book of the Master of the *Sinceridade*, it is stated that "the *Sinceridade* was taken by an English Frigate, under American Colours, in Latitude 0 deg. 8 min. South; Longitude, 4 deg. 54 min. East, from London." The Memorandum adds, that "the Captors detained the *Sinceridade* as a good prize, with 123 Slaves; that from the time when the *Sinceridade* had commenced trading, 152 had been purchased, of whom 29 had died in Port, leaving 123 who were taken."

This Statement of the Master of the detained Vessel, coincides with the Declaration of the Captor, as to the point of Latitude in which the detention took place.

It appeared by the Papers of the *Sinceridade*, that the Vessel belonged to Joze Manoel Vieyra da Silva and to Doarte Joze de Mello, of St. Paul de Loando, that she was despatched thence, about the 9th of August 1822, professedly on a legal Slave trading voyage, to go first to the Island of St. Thomas, with a particular shipment of goods, to be then sold or exchanged for particular goods in return, which were to be carried to Brazil, for the benefit of the Owners. At St. Thomas provisions were to be laid in for the Slaves that were to compose the cargo; and these were to be taken on board at Molembo, to which Place the *Sinceridade* was to proceed from St. Thomas for the purpose.

There was not any Royal Passport for the voyage, in the form required by the Convention, nor yet any local Passport, such as the Persons in Authority, in the Portuguese Settlements on the Coast of Africa, are in the habit of substituting for Royal Passports.

The only Official Document that had reference to the nature of the voyage, was one from the Custom-House of St. Paul de Loando, which makes mention of a bond and sureties for the payment of The King's duties, within twelve months. This Paper states that the Sinceridade was to go to Molembo, and to take in a cargo of Slaves to be carried to Pernambuco: no mention is made of the specifick number to be carried, nor of the tonnage of the Vessel, according to which that number should be fixed, in the proportion of five to every two tons, according to the Alvarà of His Most Faithful Majesty.

It appeared, by examination of the Master and seamen of the Sinceridade, upon the standing Interrogatories, that the Slaves on board of the Sinceridade, were embarked, not at Molembo, but at Fetiche Point, near Cape Lopez, about 1 deg. 20 min. South of the Line,—a Place not within the Dominions of the Crown of Portugal on the Coast of Africa, and not included within the limits in which the Slave-trade is declared legally open to Portuguese Subjects, by the second Article of the Convention added to that Treaty.

When the Commissioners came to pronounce their Judgment upon the Case, (all the material facts and circumstances of which are comprized in the preceding recapitulation), it appeared to them that the provision of the Law of the Court most immediately applicable, was the fourth Article of the Convention. That Article declares, that "no Portuguese Merchantman or Slave-ship shall, on any pretence whatever, be detained, which shall be found any where near the land, or on the high seas, South of the Equator, unless after a chace which shall have commenced North of the Equator."

It appeared to the Commissioners that the prohibition imposed by that Article was so absolute and universal, as not to admit any qualification or exception beyond the single one included in it—of captures to the South of the Line, after a chace commencing to the North of the Line.

The Captor did not in any way allege that there had been a chace commencing North of the Equator; but it was stated particularly by him, in Court, that he had gone in search of the Sinceridade, in consequence of information derived from Papers found on board of the Magdalena, taken by him some time before. A Letter written by the Master of the Sinceridade, addressed to a Person at St. Thomas, forwarded by the Magdalena, and found among the Papers of that Vessel, was invoked by the Captors at the close of the proceedings, for the purpose of putting the Court in possession of the information supposed to be contained in it; and it was contended, in argument, that going in search of the Sinceridade, in consequence of this information, was to be regarded as equivalent to a chace.

This Letter was translated on the Bench, by Mr. Altavilla and Mr. Gregory, but it did not contain the information that was supposed by the Captors, and it had no date of time or place. The Magdalena; however, had taken in her Slaves at the same Place, and the Master of the Sinceridade had proved, on the trial of that Vessel, that two Slaves, mentioned in this Letter, were sent by him on board of the Magdalena to the Person to whom the Letter was addressed. The Commissioners, therefore, from their previous knowledge of these and other circumstances, were disposed to give full credit to the statement, alleging that Captain Phillips had gone in search of the Sinceridade in consequence of information derived by him from the previous capture of the Magdalena; which information, as he further stated to the Court, led him to think that the Sinceridade would be ready to sail about the time.

The Magdalena was taken by the Baun, on the 29th September, off Princes Island, and was delivered over to the Persons in Authority in that Island, on the 30th of that Month, for safe custody until adjudication. The Sinceridade was taken on the 3d of December, and the Declaration of Captain Phillips simply states, that "the Sinceridade was fallen in with to the Southward of the Line," without saying any thing of being in search of her. The Commissioners could not think themselves warranted to consider a going in search, at so long an interval after the information received, equivalent to the kind of chace contemplated by the fourth Article of the Convention, which appears to be a chace actual and immediate. It was also argued that a capture so near to the Line as 8 minutes could hardly be regarded as beyond the boundary. The Commissioners seeing that the Equator was fixed by the Convention as the Line beyond which detention should not be legal, could not avoid holding as illegal any detention distinctly beyond that Line.

The other principal arguments were—that the object of the Treaty and Convention was to put a stop to illegal Slave-trade; that the limitation imposed by the fourth Article upon the exercise of the right of detention, ought not to be so construed as to exempt a Vessel, having a cargo of Slaves embarked on a part of the Coast where the traffick is illegal, from the penalties and forfeitures by which the Treaty and Convention sought to restrain and prevent such illegal traffick. The want of a proper Passport was represented as an aggravation of the illegality.

The Commissioners considering the restraint upon the detention of Portuguese Vessels to the Southward of the Equator as absolute and peremptory, with the single exception of Cases in which there should be a previous chace commencing North of the Line, could not allow the restraint to be superseded by the consideration of the illegality of the shipment of the Slaves found on board, or of the other points of illegality stated in argument.

It was, therefore, the opinion of all the Commissioners—that the Vessel should be restored to the Master, who had filed his Claim a few days before. The admission of this Claim at so late a period was opposed on behalf of the Captor; but the Commissioners were sensible, from experience, of the extreme difficulties that are attendant upon the liberation of detained Vessels when there is not any Person qualified to receive them; they were desirous also to give every facility to those, having rights and interests in matters before the Court, who may be restrained, in the first

instance, by prejudices natural to Foreigners, or by the dread of incurring legal expences too burthensome for the limited means that they possess, independent of their Vessels. The Claim was therefore admitted. Mr. Altavilla had previously suggested to the Claimant, the expediency of giving a Claim.

On the 13th of February the Court passed a Decree for the restitution of the Vessel. The Case respecting the Slaves on board of her was reserved for further consideration.

(Signed) E. GREGORY.
EDWARD FITZGERALD

(Second Inclosure in No. 44.)

Mr. Gregory's Decision on the Case of the Portuguese Schooner Sinceridade, J. Gomez de la Roche, Master.

THE Sinceridade was detained on the 3d of December 1822, by His Britannick Majesty's Ship Bann, Captain Phillips, on a charge of illicitly trading in Slaves.

The Sinceridade is stated to have had 123 or 124 Slaves on board at the time of her detention by the Bann.

It is admitted on both sides that these Slaves were purchased, and taken on board at Fetis Point, otherwise called Little Gaboon, in the vicinity of Cape Lopez. Much discussion has arisen upon the question—whether the Slave-trade can be legally carried on at that Place or not. On the one side it is contended that the Slave trade is illegal betwixt the Equator and the 5th degree 12th minute South Latitude; and on the other side, that the Trade is legal to the South of the Equator. The fact that the Sinceridade was not provided with a Royal Passport, conformable to the Model annexed to the Convention, has also been noticed and commented upon.

The Place of the shipment of the Slaves, and the absence of a Royal Passport, are circumstances that call for some observations.

In the Case of the Magdalena, lately condemned in this Court, I expressed myself that the Traffick in Slaves could not be legally carried on without the limits laid down in the Convention, those limits being on the Eastern Coast of Africa, from Cape Delgado to the Bay of Lourenço Marques; and on the Western Coast, from the 5th degree 12th minute to the 18th degree of South Latitude. Since that Case was decided, I have given a further attention to the point which the Case of the Magdalena involved, and I must confess, that the idea that I then entertained that the Slave-trade was illegal beyond the limits mentioned, remains unchanged.

That there is a seeming ambiguity in the Convention on this point is evident, by the doubts that have been expressed upon the matter, but it does appear to me that this ambiguity is removed upon a near view of the Convention.

Had the Contracting Parties to the Convention intended to have allowed the continuance of the Traffick in Slaves on all parts of the Coast of Africa, South of the Equator, their intention would, doubtless, have been clearly expressed. Instead of describing boundaries that the Slave-trader would regard as narrow and confined, the Contracting Parties would at once have broadly drawn the line which their intentions would have plainly pointed out to them. But what is it that we find in the Convention? We find that a perfect freedom to trade on all the Southern Coast of Africa, is not expressly granted to the Slave-dealer; we find that boundaries have been described on different parts of that Coast within which boundaries the Trade is declared to be permitted.

The Second Section of the First Article of the Convention states, that "the Slave Trade shall be considered as illicit when carried on by Portuguese Vessels, in any of the Harbours or Roads of the Coast of Africa, which are prohibited by the First Article of the Treaty of the 22d of January 1815." Referring to this Treaty we find that the prohibition is confined to the trading North of the Line. Then the Sixth Article of the Convention, which states the circumstances under which Slave-ships may be detained, says, that "in order to render lawful the detention of a Portuguese Ship the Slaves on board must have been taken from that part of the Coast of Africa where the Slave-trade was prohibited by the Treaty of the 22d of January 1815." Now, for what purpose could the Second Article of the Convention have been framed, except to explain the Treaty of Vienna. It is difficult to conceive any other purpose, when we find in that Article that "the Territories in which the Traffick in Slaves continues to be permitted, under the Treaty of the 22d of January 1815, to the Subjects of His Most Faithful Majesty, are the following:

1st—The Territories possessed by the Crown of Portugal upon the Coast of Africa to the South of the Equator; that is to say, upon the Eastern Coast of Africa, the Territory laying between Cape Delgado and the Bay of Lourenço Marques; and upon the Western Coast all that which is situated from the 8th to the 18th degree of South Latitude.

2dly.—Those Territories on the Coast of Africa to the South of the Equator, over which His Most Faithful Majesty has declared that He has retained his rights, namely;

The Territories of Molembo and Cabinda, upon the Western Coast of Africa, from the 5th degree 12 minute to the 8th degree of South Latitude."

This Article I do conceive must be taken to be an explanatory Declaration upon the Treaty of Vienna, intended to extend its operation, for to set bounds to the Slave-trade; and yet to allow it to be pursued, elsewhere than within those bounds, would be a contradiction.

I must observe by the way, that the Portuguese copy of the Convention does not express that the Slave Trade *continues to be permitted* within the Territories described in the Second Article of the Convention, but it states, that the Traffic in Slaves *continues to be legal* (" *fica sendo licito* ") under the Treaty of Vienna, within the Territories in question. The Portuguese expression is stronger, and appears to me to attach the idea of illegality to a Trade in Slaves, carried on elsewhere than within those Territories.

One of the principles laid down by Vattel, regarding the interpretation of Treaties, is, that " if he who has expressed himself in an obscure or equivocal manner, has spoken elsewhere " more clearly on the same subject, he is the best Interpreter of himself. We ought to interpret " his obscure or vague expressions in such a manner that they may agree with those terms that " are clear, and without ambiguity, which he has used elsewhere, either in the same Treaty, or " in some other of the like kind. In fact, while we have no proof that a man has changed his " mind or manner of thinking, it is presumed, that his thoughts have been the same, on the " same occasions; so that if he has any where clearly shewn his intention, with respect to any " thing, we ought to give the same sense to what he has elsewhere said obscurely on the same " affair." Applying this principle to the question,—whether the Slave-trade be legal or illegal betwixt the Equator and the 5th d. 12th m. South Latitude, I will refer for a clearer manifestation of the intentions of the Contracting Parties, to the Additional Article to the Convention that was signed at London on the 3d of April 1819, by Viscount Castlereagh and the Count de Palmella, respecting the situation of Molembo and Cabinda. The commencement of this Additional Article (*Declaration*) is as follows:—

" Whereas a Convention, having for its object the prevention of the illicit Traffick in Slaves, " was concluded between His Britannick Majesty and His Most Faithful Majesty, and signed at " London, on the 28th of July 1817. And, whereas, by the second Article of that Con- " vention, the Traffick in Slaves was declared still to be permitted to Portuguese Subjects, *only* " within certain Territories therein described. And, whereas, the Territories of Molembo and " Cabinda, are described by that Article to be on the Eastern Coast of Africa." &c.

The Traffick in Slaves is here declared still to be permitted to Portuguese Subjects, *only* within certain Territories which are described. I think that the tenour of these expressions justify me in conceiving, that the Parties to this Additional Article took, when they framed that Article, a general view of the Convention, and were guided by the intentions with which the Convention was concluded, that they definitely expressed the intention with which the first and second Articles of the Convention were framed, namely, that the Slave-trade should not be permitted to Portuguese Subjects, beyond the boundaries of the Territories claimed by Portugal; or, to use the words of the Portuguese copy of the Convention, that the Slave-trade should *only be legal* within those Territories.

The Proctor for the Claimant has laid weight upon the circumstance, that the Portuguese Alvarà of the 26th of January 1818, relating to the Slave-trade, only attaches the penalty of the confiscation of a Vessel, to such Vessel as shall be fitted out for a Traffick in Slaves to the North of the Equator. It does appear, that this Alvarà only attaches a penalty to acts of Slave-trade North of the Equator; but, with all deference for the Authority from whom that Alvarà emanated, I do conceive, that, according to the tenour of the Model for the Royal Passport for Slave-ships, which is annexed to the Convention, and which forms an integral part thereof, the Alvarà should have attached a similar penalty to acts of Slave-trade, on parts of the Coast of Africa, South of the Equator, where the Trade is not permitted to Portuguese Subjects. The words of the Passport are as follows:—" The said _____ Master, and _____ Owner of the said " Vessel, being under an obligation to enter solely such Ports on the Coast of Africa, where the " Slave-trade is permitted to the Subjects of the United Kingdom of Portugal, Brazil, and " Algarves, and to return from thence to any of the Ports of this Kingdom, where alone they " shall be permitted to land the Slaves whom they carry, after going through the proper forms, " to shew that they have, in every respect, complied with the provisions of the Alvarà of the 24th " of November 1813, by which His Majesty was pleased to regulate the conveyance of Slaves " from the Coast of Africa, to His Dominions of Brasil. And should they fail to execute any of " these conditions" (what conditions?—the obligation to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to Subjects of Portugal, is assuredly one of the conditions,) " they shall be liable to the penalties denounced by the Alvarà of " _____ (the Alvarà was to be a subsequent Act.) " against those who shall carry on the Slave-trade in an illicit " manner."

The 2d Article of the Convention points out where the Slave-trade is permitted to Portuguese Subjects; the Additional Article (*Declaration*) of the 3d of April 1819, confines the permission to trade in Slaves strictly to the Territories mentioned in the 2d Article; and, therefore, the Penalties to be applied to illicit Slave-traders, according to the tenour of the Model of the Passport, are not meant to be applied merely to those who shall trade in Slaves to the North of the Line, but they are, as I conceive, to be applied indifferently to those who shall trade in Slaves North or South of the Equator, beyond the limits described in the 2d Article of the Convention.

With respect to what has been observed on both sides, upon the circumstance of the Sincericidade not being provided with a Royal Passport, I think that all Vessels fitted out for the legal Traffick in Slaves, ought to be furnished with such a document. The 4th Article of the

Convention is express, that "every Portuguese Vessel which shall be destined for the Slave-trade, on any point of the African Coast where this Traffick still continues to be lawful, must be provided with a Royal Passport, conformable to the Model-annexed to this present Convention, and which Model forms an integral part of the same."

The Passports of Vessels sailing from Rio Janeiro, are to be signed by the Minister of Marine, and of Vessels "sailing from any other Ports of the Brazils, or from any other of the Dominions of His Most Faithful Majesty, not in Europe, the Passports must be signed by the Governor in Chief of the Captaincy to which the Port belongs." The object of the Convention being to restrain the Slave-trade to certain bounds, I take it that the form of the Slave-trading Passport was considered essential to the maintenance of the system of restraint which the Convention imposed on Slave-traders, but whether the want of such Royal Passport be a circumstance that will, of itself, and independent of all other circumstances, subject a Vessel to condemnation, is matter of doubt. In expressing an opinion on this point, in the Case of the Magdalena, I did not mean to go so far as to say, that the detention of a Vessel not having a proper Passport, would be legal in all Cases. In Cases where there be not a suspicion that Slaves are on board, or have been on board of a Vessel wanting such Passport, the detention of such Vessel, I apprehend, would not be legal, as by the 6th Article of the Convention, and 1st Article of the Instructions for Cruizers, such a suspicion is required to legalize the detention of a Slave-vessel. The Case in which the want of a proper Passport might lay the foundation of the detention of a Slave-vessel, would be the Case of a Vessel found to the North of the Equator, having Slaves on board, shipped within the limits described in the 2d Article of the Convention. Such a Vessel would want the requisite Authority to engage in any Traffick in Slaves.

I have dwelt thus long on these points, that a right understanding should exist as to my opinions respecting them. I consider, according to these opinions, that in this Case of the Sinceridade, the purchase and the shipment of the Slaves, at Fetic Point, or in its vicinity, was illegal, and that not being provided with a proper Passport, the Sinceridade was not authorized to engage in the Traffick in Slaves on any part of the Coast of Africa. I should without hesitation pronounce for her condemnation, if I were not arrested by an Article of the Instructions for the Cruizers, which bids me look to the situation in which the detention of the Sinceridade took place.

The Declaration of Captain Phillips, relative to the detention of the Sinceridade, states that "the Vessel was detained, on the 3d of December 1822, being in or about 8 min. South Latitude; and 5 deg. 26 min. West Longitude." The Declaration further states, that "the Sinceridade was fallen in with eight miles to the Southward of the Line."

The Question is, whether the detention of the Sinceridade, to the South of the Equator, be legal or not? This Question depends on the right to search, and to detain Slave-ships, in Southern Latitudes.

It is matter of notoriety that, at the period just preceding the date of the Convention, there did not exist, on the part of Great Britain and Portugal, a right to visit and to detain Ships of either Nation on the high seas. It is notorious that one of the objects of the Convention, of the 28th of July 1817, was the mutual agreement of Great Britain and Portugal, that a right should be established, to visit and detain the Ships of either Nation, under certain circumstances and restrictions.

The fifth Article of the Convention, establishes this mutual right of search and detention. This Article is as follows:

"The Two High Contracting Powers, for the more complete attainment of their object, namely, the prevention of all illicit Traffick in Slaves, on the part of their respective Subjects, mutually consent, that the Ships-of-War of Their Royal Navies, which shall be provided with special Instructions for the purpose, as hereinafter provided, may visit such Merchant-vessels of the two Nations as may be suspected, upon reasonable grounds, of having Slaves on board, acquired by an illicit Traffick, and, in the event only of their actually finding Slaves on board, may detain and bring away such Vessels, in order that they may be brought to trial before the Tribunals established for this purpose, as shall hereinafter be specified."

"Provided, always, that the Commanders of the Ships-of-War of the two Royal Navies, who shall be employed on this service, shall adhere strictly to the exact tenour of the Instructions which they shall have received for this purpose."

It appears to me, that this Article simply states, that a right of search, and of detention, shall exist, and that it refers to another part of the Convention (the Instructions for the Cruizers) for the provisions under which the right is to be exercised.

I do not at all think that an unlimited right of search, and of detention, is given by this Article to the Cruizers. It is said, that "the Ships-of-War of the two Royal Navies, which shall be provided with special Instructions for this purpose, as hereinafter provided, may visit," &c. &c.; and further on, it is said, "Provided, always, that the Commanders of the Ships-of-War of the two Royal Navies, who shall be employed on this service, shall adhere strictly to the exact tenour of the Instructions which they shall have received for this purpose."

These Instructions are clearly referred to as the guide for the proceedings of the Cruizers, and to them we must refer for our guidance in the matter before us.

The first Article of the Instructions for the Cruizers, states, that every British or Portuguese Ship-of-War shall, in conformity with the fifth Article of the Convention, have a right to visit the Merchant-ships of either of the two Powers, actually engaged, or suspected to be engaged in the Slave-trade. The second Article states, that no Merchantman, or Slave-ship shall be detained on any account, or pretence whatever, whilst in the Port or Roadsted of either of the High Contracting Powers. The third Article excepts certain Cases, otherwise included in the prohibition of the second Article.

The fourth Article states, that "no Portuguese Merchantman or Slave-ship shall, on any pretence whatever, be detained, which shall be found any where near the land, or on the high seas, South of the Equator, unless after a chace that shall have commenced North of the Equator."

The second and third Articles appear to have been framed in the contemplation of the exercise of a right of search to the North of the Equator. The fourth Article appears clearly to have been framed with the understanding—that the right to search and to detain Merchantmen or Slave-ships should not be extended to the seas South of the Equator. Portugal, that may, from known circumstances, be taken to have been the conceding Party in this Convention, withheld her consent to the right being exercised in those seas, and they remain now as they were at the period just preceding the date of the Convention, open to Traders of all descriptions.

In the Papers relating to the Slave-trade, that were presented to the British Parliament in the year 1819, there is a Memorandum that was inclosed in a Note from Viscount Castlereagh to the Duke de Richelieu, under date of the 29th of October 1818; this Memorandum is explanatory of the Conventions entered into by Great Britain with Spain, Portugal and the Netherlands. With regard to the sphere of the operation of the Spanish and Portuguese Conventions, it is stated in the Memorandum that "in the Spanish and Portuguese Conventions there is no other restriction as to the limits within which detention, as above, may take place, than what arose naturally out of the state of the Laws, viz. :—That so long as either Power might lawfully trade in Slaves to the South of the Equator, no detention should take place within those limits."

I consider that no right to search and to detain Slave-ships exists to the South of the Equator, unless in the Case provided for by the fourth Article of the Instructions for Cruizers when a Vessel may be detained South of the Equator, after a chace that shall have commenced North of the Equator. But it does not appear to me that this Case can be extended to the present Case of the Sinceridade.

In the Declaration of Captain Phillips, no chace after the Sinceridade is stated to have taken place; it is stated that the Vessel was fallen in with eight miles to the Southward of the Line. It has indeed been said, that "a chace after this Vessel commenced a day or two previous to her detention on information received respecting her;" but I cannot understand how that can be a chace, in which there is not an object flying from pursuit. The detention in this Case took place upon an interception of the Vessel to the South of the Equator, and not upon a chace according to the meaning of the Convention.

Again, it is said, "the Line, or Equator, exists but in imagination, and, for aught is known, the detention of the Sinceridade may have taken place to the Northward of the Equator, or at least upon the Equator." I must think the Declaration of the Captor to be correct, which states, with the frankness becoming a British Officer, that "the Sinceridade was fallen in with, eight miles to the Southward of the Equator." Further, it is asked, "whether it was intended that the illicit Slave-trader should be permitted to escape from the punishment which he may merit by his illicit acts." The Convention I take to be decisive on the point,—that no Portuguese Merchantman or Slave-ship shall be visited and detained to the South of the Equator. If the Contracting Parties have withheld the means to punish, I am not permitted to visit the sins of the illicit Dealer in Slaves, with the confiscation of his Ship in this Case, which does not present any uncommon or extraordinary feature of illicit Slave-trade.

In conclusion, considering that the Convention does not give to Cruizers a right to search and to detain Slave-ships to the Southward of the Equator, and that it does not appear that a chace commenced North of the Equator; I must deem that the Sinceridade was not legally detained, and that she is not liable to condemnation. I am of opinion that the Sinceridade should be restored to the Claimant. I reserve my opinion as to the Slaves on board, until I shall have heard the opinions of my Colleagues upon the point of the detention of the Vessel, and until I shall have had the benefit of hearing the arguments that may be brought for and against the Slaves by the Counsel on both sides.

If I were permitted to decide this Case, by the dictates of my feelings, my decision would be different from the one that I have given, but I am imperatively bound to govern my decisions by the letter and spirit of the Convention. As by the Convention I must judge, so my decisions will be judged in turn by the Convention, and not by the private feelings or apprehensions which I, or others, may entertain upon the Question of the Slave-trade.

(Signed) E. GREGORY.

Third Inclosure in No. 44.

Mr. Fitzgerald's Opinion on the Case of the Portuguese Schooner Sinceridade.

The Declaration of the Captor, Charles Phillips, Esq., Commander of His Britannick Majesty's Ship Bann, states, that on the 3d day of December 1822, being in or about Latitude 0 deg. 8 min. South, and Longitude 5 deg. 26 min. West, he detained the Sinceridade sailing under Portuguese Colours, armed with two guns, four-pounders, commanded by Joze Gomez de la Roche—who de-

clared her to be bound from Cape Lopez to Pernambuco, with a crew consisting of 14 men, and having on board 123 Slaves, said to have been taken on board at Cape Lopez.

The Declaration concludes thus: and "I do further declare the Sinceridade was fallen in with, " to the Southward of the Line, without any regular Passports."

There is not any date to this Declaration, but it is to be supposed that it was made out, as it ought to be, immediately upon the detention—for the Instructions for Ships-of-War, annexed to the Convention require that a corresponding Document should be delivered to the Master of the detained Vessel, upon the detention. I am thus particular, because this Declaration very distinctly states the circumstances of locality in which the detention took place; and these circumstances are most material in directing the Court to a proper decision in this Case. The Declaration is attested by John Hudson, and by Alexander Stewart, Second Surgeon.

It appears by the Ships Papers connected with the present voyage, that the Sinceridade sailed from Pernambuco on or about the 3d of April 1822, for Loando, consigned by Francisco Antonio Vieyra da Silva, of Pernambuco, to Joze Manoel Viera da Silva, and Doarte Joze de Mollo, of Loando, who are described as the Owners. These facts appear by the Letter of Instructions written at Pernambuco, by the Consignee at that Place, to the Master, who, on his arrival at Loando, was to deliver the cargo shipped at Pernambuco to these Persons, and to place the Vessel at their disposal.

It does not appear that the present Slave-trading voyage was in any way connected with the last voyage from Pernambuco, or that any Persons resident at Pernambuco are connected with this Slave-trading adventure. The Sinceridade arrived at Loando from Pernambuco on the 25th of May, and sailed from Loando again about the 19th of August, professedly for Molembo, for the purpose of taking a cargo of Slaves, thence to Pernambuco. The Papers from the Custom-house of St. Paul de Loando, for this voyage, contain a permission to call at the Island of St. Thomas, and at Princes Island. Bond is given for the due performance of the voyage in the course specified, and for the payment of the appropriate duties within a Year from the date of the Bond, which is the 9th of August 1822.

The object of the call at St. Thomas, was, it appears, to obtain provisions for the Slaves that were to be carried from Molembo to Pernambuco, and also to dispose of a particular shipment of goods destined for the market of the Island.

There is a Letter of Instructions written at Loando, the 19th of August 1822, by Joze Manoel Vieyra da Silva, to Antonio Joze Ochoa, respecting the disposal of that particular cargo, and the mode of investing the proceeds. This Antonio Joze Ochoa, appears to have been on board of the Sinceridade in the capacity of Supercargo. He is entered in the Ship's-roll as Clerk.

There is another Letter of Instructions, respecting the general Slave-trading voyage, proposed to be made from Molembo to Pernambuco. This Letter is addressed in regular succession to the Master Roche, in the first instance, and in his absence to Ochoa, and in the absence of him also, to Jeronimo Joze Simoens, the Second Pilot.

This Letter gives charge of the cargo to the Parties to whom it is successively addressed; it also contains some directions for the management of the Trade, and for the good treatment of the Slaves.

This Document constitutes the Parties to whom it is addressed in regular succession, the representatives of the Owners in the same successive order, and I do not think, that this Court has any authority to supersede the appointment, by admitting a different Person to Claim, as it was at one time proposed, for particular reasons. The Master is, moreover, by his Office, the proper Representative of the Owners, and the Natural Claimant.

There is not any Royal Passport for the voyage, in the form in which the Convention with Portugal provides, touching the legal Slave-trading voyages of Portuguese Subjects to the Southward of the Line; there is not even the Passport from the Local Authorities, which has been found usually substituted in other recent Cases of Slave-trading voyages, commencing in the Portuguese Settlements on the Coast of Africa, or in the Portuguese African Islands. I do not think that the Custom-house Papers, or any others that usually accompany such Passport, can be taken as a substitute for it, or as a dispensation from the obligation of having it, as the Proctor for the Claimant has contended.

There is a Letter, dated at the Island of St. Thomas, the 13th day of September, or rather a Copy of a Letter from the Correspondent at that Place, named Manoel Perez de Sacramento, advising Manoel de Silva, of Loando, of the outfit and supplies for the voyage to Molembo, received at that Place.

There is not any Log-book for the voyage from Loando to St. Thomas, nor for the voyage from St. Thomas to the Place where the Slaves were embarked.

The entries for the voyage professed to be from Molembo to Pernambuco, commence on the page next to that on which the entries of the former voyage from Pernambuco to Loando are closed. The date of the departure alleged to be from Molembo, is the 24th of November. For the four days following that, no notice of Latitude or Longitude is put down, it is only in the 5th day of the voyage, being 29th of November, that a regular observation is entered, the Lat. being 1 deg 7 min. South; the Long 1 deg 20 min. East, from London.

It is noted on that day, that since the departure from Molembo, the course had been along the Coast, in consequence of contrary winds W. and W.S.W. On the 29th of November, the wind being W.S.W., the course was altered, and the head of the Vessel put N.N.W. These circumstances are mentioned in the Log-book, as the reason why the usual entries were not made on the preceding days: but we may fairly suppose the real cause of that omission, to be the fact

subsequently disclosed in evidence,—that the Vessel did not sail from Molembo, but from Fetiche Point, where also her Slaves were taken on board; a Place not included in the limits within which the Slave-trade is declared by the Convention, legally open to Portuguese Subjects. I was inclined to suspect, that the object of this concealment was of more importance;—that it would be found, in all probability, a Shipment of Slaves to the Northward of the Line, but that suspicion has not been verified. In the Memoranda of the Master, entered in a small book of a private appearance, a note is made of the capture of the Sinceridade, by an English Frigate under American Colours, in Lat. 8 min. South, Long. 4 deg. 54 min. East, from London. The Memorandum adds, that “the Captors detained the Sinceridade as a good Prize, with one hundred and twenty-three Slaves; that from the time when the Sinceridade commenced trading, one hundred and fifty-two had been purchased, of whom twenty-nine had died in Port, leaving one hundred and twenty-three who were taken, and who were in such fine condition, that the English themselves could not avoid expressing their admiration of them.”

This is as far as I could collect a pretty accurate detail of the material facts contained in the Papers. The evidence given by the Witnesses examined before the Registrar may be thus recapitulated:

It is proved by the testimony of the Master, and of those of the crew examined on the standing Interrogatories, that the Slaves were embarked at Fetiche Ponte, a Place near Cape Lopez, a short distance South of the Equator; about one degree, according to the best authorities. This Place is not under the dominion of Portugal, neither is it within the limits in which the Slave-trade is legally open to Portuguese Subjects. Some of the answers appeared at first to place the locality of the embarkation in some ambiguity, by stating that it took place at Gaboon; but this is subsequently explained, by the same Persons, stating, on special Interrogatories, that the Slaves were taken on board at the Coast of Gaboon; one of them says near Fetiche Ponte, which Place is commonly called Little Gaboon. Thus it appears that the meaning was in every instance the same; and that it was an embarkation on what is called the Coast of the Gaboon Country, South of the Line, immediately, and not in the River Gaboon, which, being immediately to the Northward of the Line, would have been an embarkation of Slaves within the strict prohibitions of the first Article of the Treaty of the 22d January 1815, and of the first Article of the Additional Convention.

When the whole of the original and explanatory examinations, that have been thus recapitulated, were completed, and when the Case may be considered to have been in readiness for the Commissioners to deliver their opinions upon it, a Claim was given by the Master De la Roche, for the Vessel and for the Slaves.—This Claim is dated the 28th January 1823.

On the 1st February, a Petition was presented on behalf of the Captor against the admission of that Claim, on the ground of unreasonable delay in bringing it forward; and on other grounds, one of which is,—“that the Person intending to claim the said Vessel, did, from the first, intend to do so, but on perceiving that the Captor was in possession of good information on the subject, changed his mind.”

It is certainly desirable that all Parties interested in the Causes that come before these Courts should come forward in the earliest stage of the business in which they are concerned; but if through ignorance or neglect, or indeed through any other cause they hold back, it does not follow that the Court is bound to exclude them altogether. The due administration of justice is always more easily, more effectually, and more satisfactorily carried on when all Parties are before the Court; and the Court ought, therefore, at all times, to give every facility to the intervention of those who may have been in the first instance tardy in coming forward,—always making that intervention subject to such consideration in respect to costs and charges as the circumstances of the case may require.

I take occasion here to notice a mistaken opinion that seems to prevail among the Proctors and Suitors of this Court,—that in all Cases of total absence of Claim the Court is bound to pronounce a Sentence of Condemnation.

The Senior Advocate for the Captors in this Case, has often pressed a demand of that kind, but he is well aware, that the Court never yielded to it; never countenanced it.—Courts of Admiralty have a special course in Cases of want of Claim, suited to their jurisdiction, and to those to which it is subordinate. But in the Courts of Mixed Commission there is, according to the Treaties by which they are governed, one course of proceeding for all Cases of capture, whether there be Claim or not. That course, as established by the third Article of the Regulations for the Mixed Commission, is:

“To examine the Ship’s Papers, and to receive the Depositions of the Captain, and two or three at least of the principal Individuals, on board of the detained Vessel, as well as the Declaration on oath of the Captor, if it should appear necessary, in order to be able to judge and to pronounce, whether the said Vessel has been justly detained or not, according to the stipulations of the Additional Convention, in order that, according to this judgment, it may be condemned or liberated.”

Thus, according to the impression made upon the minds of the Commissioners, by the Declaration of the Captor, by the perusal of the Papers of the captured Vessel, and by the evidence of the Witnesses examined in the Cause, the Vessel is to be condemned or liberated, without any distinction, whether there be a Claim or not,—and it is essential to justice that there should not be any distinction in that respect, as there is not any appeal from the decisions of these Courts.

The extreme inconvenience of having to liberate Vessels, without having any Person to receive them, has in more than one instance, been felt by the Captors of such Vessels, as well as by the Court,

In one instance, in the Spanish Court, that of the Rosalia,—a special Decree of condemnation was adopted, not on account of the want of Claim, but in consideration that not any Person could be found competent to receive the Vessel on behalf of the Owner, nor qualified to take charge of her: a Decree of condemnation was, in these circumstances, passed as the only means of realizing the value of the Vessel, and of preserving the proceeds, so that they should be forthcoming to the Party, who, upon future shewing, should appear justly entitled to them. The consideration of all resulting interests, whatever they may be, was at the same time specially reserved for the Superior Authorities, to whom the Commissioners of these Courts are subordinate. This appeared the best mode of obtaining relief, from the immediate difficulties of such a Case; and of providing, at the same time, for the satisfaction of the interests of justice, as those interests should, upon due explanation, be found to require. But the condemnation in that instance, guarded as it was with so many reservations, and dictated by circumstances of such peculiar force, has incurred the disapprobation of the British Government, and the British Commissioners are not at liberty to make it available in any further instance. It is, therefore, the more strongly incumbent on them not to discourage the intervention of Claimants, even at the latest moment.

With respect to the changes that may have taken place in the mind of this Claimant,—first, having had the intention to claim, then relinquishing that intention, on learning that the Captor was in possession of good information, as is stated in the Petition of the Captor, against the admission of the Claim:—such alternation of confidence and hopelessness, are common to all Parties in cases of uncertain event; and there is no reason why this Person should not resume the determination, which he had originally, but afterwards gave up. Neither is it any good ground of objection, if the determination to claim was ultimately adopted upon advice—nor is there any reason why any body should be dissatisfied with that advice, or with the consequences of it.

The Claim itself, and the Affidavit annexed to it, have little in them to require observation, farther than in the view of bringing the practice of the Court, in respect to these matters, to some regular standard. These Documents, the Claim, and the Affidavit annexed, are generally framed so as to contain the Pleas upon which the Claimant founds his title to restitution. In this view, these Papers are rather defective in the present Case, inasmuch as they do not set forth the Property in the Slaves, who are claimed as well as the Vessel. There is also a defect in not sufficiently raising the Point of Law upon which this Case is mainly to be decided—that Point being, not that the Slaves were embarked to the Southward of the Line—but, that the Vessel was detained to the Southward of the Line, without a chace commencing to the Northward of the Line, according to the fourth Article of the Instructions for Ships-of-War annexed to the Convention.

There is a further Affidavit on the part of the Claimant, describing more particularly the situation of the Place in which the Sinceridade took in her Slaves at Fetiche Point, near Cape Lopez.

The Commissioners have one advantage in proceeding to Judgment upon this Case, which they have had in few prior instances, that the facts of the Case are clear and unquestionable, agreed upon, and admitted on both sides, stated alike by the Captors and the Claimant, and by the Witnesses for both Parties.

It is hardly necessary for me to say, that no idea of any alteration in this uniformity can arise from the ingenious argument of the Senior Advocate for the Captors, according to which, the Place of capture, stated in the Declaration of the Captor, and in the Memorandum of the Claimant, to be eight minutes South of the Line, might be, and ought to be taken to be, a little to the Northward of the Line, or, at least, on the Line itself; as little doubt can arise of the fact, that there was not any chace commencing to the Northward of the Line, from the new definition of a chace put forth by that Advocate, when he contends, that the Bann having proceeded to the Southward in search of this Vessel, in consequence of information received respecting her, might be, and ought to be, considered as being in chace of her all the time that she was so proceeding. I can suppose a search, or a pursuit, upon information received of a Vessel not immediately in sight, which might be considered as a chace in the proper and legal sense, but according to the idea of a chace here given to us, the Bann would have been equally in chace of the Sinceridade, while that Vessel was at anchor at Cape Lopez, and while the Bann, herself, was at anchor at Princes Island, after receiving the information, or was sailing about in search of other Vessels. That information, it appears, was derived from the capture of the Magdalena da Piacca San Thome, which Vessel was taken on the 29th of September, in Lat. 1 d. 9 m. North, and Long. 7 d. 54 m. East, and was delivered over on the 30th of that month, to the persons in Authority at Princes Island, the crew being also allowed to remain there. The Sinceridade was met and taken on the 3d of December—thus there would be an interval of upwards of two months between the receipt of the information, and the going in search of the Sinceridade.

The concluding paragraph of the Declaration of the Captor decides at once that the Place of capture was to the Southward of the Line, and that there was not any chace commencing to the Northward of the Line—That paragraph is thus expressed:

“And I do further declare, the Sinceridade was fallen in with to the Southward of the Line, without any regular Passport.”

It remains now only to apply the Law as provided by the Convention to the facts thus clearly established, and if the High Contracting Parties in framing that Convention have made a Law for the South of the Line, differing very widely from that made by the same Convention for the North of the Line, insomuch that what would be highly punishable on the North cannot even be touched on the South, it is not for those whose duty it is to administer that Law, whatever may

be their wishes or their opinions in other views, to think themselves at liberty to administer it otherwise than as they find it in the Convention: that illegal Slave-trade should, in any instance be protected from the penal visitation provided by the Convention, may be matter of painful consideration, and according as the particular Case of protected illegality approaches, as it does in the present instance, very nearly to the Line, beyond which due punishment would be applicable, the regret upon the impunity will be more painful. But we must suppose that the High Contracting Parties found it necessary to draw a Line somewhere, and they fixed upon the Equator. That Line having been fixed by them, it is not for those who are charged with the fulfilment of their Ordinances, whether executive or judicial, to go beyond it in any other manner than as those Ordinances have authorised and permitted; and if they could be allowed to go one step beyond it, where would a limit to the transgression be found?—where could a fresh Line be drawn?

The provision of the Law of this Court most immediately and most prominently applicable to the present Case, appears to be that which regards the locality of the capture, contained in the fourth Article of the Instructions for Ships of War.—“No Portuguese Merchantman or Slave-ship shall, on any pretext, be detained, which shall be found any where near the land, or on the high seas, South of the Equator, unless after a chase which shall have commenced North of the Equator.”

This Article is so absolute and so peremptory, in prohibition of all captures whatsoever, to the Southward of the Line, unless after a chase commencing to the Northward, that it seems not capable of any construction which would allow a countervailing influence to the strongest facts and circumstances of existing Slave-trade, connected with a Vessel so captured, without the qualification which alone is admitted of a chase commencing to the Northward. The burthen of the proof is, in this Case, on the Captors, and it is not even alleged on their part that there was any chase of that description, unless, indeed, it be in the constructive sense urged in Mr. Macauley's argument, which cannot be recognized. The concluding paragraph of the Captor's Declaration is decisive that no such chase existed.

I have now to notice another point in Mr. Macauley's argument, which, if I understood him right, (as I studiously endeavoured to do, by asking explanation as he went on.)—came ultimately to this,—that although the fourth Article of the Instructions to Ships-of-War imposed a restraint South of the Line, on the general power of detaining Vessels engaged in illegal Slave-trade, provided by the fifth Article of the Convention; yet, in consideration of the broad and glaring illegal Slave-trade existing in this Case, the Vessel having on board of her 123 Slaves, embarked in a Place where the Slave-trade is not legally permitted to Portuguese Subjects,—the Court ought to maintain the exercise of the power, provided by the fifth Article of the Convention, in its unrestrained and unlimited sense.

The argument, in its first shape, went upon the ground that the restraint imposed, by the fourth Article of the Instructions for Ships-of-War, was at variance from the original power: but Mr. Macauley was soon made sensible, that this position could not be maintained. It is matter of daily experience that almost every legal instrument creating or conveying a power, contains provisions directing and regulating, restraining and limiting, the exercise and operation of that power. The restriction, far from being at variance with the power, confirms it by explaining and guiding the proper mode of employing it. The restriction is the condition of the tenure under which the power is held, and is to be observed with strictness, proportionate to the nature of that tenure, and to the value of the power. As the nature of the tenure is exalted, and the value of the power great, in the Cases that generally come under the consideration of this Court, so ought the restrictions accompanying them to be duly upheld and maintained.

Surely it is not to be pretended in a Court of Justice, that a power granted by one Party, subject to certain restrictions, is to be exercised by the other Party, without regard to those restrictions, at any moment when they come particularly into operation: yet this is in fact the tenour and effect of the argument of the Senior Advocate for the Captors in the present Case.

The Convention, and the Papers annexed to it, contain many other restrictions upon the general power of detention, given by the fifth Article; and these restrictions are generally accompanied with certain qualifications and relaxations, dispensing with the obligations of them, in certain circumstances. Of that nature is the relaxation, in respect to the restriction, now under our consideration, when the Vessel detained to the South of the Line, had been chased from the Northward. But there is not one of those restrictions which admits so little qualification in any other view; which so entirely precludes all discretion, as this Case,—which does not leave room even to consider an embarkation of Slaves to the Northward of the Line,—unless in the single Case of detention, after a chase commencing to the Northward.

If any further qualification was connected with this restriction, if any exercise of discretion could be supposed to be allowed to the Commissioners, it would be their duty to consider how far the actual presence of 123 Slaves, on board of this Vessel at the time of capture, embarked at a Place where the Traffick in Slaves is not legally permitted to Portuguese Subjects, might be supposed to countervail and to supersede the illegality of the detention,—upon the same principle that the illegal embarkation of Slaves, which formed the subject of the secondary Case in the trial of the *Nova Sorte*, would, if sufficiently sustained in evidence, have been allowed to countervail and supersede the illegality of the original detention, upon the ground of an embarkation of Slaves, made at the instance of the Captor,—upon the same principle that the multitude of instances of flagrant and grossly criminal Slave-trade, connected with the Case of the *Conde de Villa Flor*, were considered to have countervailed and outweighed the local illegality of taking that Vessel, immediately under the Fortifications of the Portuguese Settlement of Bissao, contrary to the

provisions contained in the second Article of the Instructions for Ships-of-War. But the restraint upon captures near to Portuguese Settlements is largely qualified in the third Article of the Instructions for Ships-of-War, and the Slave-trade in that particular Case was of the worst and most flagrant character—the Governor of Bissao himself being distinctly concerned in it. In the present instance the restraint upon capture admits but the single qualification which is not to be found in the Case; and the Slave-trade connected with the Case, although not sufficient to controul the illegality of the capture, may be open to considerations adapted to it in other forms—so as not to be allowed to pass altogether without redress.

I have now only to deprecate, if I may be bold enough to do so, the appeals so frequently made to the humanity of the Commissioners, with a view to obtain decisions favourable to injured Africans, and adverse to unfeeling Slave-dealers. The Commissioners are, it is to be hoped, never insensible to the feelings of humanity—never wanting in sympathy for the sufferings of the oppressed, nor in aversion for the oppressors. But under the Treaties which form the Law of these Commissions, enslaved Africans can be liberated, and nefarious Slave-traders can be punished, only so far as the Treaties will admit: so far as the Treaties will admit the Commissioners will not fail to do justice to the relief of the injured, and to the punishment of the oppressors, without requiring to be stimulated by any appeal: and to excite their feelings, when they cannot overstep the limits beyond which relief is placed, is to put them to useless pain, and to expose them to the imputation of being deficient in the interest for their suffering fellow-creatures which they are not permitted to indulge.

I would deprecate still more the imitation of the precedent, which I was sorry to see introduced by Mr. Macauley, of making a separate appeal to the British Commissioners, in furtherance of the British objects under these Treaties. Although these Commissions are composed partly of British and partly of Foreign Members, yet there is no distinction in the obligation of their duties; each is bound, sworn, and specially instructed “to judge fairly and faithfully, to have no preference or favour either for Claimants or Captors, or for any other Persons whatsoever, and to act in all his decisions, in pursuance of the Stipulations of the Treaty of the 22d January 1815, and of the Additional Convention to the said Treaty.” Besides the original Instructions in The King's name, accompanying the Commission, enjoining them “never to lose sight of their judicial character, but to unite a fair zeal for the suppression of the Slave-trade, with the strictest impartiality;” every successive Communication addressed to the British Commissioners has been framed in the spirit of equal attention to Foreign and to British rights, according to the Treaties. If the British Commissioners could, in any instance, allow themselves to make the distinction that has been suggested, and to pursue British objects and interests, without equal regard to the Foreign objects and interests associated with them, there cannot be a doubt that they would incur the decided disapprobation of their Government and of their Sovereign.

There is another view in which I would deprecate, in a still stronger manner, any distinction between the British and Foreign Commissioners, in addressing the Bench: that is, the tendency of such a practice, to the interruption of the harmony which has so long and so happily subsisted between the British Commissioners and their Foreign Associates, in no instance more cordially nor more happily than with the esteemed Foreigner now present. The mischief of introducing in the place of that harmony, divisions and dissections, equally fatal to social happiness and to the due administration of justice under the Treaties, cannot, I am sure, require any enforcement of mine to make every one connected with these Courts sensible how much it is to be avoided.

I have only to express my coincidence in the Decree for the restitution of this Vessel, and it is only the restitution of the Vessel that is to be considered as being decided by this Judgment.

(Signed) EDWARD FITZGERALD.

No. 45.

E. Gregory, Esq. to Mr. Secretary Canning.—(Received August 20.)

SIR,

Sierra Leone, June 6, 1823.

I HAVE the honour to transmit to you with this Despatch, a Statement of the Proceedings of the British and Portuguese Courts of Mixed Commission, upon the question of compensation and damages consequent upon the restitution of the Portuguese Slave-trading Schooner *Sinceridade*, illegally detained by His Majesty's Ship *Bann*, Captain Phillips, on the 3d December 1822; in Latitude 0 d. 8 m. South of the Equator.

The decision, as you will observe, Sir, is in the form of a reserved Case. The Slaves found on board of the *Sinceridade* were delivered over to the Colonial Authorities, and the damages in compensation for them, are fixed

at £1250, to be paid, contingently, in the event that those to whom the reserved question may be referred, shall decide that the Claimant is, under all the circumstances, entitled to compensation for those Slaves. Upon this question the Commissioners could not themselves satisfactorily decide, for while on one side the illegality of the capture appeared to imply a right to such compensation as would replace the Claimant in the situation from which he was illegally taken, the illegality of the embarkation of those Slaves, in a Territory not belonging to the Crown of Portugal, without a regular Slave-trading Passport, or even a Passport from the Persons in Local Authority at Saint Paul de Loando, the Port from which she sailed, appeared to defeat the right of compensation so far as the Slaves were concerned, and more especially to defeat that right, with respect to the eventual profits upon the conveyance of those Slaves to Brazil.

If compensation should not be allowed, it would seem that encouragement was given to the infringement of the special prohibition against the detention of any Merchantman or Slave-ship found to the South of the Equator; and if compensation should be allowed, it would seem that encouragement would be given to the violation of the special object of the Convention, which is to prevent illegal Slave-trade.

In this dilemma the Commissioners felt that they could not come to a decision in either way, without overstepping considerations of the most serious importance in the due administration of justice under the Treaties; and although they were extremely unwilling to trouble the Superior Authorities with questions which it might be thought that they were themselves bound to decide, without any ulterior reference, they were persuaded that the justice of the particular Case under deliberation, would be best consulted by placing it at once, unencumbered by any decision of theirs, under the view of those Authorities who might, by reference to the views in which the Convention was concluded, more easily ascertain which branch of the alternative that embarrassed the Commissioners was to be preferred; and if the dilemma arose from defect or inconsistency in the Convention, might immediately apply the proper remedy by supplementary provision.

I have the gratification, Sir, to execute the intention which my lamented Colleague, Mr. Fitzgerald, entertained, of laying before you the inclosed Statement of the reasons for which he persevered in promoting an arrangement between the Parties in the Case. I, at the same time, beg leave to transmit herewith a Copy of the Agreement that was entered into by the Parties, in regard to the matters at issue between them. I trust, Sir, that the terms of this Agreement will be satisfactory to you; and that you will see in the motives, sufficient reason to excuse the reference with which His Majesty's Commissioners would not have troubled the Superior Authorities, if they could themselves have properly decided the question referred.

Conceiving, Sir, that you will be desirous to be in possession of the Evidence upon which the Commissioners gave their decision on the question of the legality of the detention of the *Sinceridade*, I beg leave to add to the Inclosures already mentioned, Copies of the Examinations of the Witnesses taken, with Copies of several Documents brought forward in the Case.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) E. GREGORY.

*First Inclosure in No. 45.**Statement of the Proceedings of the British and Portuguese Court of Mixed Commission, upon the Question of Compensation and Damages, consequent upon the Restitution of the Portuguese Schooner Sinceridade.*

IMMEDIATELY after the Judgment for the restitution of the *Sinceridade* was pronounced, the Proctor for the Claimant intimated to the Court a disposition to make an arrangement respecting the Slaves, on conditions which would leave them in this Colony, in possession of the benefits of the Establishment for liberated Africans, subject to the decision of the British and Portuguese Governments, as to the Compensation that may be due to the Claimant.

It was recommended by the British Commissioners, that the Captor should communicate with the Proctor for the Claimant, so as to inform himself of the precise nature of the arrangement proposed, and, if it should appear reasonable, that it should be brought before the Court by both Parties conjointly.

The Parties did not come to any understanding in consequence of this recommendation, and the Case was brought to a hearing on the adverse views which the Parties reciprocally had of their rights respecting the Slaves.

In the argument in behalf of the Captor, it was contended, that the Slaves ought to be emancipated, inasmuch as they had been illegally embarked on a part of the Coast of Africa, not under the Dominion of Portugal, and not included in the limits within which the Slave-trade is by the Convention preserved to Portuguese Subjects. The want of the Passport necessary to a legal Slave-trading voyage, was enforced as a further reason for not holding the Claimant entitled to the restitution of these Slaves.

On the part of the Claimant, a right to the full restitution of the Slaves was maintained, and generally to full compensation, in order that he may be replaced in a situation equivalent to that in which the illegal detention took place.

The restitution of the Vessel, as having been detained illegally, implied, as it was contended by the Proctor for the Claimant, a right to the restitution of every thing on board, at the time of capture, in the condition in which it was at the time, or to compensation for every thing that might be deficient or deteriorated. It was farther contended, that the Place of the embarkation of the Slaves was not within the limits in which the Trade is declared illegal, and the want of a Royal Passport might be considered sufficiently supplied, by the Paper from the Custom-house of St. Paul de Loando, describing the intended Slave-trading voyage from Molembo to Bahia. A right to all the farther compensation provided by the eighth Article of the Regulations for the Mixed Commissions, was also asserted.

The Commissioners, on consulting together, after they had heard the arguments of the Parties, felt considerable difficulty, or rather the British Commissioners,—for Mr. Altavilla, the Portuguese Commissioner, regarding a Decree for the restitution of the Slaves as consequent of right, according to the provisions of the Convention, upon a Decree for the restitution of the Vessel as having been illegally detained, had not the same feeling of the difficulties which stood in the way of the execution of such a Judgment; conceiving that the British Government would be bound to carry the Judgment into effect.

Mr. Gregory thought, that any Judgment that he might give upon the Case, might be liable to objection, considering that the arguments of both the Parties in the Case had considerable weight. Mr. Gregory confessed, that his mind inclined to the restitution of the Slaves to the Claimant, yet he felt that a Decree of restitution would be attended with difficulty in its execution, in regard to a portion of the Slaves that had been landed through sickness, and that it would be a measure painful to humanity in regard to those that remained on board.

Mr. Fitzgerald had doubts of the right of the Claimant to the restitution of the Slaves personally, or to any compensation for them. The personal restitution could not be carried into effect, if it should be decreed; nearly half of the Slaves had already been landed under the orders of the Medical Officer attached to the Court, and others were landed in the same manner every day; these could not again be put on board. It was known to the Commissioners that the provisions for the original voyage were consumed, and that the Claimant had not the means to lay in a fresh stock for the voyage from Sierra Leone to Pernambuco. It would not be fair towards the Claimant, if he were justly entitled to restitution, to require him to accept the Slaves without the means of subsisting them; much less would it be fair towards the Slaves, to re-consign them to slavery, with the additional misery of exposing them to the hazard of famine. Upon these considerations, Mr. Fitzgerald recommended a decision upon the principle of a reserved Case, in which the Slaves should be exempted from liability to personal restitution; and a pecuniary compensation for them, calculated upon fair and moderate principles, should be adjudged in lieu of the Slaves, subject to a question as to the right of the Claimant to receive compensation under the circumstances of illegality attached to the Place of the embarkation of the Slaves, and the want of a legal Passport.

Mr. Fitzgerald, on a subsequent occasion, explained his proposition further, by stating—that the question of the right to compensation should be determined by the British and Portuguese

Governments, or those to whom they should refer the determinations, upon the alternative, whether the illegality of the detention of the Sinceridade to the South of the Equator, should be held to supersede the illegality of the embarkation of the Slaves on a part of the Coast of Africa, not subject to the Crown of Portugal, and not within the limits in which the Slave-trade is preserved to Portuguese Subjects by the said Article of the Convention; or whether the illegality of the embarkation in the place described, together with the further illegality of having no legal Passport for a Slave-trading voyage, should be held to extinguish the right to compensation for the Slaves thus illegally embarked and carried. The compensation to be awarded, subject to this decision, should not, as Mr Fitzgerald thought, exceed the original cost of the Slaves on board at the time of capture, together with the expences incurred respecting them.

Mr. Gregory expressed his desire to favour any arrangement, which might bring the question that was involved in the Case, at its outset, before Superior Authority, and that might enable him to avoid the personal restitution of the Slaves; but Mr. Gregory considered that the consent of the Captor to such arrangement, was absolutely necessary, before a pecuniary compensation could be substituted in lieu of personal restitution.

Mr. Aitavilla would be disposed to give his sanction to a pecuniary compensation, if the Parties should concur in praying for it, but not otherwise.

On the next Court-day, the 22d of February, Mr. Fitzgerald urged to the Court, and to the Parties, the expediency and the necessity of an arrangement upon the principle of a reserved Case. Besides the arguments already mentioned, he stated, that it was a fallacious supposition that funds might be obtained for provisioning the Slaves for a voyage to Brazil by means of pecuniary damages, to be awarded under collateral heads. Demurrage, the principle head of pecuniary damages, could not be adjudged in this Case, as the Vessel was under 100 tons burthen, and the scale annexed to the 8th Article of the Instructions for the Mixed Commissions, was formed on an ascending principle, from 100 tons upwards, without any provision for Vessels under that size. The Commissioners, therefore, in the present Case, could not award demurrage under that Article. It could hardly be supposed that any damages which might be awarded, would be in cash, neither could it be expected that a certificate of the award of damages could be discounted in the present state of the exchange and money market at Sierra Leone, as, in a former instance, that of the Gaviao, when the means of remittance to England were difficult to be obtained in the Colony.

Mr. Gregory stated, that he could not object to the arrangement which had been proposed by Mr. Fitzgerald, and would feel happy in giving to it his concurrence, if the Captor would consent to its adoption: but Mr. Gregory conceived, as the tenour of the proposed arrangement affected the interests of the Captor, inasmuch as it required the Captor to pay for the value of the Slaves, in case of an adverse decision, that the Captor's consent to the arrangement was, therefore, necessary. Mr. Gregory joined his earnest wishes to those of Mr. Fitzgerald, that the Captor would consent to such arrangement.

After some further discussion, it was again strongly recommended to the Parties, that they should endeavour to come to an understanding for an arrangement on the principle proposed. The Court adjourned, in order to afford further opportunity.

When the Court met, on the 25th of February, after the adjournment, it was found that the expected agreement had not taken place. The Judgment of the Court was moved for by the Proctors on both sides. Mr. Fitzgerald, thinking that the arrangement that had been proposed by him had been prevented, by not bringing the matters in question to any distinct and precise basis, therefore put it to the Proctor for the Claimant, whether he would agree to receive compensation for the Slaves in the amount of their original cost, and of the expences incurred respecting them, subject to the decision of the two Governments, or of those to whom they should refer, upon the question previously stated of the existence of any right to be compensated. It was to be understood that, in the event that the right to compensation should be established, the sum to be agreed upon should be taken in full satisfaction;—in the event that the right should be negatived, all Claims whatever should be abandoned, and that the exemption of the Slaves from being in any event liable to personal restitution should be considered as the first principle of the arrangement. If the Proctor for the Claimant should agree to this proposition, Mr. Fitzgerald did not think that the Captor could reasonably refuse to come to an arrangement upon it.

The Proctor for the Claimant having expressed his assent, the Proctors for the Captor stated, that they would use their endeavours with the Captor to induce him to consent to the adoption of an arrangement which to them appeared to be reasonable. The British Commissioners urged the Proctors for the Captor to consult with their Client upon the matter. Mr. Gregory stated, that if he were compelled to pronounce a decision upon the Case, by the refusal of the Captor to accede to the proposed arrangement, his decision must be for the restitution of the Slaves to the Claimant; that it must be felt that to pronounce such a decision must be painful in the extreme, under the circumstances of doubt in which the question of the restitution was involved; he intreated the Proctors for the Captor to save him the pain of pronouncing upon a question which involved the freedom or slavery of a portion of his fellow-creatures, by exerting their best endeavours with the Captor to consent to the proposed arrangement.

The Captor subsequently concurred in adopting the basis of the arrangement, proposed by Mr. Fitzgerald. The agreement formed in consequence was submitted, on the 15th of March, to the Court for the sanction of the Commissioners, who approved of it, in the form of which the accompanying Paper is a Copy.

When the Paper containing the agreement between the Parties in this Case, was presented to

the Commissioners in Court for their approval, the Proctors for the Captor, said, that they requested the attention of the Commissioners to the ninth Article of the Regulations for the Commissioners, which provides that "when the Proprietor of a Ship suspected of carrying on an illicit Trade in Slaves, released in consequence of a sentence of one of the Mixed Commissions, (or in the Case, as above-mentioned, of total loss), shall claim indemnification for the loss of Slaves which he may have suffered, he shall in no case be entitled to claim for more than the number of Slaves which his Vessel was by the Portuguese Laws authorized to carry, which number shall always be declared in his Passport."

The Proctors for the Captor thought that this provision of the Convention, barred the Claimant in this Case from claiming the Slaves brought to Sierra Leone, in the Sinceridade, as the Claimant had no Passport to produce which could shew the number of Slaves that the Sinceridade was allowed to carry, by the Portuguese Laws. Certainly, the Proctors for the Captor thought that the Claimant in this Case could not claim the value of the Slaves that might have died on the passage to, or after their arrival at, Sierra Leone. The Proctors for the Captor said, that as they had already entered into an agreement with the opposite Party, in regard to the Slaves, they would not then contend for the construction of the ninth Article, that the Claimant was not entitled to compensation for the Slaves; but they requested that the Commissioners in reporting the Case to their Governments, would bring under their notice this provision of the ninth Article of the Regulations for the Commissioners. The Commissioners said, that this Article had not escaped their observation. The British Commissioners would bring it under the notice of the British Government, as requested by the Proctors for the Captor.

(Signed) E. GREGORY.

Second Inclosure in No. 45.

Portuguese Schooner Sinceridade. Reserved Question respecting the disposal of the Slaves.

Notes read by Mr. Fitzgerald, His Britannick Majesty's Commissioner of Arbitration, after the Proctors of both Parties were heard; the decision of the Court being further reserved for another day. 22d of February 1823.

HAVING reason to think that the opinions which I hold respecting this Case are in many points peculiar to myself, I conceive that it will be expedient to state them now, in a manner out of the ordinary routine, in order that the opportunity may be afforded of marking any thing in them which may be entitled to consideration, available towards an adjustment between the Parties, or for adoption by my brother Commissioners: for if a decision adverse to my views of the Case should be virtually pronounced by their concurrence, I would not be disposed to offer any peculiar opinions of mine as a dissentient from theirs; although I have always thought it my duty to express my concurrence when I coincided with them, lest it should be imagined that a difference existed when the greatest unanimity prevailed. I have another motive for stating these opinions now, in the hope that some suggestions may be found in them by which facility may be afforded for abridging the miseries of the unfortunate beings whose fate depends upon the Judgment that shall be given.

In proceeding to consider the reserved part of the Case of the Sinceridade, the first question that presents itself is,—whether it be absolutely imperative upon the Court to cause the Captor to replace the captured Vessel in circumstances actually the same, or adequate to those in which she was at the time when the illegal detention took place; the detention having been made to the Southward of the Equator, without a previous chace commencing to the Northward, contrary to the express prohibition contained in the fourth Article of the Instructions for Ships-of-War, annexed to the Convention.

It would seem that the strictness of this prohibition should be upheld by a corresponding rigour in the enforcement: but if we should be called upon to enforce it to the extent of a complete replacement in this instance, another question will arise prior to that replacement, and suggested in opposition to it, by considerations resulting from the primary object of the Convention, that object being the repression of illegal Slave-trade.

The Sinceridade had on board of her, at the time of capture, 123 Slaves, who had been embarked on a part of the Coast in which the Traffick in Slaves is not legally open to Portuguese Subjects. Shall the replacement, to which at first view the Claimant might seem entitled, be considered to comprehend these Slaves, thus embarked in contravention of legal right, without a legal Passport, in a Vessel, according to my opinion, not legally qualified for the conveyance of Slaves? Must those Slaves be given up to the Claimant in their actual persons; or must he be compensated for them in pecuniary value, in the manner directed by the eighth Article of the Regulations for the Mixed Commissions?

There would be in this such obvious remuneration of the Claimant for his own wrong-doing, that it appears to me almost impossible to adopt the measure; and comparing the difficulties attending it, with the difficulty of satisfying the strict prohibition of captures to the Southward of the Line, without a total restitution of every thing detained, or a full compensation for every thing

not restored, I do not see how the Court can discharge its duty, amidst the obligations and the difficulties pressing with equal weight on both sides, in any other manner, than by a special Judgment; reserving the final decision for the Superior Authorities, to whom the Commissioners are bound respectively to report their proceedings, and from whom they receive their Instructions. It would be, at the same time, the duty of the Commissioners to state the material facts and circumstances of the Case, with their opinions upon them, so that the Superior Authorities may have the clearest view of the whole of the matters in question, and the fullest means to enable them to decide with facility upon the points reserved to them. Thus it would be seen, that the reservation was not adopted without due effort by the Court, to form a proper judgment on its own view of the circumstances of the Case, and of the Law as applicable to those circumstances, if the clashing nature of different provisions of the Law, touching some of the facts, and of other provisions touching other facts equally prominent in the Case, did not disable them from forming a consistent and satisfactory decision.

The Treaty and Convention, which are the Law of this Court, are a diplomattick Law, not yet so perfectly framed as to meet the circumstances of various Cases of daily occurrence, some of which are of such nature that different provisions of the Convention, of equal importance, are found to come in collision with each other when applied to those Cases, and of that description is the present Case most particularly.

By the course that I propose of making the decision of the Court special, and subject to a reserved Case, if the Superior Authorities should decide that the Claimant is entitled to full replacement, or to compensation adequate to that replacement, it would only remain to calculate the market value of his Slaves, and to remunerate him accordingly, with the further allowances provided in such cases.

But in the event that he might not be holden to have a just title to that full replacement, and I am free to own that the impression of my mind inclines strongly to that result, more especially with respect to the Slaves, the way to the final decision would be still more clear.

In such a reserved Case the Slaves must be excluded from the means by which the replacement or compensation that possibly may be adjudged, would remain to be satisfied. I have, indeed, understood that the Slaves are, in a great measure, already so excluded, many of them having been landed from various causes, so that they cannot be replaced on board of the Sinceridade in their former circumstances; others being rendered by sickness and long confinement unfit to undertake so long a voyage as that from Sierra Leone to Pernambuco.

This state of things appears to me to furnish additional reasons for pursuing the course that I have ventured to point out. But a difficulty has been suggested in this respect, that the Captor, if he should be liable to make restitution, ought not to be deprived of the means of restoring the thing taken, and subjected to the hazard of being called upon to make compensation in money to a large amount, while the thing itself,—that is, the Slaves,—would be wholly unproductive to him, and would not even be allowed to remain in his possession.

The liability of the Captor is, in my view of the Case, a matter of very improbable contingency; but even if it was within the range of fair and reasonable anticipation, I cannot think that the Claimant would be, in all circumstances, bound to accept the personal restitution of the Negroes; nor that the Court would be, in all circumstances, bound or warranted to decree that restitution. The contingencies of sickness, or reduced condition, causing unfitness for undertaking a new, and a long, and hazardous voyage in the confined space of a Slave-hold, would be just cause for the Claimant to refuse to receive the Slaves personally, as a satisfaction for damages held to be justly due. The same contingencies would render it the duty of the Court, not to decree personal restitution. Other circumstances would be justly entitled to the same consideration, and among these I would be disposed to place the consumption of the provisions, intended for the subsistence of the Slaves, in the voyage from Cape Lopez to Pernambuco, in the course of which the Vessel was illegally detained, and the inability of the Claimant to lay in here, fresh supplies to subsist them in the voyage hence to Pernambuco.

It has been said, in opposition to this, that the funds for laying in fresh supplies of provisions, might be furnished by means of pecuniary damages likely to be awarded under other heads. But it is to be remembered, that the want of provisions is immediate and urgent; that the adjudication of pecuniary damages is contingent, and uncertain in fact, as well as in amount, that if such damages should be adjudged, it does not follow as a matter of course, that they would be paid in ready cash, or that the security to be given for them, would be easily convertible into cash, in the present state of the exchange and money-market at Sierra Leone. I do not think, however, that the kind of damages which may be most confidently anticipated, can in this Case be awarded. It has been put as a question,—how can you adjudge demurrage, if you think that the Slaves ought not to be restored? To this I answer, that the Court has not any authority to adjudge demurrage in this Case, not merely that it ought not to be adjudged, in consideration of the various circumstances of illegality attending the particular Slave-trade, with which the Vessel stands connected, but because the Convention contains not any scale by which to measure and to adjust the rate of that demurrage.

We learn from the Passport for a former voyage in the Slave-trade, in the year 1821, found among the Papers of the Sinceridade, that her measurement was taken as for eighty-three tons. We know that in the Portuguese Slave-trade the tonnage of Vessels is put down at the highest possible rate, in order to enable them to carry the largest possible number of Slaves. In some instances, indeed in all recent instances, the grossest exaggeration has been employed in this respect, insomuch, that it will be necessary to make it the subject of a special representation and remonstrance. The schedule of demurrage, annexed to the eighth Article of the Convention, commences with Vessels from one hundred tons to one hundred and twenty inclusive. It pro-

ceeds upwards by regular and proportionate gradations of increase until it reaches three hundred tons, where it closes with a note of farther direction, in these words, "and so on in proportion." There is not any note saying, "and so back" or so "downwards," or "so under in proportion." It is altogether an ascending, and not a descending scale.

If it be argued, that justice requires that compensation should be made in similar proportion, to Vessels under one hundred tons, as well as to Vessels over one hundred tons; and that the Commissioners may assume a discretion to award that demurrage, and to adjust it according to the principle of the schedule annexed to the eighth Article of the Convention, I can only say, that my opinion is in opposition to such an argument. I do not think that justice does require, that compensation should be equally made to Vessels under one hundred tons, and to Vessels over one hundred tons, employed in this Trade, and I do not think that the Commissioners can assume a discretion to fix a descending scale to adjust that demurrage, although the gradation and proportion established in the existing schedule, might, with perfect accuracy, be applied in a descending scale also. If such a discretion could be assumed, where would it stop; or how could any limit be put to it without assuming a further discretion,—that is, a discretion upon a discretion? If a discretion to fix a descending scale could be assumed, we might expect to see ourselves in the situation of being called upon to award demurrage to Vessels of the same size and description as the Magdalena, as the San José Xallaça, as the Nova Felicidade, Vessels, at the employment of which, for the conveyance of Slaves, and at the sufferings of the Slaves, when pressed down in the dungeons made for their reception on board of them, human nature shudders.

I consider it to be very clear, that the High Contracting Parties, in framing the schedule of demurrage upon an ascending principle, from one hundred tons upwards, and in omitting to frame any schedule upon a descending principle, for Vessels under one hundred tons, as far as they might think it proper to carry that principle downwards, regarded one hundred tons as the smallest size of Vessel that ought to be, or that could reasonably be expected to be, employed in this Trade; and considering the miseries resulting to the Slaves from the employment of smaller Vessels, and the abuses that may be, and that notoriously are, practised, by crowding small Vessels with excessive numbers, I do think that justice and reason, and feeling, should withhold the Commissioners from encouraging the employment of smaller Vessels, by exercising in their favour a discretion to allow demurrage, even if it could be supposed that such a discretion was vested in the Commissioners; but, I am firmly persuaded, that it is not. The utmost discretion that can be assumed, must, as I conceive, be limited to some reasonable allowance in the nature of freight, or of transport-hire; some compensation upon general principles for loss of time, and for service done out of the intended line of the original voyage, under the controul of the Captor. An allowance of this kind was made to the Portuguese Brig Gaviao, for the conveyance of a certain portion of the Slaves of the Constante, whom it was found expedient to remove in consequence of the crowded state of that Vessel.

In this view, I have considered the question of demurrage upon the principle of want of right, to claim it for Vessels under 100 tons, and want of authority in the Commissioners to award it. I have not included the consideration of the circumstances of illegality which should operate against the exercise of the authority in this instance, if the Commissioners possessed it. I think it right to say, however, that in all claims for demurrage, and damages consequent upon a simple Judgment of the restitution of the Vessel, the Claimant becomes the Plaintiff, or Prosecutor, and he is bound to make out his Case according to recognised and established principles: he is bound to present himself in a character giving a title to legal redress: he is bound to sustain that character in matters of Law, and in matters of Evidence. I do not think that the Claimant, in this instance, can be considered to have made out a good Case for compensation and damages, more especially for demurrage, according to the eighth Article of the Regulations for the Mixed Commissions, where, in every act alleged and proved by him, in every fact and circumstance connected with the Case, he is a manifest wrong-doer. and if damages be allowed to him, will be in the situation of profiting by his own illegal acts. He proceeded on this Slave-trading voyage without the Passport, which is a necessary legal authority to carry Slaves; he bought and embarked his Slaves at Cape Lopez, on a part of the Coast of Africa where the trade is not legally open to Portuguese Subjects, a part for which no legal permission could be granted, and for which he could not avow his destination, going for the purpose of purchasing Slaves. His clearance Papers are, therefore, made out for a voyage from Molembo, where the Trade is legally open, to Pernambuco. He carried the Slaves thus purchased, without the legal limits, in a Vessel of a size and description, in which, as I think, they ought not to be carried; a Vessel of a description not contemplated by the High Contracting Parties, as fit for this commerce, or at all likely to be employed in it; a Vessel, to which, as I think, no allowance of demurrage can be made according to the Treaty, in the event of her being illegally detained.

The difficulty of allowing compensation to so much, and such manifest wrong-doing, is so great, that I cannot see how it is possible to get over it here. By making the Judgment in the form of a reserved Case, the Superior Authorities will be enabled to decide to which branch of the alternative the balance should incline. I think it is only by the Superior Authorities that this Case can be so decided.

If the Case should be reserved in the manner that has been suggested, giving my opinion upon the principle that has been already mentioned, that the opinion of the Commissioners should accompany the Case, I think, that if it should be held right to award compensation to this Claimant, the prime cost of the Slaves, the allowance provided by the Convention for subsisting them, and a reason-

able allowance for freight, or transport hire, or a sum certain in lieu of all these, ought to comprehend the total of all the matters to which that compensation ought to extend. I would not certainly hold him entitled to compensation for full profits according to the price of Slaves at the present moment in the Brazil market.

Whatever the decision may be, the continuance of the abuses disclosed in this Case, will, I trust, be prevented, and this would be a further benefit likely to be derived more immediately, and more effectually, from a reserved Case.

Further Notes read by Mr. Fitzgerald, on the 25th of February 1823.

I think it right to say, that an alteration has taken place in the opinion expressed by me in this Court on Saturday last, touching one particular point.

That alteration has arisen from the declaration made in Court on that day, by the Proctor for the Captors, stating, that the Captor would be immediately ready to satisfy any damages that might be awarded against him. Applying this declaration to the object to which the statement of the Claimant was applied—that is, the subsistence of the Slaves, it would seem that an immediate payment of the sum which might be due for subsistence, at the rate fixed by the eighth Article of the Convention, would not be far from being adequate to purchase a new supply of provisions sufficient for the voyage from Sierra Leone to Pernambuco. At least, this application of the statement made by the Proctor for the Captor, would be a ground for particular examination, in order to ascertain whether the sum thus arising, and to be received, would not be sufficient to purchase the necessary supplies, if the Judgment of the Court should stand, in such circumstances as that a determination to restore the Slaves would be suspended and impeded by considerations of doubt, as to the means of subsisting them during their further voyage. But I think that the removal of this one difficulty, if it should be removed, will only serve to make an inlet for a multitude of others that will necessarily be found to connect themselves with any judgment, formed upon the principle of a personal restitution of the Slaves.

I have carefully abstained from urging any of those arguments of feeling, which so directly and so powerfully present themselves respecting these Slaves, upon the question—whether they shall remain free, and in the enjoyment of all the benefits of British protection, or whether they shall be delivered up, as the Captor forcibly expressed it, to Joze Gomez de la Roche, the Slave-dealer; and whether they shall be so delivered up, to be by him conveyed to the Slave-market at Pernambuco, there to be sold to the highest bidder. I have so abstained, because I do think it not fair to raise considerations of feeling, to which I know the minds of my Brother Commissioners to be as much alive as those of any other men, in opposition to those considerations of duty to which their feelings must, according to their views of this Case, be sacrificed. Much less would I be disposed to distress the feelings so pathetically expressed on behalf of the Captor, and so strongly manifested by himself in the prior part of the Case, by exciting those feelings in opposition to considerations of interest of such magnitude as to render it a duty of the first obligation in him not to lose sight of them.

But being fully persuaded that this Case, whatever may be the present Judgment, will, and must come immediately to the decision of the British Government, and probably, also, of the British Parliament; I am fully persuaded that it would come in a more acceptable form to both, if the personal restitution of the Slaves could be avoided.

In this persuasion, with a desire, if it be possible, to prevent that restitution from taking place, I would propose some conditions to the Claimant, to which, if he should agree, I think no reasonable ground of objection would remain to the proposal for putting the Judgment in the shape of a reserved Case, subject to the decision of the two Governments.

I have attentively considered the proposition made by Mr. Gregory to the Proctor for the Claimant, that he should release the Captor, and besides that, I think it fairly open to the objection which was made by the Proctor for the Claimant at the time—that releasing the Captor would in effect be to release the Government, whose obligation attaches only eventually, upon default of the Captor. I think it liable to greater objection still, on other grounds, more particularly affecting the Commissioners themselves.

The arrangement proposed, although it professes to consult the interests and the dispositions of the Parties, and to be founded upon a combination of those interests and dispositions, for the better attainment of the ends of justice, is an arrangement to be made under the discretion of the Court, and with its sanction. The British Government is, by the sixth Article of the Instructions for the Mixed Commissions, bound to defray, within the term of a Year, the indemnifications which may be granted; but this obligation is conditional, upon the default of the Captor himself—and surely the Commissioners, but more especially the British Commissioners, have no right to overstep that condition, or to set it aside, and at once to exclude the British Government. If it be matter of discretion in the Government to release Captors from damage incurred by zeal in the discharge of their duty, when the nature of that duty may naturally lead them in doubtful Cases, to pass somewhat beyond the strict line of the Law; the Commissioners would not

be warranted in sanctioning a measure which would preclude the fair exercise of that discretion, by fore-stalling its result.

If it be matter of liberality, the Government ought not to be prevented of the grace attending the free and spontaneous exercise of its generous disposition. The bounty of the Crown should be allowed to flow by its own munificent impulse; the Party in whose favour it is to be exercised, being always at liberty to employ all proper means to prove himself worthy of it; and I am sure, that in this Case, the Captor would best recommend himself to the favourable consideration of his Government, by shewing, on his own part, a spirit of corresponding generosity, and a disposition to enter into any arrangement with the Claimant, which, without involving too great hazard of his own immediate interests, would establish the freedom of the Slaves of the Sinceridade as its first principle. With a view to bring about such an arrangement, if it be yet practicable, I would propose these Questions to the Proctor for the Claimant:

Are you satisfied to rely altogether upon the decision of the British and Portuguese Governments, or upon the decision of the Persons to whom those Governments may refer the questions to be reserved to them, in the event of this Court, putting its Judgment in the Case of the Sinceridade, into the form of a reserved Case?

Agreed to by the Proctor for the Claimants.

Are you willing to release all Parties, except insomuch, and for such heads of charges, and to such amount, as they may be held answerable by the decision of those Governments, or of the Persons to whom they may refer the questions reserved to them?

Agreed to as far as relates to the Slaves.

Are you satisfied to release all Parties from all Claim, and all responsibility whatsoever, in the event that the two Governments, or the Persons to whom they may refer the questions reserved to them, should decide that the Claimant in this Case is not entitled to any compensation whatsoever?

Agreed to by the Proctor for the Claimants.

Would the Claimant be disposed to name a sum certain, by the payment of which, within twelve Months, he would be fully satisfied, in lieu of all demands founded upon the capture of the Sinceridade?

Yes.

Would the Claimant be satisfied with the amount of the prime cost of his Slaves; of the charges incurred for their subsistence at the rate fixed by the Treaty; and a certain allowance to be fixed by competent Persons in lieu of freight, transport hire, or demurrage?

He would be satisfied.

All these propositions are to be considered as founded on the principle of an entire and absolute abandonment of all right whatever to the Slaves.

Having proposed so many conditions to the Claimant, in the event of the adoption of a Judgment in the form of a reserved Case, I think it right to suggest one, at least, to which the Captor ought to be subject, preliminary to a decision involving the restitution of the Slaves.

I have not a doubt, that the statement made on behalf of the Captor by his Proctor, of perfect readiness to satisfy any damages that may be awarded to the Claimant, was made with all the sincerity and good faith that should belong to such statements, but it must be borne in mind, that this Court has not powers to compel the payment of any sum whatsoever. Consequently, it would be expedient that a sum necessary for the subsistence of the Slaves should be deposited in the hands of the Registrar, before a Decree for the restitution of the Slaves could be passed; for to restore the Slaves, without giving the means of subsisting them, would not be conformable to that perfect spirit of fair dealing towards all those concerned, which ought to characterize every judicial decision, and least of all, would it be fair towards the unfortunate Slaves.

Due provision for the subsistence of the Slaves being made, and due assurance being obtained, of the competency of the Slaves in point of health, to undertake a voyage from Sierra Leone to Pernambuco, and the sea-worthiness of the Ship for such a voyage being ascertained, if a Judgment involving the restitution of the Slaves must be pronounced, these consolations at least will remain, that all due efforts were made to avert the necessity of pronouncing it, and that proper precautions were adopted to prevent the evils of slavery to which these Negroes are consigned, after a delusive prospect and confidence of freedom, from being further aggravated by the horrors of famine, pestilence and shipwreck.

Third Inclosure in No. 45.

Agreement between the Captor and the Claimant.

THE Commissioners being disposed to make their further Judgments, consequent upon the restitution of this Vessel, in the form of a Case, reserving to the two Governments the decision upon certain questions arising out of the particular circumstances connected with the detention of the

Vessel, and also out of the particular circumstances connected with the embarkation and carriage of the Slaves, found on board of her at the time of her detention, so as to render it doubtful in the view of the Commissioners, whether the Claimant should be entitled to compensation for those Slaves, on the ground of the illegal detention of the Vessel, to the Southward of the Equator, or held to be debarred from all right to such compensation, by the want of a legal Passport for the Slave-trade, and by the illegality of the embarkation of the Slaves at Cape Lopez, where the Trade in Slaves is not permitted to Portuguese Subjects :

It was recommended to the Parties by the Commissioners, to agree upon a certain sum to be given and accepted in lieu of all claims, on account of the detention of the said Vessel, and more especially of the said Slaves, who must be understood in such a reserved Case, to be altogether exempted and excluded from restitution in their persons ; the sum so agreed upon to be paid and accepted in full satisfaction, in the event that the two Governments, or those to whom they should refer the decision of the points reserved to them, should decide that the Claimant is entitled to compensation for the detention of the said Slaves, notwithstanding the want of Passport, and the embarkation at a Place where the traffick for Slaves is not permitted to Portuguese Subjects : but in the event, that the decision upon these points so to be reserved, should be, that the want of Passport, and the embarkation at a Place where Trade is not legally open, should be considered to deprive the Claimants of all right to such compensation, then, that the sum agreed, should no longer be demandable, nor any other sum in lieu thereof, but that the Captors and all others concerned, or liable in any way, should be released for ever, from all claims on account of such detention.

The Parties, in pursuance of the recommendation so given, and for the purpose of facilitating the decision of the Case so to be reserved, have agreed as follows, viz :—

The Claimants agree to relinquish all claim to the personal restoration of the said Slaves, and to agree to their full and complete emancipation, in any manner which may be thought proper by the said Commission Court, or the British Government.

The Captors and the Claimants agree, that if the two Governments, or the Person or Persons to whom they may refer this question, shall decide that the Claimants are entitled to compensation for the seizure, detention, and freedom of the said Slaves, the sum of twelve hundred and fifty pounds (without interest, until such decision shall have been given) shall be paid and received as a full and complete satisfaction and compensation for the cost of the said Slaves, the freight, and provision of the same, and all other claims whatsoever on account of the seizure, detention, or freedom of the said Slaves.

The Captors and Claimants further agree, that in Case the said Governments, or the Person or Persons to whom the said question may be referred, shall decide that the Claimants are not entitled to such compensation, then the said sum shall be no longer demandable, nor any other sum in lieu thereof, but that the Captors, and all others concerned or liable in any way, shall be released for ever from all claims whatsoever, on account of such seizure, detention, and emancipation.

And it is further agreed between the said Parties, that a Decree of the Commission Court for one hundred pounds, shall be allowed and received as a full and complete satisfaction and compensation for all claims whatsoever, for costs of suit, damages, demurrage, or expences, on account of the seizure, detention or prosecution of the said Vessel.

(Signed) CHARLES PHILLIPS,

Capt. of H. B. M. Ship Bann:

JOSE GOMEZ DE LA ROCHE,

Master and Claimant of Sumaca Sinceridade.

(Signed) K. MACAULEY, Proctor of Captors.

W. H. SAVAGE, Proctor for Claimants.

Free Town, Sierra Leone, March 10, 1823.

Fourth Inclosure in No. 45.

Schedule of Papers in the Case of the Portuguese Schooner Sinceridade, Joze Gomez de la Roche, Master.

1. Medical Report	- - - - -	January 6, 1823.
2. Marshal's Report	- - - - -	— 8, —
3. Medical Report	- - - - -	— 8, —
4. Declaration of Captain Phillips	- - - - -	— 14, —
5. Affidavit of Captain Phillips	- - - - -	— 14, —

6.	Examination of Joze Gomez de la Roche, Master of Sinceridade	-	January	16,	1823.
7.	Examination of Manoel Justino, Boatswain of Sinceridade	-	—	16,	—
8.	Examination of Domingo Joze Antonio, Mariner of Sinceridade	-	—	16,	—
9.	Monition	-	—	15,	—
10.	Petition of Captain Phillips, for speedy trial	-	—	22,	—
11.	Petition of Captain Phillips, for leave to put the 8th and 14th Interrogatories to Joze de Coza, Seaman of Sinceridade	-	—	23,	—
12.	Answers of Joze de Coza, Seaman	-	—	23,	—
13.	Petition of Captain Phillips, for speedy trial	-	—	24,	—
14.	Petition of Captain Phillips, praying the Master's Claim be rejected	-	February	1,	—
15.	Master's Affidavit, with Claim	-	—	5,	—
16.	Question put to Manoel Justino, Mariner, by desire of the Commissioners, with Answer thereto	-	—	6,	—
17.	Question put to Domingo Joze Antonio, Mariner, by desire of the Commissioners, with the Answer thereto	-	—	6,	—
18.	Question put to Joze de Coza, Cook, by desire of the Commissioners, with his Answer thereto	-	—	6,	—
19.	Affidavit of Manoel Justin, with Proctor's Petition for same to be filed	-	—	8,	—
20.	Petition of Captain Phillips, that the Master's Letter filed in the Case of the Magdalena, may be read in Evidence in the Case of the Sinceridade	-	—	11,	—
21.	Translation of Master's Letter to Senhora Maria das Nieves	-	—	12,	—
22.	Petition of Proctor for Claimants, as to landing the Slaves from the Sinceridade, with Affidavit of Master, and Notes of Proctor for Claimant, and Proctor for Captor, annexed	-	—	—	—
23.	Medical Report	-	—	22,	—
24.	Petition of Captain Phillips, praying that the Prayer of Claimant, as to the landing of the Slaves of the Sinceridade be rejected	-	—	—	—
25.	Medical Report	-	—	25,	—
26.	Medical Report	-	—	28,	—
27.	Petition of Proctors, with Agreement between Captor and Claimant made in regard to the Slaves of the Sinceridade	-	March	12,	—

(1.) *Medical Report. January 6, 1823.*

The Report of John Shower, Surgeon.

HAVING been on board of the Sinceridade, Portuguese Brigantine, Slave-vessel, brought into this Harbour as prize to His Majesty's Ship Bann, Charles Phillips, Esq. Commander, with 116 Slaves on board, as well as one Slave taken in a former Vessel, I find that there are 20 cases of Variola, (Small Pox,) on board, but in a very favourable way of doing well; there are a few cases of slight bowel complaints, and one woman in an advanced state of pregnancy, who has fever. I humbly submit the whole of the variola cases be allowed to be landed without delay, as well as the pregnant woman with fever.

Sierra Leone, January 6, 1823.

(Signed) JOHN SHOWER, Surgeon.

(2.) *Marshal's Report. January 8, 1823.*

The Report of the Marshal of the Portuguese Court of Mixed Commission.

THE Marshal has proceeded with the Medical Officer, on board the Brigantine Slave-vessel, Sinceridade, now lying in this Harbour, captured off Cape Lopez, by His Majesty's Ship-of-War Bann, Charles Phillips, Esq. Commander, and finds the number of Slaves to amount to 116, and one man belonging to another Vessel. There are a few cases of small pox and bowel complaint, and one woman pregnant. All of which is humbly submitted by

(Signed) Rd. GROVE, for C. BORRETT, Marshal.

(3.) *Medical Report, January 8, 1823.*

The Report of John Shower, Surgeon.

HAVING been on board of the Vessel Sinceridade, and examined as to the state of Slaves on board, I find, with the exception of one Woman Slave, who has the small-pox, came out on her since my Report of the 6th instant, to be generally in good health and spirits. I humbly submit that the Commissioners may be pleased to allow of this Slave being landed at Foura Bay Hospital.

Sierra Leone, January 8, 1823.

(Signed) JOHN SHOWER, Surgeon.

(4.) *Declaration of Captain Phillips. January 14, 1823.*

I, CHARLES PHILLIPS, Esquire, Commander of His Britannick Majesty's Ship Bann, hereby declare, that, on the 3d day of December 1822, being in or about the Latitude of 0 deg. 8 min. South; and Longitude 5 deg. 26 min. West; I detained the Sinceridade, sailing under Portuguese Colours, armed with two guns, four-pounders, commanded by Joze Gomez de la Roche, who declared her to be bound from Cape Lopez to Pernambuco, with a crew consisting of fourteen men, and having on board 123 Slaves, said to have been taken on board near Cape Lopez, and are enumerated as follows, viz:

	Healthy	Sickly
Men	47	—
Women	21	—
Boys	38	—
Girls	18	—
Total ..	124	

And I do further declare the Sinceridade was fallen in with, eight miles to the Southward of the Line, without any regular Passport. (Signed) CHARLES PHILLIPS.

(Signed) JOHN HUDSON.

ALEXANDER STEWART, Second Surgeon.

(5.) *Affidavit of Captain Phillips. January 14, 1823.*

Our Sovereign Lord The King, against the Sumaca Sinceridade, Joze Gomez de la Roche, Master, her tackle, apparel and furniture, and the goods, wares, merchandize and Slaves on board the same, taken by His Majesty's Ship-of-War Bann, Charles Phillips, Esquire, Captain, and brought to Sierra Leone.

APPEARED personally, Charles Phillips, Esquire, Captain of His Majesty's Ship-of-War Bann, duly authorized and empowered, according to the provisions of the Additional Convention to the Treaty between His Britannick Majesty and His Most Faithful Majesty, to make seizures of Vessels under Portuguese Colours engaged in the Slave-trade, being duly sworn, maketh oath, that, on the 3d day of December 1822, being in Latitude 0 d. 8 m. South; and Longitude 5 d. 26 m. West; he seized and detained the Polacca or Vessel called Sinceridade, whereof Joze Gomez de la Roche was Master, by reason that the said Vessel was employed in the Traffick in Slaves, contrary to existing Treaties entered into with His Britannick Majesty and His Most Faithful Majesty The King of Portugal; and the Deponent further maketh oath, that the Paper, Writings and Documents hereunto, marked from No. 1 to 17, and from No. 19 to 20, inclusive, were given and delivered up to this Deponent by the Master of the said Vessel, and that the packet of Papers marked No. 18. was seized by this Deponent, and that the same are now brought and delivered up, in the same plight and condition as when so received by this Deponent, without any fraud, addition, subduction, alteration or embezzlement whatsoever, save the marking and numbering thereof.

(Signed) CHARLES PHILLIPS.

On the 14th day of January 1823, the said Charles Phillips, Esquire, was duly sworn to the truth of this Affidavit, before me, (Signed) E. GREGORY, Commissary Judge.

(6.) *Examination of the Master. January 16, 1823.*

JOZE GOMEZ DE LA ROCHE, Master on board the said Vessel, being produced, sworn, and examined upon the Standing Interrogatories, deposeth as follows, viz:

To the 1st.—Saith, that he was born at Parahiba, in the Brazils, lives at no particular Place; is a Subject of The King of Portugal; has never been Subject to any other; is not a married man.

To the 2d.—Saith, Manoel Joze Vir. o. da Sa. one of the Owners, appointed him to the command of the Vessel taken; he lives at Saint Paul de Loanda, in the Province of Angola, on the West Coast of Africa; he is a Subject of The King of Portugal; that possession was delivered of said Vessel to Deponent by said Owner; he took possession of her at Saint Paul de Loanda aforesaid, in August 1821; has known said Vessel six or seven years, saw her first in Angola, believes her to have been built in the Brazils.

To the 5th.—Saith, he was present at the taking the Vessel, about which he is now examined; she was seized for being engaged in the Slave-trade; she sailed under Portuguese Colours, there were no other Colours on board.

To the 6th.—Saith, the Name of the Vessel taken is the Sinceridade, she has been so called ever since he has known her, knows of no other name or names by which she has been called; she is about eighty tons burthen; there were about twelve Officers and mariners on board

- (exclusive of the Master); they were all Portuguese; they all came on board at the same Port, and were shipped by the Owner aforesaid, and himself; they were shipped at Saint Paul de Loanda, on or about the 15th day of August last past.
- To the 7th.—Saith, that himself had two Slaves, and all the rest of the Officers and seamen one Slave each belonging to the lading, but they had no share or interest whatever in the Vessel taken; that he belonged to said Vessel in the capacities of Captain and first Pilot; there were five Passengers on board, none of them were secreted at the time of capture; does not recollect the names of the Passengers, two were Spaniards, and three Portuguese; the two Spaniards were seamen, but he knows not what the Portuguese were; they were taken on board at Angola, in September last, and the two Spaniards were taken on board at Saint Thomas, in the latter end of September last; they were destined to Pernambuco; they were going there to procure work; none of the said Passengers had any concern or authority, directly or indirectly, regarding the Vessel and cargo, or any part thereof.
- To the 8th.—Saith, the present voyage began at Angola, and was to have ended at Pernambuco; the last clearing Port the Vessel sailed from was Fetis Ponte, about 21 miles to the Northward of Cape Lopez; she first sailed to and touched at the Island of Saint Thomas, the next and last Place she touched at was Fetis Ponte, she went to Saint Thomas to get farina, and to Fetis Ponte for Slaves; communication took place at Saint Thomas, where farina was purchased for Slaves to eat, and at Fetis Ponte he procured Slaves.
- To the 9th.—Saith, he first saw the capturing Vessel in 0 d. 7 m. Latitude South of the Equator, in December last, but does not recollect the day; the Place of capture was in Latitude, 0 d. 7 m. South of the Equator, and Longitude 5 deg. 54 min. East of London; the chase began at nine o'clock in the Morning; the Vessel was steering towards Pernambuco, at the time of her being first pursued, he did not alter the course, nor did he make any additional sail, upon the appearance of the Vessel by which he was taken.
- To the 10th.—Saith, that two guns are mounted on board the Vessel captured,—there were ten muskets, and four or five cutlasses, with half a barrel of gunpowder on board at the time of capture,—she was so armed for the defence of the Vessel against the Natives on the Coast; had no directions or instructions for resisting, or endeavouring to avoid capture, or for destroying, concealing, or refusing to deliver up, either the Vessel's Documents or Papers on board.
- To the 11th.—Saith, that the Owners of the Vessel, about which he is now examined, at the time she was seized, were Manoel Joze de Sa. and Duarte Joze de Mello, there were two others, one named Francisco Joze Viera de Silva, the name of the other he does not recollect; he only knows they were Owners, because they were so when he sailed from Angola; all four of them are Portuguese by birth, the first mentioned two live at Angola, and the other two at Pernambuco, where their respective wives and families reside; they are all Subjects of The King of Portugal; those two resident at Angola, have resided there about eight Years, one of them resided before at Oporto, and the other at Rio Janeiro; the other two have resided at Pernambuco, about five Years, they lived before at Oporto.
- To the 12th.—Saith, that he knows no Bill of Sale being made to the aforesaid Owners of said Vessel; he verily believes in his conscience, that should said Vessel be restored she will belong to the Persons now asserted to be the Owners, and to none others.
- To the 13th.—Saith, that he is the Lader of the Slaves and merchandize; he is the Owner of the merchandize; all the Slaves belong to the two Owners before-mentioned, resident at Angola, except two belonging to himself, and one to each of the Officers and mariners; the Consignees of the whole of the Slaves, are the two before-mentioned Owners, resident at Pernambuco; the merchandize is consigned to himself; the said Slaves and merchandize were to be delivered at Pernambuco, for the account, risk and benefit of the respective Owners.
- To the 14th.—Saith, that the Vessel brought out on her last voyage, aquadente, cloth, iron, muskets and gunpowder; it was shipped at Saint Paul de Loanda; the present cargo consists of Slaves, some ivory, coffee, wax and matts; 123 Slaves were taken on board from the time he commenced trading to the time of completing the present cargo, but does not remember the number of males, females and children; the said Slaves were all taken on board at Fetis Ponte aforesaid; they were all taken from the shore; none of said Slaves died previous to the capture; does not know whether any have died between the capture and the present time; does not know whether the Vessel has been carried into any Port or Place since the capture.
- To the 15th.—Saith, that all the Passports and other Papers found on board the Vessel taken were true and fair, and none of them false or colourable; knows of no circumstance to affect their credit.
- To the 16th.—He saith, that the Vessel about which he is now examined was not provided with a Passport, conformable to the Model annexed to the Convention between His Britannick Majesty and His Most Faithful Majesty, signed at London the 28th July 1817.
- To the 17th.—Saith, that none of the Papers, Bills of Lading, Letters or other Writings which were on board the Vessel at the time she took her departure from the last Port, and before the capture, were burnt, torn, thrown overboard, destroyed, or cancelled, concealed or attempted to be concealed. None of the Papers were delivered out of the said Vessel, or carried away in any manner whatsoever prior to the capture.
- To the 18th.—Saith, that there is not in any other Country any Bills of Lading, Invoices, Letters, or other Writings relative to the Vessel and cargo concerning which he is now examined.

- To the 19th.—Saith, there was no Charter Party that he knows of, signed for the voyage in which the Vessel was seized and taken.
- To the 20th.—Saith, that he knows not whether the Vessel and goods were insured for the present voyage; Manoel Joze Viro, da Sa, has generally had the direction and management of the Vessel with respect to her employment in trade; he, Deponent, corresponds with the whole of the Owners on the concerns of the Vessel.
- To the 21st.—Saith, bulk was broken during the present voyage, at Fetis Ponte; since the capture, he knows not whether any Slaves have been disembarked at any time, or whether bulk has been broken or not.
- (Signed) JOZE GOMEZ DE LA ROCHE.
JOHN ANTONIO.

Taken and sworn this 16th day of January 1823, through the interpretation of John Antonio, who was first duly sworn faithfully to interpret, before me,

(Signed) D. M. HAMILTON, Registrar.

(7.) *Examination of the Boatswain. January 16, 1823.*

MANOEL JUSTINO, Boatswain on board the Sinceridade being produced, sworn and examined upon the Standing Interrogatories, deposesh as follows:—

- To the 3d.—Saith, Jose Gomez de la Roche is the name of the Master of the Vessel taken; has known said Master five months; he was born at Cotendira; does not know where he resides; he is not married.
- To the 4th.—Saith, the Owner appointed the Master to the command; said Owner resides at Angola; does not know where the Master took possession, nor the time, nor the name of the Person who delivered to him such possession; has known said Schooner five months; first saw her at Angola; does not know where she was built.
- To the 5th.—Saith, he was present at the time of seizure; does not know for what reason said Schooner was seized. She sailed under Portuguese Colours, had not any other Colours on board.
- To the 6th.—Saith, the name of the Schooner taken is the Sinceridade; does not know of her being called by any other name or names; does not know her tonnage; does not know the number of Officers and mariners on board (exclusive of the Master;) they are all Portuguese; they all came on board at one Port; they were hired by the Captain the month of August last past, at Angola.
- To the 7th.—Saith, himself, Officers and mariners on board, had some interest in the cargo; the Captain had three Slaves, the Mate two, the Boatswain one, and the Sailors had also one each; he (this Deponent) is Boatswain on board the said Schooner at present, but he shipped, as a mariner; there are five Passengers on board; none of them were secreted at the time of capture; does not know their names; three of them are Portuguese, and the other two are Spaniards; they were working their passage from Angola to Pernambuco; had not any interest either in the Vessel, or her cargo.
- To the 8th.—Saith, the voyage commenced at Angola, and was to have ended at Pernambuco; the last clearing Port said Schooner sailed from, previous to capture, was Angola; said Schooner anchored and touched during the voyage in which she was taken, first at St. Thomas, then at the River Gaboon; anchored and touched at St. Thomas to purchase provisions, and at the River Gaboon for Slaves.
- To the 9th.—Saith, he does not know at what time he first observed the capturing Vessel; said Schooner was captured ten days after leaving the Gaboon. The chase commenced at twelve A. M. on the third day of December last past; said Schooner at the time of being pursued, was steering for Pernambuco; her course was not altered, nor any additional sail made, upon the appearance of the Vessel by which she was taken.
- To the 10th.—Saith, two guns are mounted on board the said Schooner, also six muskets and twelve cutlasses; she was so armed to defend herself against the Slaves; no resistance was made at the time of capture, nor had he any instructions to resist capture, or for destroying or refusing to deliver up any of the Schooner's Documents or Papers.
- To the 11th.—Saith, he does not know the name of the Owner; the Owner is a Portuguese; he resides at Angola.
- To the 12th.—Saith, he does not know if any bill of sale was made to the aforesaid Owner; if the Schooner should be restored, she will belong to the aforesaid Owner, and to none others.
- To the 13th.—Saith, he does not know the name of the Lader and Owner of the merchandize or Slaves on board the said Schooner; the Supercargo is the Captain; they are both Portuguese; the merchandize and Slaves were to have been delivered at Pernambuco, for the risk or benefit of the aforesaid Owner.
- To the 14th.—Saith, he does not know what cargo the Schooner brought out on her last voyage; her present cargo consists of Slaves; 123 Slaves were taken on board the said Schooner, from the time they commenced trading, until completing their cargo; said Slaves were taken on board at the Gaboon; they were all taken from the shore; none of them have been transhipped on board any other Vessel; two Slaves died before the capture; does not know how many have died since capture.

- To the 15th.—Saith, that all the Passports and other Papers are entirely true and fair.
- To the 16th.—Saith, the said Schooner was provided with a Royal Passport; does not know at what time said Passport was delivered, nor the Person to whom it was delivered; the present Governor of Angola is the Minister of Marine of His Most Faithful Majesty; the signatures affixed to the said Passport are true and genuine.
- To the 17th.—Saith, not any of the Schooner's Papers, or other Writings have been burnt, torn, thrown overboard, or cancelled at any time. Nor have any of the Papers been delivered out of the Vessel.
- To the 18th.—Saith, not any Papers belonging to the said Schooner are in any other Country.
- To the 19th.—Saith, he does not know if any Charter Party is signed for the voyage.
- To the 20th.—Saith, he does not know if the Vessel or cargo is insured.
- To the 21st.—Saith, bulk was broken at the Gaboon.

(Signed) MANOEL JUSTINIO.
MANOEL FILIPE.

Taken and sworn this 16th day of January 1823, through the interpretation of Manoel Filipe, who was first duly sworn to interpret faithfully, before me,

(Signed) D. M. HAMILTON,
Registrar.

(8.) *Examination of D. J. Antonio, Seaman. January 16, 1823.*

DOMINGO JOZE ANTONIO, Seaman on board the Schooner Sinceridade, being produced, sworn, and examined, deposes as follows, viz:—

- To the 3d Interrogatory.—Saith, he does not know the name of the Captain of the detained Schooner; has known the Captain about five months; said Captain was born at Pernambuco; does not know where he resides; he is not married.
- To the 4th.—Saith, the Owner appointed the Master to the command; said Owner resides at Angola; the Master took possession of said Schooner at Angola; does not know the time; the name of the Person who delivered the possession to him is Sen. Viel; he lives at Angola; has known said Schooner about four Years; first saw her at Angola; does not know where she was built.
- To the 5th.—Saith, he was present at the time of seizure; she was seized for having Slaves on board; sailed under Portuguese Colours; had not any other Colours on board.
- To the 6th.—Saith, the name of the detained Schooner is the Sinceridade; does not know of her being called by any other name or names; does not know her tonnage; there are 14 Officers and mariners on board (exclusive of the Master); they are all Portuguese; they all came on board at one Port; they were all hired by the Owner at Angola.
- To the 7th.—Saith, neither himself, nor any of the Officers and mariners on board, had any interest either in the Vessel or her cargo. He (Deponent) is a mariner on board the said Schooner; there were five Passengers on board the said Schooner; they were not secreted at the time of capture; does not know their names; three of them are Portuguese, and the other two Spaniards; the three former came on board at Angola, and the two latter at St. Thomas; they were going to Pernambuco; the two Spaniards were mariners; does not know the occupation of the Portuguese; they had not any interest either in the Vessel or cargo.
- To the 8th.—Saith, the Voyage commenced at Angola, and was to have ended at Pernambuco; the last clearing Port previous to capture was Angola; the said Schooner anchored and touched during the Voyage in which she was taken, first at St. Thomas, and then at the Gaboon; she anchored and touched at St. Thomas to get provisions, and at the Gaboon to purchase Slaves.
- To the 9th.—Saith, that he first saw the capturing Vessel at Two o'clock, P. M.; does not know the month or day; said Schooner was captured nine days after leaving Gaboon; said Schooner was steering, at the time of being pursued, for Pernambuco; her course was not altered, nor additional sail made upon the appearance of the Vessel by which she was taken.
- To the 10th.—Saith, there are two guns mounted on board the said Schooner, also some cutlasses and muskets; she was so armed to make signals in case of distress, or otherwise; no resistance was made at the time of capture, nor had he any Instructions for resisting capture, or for destroying or refusing to deliver up any of the Schooner's Documents or Papers.
- To the 11th.—Saith, Sen. Viel is the Owner of the said Schooner; he knows him to be the Owner, because he (this Deponent) lives at the same Place; he is a Portuguese; he lives at Angola.
- To the 12th.—Saith, he does not know if any Bill of Sale was made to the aforesaid Owner; if the said Schooner should be restored, she will belong to the aforesaid Owner, and to none others.
- To the 13th.—Saith, the aforesaid Owner is the Lader and Owner of the merchandize or Slaves, on board the Schooner taken, and the Captain is the Consignee; the merchandize or Slaves now on board, were to have been delivered at Pernambuco; does not know for whose account, risk, or benefit.
- To the 14th.—Saith, he does not know what cargo the Schooner brought out on her last voyage; her present cargo consists of Slaves; they took on board the said Schooner from the time of

commencing Trade, until completing the same, 126 Slaves; said Slaves were taken on board at Gaboon, from the shore; two Slaves died before the capture; does not know how many have died since capture.

To the 15th.—Saith, he does not know if the Vessel's Papers are true and fair, or if they are false or colourable; does not know of any matter or circumstance to affect their credit.

To the 16th.—Saith, he does not know if the said Schooner is provided with a Royal Passport.

To the 17th, 18th, 19th, and 20th.—Saith, he does not know any thing relative to these Interrogatories.

To the 21st.—Saith, bulk was broken at the Gaboon.

(Signed)

DOMINGO JOZE ANTONIO.
MANOEL FILIPE.

his
Mark.

Taken and sworn this 16th day of January 1823, through the interpretation of Manoel Filipe, who was first duly sworn to interpret faithfully, before me,

(Signed) D. M. HAMILTON, Registrar

(9.) *Monition. January 15, 1823.*

George the Fourth, by the Grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith; To Charles Borrett, Gentleman, or his Deputy whomsoever, greeting:

WHEREAS our trusty and well-beloved Edward Gregory, and Joao Yaconio, Esquires, His Britannick and His Most Faithful Majesty's Commissary Judges, and Edward Fitzgerald, Esq. His Britannick Majesty's Commissioner of Arbitration, appointed by Us and His Most Faithful Majesty The King of Portugal, to bear and determine all and all manner of causes and complaints, as to Ships, Goods and Slaves, seized and taken for the illegal Traffick in Slaves, and in contravention of the Treaties or Conventions between Us and His said Most Faithful Majesty, specially constituted and appointed, rightly and duly proceeding at the Petition of Charles Phillips, Esq. Commander of Our Ship-of-War Bann, have decreed all Persons in general who have, or pretend to have, any right, title, or interest in the Brig or Vessel called the Sinceridade, whereof J. G. de la Roche was Master, her tackle, apparel, and furniture, and the goods, wares, merchandize, and Slaves, on board the same, taken by Our said Ship-of-War Bann, to be monished, cited, and called to judgment at the time and place underwritten, and to the effect hereinafter expressed (justice so requiring). We, therefore, strictly charge and command you, jointly and severally, that you omit not, but that by affixing these Presents upon one of the Pillars on the Crane at the Publick Wharf, at the usual time of the publick resort of Merchants and other Persons thither, and by leaving thereon affixed a true Copy thereof, you do monish and cite, or cause to monish and cited, peremptorily, all Persons in general, who have, or pretend to have, any right, title, or interest in the said Brigantine, her tackle, apparel and furniture, and the goods, wares, merchandize and Slaves, laden therein, to appear before the said Commissary Judges and Commissioner of Arbitration, in Our Colony of Sierra Leone, upon the 3d day after service of these Presents, if it be a Court-day, or else on the Court-day next following, between the hours of Ten and Twelve A. M. of the same day, then and there to shew and allege, in due form of Law, a reasonable and lawful cause, if they have any, why the said Brigantine, her tackle, apparel, and furniture, and the goods, wares, merchandize, and Slaves on board the same, should not be pronounced to have been employed illegally, and to be disposed of as is directed by the Treaties or Conventions in such case made and provided; and further, to do and receive in this behalf as to justice shall appertain, and that you duly intimate, or cause to be intimated, peremptorily, to all Persons aforesaid in general, to whom, by the tenour of these Presents, we also intimate, that if they shall not shew a reasonable and lawful cause to the contrary, the aforesaid Commissary Judges and Commissioner of Arbitration, do intend, and will proceed to adjudication on the said capture, and may pronounce that the said Brigantine Sinceridade, her tackle, apparel and furniture, and the goods, wares, and merchandize as aforesaid, are liable and subject to be adjudged, forfeited, and to be disposed of, as directed by the Treaties, in that case made and provided; and also to pronounce all and singular the Slaves to be emancipated, the absence, or rather contumacy, of the Persons so cited and intimated in anywise notwithstanding; and that you duly certify to the said Commissary Judges and Commissioner of Arbitration what you shall do in the premises, together with these presents.

Given at Sierra Leone aforesaid, under the Seal of the said Commission, this 15th day of January, in the Year of Our Lord 1823, and of Our Reign the fourth.

(Signed) D. M. HAMILTON, Registrar.

I hereby certify that I duly affixed this Monition for some time upon one of the Pillars of the Crane at the Publick Wharf, and left a true Copy thereof affixed to the said Place.

(Signed) R. GROVE, for the Marshal.

(10.) *Petition of Captain Phillips. January 22, 1823.*

THE humble Petition of Charles Phillips, Esq. Captain of His Majesty's Ship Bann, sheweth,—that the evidence in this Cause having been filed in your Honourable Court, and no Claim having been made on the part of any Person or Persons, humbly prays,—that your Honours will be pleased to name as early a day for passing Sentence, as in your wisdom your Honours may deem meet :—and your Petitioner, as in duty bound, will ever pray.

Free Town, January 22, 1823.

(Signed) CHAS. PHILLIPS.

(11.) *Petition of Captain Phillips. January 23, 1823.*

THE humble Petition of Charles Phillips, Esq. Captain of His Britannick Majesty's Ship Bann, sheweth,—that your Petitioner wishing to shew clearly the Port or Place from whence the said Polacca took on board her Slaves, humbly prays,—that the eighth and fourteenth Standing Interrogatories may be put to Joze de Coza, one of the seamen of the said Vessel :—and your Petitioner, as in duty bound, will ever pray.

Free Town, January 23, 1823.

(Signed) CHARLES PHILLIPS.

(12.) *Answers of Joze de Coza, Seaman. January 23, 1823.*

JOZE DE COZA being produced, sworn and examined, by leave of the Court, upon two of the Standing Interrogatories, deposeth as follows, viz :—

To the 8th Interrogatory.—Saith, the voyage commenced at Angola, and was to have ended at Pernambuco ; the last clearing Port the Schooner sailed from, before the capture, was Saint Thomas ; said Schooner anchored and touched, during the voyage in which she was taken, first at Saint Thomas, and then at the Gaboon, she anchored and touched at the former Place to purchase farina, and at the latter to purchase Slaves.

To the 14th Interrogatory.—Saith, the said Schooner brought out on her last voyage, powder, aquadente, muskets, cloth, and copper kettles ; her present cargo consists of Slaves ; 126 Slaves were taken on board from the time of commencing trade, until completing the same ; does not know the number of each sex ; said Slaves were taken in at the Gaboon from the shore ; two Slaves died previous to capture ; does not know how many have died since capture.

(Signed) JOZE DE COZA.
JOHN ANTONIO.

Taken and sworn this 23d day of January 1823, through the interpretation of John Antonio, who was first duly sworn to interpret faithfully, before me.

(Signed) D. M. HAMILTON, Registrar.

(13.) *Petition of Captain Phillips. January 24, 1823.*

THE humble Petition of Charles Phillips, Esquire, Captain of His Britannick Majesty's Ship Bann, sheweth,—that the evidence in this Cause having been filed in your Honourable Court, and no Claim having been filed by any Person or Persons, humbly prays,—that your Honours will be pleased to name as early a day for passing Sentence as in your wisdom your Honours may deem meet :—And your Petitioner, as in duty bound, will ever pray.

Free Town, January 24, 1823.

(Signed) CHARLES PHILLIPS.

(14.) *Petition of Captain Phillips. February 1, 1823.*

THE humble Petition of Charles Phillips, Esquire, Captain of His Britannick Majesty's Ship Bann, sheweth,—that your Petitioner, understanding that the said Master of said Vessel has presented a Petition for leave to put in his Claim on behalf of some Person or Persons, humbly prays,—that inasmuch as the Sinceridade was brought before your Honourable Court, on the 8th day of January last, that your Petitioner was perfectly prepared for trial, on the 22d of the same Month, when a Petition for speedy trial was submitted to the Court, that a second Petition was subsequently presented,—that the Person pretending to claim the said Vessel did, from the first, intend to do so, but on perceiving that the Captor was in possession of good information on the subject, changed his mind ; that the Monition of your Honourable Court distinctly states, that after three days, your Honours do intend and will proceed to Judgment ; that the said Person who pretends to Claim was well aware of that, and yet did he, either through contumacy or otherwise, neglect to make his Claim in due and regular time ;—your Petitioner, therefore, prays, that your Honourable Court will, in its wisdom and justice, reject the said Claim, as being tendered at too late a time :—and your Petitioner, as in duty bound, will ever pray.

Free Town, February 1, 1823.

(Signed) CHARLES PHILLIPS.

(15.) *Master's Affidavit, with Claim. February 4, 1823.*

APPEARED personally Joze Gomez da Rocha, the Master of the Smack Sinceridade, and, by the interpretation of Francisco Gomez, first duly sworn faithfully to interpret, maketh oath, that he is a Subject of His Most Faithful Majesty, The King of Portugal, and was Master of the said Smack at the time of the capture thereof, by His Majesty's Ship-of-War Bann, Charles Phillips, Esquire, Commander, and that the said Smack was so captured, on the 13th day of December now last past, in the prosecution of her voyage from Fetiche Point, on the Coast of Africa, to the Brazils, with a cargo consisting of 123 Natives of Africa, Slaves on board the said Smack, and brought to Sierra Leone; and he further maketh oath, that Manoel Joze Ura. de Silva and Duante Joze de Millo, Subjects of His Most Faithful Majesty, were at the time of the said capture, and now are the true lawful and sole Owners and Proprietors of the said Smack Sinceridade, her tackle, apparel and furniture, and of the said cargo of Slaves on board the same; and he further maketh oath, and saith, that all and every of the said Africans were shipped on board, in pursuance to the aforesaid Treaty, to the Southward of the Line, and that at the time of capture, the said Smack was found also to the Southward of the Line, and had not the said Vessel been hindered by contrary winds and current, operating on her inferior sailing, the said Smack would have been found still more to the Southward; and he further maketh oath, that no Person or Persons, other than the Persons before-mentioned, have any right, title, or interest in the said Smack, her tackle, apparel and furniture, goods, wares, merchandize, or Slaves on board the same, at the time of the capture and seizure thereof; and that he is duly authorized to make the Claim hereunto annexed, and the same is a true and just Claim, and that he shall be able to make due proof and specification thereof.

(Signed) JOZE GOMEZ DA ROCHA,
his
FRANCISCO × GOMEZ.
Mark.

On the 4th day of February the said Joze G. da Rocha was duly sworn to the truth of this Affidavit, and of the Claim thereto annexed, before me,

(Signed) D. M. HAMILTON, Registrar.

THE Claim of the said Joze Gomez da Rocha, Master of the said Smack, a Subject of His Most Faithful Majesty The King of Portugal, for said Smack, her tackle, apparel and furniture, goods, wares, merchandize, and 123 Africans, or so many thereof as were on board said Smack at the time of the capture thereof, by His Majesty's Ship-of-War Bann, Charles Phillips, Esquire, Commander, and brought into Sierra Leone, and for the value of such of the Slaves as may have departed this life since the said capture, for the said Smack, her tackle, apparel and furniture, and her cargo, as the sole property of Manoel Joze Ura. de Silva, and Duarte Joze de Millo, Inhabitants of Angola, the former being a Native of Lisbon, the latter a Native of Rio Janeiro, and as protected by the Treaty or Convention between His Britannick Majesty and His said Most Faithful Majesty, dated 28th July 1817; and for all costs, charges, losses, damages, demurrage and expences as have arisen, or shall or may arise, by means of the capture and detention of the said Smack, and her cargo as aforesaid.

(Signed) JOZE GOMEZ DA ROCHA.

(16.) *Question to, and Answer of M. Justino, Mariner. Feb. 6, 1823.*

Question to be put to Manoel Justino, Mariner on board the said Vessel, by desire of the Commissioners, with his Answer thereto.

Question.—You have stated that the Slaves at present on board of the Schooner Sinceridade, were taken on board at the Gaboon: which do you mean, the Coast of Gaboon, or the River Gaboon?

Answer.—The Slaves were taken on board the said Schooner near Fetiche Ponte, which Place is commonly called Little Gaboon.

(Signed) MANOEL JUSTINO.
SIMAO RODRIQUE.

Taken and sworn this 6th day of February 1823, through the interpretation of Simao Rodrique, who was first duly sworn to interpret faithfully, before me,

(Signed) D. M. HAMILTON,
Registrar.

(17.) *Question to, and Answer of D. J. Antonio, Mariner. Jan. 28, 1823.*

Question to be put to Domingo Joze Antonio, Mariner on board the said Vessel, by desire of the Commissioners, with his Answer thereto.

Question.—You have stated that the Slaves at present on board of the Schooner Sinceridade,

were taken on board at the Gaboon; which do you mean, the Coast of Gaboon, or the River Gaboon.

Answer.—The said Slaves were taken on board the said Schooner from the Coast of Gaboon, and not near any River.

(Signed) DOMINGO JOZE ANTONIO. ^{his} ✕
mark.

SIMAO RODRIQUE.

Taken and sworn the 6th day of February, 1823, through the interpretation of Simao Rodrique, who was first duly sworn to interpret faithfully, before me,

(Signed) D. M. HAMILTON, Registrar.

(18.) *Question to, and Answer of J. de Coza, Cook. Feb. 6, 1823.*

Question to be put to Joze de Coza, Cook on board the said Vessel, by desire of the Commissioners, with his Answer thereto.

Question.—You have stated that the Slaves at present on board of the Schooner Sinceridade, were taken on board at the Gaboon: which do you mean, the Coast of Gaboon, or the River Gaboon.

Answer.—The said Slaves were taken on board the said Schooner from the Coast of Gaboon, and not near any River.

(Signed) JOZE DE COZA,
SIMAO RODRIQUE.

Taken and sworn this 6th day of February 1823, through the interpretation of Simao Rodrique, who was first duly sworn to interpret faithfully, before me,

(Signed) D. M. HAMILTON, Registrar.

(19.) *Proctor's Petition, with Affidavit of M. Justino, Mariner.*

THE humble Petition of W. H. Savage, Proctor on behalf of the Claimant, sheweth,—that your Petitioner deeming it absolutely necessary, and to the ends of justice, to point out in as clear a manner as possible, the actual Place where the said Smack did lie at Anchor while receiving her cargo of Slaves,—prays, that the annexed affidavit may be admitted to be filed in the Registry of the said Court, and be admitted as part of the evidence in the Cause:—and, as in duty bound, your Petitioner will ever pray, &c.

(Signed) W. H. SAVAGE, Proctor for the Claimants.

Free Town, February 8, 1823.

Appeared personally, Manoel Justino, Mariner on board the said Smack, and through the interpretation of Francisco Gomez, first duly sworn faithfully to interpret, maketh oath and saith, that the Natives of Africa, Slaves on board the said Smack at the time of capture, by His Majesty's Ship-of-War Bann, Charles Phillips, Esquire, Commander, were all and every one thereof shipped on board the said Smack, while she lay in a bay within Cape Lopez, and within sight of said Cape, which said Cape being low, is not to be seen from a great distance, and near to a certain Place called Fetis or Fetish Point, and that the adjoining shore he understands is known by the name of Little Gaboon, as well as Fetish Point.

(Signed) MANOEL JUSTINO.
^{his}
FRANCISCO ✕ GOMEZ
mark

The said Manoel Justino sworn to the truth of the aforesaid Affidavit, through the interpretation aforesaid, the 8th day of February 1823, before me,

(Signed) D. M. HAMILTON, Registrar.

(20.) *Petition of Captain Phillips. February 11, 1823.*

THE humble Petition of Charles Phillips, Esq. Captain of His Majesty's Ship Bann, prays,—that a Letter from the Master, filed in your Honourable Court, in the Case of the Magdalena de Praça, may be read in evidence in this Cause:—and your Petitioner, as in duty bound, will ever pray.

Free Town, February 11, 1823.

(Signed) C. AUSTIN, for CHAS. PHILLIPS.

(21.) *Master's Letter to Senhora Maria das Nieves. February 12, 1823.*

SENORA MARIA DAS NIEVES,

(Translation.)

MY much beloved of my heart, my concern for your welfare makes me shed tears of blood; my

dear and faithful love; by the Captain of the Schooner I send you three pieces of printed red gingham, three pieces of red handkerchiefs, and two bed covers, and one pack of beads, one doz. of Dutch knives, quarter pipe of aquadente, and when the Schooner shall come, I will send you two Slaves for your farm; and take care that you behave yourself so that you may be esteemed, because you have me for your protector as long as I live: If you continue to go with black boys, as I have understood you have been kept by a black boy that resided at St. Thomas; if I should learn any thing when I return from Brazils, you may immediately hide yourself, for I will destroy you; make yourself respected, because you have enough to live upon; I intend to make you rich if God pleases, for I intend to set up a shop at St. Thomas, and you, if you make yourself esteemed, shall be my heiress; so may fortune permit. That I should love you well, I recommend to you to make yourself esteemed; farewell, until we see each other again.

I am your faithful lover,

(Signed) J. GOMEZ DA ROCHA.

(22.) *Petition of Proctor, with Affidavit of the Master, &c.*

THE humble Petition of William Henry Savage, Proctor, on the part of J. G. de la Roche, Master and Claimant, sheweth,—that by a Decree of your Honourable Court, pronounced in the above Cause, the said Vessel was restored to Claimants, and the question of the Slaves, the cargo then on board, left for further arrangement and order of Your Honourable Court.

That at the time of promulging said Decree, your Petitioner offered to come to some arrangement with Captor for landing of said Slaves, which was rejected by Captor; rejected even to hearing of said proposal of arrangement.

That since that period, your Petitioner hath handed to the Proctor of the Captor, the said proposals in writing, as directed by Claimant, being the same now inclosed, marked A.

That your Petitioner hath received the answer thereto, as per inclosed Note, marked B.

That the Claimant hath not the means of provisioning said Slaves now on board, or is otherwise able to remove and support them in his present circumstances—circumstances into which he hath been brought by the sole effect of the illegal capture and detention of said Vessel Sinceridade.

That, therefore, your Petitioner is instructed to state to your Honourable Court, that no means is left to the said Claimant, but to procure your sanction and order for the landing and provisioning of said Slaves.

Wherefore the said Claimant, through your Petitioner, humbly prays, that the circumstances of the Case may be taken into your Honour's consideration, and that the said Slaves may be landed and provided for, as in other Cases, and that such Order, Decree, or Notice may be made thereon, so that the said Claimant shall not be divested of his interest (for those he claims) in the said Slaves.

And your Petitioner, as in duty bound, will ever pray.

February 19, 1823.

(Signed) W. H. SAVAGE, Proctor for Claimant.

A.—Proctor for Claimant, hath instructions to propose that a Letter shall be addressed to Captor by Claimant's Proctor, stating, that in consequence of the want of provisions, sickness, &c. he is willing to deliver him the Slaves to be landed, then a Petition shall be made by Captor for landing alluding to said Letter, and Claimant's Proctor agree to its prayer in another Petition, on this express condition, that there shall be (with permission of Court) inserted in the Decree—that the said Slaves are ordered to be landed on the Petition of both Parties, and that the question of emancipation, and for damages by landing of said Slaves, shall be left to the respective Governments composing the Commission.

14th February 1823.

B.—In the Case of the Sinceridade, the Proctor for Captors has Instructions to state, that as the Proctor for Claimant declined making any proposal in the first instance, when the former was authorised to listen to such, that such authority is now withheld, and the Cause must take its course.

Wednesday, 18th February 1823.

Mr. Savage, Proctor for Claimants.

JOZE GOMEZ DA ROCHA, Master of the above-named Vessel, the Sinceridade, now lying in the Port of Sierra Leone, maketh oath and saith,—that, by the Judgment and Decree of this Honourable Court, the said Vessel was restored to the Claimants, but that the question with respect to the Slaves, the cargo then on board was reserved. And this Deponent further saith, that he, this Deponent, hath been informed and believes that his, this Deponent's, Proctor did, at the time this Honourable Court gave Judgment in this matter, make proposals to the Captors of the said Vessel, or their Proctors, to come to an arrangement for the landing the said Slaves from on board the said Vessel, which said proposal was then rejected by or on the part of the said Captors, as this Deponent hath been informed and believes. And this Deponent further saith, that, in compliance with his, this Deponent's, Instructions, proposals in the words or to the effect subjoined to the Petition hereunto annexed, and marked with the letter A, were made in writing by this Deponent's Proctor to the said Captors, on the day of the date thereof, and that the Paper

Writing marked with the letter B, also annexed to the said Petition, was received by this Deponent's Proctor in answer to the said Proposals, on the day of the date of the said answer, as this Deponent is informed and verily believes. And this Deponent further saith, that, in consequence of the loss, costs, charges and expences which he hath been put to by the illegal capture of the said Vessel, and the detention thereof, he, this Deponent, is rendered unable to provide for the sustenance and support of the said Slaves.

(Signed) JOZE GOMEZ DA ROCHA.

Sworn at Free Town, this 24th day of February 1823, before me,

(Signed) D. M. HAMILTON, Registrar.

(23.) *Medical Report. February 22, 1823.*

The Report of John Shower, Surgeon.

AGREEABLY to an Order of the Court, dated this day, I proceeded on board of the Brigantine Sinceridade, and found on board sixty-nine Slaves * apparently in a good state of health, with the exception of one Slave, who complained he had a pain in his side. There was also one female who had small pox, but is now sent to the Hospital, in consequence of an order to that effect being granted.

Sierra Leone, February 22, 1823.

(Signed) JOHN SHOWER, Surgeon.

* Females 15 ; Males 54 ;—Total 69.

(24.) *Petition of Captain Phillips. February 22, 1823.*

THE humble Petition of Charles Phillips, Esquire, Captain of His Majesty's Ship Bann, sheweth,—that your Petitioner, wishing to bring this Case to a conclusion without further trouble to your Honours, did authorise his Proctor to receive any communications from the Proctor for Claimants, which might tend to that desirable end; that your Petitioner's Proctor did, in consequence of such authority, notify the same, in writing, to the Proctor for Claimants, and did likewise communicate the same, *viva voce*, to said Proctor, in the presence of the Registrar of your Honourable Court; and further, that the only answer which the said Proctor for Claimants did vouchsafe, was, "that he was afraid to have any thing to say to Captain Phillips," which answer having been communicated to your Petitioner, he did in consequence withdraw from his Proctor his authority to treat on the subject; and further, your Petitioner conceiving that the said Slaves are legally entitled to a full and complete emancipation, having been purchased in violation of the Treaty between Great Britain and Portugal, and of the Laws of Portugal; that both these Nations are a guarantee for the freedom of those very Slaves, and that the maxim of Law which shews your Petitioner's want of authority to seize this Vessel, and which saved the Claimant from the punishment which his illegal conduct has made him liable to, cannot go to deprive these third Parties of their rights, especially when the rights in question amount to their freedom, and that he does not, therefore, conceive himself authorised to join in any Petition in which the rights of their freedom is not unequivocally declared. Your Petitioner, therefore, prays, that as the Petition of the Proctor for Claimants, praying said Slaves to be landed, does not state their just and perfect right to freedom, that the prayer of the said Petition be rejected:—and your Petitioner, as in duty bound, will ever pray.

Free Town, February 22, 1823.

(Signed) CHARLES PHILLIPS, Captain.

(25.) *Medical Report. February 25, 1823.*

The Report of John Shower, Surgeon.

HAVING been on board of the Brigantine Sinceridade this Afternoon, I found a female Slave with small pox newly broken out on her, I therefore humbly submit, that she be allowed to be landed and sent to the Small Pox Hospital.

Sierra Leone, February 25, 1823.

(Signed) JOHN SHOWER,
Surgeon.

(26.) *Medical Report February 28, 1823.*

The Report of John Shower, Surgeon.

HAVING been on board the Brigantine Sinceridade this Afternoon, I found one female and one male Slave with the small pox, I therefore humbly submit that they be allowed to be landed as soon as possible, at the Small Pox Hospital.

I have also to add, that many of the Slaves complain of bowel complaints; this I attribute to arise from the farina they are now fed upon, it being in a decayed and unwholesome state; I humbly submit that the Court will allow some rice or yams to be issued in lieu of it.

Sierra Leone, February 25, 1823.

(Signed) JOHN SHOWER,
Surgeon.

(27.) *Petition of Proctors, accompanying Agreement between Captor and Claimant. March 11, 1823.*

THE humble Petition of K. Macauley and W. H. Savage, Proctors, sheweth,—that the accompanying Document * doth contain an arrangement entered into between the Captors and Claimant, and which is humbly submitted to the consideration of the Honourable Court.

Wherefore your Petitioners pray, that the same may be filed in the Case, and such proceedings had therein, as your Honours may deem fit:—and your Petitioners, as in duty bound, will ever pray.

March 11, 1823.

(Signed) K. MACAULEY, Pr. of Captors.

W. H. SAVAGE, Proctor for Clts.

* See Agreement, page 91.

No. 46.

E. Gregory, Esq. to Mr. Secretary Canning.—(Received October 16.)

(Extract.)

Sierra Leone, June 7, 1823.

I HAVE the honour to lay before you a Report of the Proceedings of the British and Portuguese Court of Mixed Commission in the Case of the Portuguese Schooner *Nova Sorte*, E. C. Lima, Master.

I have thought it best, Sir, to lay before you a detailed Report of this Case, rather than such an Abstract as the Commissioners have been accustomed to form for your information, in Cases that have hitherto come before them. My motive for this has been that you may be enabled to judge upon the merits of this Case with a knowledge of every circumstance that the Case contained. You will think it right, Sir, that you should have this knowledge, that you may form a proper estimate of the proceedings of the Commissioners, and be enabled to decide betwixt them and the unsuccessful Suitor in the Case. A brief account would not have sufficed for this purpose in a Case that presented some extraordinary points for consideration.

I may, however, Sir, considering the length of the Report, be permitted to present for your immediate information, a Summary of the principal matters which the Report contains.

The *Nova Sorte* was taken off Mina Piccaninny, in Latitude 6 d. 5 m. North, and in Longitude 1 d. 25 m. East, on the 14th October 1822, by His Majesty's Brig *Snapper*, Lieutenant Rothery. The pretence for the detention was an embarkation of Slaves on board of the *Nova Sorte*, which embarkation, in reality, took place at the instance of the Captor. The *Nova Sorte* was brought to Sierra Leone, on the 20th December 1822, with the Slaves, 122 in number, that had been put on board at the instance of the Captor. The Case was brought before the Mixed Commission. Witnesses were examined in the Case by the Registrar. As the Case came to be developed, it was seen that it was not the intention of the Captor to prosecute the Vessel on the original ground for which he detained her, (as indeed he could not prosecute her on that ground with success, the embarkation of the Slaves having been his own act, and not the act of the crew of the *Nova Sorte*), but to proceed against her on account of an embarkation of Slaves, said to have taken place four days previous to the arrival of the *Nova Sorte* at Mina Piccaninny, which Slaves were said to have been concealed on board of the *Nova Sorte* at the time that the Captor first visited her, which was in the evening of the 12th of October, and to have been relanded in the night of the 12th of October. A day, the 21st of January, was appointed for the decision of the Commissioners; when this day came, Mr. Altavilla, the Commissioner on the part of His Most Faithful Majesty, declared that he could not then satisfactorily decide upon the Case; he had not made up his mind upon it, nor could he determine upon the Case as it then stood; he wished that the Master should be allowed further time to come forward, in order that the Case might be presented to him in a clearer form than it was then presented. The Master had not hitherto appeared to defend himself, or to claim the Vessel. The British

Commissioners consented to the postponement of the Case, that the Master might have the further opportunity to defend himself, and that Mr. Altavilla might be enabled to come to a decision upon the Case. The Master formally appeared as Claimant; fresh evidence was taken in the Case; the 1st of February was the day appointed for the decision of the Commissioners. The Commissioners met in Court on that day. Mr. Gregory thought that an embarkation of Slaves on board of the *Nova Sorte* had taken place previous to the arrival of the *Snapper* at *Mina Piccaninny*; that these Slaves had been re-landed, unknown to the Captor, on the night of his arrival; and Mr. Gregory's opinion was, that the *Nova Sorte* should be condemned as prize. Mr. Altavilla did not believe that any embarkation of Slaves had taken place before the arrival of the *Snapper* at *Mina Piccaninny*, that therefore there had not been any re-landing of Slaves unknown to the Captor; and his opinion was that the *Nova Sorte* should be restored to the claimant. Upon this difference of opinion betwixt the two Commissary Judges, Mr. Fitzgerald, His Majesty's Commissioner of Arbitration, to whom the Case then went for final decision, said, that it was necessary for him, in order that he might be enabled satisfactorily to arbitrate betwixt his brother Commissioners, that he should examine some of the Slaves who were stated to have been embarked and re-landed by the crew of the *Nova Sorte*: he wished that the Slaves should be examined in open Court by himself. Seven of these Slaves were accordingly examined in open Court by Mr. Fitzgerald; some of them had been previously examined in the Case by the Registrar on the part of the Captor, but they had not been asked what became of them after they were put on board the *Nova Sorte* by the Portuguese, and hid by the Portuguese, as they had said they were, on the approach of the *Snapper*. This question was asked by Mr. Fitzgerald: six of the Slaves said that they had never gone on shore after the time that they were embarked; that they had never, to use their own expression, put their feet on shore from that time until they came to *Sierra Leone*. The answers of the seventh Slave were contradictory, but they raised an opinion on the part of the Proctor for the Captor, that if the Slaves had not been re-landed they had remained concealed on board. The Proctor for the Captor brought forward a boy to prove that part of the Slaves had been re-landed, and part concealed on board. The boy was said to be one of the Slaves who had been put on board of the *Nova Sorte* by the Portuguese. The Proctor for the Captor wished that this boy should be examined out of the Court by the Registrar, but as the Court was sitting when this wish was expressed, and as the Slaves recently examined, had been examined in open Court, Mr. Fitzgerald refused this request. The boy was examined in open Court. Upon being asked who had put him on board of the *Nova Sorte*, he said that the person who had put him on board was not then in Court; the Master and some of the crew of the *Nova Sorte* were in Court at that time; the boy had pointed to the Master as the person who had bought him. The boy said, that the person who had put him on board had something on his shoulder like what was on the shoulder, to which he pointed, of a person who was sitting near to him. This person was Captain Phillips, the Commander of His Majesty's Ship *Bann*. It was clear that Lieutenant Rothery was meant as the person who had put the boy on board of the *Nova Sorte*. The Proctor for the Captor, when the boy pointed to the Epaulet on the shoulder of Captain Phillips, said, that the Interpreter was not a good one. Mr. Fitzgerald told him that he might get another. The Proctor for the Captor asked whether the boy might be examined out of Court. Mr. Fitzgerald said no. The Proctor for the Captor then said that he should not go on with the examinations, and that he protested against the examinations being taken in open Court, as being irregular. The examination was thus not continued. The Case was closed, and Mr. Fitzgerald gave judgment upon it, on the 5th of February. Mr. Fitzgerald did not think that there had been an embarkation and a re-landing of Slaves by the Portuguese; his opinion was that the

Nova Sorte should be restored to the Claimant. When Mr. Fitzgerald had delivered this opinion, Mr. Gregory said, that he deemed it to be a duty that he owed to his Situation, to his Colleagues, and to himself, to state, that the evidence of the Slaves, who had been examined in open Court, had changed his opinion upon the Case; he concurred in the opinions of Mr. Fitzgerald and of Mr. Altavilla. The Nova Sorte was accordingly restored to the Claimant.

The foregoing, Sir, is a summary of the principal matters contained in the Case of the Nova Sorte.

Much dissatisfaction was expressed on the part of the Captor upon two points in this Case: the first point was, the postponement of the trial, on the 21st of January, in order to allow the Master of the Nova Sorte, a further opportunity to appear for the satisfaction of Mr. Altavilla's mind.

I think it may be necessary to observe, that an impression has existed in the minds of many in this Colony, that the British Commissioners ought to use every means to bring about the condemnation of Slave-ships. It is not matter of surprise, then, that dissatisfaction should be expressed at the postponement of the trial. But, Sir, the British Commissioners have ever turned from the idea that they should seek pretences to bring about the condemnation of all Vessels prosecuted in the Courts of Mixed Commission, or that they should act in opposition to the just opinion of their Foreign Colleagues. The British Commissioners have deemed themselves to be, not Advocates for Captors, but Judges betwixt Captors and the Party against whom charges of illegal Slave-trade might be brought. The British Commissioners have strived to rule their judicial conduct by the Convention, and to act in the execution of their Office, according to the tenour of their oaths "faithfully, impartially, fairly, and without preference, or favour, either for Claimants or Captors."

In consenting to the postponement of the trial, the British Commissioners had a regard to Mr. Altavilla. It was obvious that Mr. Altavilla could not give a decision that should be reconcileable to his conscience. Were the British Commissioners to press Mr. Altavilla to a decision at that moment? Supposing it to have been possible that Mr. Altavilla would have allowed himself to have been so pressed,—could the British Commissioners be instrumental to the wrong, which Mr. Altavilla would do to himself, and to the Parties in the Case, by pronouncing a decision of which his conscience could not approve? The British Commissioners I am sure, Sir, you will think, could not press Mr. Altavilla to a decision: it would neither have been decorous nor honest in them to have done so, however they might regret, as they did, that time would be lost by a postponement of the trial.

The second point, in the Case, upon which much dissatisfaction was expressed on the part of the Captors, was the examination of Witnesses in open Court. I have stated that the Proctor for the Captor said, that he protested against this mode of examination as being irregular. The Witnesses who had been examined, previous to the 1st of February, had been examined by the Registrar.

The authority under which the British Commissioners acted, in taking the examination of Witnesses in open Court, was contained in the Letter, dated the 30th of October 1821, which the British Commissioners had received from His Majesty's Secretary of State for Foreign Affairs, in which Letter it is said "with respect to the Question, whether or not the Commissioners should be present when the Interrogatories are put to the Witnesses, I have to acquaint you, that it is the opinion of His Majesty's Legal Advisers that, unless such examination take place in open Court, it will be more proper that the Commissioners should not be present, more especially under the particular form of Judicature authorised by the Commissioners under the Treaties."

The examinations did take place in open Court, in the presence of the Proctors for both Parties, and in as publick a manner as they could take place.

Mr. Altavilla, the Portuguese Commissioner, conceived that it was quite competent for him to interrogate Witnesses in open Court.

I must confess, Sir, that it appeared strange to the Commissioners, as the Court had been changed from a close Court to an open Court, upon the representation, principally, of the Naval Gentlemen, (as the Commissioners were given to understand), that Captors should turn round and desire that proceedings, which they before wished should be as publick as possible, should now be as private; an irregularity, Sir, that would defeat the ends of justice:—the Commissioners conceived there could be, possibly, none in those publick examinations, neither that there could be any irregularity as proceeding from an assumption of power on the part of the Commissioners which did not belong to them; for they conceived that the exception made in the Despatch, that I have mentioned, gave to them the power of examining Witnesses in open Court.

Possibly, Sir, there may be reasons why examinations should not be taken in open Court. The Commissioners, however, saw no substantial reason why they should not be so taken in the Case of the Nova Sorte.

As it is likely that the Commissioners may again think fit to examine Witnesses in open Court, and as perhaps such examinations may again be objected to; I beg leave to request that you will be pleased to instruct His Majesty's Commissioners upon this point. I would only beg leave to repeat, for your consideration, that the Portuguese Commissioner thinks that he has authority to take the examinations of Witnesses in open Court.

If the Case of the Nova Sorte was not deemed to be one which came within the operation of the Convention, it certainly was a Case that shewed the necessity of an enlargement of the powers given to the Mixed Commission under the Convention. The Slaves that had been put on board of the Nova Sorte, by Lieutenant Rothery, and brought to this Colony, were proved to have been purchased by the Master of that Vessel, and to have been collected in depôt on shore, to be in readiness for embarkation. I need not, Sir, make any detailed observations upon these facts.

I beg leave to inclose, with the Report of the Case of the Nova Sorte, Copies of the whole of the Examinations taken, with Copies of the several Papers brought forward in that Case, up to the period of the decree of restitution.

I have the honour to remain, &c.

The Right Hon. George Canning,
 &c. &c. &c.

(Signed) E. GREGORY.

First Inclosure in No. 46.

Report of the Proceedings of the British and Portuguese Court of Mixed Commission, in the Case of the Portuguese Schooner Nova Sorte, Estevas Cazado Lima, Master.

THE Portuguese Schooner *Nova Sorte*, belonged to Bahia, and was owned by Wenceslaus Miguel d'Almeida, of that Place; she had Slave-trading papers authorising her to proceed to Molembo for Slaves; her Royal Passport stated her burthen to be one hundred and forty-one and a half tons, by which rate she was authorised to carry three hundred and fifty-three Slaves. There was amongst her Papers a Certificate of Admeasurement, according to which the rate of tonnage was stated in the Passport; there were also amongst her Papers two Documents, which stated the burthen of the *Nova Sorte* to be eighty-four tons; the first of these was a Certificate, dated Bahia, 15th May 1820, of the President and Deputies of the Board of Inspection of that Captaincy, stating that the Schooner *Nova Sorte*, bound for Rio de Janeiro, and belonging to Wenceslaus Miguel d'Almeida, was rated at eighty-four tons, by skilful persons appointed to ascertain her burthen; that, according to that rate, she would have to pay eight thousand and four hundred Reas for Light Dues. The second Document was a Certificate, bearing two signatures, stating, that in the Book of Receipts for the Contribution for Lights, there appeared eight thousand and four hundred Reas, paid by Francisco de Souza Lapas, for eighty-four tons, at which the

Schooner *Nova Sorte*, bound for Molembo, was rated; this Certificate was dated Bahia, the 11th May 1822, and was one of the Papers for the voyage in which she was detained. Betwixt these Papers and the Royal Passport, there is a difference of fifty-seven and a half tons, a material difference which calls for explanation, as to the mode adopted in the Brazils of measuring Vessels, when intended for Slave-trading purposes, and when intended for purposes of innocent commerce. The cargo of the *Nova Sorte* consisted of 1520 rolls of tobacco, five pipes of aqua ardente, and eight bales of cloth goods; her Muster-Roll stated her to have a crew of twenty men, she was commanded by Estevao Cazado Lima. In the course of the Trial, the Proctor for the Captor objected that the Person who appeared as Claimant in the Case, was not in reality the Master of the *Nova Sorte*; he said that the name of the Master was written Silva in the Passport. The Person who appeared as Claimant stated his name to be Lima; this name appeared twice in the Muster-Roll, first in its abbreviated form *L^a*, and secondly at length *Lima*. In another paper the name Lima appeared at length. In a Petition for a Royal Passport, the name is written in its abbreviated form *L^a*, the *L* is formed like an *S*. As the name *Silva* is often, amongst the Portuguese, written abbreviatedly *S^a* it was taken by the Commissioners that the Person who made out the Royal Passport for the *Nova Sorte*, mistook the name Lima for Silva; and the Commissioners did not think otherwise than that the Person who appeared as Claimant, was the Person who had sailed, as Master of the *Nova Sorte*, from Bahia. This minuteness will be excused by reason of the objection advanced against the person who appeared as the Claimant of the *Nova Sorte*. The *Nova Sorte* sailed from Bahia on the 24th of May 1822. The *Nova Sorte* was brought to Sierra Leone on the 20th of December 1822. She was, on her arrival, visited by the Marshal of the Court, who reported to the Commissioners, that she was prize to His Majesty's Brig Snapper, and had on board one hundred and twenty-two Slaves. The Surgeon, Dr. Shower, attached to the British and Portuguese Mixed Commission, reported that he had found the whole of the Slaves, with the exception of two, who were rather emaciated, to be in a good state of health and strength, and perfectly free from any disease.

On the same day the Papers of the Vessel were brought into the Registry by Lieutenant Thomas Henry Rothery, commanding His Majesty's Brig Snapper. Lieutenant Rothery brought with these Papers a Declaration, to the truth of which he made oath, stating himself to be the Captor of the *Nova Sorte*, and stating the reason for her detention. Lieutenant Rothery at the same time presented a Petition, praying that a Monition might be issued, citing all Persons interested in the *Nova Sorte* to appear before the British and Portuguese Mixed Commission. A Monition was issued for this purpose on the 23d of December.

The Declaration made by Lieutenant Rothery in the Case, was as follows, viz.;

I, Thomas Henry Rothery, Commander of His Britannick Majesty's Brig-of-War Snapper, hereby declare, that, on the 14th day of October 1822, being at Mina Piccaninny, in Latitude 6 deg. 5 min. North, and Longitude 1 deg. 25 min. East, of London, I then and there seized and detained the Polacca, or Vessel, called *Nova Sorte*, sailing under Portuguese Colours, and commanded by Estevao Cazado da Silva, bound from Bahia to Molembo, for being engaged in the unlawful Traffick in Slaves, contrary to the Convention entered into between His Britannick Majesty and His Most Faithful Majesty The King of Portugal.

And I further declare, that, on the 7th day of August 1822, I boarded the said Vessel, she lying and being at anchor at the said Port of Mina Piccaninny, in Latitude and Longitude aforesaid, at which time she had on board her cargo of merchandize complete, as it was shipped at Bahia.

And I further declare, that, on boarding the said Vessel, on the 14th day of October aforesaid, I found that the said cargo had been landed at the same Place, viz. Mina Piccaninny aforesaid, and had been there disposed of by the said Master and the Supercargo, for a cargo of Slaves.

Given on board His Majesty's Brig Snapper, }
this 14th day of October 1822.

(Signed) T. H. ROTHERY.

The Declaration made no mention of the Slaves that had been brought to Sierra Leone in the *Nova Sorte*. On the 26th December the Master, and on the following day the Boatswain, of the *Nova Sorte* were examined upon the Standing Interrogatories: in their answers to these Interrogatories, no Slave-trading pursuits were acknowledged to have engaged them on the Coast. They both denied that any Slaves had been on board of the *Nova Sorte* at any time during the voyage in which she was taken. They contradicted each other in regard to the intended disposal of the cargo. The Master said, in answer to the 13th Interrogatory, that the part of the cargo which was on board at the time of his examination, was to have been delivered at Mina Piccaninny, for the account, risk, or benefit of the Owner; whilst the Boatswain stated, in answer to the same Interrogatory, that the cargo on board when he was examined, was to be delivered at Molembo, for the risk or benefit of the Owner. The Master stated, that the *Nova Sorte* anchored at Elmina for water and provisions; at Mina Piccaninny also for water and provisions. The Boatswain stated, that the *Nova Sorte* anchored at Elmina to take in water and to repair the main boom; and at Mina Piccaninny, for water and to repair the top-gallant mast.

After the examination of the Boatswain was taken, on the 27th of December, the Case remained stationary for a few days. The Proctor for the Captor fell sick, and the examination of Witnesses was not immediately resumed. In this suspension of the Case, it was reported to the Commissioners by Dr. Shower, that since his last Report (the Report made by him on the arrival of the Vessel in the Harbour), some of the Slaves of the *Nova Sorte* had been affected with bowel complaints; that the number of cases was increasing daily, and he submitted that the whole of the Slaves should be landed as soon as possible.

It was the wish of the Commissioners to give every relief to the Slaves that their state might require. It had been the practice of Captors, or their Agents, to pray for the immediate landing of the Slaves brought to Sierra Leone in Slave-ships. But in this Case of the Nova Sorte, the practice had not been followed by the Captor, or his Agent. The Commissioners considering that the Captor, in this instance, might have grounds for not seeking the landing of the Slaves, either as they might be objects of adjudication, and might be demanded should a Claimant appear in the Case, or either as they might otherwise be connected with the Case, thought it proper that the matter of the Surgeon's Report should be communicated to the Captor. Mr. Sawyer, the First Clerk of the Mixed Commission, accordingly communicated, personally, with Lieutenant Rothery on board of the Snapper. Lieutenant Rothery was not aware that the Slaves were seriously unwell; the Surgeon of the Snapper had reported favourably of the general state of their health; the cases of bowel complaint were very few in number, and proceeding only from accidental causes; he was not disposed to consent to their landing, but would cause every care to be taken of their health. The Commissioners were not willing to cause the landing of the Slaves, under these circumstances, in opposition to the wishes of the Captor.

On the 4th January the Case was resumed, by the presentation of a Petition of the Proctor for the Captor, praying that two Affidavits, thereunto annexed, might be filed in the Court. These Affidavits were made, one of them by a Slave brought to Sierra Leone in the Nova Sorte, named Quashee; the other by a black seaman, named Joachim, a Slave, of the Nova Sorte. By these Affidavits the Case at length appeared to assume a tangible shape. They alleged an embarkation of a certain number of Slaves on board of the Nova Sorte, a short time before the appearance of the Snapper; a concealment of these Slaves on board of the Nova Sorte, when she was visited by the Captor; and a relanding of them in the Night succeeding the visitation of the Captor. These allegations, if proved, would cause the condemnation of the Vessel.

The Affidavit of Quashee was as follows, viz.:

Saith, that he was the Slave of Captain Blenkarne, Governor of the British Fort of Accra; that about the time Sir Charles M'Carthy, Governor and Captain-General of this Colony and its Dependencies, visited that said Fort of Accra, Deponent was by the said Captain Blenkarne given to a woman, a Native of Africa, who then lived with the aforesaid Captain Blenkarne; that said woman sold the Deponent to a man named Quarte Cudjô, a Native of Africa, and then resident at Accra; that said Quarte Cudjô took Deponent, ironed by the wrists, in a canoe to a Place on the Western Coast of Africa, called Mina Piccaninny, and then and there sold him, the said Deponent, to a Portuguese man, Master of the Portuguese Polacca Nova Sorte, which Vessel was then and there lying at anchor, viz.: at the aforesaid Place called Mina Piccaninny, which Portuguese Master being present he identifies, and which Portuguese Polacca he points out lying at anchor in this Harbour. That Deponent being on the beach of the said Place, called Mina Piccaninny, he there saw and witnessed the embarkation of many men and women Slaves, Natives of Africa, on board the long-boat of the said Polacca, which long-boat conveyed the said Slaves and put them on board the said Polacca, said Slaves being then and there in irons by the neck and wrists; that four days after the aforesaid Slaves were so put on board the aforesaid Vessel, he, the Deponent, with other Slaves not then embarked, perceived a Vessel approaching the said Place where said Polacca was lying at anchor, which Vessel he points out to be His Britannick Majesty's Brig-of-War Snapper; that before the Sun rose on the following day, he saw and witnessed the aforesaid Slaves, which were so embarked, land on the beach of Mina Piccaninny aforesaid, from three canoes and the aforesaid long-boat, and that he was with the said Slaves, and others which were not embarked, driven by the people of Mina Piccaninny aforesaid into the bush to a considerable distance.

The Affidavit made by Joachim was as follows, viz.:

Saith, that he is a seaman on board the said Portuguese Polacca Nova Sorte, in which Vessel he sailed from the Port of Bahia, in the Brazils, about six or seven months ago; that he made three voyages to the Western Coast of Africa in the said Vessel, viz.: two voyages to the River Calabar, and one voyage to Mina Piccaninny, from which Places the said Vessel took at each time a cargo of Slaves, Natives of Africa, to the aforesaid Port of Bahia; that about two months and a half ago, being at the aforesaid Port of Mina Piccaninny, on the Western Coast of Africa, in the aforesaid Polacca, then and there lying at anchor, many men and women Slaves, Natives of Africa, were then and there brought and received on board the said Polacca at two several times, in the long-boat belonging to the aforesaid Vessel, the said Slaves being ironed by the neck and hands in four separate chains; that four days after the said Slaves were so embarked on board the said Vessel a strange Vessel came in sight, which said strange Vessel proved to be His Britannick Majesty's Brig-of-War Snapper; that on the appearance of the said Brig-of-War all the aforesaid Slaves were driven by the Portuguese mariners of said Polacca into a part of the hold of the said Polacca (which place he describes to be under that part of the Vessel called the Fore Pic), and that the said Slaves were then and there covered and concealed by sails and provisions, the Portuguese mariners of said Vessel threatening to stab with a knife any one of the said Slaves who should speak or make any noise; that a short time after Sun-set of the same day, the boat of the English Brig-of-War aforesaid came alongside the said Polacca and shortly after left her; that about the middle of that same day, the Portuguese mariners put into three canoes, and the aforesaid long-boat, all the aforesaid Slaves then on board the said Polacca, viz.: one chain of Slaves into each boat, and conveyed them on shore to the aforesaid Place called Mina Piccaninny, and that Deponent remaining on board the said Polacca, he does not know how they were after disposed of.

This Affidavit of Joachim was made, through the interpretation of the Slave Quashee. The Commissioners thought that such interpretation might be liable to objection; on the ground that the bias of Quashee's mind might incline him to an interpretation that might tend to confirm the statement made by himself, in regard to the Slaves in question. Mr. Fitzgerald suggested to the Proctor for the Captor, that it would be proper that the Deposition of facts by Joachim should be taken through the medium of another Interpreter than Quashee.

On the 8th of January, Interrogatories were put on the part of the Captor to three men Slaves, Accootoo, Desay and Cooma; and to three women Slaves, Accoopee, Caucau and Elookoo, brought to Sierra Leone in the Nova Sorte. The importance that was attached to the Answers of these Slaves may require that their Answers should be particularly inserted here. They are as follows, viz.:

Accootoo.—1st Answer. Saith, his name is Accootoo, and his Country, Panpaw. 2d. He is a Slave, and identifies the Captain of the said Polacca as having bought him. 3d. Saith, the Portuguese of the Polacca put him on board the Vessel which brought him here. 4th. He points out the above-mentioned Polacca, now at anchor off Free Town. 5th. Saith, that the said Vessel was then lying off Anucoo, or Mina Piccaninny. 6th. Saith, he was put on board before the English Man-of-War came in sight. He was so put on board four days before her coming in sight. 7th. Saith, that on the appearance of the Man-of-War, he was put down below, and covered with sails and yams.

Desay.—1st Answer. Saith, his name is Desay, his Country, Coromantine. 2d. Saith, he is a Slave, and was bought by the Captain of the Polacca afore-mentioned. 3d. Saith, he was put on board said Polacca by the Town's-people of the Place at which the Captain bought him. 4th. Points out the Polacca Nova Sorte, now lying at Free Town. 5th. Saith, the said Polacca was then lying off Mina Piccaninny. 6th. Saith, he was put on board four days before the appearance of the English Man-of-War. 7th. Saith, that upon the appearance of the English Man-of-War, the Portuguese mariners put him and other Slaves below, and put sails over him and them.

Cooma.—1st. Saith, his name is Cooma, and his Country, Wigaw. 2d. Saith, he is a Slave, and points out the Captain of said Polacca, who is present, as having bought him. 3d. Saith, that the Town's-people of the Town, where said Captain bought him, put him on board the Vessel which brought him here. 4th. Points out the Polacca Nova Sorte, aforesaid, at anchor, off Free Town. 5th. Saith, that the said Polacca was lying at Mina Piccaninny at the time he was put on board her. 6th. Saith, he was put on board the said Polacca four days before the English Man-of-War came in sight. 7th. Saith, that on the appearance of the English Man-of-War, the Portuguese mariners of the said Polacca put him below, and covered him with sails.

Accoopee.—1st Answer. Saith, her name is Accoopee, and her Country, Choma. 2d. Saith, she is a Slave, and identifies the Captain of the Nova Sorte as having bought her. 3d. Saith, the Portuguese mariners put her on board the Vessel which brought her to this Place. 4th. She points out the above-mentioned Polacca Nova Sorte, as the Vessel which brought her here. 5th. Saith, that the said Vessel was then lying off Mina Piccaninny. 6th. Saith, she was put on board the said Polacca, Nova Sorte, four days before the English Man-of-War came in sight. 7th. Saith, that on the appearance of the English Man-of-War, the Portuguese mariners put her below, and covered her with sails.

Caucau.—1st Answer. Saith, her name is Caucau, and her Country, Taujapaw. 2d. Saith, she is a Slave, and identifies the Captain of said Polacca, Nova Sorte, as having bought her. 3d. Saith, the Portuguese mariners of the Polacca put her on board the said Vessel, which brought her to this Place. 4th. She points out the Polacca, Nova Sorte, now lying off Free Town, as the Vessel that brought her here. 5th. Saith, that the said Vessel was then lying off Mina Piccaninny. 6th. Saith, she was put on board said Polacca, four days before the English Man-of-War came in sight. 7th. Saith, that on the appearance of the English Man-of-War, the Portuguese mariners of the said Polacca put her below in the Vessel, and covered her over with sails.

Elooko.—1st Answer. Saith, her name is Elooko, and her Country, Geau. 2d. Saith, she is a Slave, and identifies the Captain of the Polacca, Nova Sorte, as having bought her. 3d. Saith, the Portuguese mariners of the said Polacca put her on board the Vessel which brought her here. 4th. She points out the above-mentioned Polacca, Nova Sorte, now lying at anchor off Free Town. 5th. Saith, that the said Vessel was then lying off Mina Piccaninny. 6th. Saith, she was put on board four days before the English Man-of-War came in sight. 7th. Saith, that upon the appearance of the English Man-of-War, she was put below, and covered with sails.

On the 8th of January also, Special Interrogatories were put, on the part of the Captor, to the Master and Boatswain of the Nova Sorte, with the view to elicit particular information as to the disposal of the greater part of the cargo at Mina Piccaninny, and also the object of remaining so long at that Place.

The Master said, that it took all the part of the cargo that was not on board at the time of capture to buy water, provisions and palm-oil. The part of the cargo that was on board at the time of capture was a very inconsiderable part. He said, that he had a Factory with goods, at Molembo, with which goods the Slaves were to have been purchased; that the remainder of the cargo on board was to have been carried to Molembo, and there landed. In answer to the 13th Standing Interrogatory, as already mentioned, he said, that the remaining part of the cargo, which

was on board, was to have been delivered at Mina Piccaninny for the account, risk or benefit of the Owner. He said, that he remained at Mina Piccaninny only two Months; he laid there so long, on account of the strength of the current not allowing him to proceed to his destined Port. He said, that he would swear, on the Holy Cross, that no part of the cargo so landed at Mina Piccaninny was employed by him, or the Supercargo, in the purchase of Slaves. The Boatswain said, that they landed the cargo at Mina Piccaninny to purchase provisions, palm-oil, and a top-gallant-mast; the cargo was landed by canoes, and the launch of the Polacca. He said that he would swear, on the Holy Cross, that not one of the Slaves brought to this Port in the Nova Sorte was purchased by the Master or Supercargo of that Vessel. At the same time the Cook of the Nova Sorte was specially interrogated, on the part of the Captor, as to whether he would swear that none of the Slaves brought to this Port, in the Nova Sorte, were purchased by the Master or Supercargo of that Vessel. He said, that he would swear, on the Holy Cross, that none of the Slaves which were brought to Sierra Leone in the Nova Sorte were bought by the Master or the Supercargo of that Vessel.

On the 9th of January, according to the suggestion made to him by Mr. Fitzgerald, as before stated, the Proctor for the Captor obtained the information which Joachim had to give in regard to the Slaves, through the medium of another Interpreter than Quashee. This information was not given in the form of an Affidavit as before; it was given in Answers to Questions put to him by the Proctor for the Captor. The Answers are as follows, viz :

1st Answer. His name is Joachim. 2d. Saith, he is a mariner on board the Nova Sorte. 3d. Saith, he has been on board the said Schooner Nova Sorte, ever since she sailed from Bahia. 4th. Saith, said Schooner was lying off Mina Piccaninny at the time the said Schooner was seized by His Majesty's Brig Snapper. 5th. Saith, Slaves had been on board the said Schooner four days previous to seeing the Man-of-War. 6th. Saith, that, on the appearance of the Capturing Vessel, the Slaves that were on board were put in a small room where the yams were. 7th. Saith, that, in the course of the night, the Slaves were sent on shore by the Portuguese mariners of said Schooner.

As yet, the appearance of the Slaves in the Nova Sorte had not been explained or accounted for by the Captor, or others. The Case remained imperfect in consequence. Presuming that the Statements of Quashee and Joachim were true, it could hardly be taken that the 122 Slaves that had been brought to Sierra Leone, were embarked by the Portuguese. The Slaves said to have been embarked by the Portuguese were stated to have been re-landed on the night of the arrival of the Snapper at Mina Piccaninny; a re-embarkation was not likely to have taken place, at their instance, in sight of the Snapper. Lieutenant Rothery's Declaration did not state that he found any Slaves on board of the Nova Sorte when he detained her. The Commissioners wished that some information should be given on this point. At the suggestion of Mr. Fitzgerald, this information was given by Lieutenant Rothery, in an Affidavit made by him on the 10th of January, as follows, viz. :

That being on the 12th day of October last past, in pursuance of Orders, in His Britannick Majesty's said Brig, the Snapper, in Latitude 6 d. N. and Longitude 1 d. 20 m. E. he saw a Polacca at anchor, off Mina Piccaninny; that at half-past Six o'Clock of the same Evening he anchored his Majesty's said Brig off the same Place, and proceeded in his boat to examine the said Polacca, she being under Portuguese Colours; that, on boarding her, she proved to be the Portuguese Polacca, Nova Sorte, completely ready for taking on board a cargo of Slaves, she having landed her former cargo, consisting of tobacco, rum and cloth, except a few rolls of the former; that on looking into the usual Slave-rooms, he did not perceive any Slaves, and Deponent consequently left her; that, on the same Evening, the Caboccer of Mina Piccaninny aforesaid, conceiving His Majesty's said Brig to be a Slave-trading Vessel, sent his Messenger on board her, stating that he would be happy to supply her with any number of Slaves she might want, as he had already supplied the Portuguese Polacca, Nova Sorte, then at anchor in company, with a cargo of Slaves; that Deponent immediately returned an answer, desiring the said Caboccer to send the Slaves so supplied, to the Portuguese Polacca aforesaid, on board her immediately; that, on the 14th day of the said Month of October, said Slaves, to the number of twenty, were put on board said Polacca, by the canoes and people of the said Caboccer, when Deponent sent his boat, and seized her; that 102 Slaves, being part of the aforesaid cargo of said Polacca, were subsequently put on board her when she was sent to this Port for adjudication.

This Affidavit shewed that the embarkation of the 122 Slaves had not been the act of the Portuguese, but of the Captor of the Nova Sorte.

On the 14th of January, a further Affidavit was made by Quashee, the Slave, as follows, viz. :

That on the landing of the Slaves from the Nova Sorte, as deposed by this Deponent, in an Affidavit sworn in this Cause before Daniel Molloy Hamilton, Esquire, Registrar to your Honourable Court, that he and they, with other Slaves which had not been embarked, were driven together into the bush, to a place where the aforesaid Captain had a Factory for the purposes of purchasing Slaves, and of keeping them until he could embark them; that all the Slaves which came to this Port in the Nova Sorte were kept in irons in the said Factory or House, and fed by two Portuguese sailors of the said Polacca, one of whom was left in the aforesaid bush, and the other being present, he identifies.

This Affidavit, with a further one made by Lieutenant Rothery, on the 21st January, to the effect, that having boarded the Nova Sorte off Elmina, about the 30th July, he found that she was furnished with one large copper, such as is usually used for the purpose of cooking provisions for the Slaves; closed at this time the evidence for the prosecution.

On the Petition of the Proctor for the Captor, the 21st January was the day appointed by the Commissioners for giving their Decision upon the Case.

The impression made by the evidence brought forward in the Case, on the minds of the Commissioners, was, that the original detention of the *Nova Sorte*, by Lieutenant Rothery, was illegal and unjustifiable, the embarkation of the 20 Slaves, which formed the ground of detention, being the act of Lieutenant Rothery, and not the act of the Portuguese of the *Nova Sorte*. With regard to the alleged embarkation of a number of Slaves by the Portuguese, prior to the arrival of the *Snapper* at *Mina Piccaninny*, and of the alleged relanding of the Slaves on the Night of her arrival, the British Commissioners were impressed with the belief, that such an embarkation and relanding had taken place, and that, therefore, the Vessel must be condemned, (the illegality of the original detention being outweighed by the illegality of the act of the Portuguese,) for having had Slaves on board, intended for purposes of traffick, during the voyage in which she was taken. Mr. Altavilla, His Most Faithful Majesty's Commissioner, in the first stages of the proceedings, was understood by the British Commissioners, in the communications that they had with him, to incline rather to the belief of such embarkation and relanding of the Slaves, but as the proceedings were drawing to a close, the balance of doubt in Mr. Altavilla's mind inclined more to the disbelief of such embarkation and relanding, than otherwise. On the 20th January, the day before that appointed by the Commissioners to meet in Court, to give their decisions upon the Case, Mr. Altavilla expressed to Mr. Fitzgerald and to Mr. Gregory, the great doubts which existed in his mind as to the truth of the alleged embarkation and relanding of Slaves by the Portuguese of the *Nova Sorte*. He had seen, he said, the Master of the *Nova Sorte*, who had positively denied the truth of the facts alleged against him; the Master had complained that he had not had the opportunity to defend himself. With respect to this complaint, the Registrar, Mr. Hamilton, had told him, when his first examination was taken, that he might defend himself from the charge brought against him, if he thought proper; and that he might be present at the examination of the Witnesses if he pleased, and put such questions to them, in the usual course, as he might think fit. The Master, soon after his arrival, had complained that he was not allowed by the Prize Master of the *Nova Sorte*, to come on shore when he wished it. Mr. Gregory had mentioned this to the Proctor for the Captor, as well as that it would be right that the Master should have such facilities as the Vessel afforded for his coming on shore. The Proctor for the Captor said that he would give special directions to the Prize Master of the *Nova Sorte*, not to give ground of complaint to the Master in this particular.

On the next day, the 21st January, before the meeting of the Court, Mr. Altavilla called on Mr. Gregory, and again expressed to him his doubts upon the Case; he was not determined in his mind what decision to give; he had every wish to do justice between the Parties; justice, he conceived, would best be done by postponing the decision, in order to give to the Master of the *Nova Sorte* the opportunity of making his defence. Mr. Gregory conceived that so much time having elapsed since the arrival of the Master at Sierra Leone, he had had the opportunity to come forward. Mr. Gregory was rather averse to extending the proceedings; but if Mr. Altavilla could not immediately come to a decision upon the Case as it then stood, and justice did require that the proceedings should be extended, by giving to the Master a further opportunity to defend himself from the charge brought against him, Mr. Gregory could not dissent from the course proposed by Mr. Altavilla. Mr. Gregory intimated that it would be well to proceed to the Court-House where they would meet Mr. Fitzgerald, to whom Mr. Altavilla could also state the perplexity of his mind, and his wishes in regard to the postponement of the Case.

It is right here to mention that, with the Papers of the Vessel, the Captor gave into the Registry a sort of Protest drawn up by the Master, and dated the 14th of October, wherein he protested against the detention of his Vessel.

The Commissioners having met at the Court-House, Mr. Altavilla again expressed his wish that the Case should be postponed, in order that the Master might have the opportunity to make his defence, and again stated that he had not come to a decision upon the Case as it then stood; he conceived that the Master might give an explanation of the matters that affected him; he repeated that he was anxious to do justice between the Parties, and he conceived that justice would best be done by allowing the Master a further opportunity to come forward.

Mr. Fitzgerald, who ever made it a point of duty to pay every attention to the Foreign Members of the Mixed Commissions, was disposed to accede to the wishes of Mr. Altavilla, particularly in consideration of the doubts which existed in Mr. Altavilla's mind, of the truth of the statements, touching the alleged embarkation and re-landing of Slaves. Mr. Gregory considered that further delay in the Case would be hard upon the Captor, as some time had elapsed since the proceedings had been commenced by him, but Mr. Gregory was also disposed to accede to Mr. Altavilla's wish to postpone the decision, considering that, in the state of Mr. Altavilla's mind, he could not press him to pronounce any judgment upon the Case.

The British Commissioners, in acceding in this instance to Mr. Altavilla's wishes, bore in mind His Majesty's special commands "that throughout the whole of the functions respectively entrusted to them, they should be careful not to lose sight of their judicial character, and should uniformly endeavour to combine a fair and conscientious zeal for the prevention of the illegal Traffick in Slaves, with the maintenance of the strictest justice towards the Parties concerned, and with the promotion of a spirit of conciliation and harmony between His Majesty's Subjects and those of The King of Portugal." The British Commissioners did not conceive that it would be decorous in them to press Mr. Altavilla to a decision; it was not for them to gain a point by the condemnation of the Vessel, but to see that they discharged a judicial duty with impartiality, and with fairness towards all concerned, particularly towards Mr. Altavilla.

It was agreed that the Case should be postponed, that the Master might have the further opportunity to defend himself. It was proposed by Mr. Altavilla, that the Master should be sent for by the Commissioners, and be informed of the postponement of the Case, and of the opportunity that this postponement would afford him, to state what he might have to state in his own behalf, and to bring forward Witnesses in support of his statements.

The Master was sent for by the Commissioners. The British Commissioners wished that he should be spoken to in open Court, and in the presence of all who were assembled to hear the trial.

The Commissioners, on taking their seats in Court, informed the Proctor for the Captor, that it was found necessary to postpone the Case, and to allow the Master the further opportunity to appear as Claimant. The Proctor for the Captor observed, that such a postponement would bear hard upon his Client; that he would have to re-commence proceedings; and that the Master, if he had thought proper, might have appeared as Claimant before, he having had ample opportunities for so appearing.

The Master having appeared in open Court, he was addressed by the Commissioners and asked why he had not appeared to defend his Cause; he replied that he was ignorant of the language and of the ways of the Place: he was told that he might now apply to a Proctor of the Court to conduct his suit; he said that he had not the means to employ one; he was informed of the particular charge that was against him; he said that the charge was not true: it was observed to him, that his own statement would not be regarded as sufficient, he must bring Witnesses to support his statement: he said that he would do so: he was told to take them before the Registrar, who would receive their Depositions. The Registrar observed upon this, that he had already told the Master that he would receive the Depositions of any Witnesses that he might think fit to bring before him, and had told him to apply, if he thought proper, to some Legal Adviser.

It may be proper to state that, in the first stages of the proceedings, there were only two Proctors of the Court in the Colony. One of them was the Proctor for the Captor in this Case; the other was a Gentleman who had always been retained by Captors, and whose feelings were likely not to be in favour of the Master of the *Nova Sorte*. It was only about the close of the Captor's Case that a third Proctor returned to the Colony, to whom the Master could apply for advice and assistance. To him the Master did apply, on the breaking up of the Court on the 21st January.

On the Evening of the 21st January, a Petition was presented to the Commissioners, by the Proctor for the Captor, regarding the Slaves which still remained on board the *Nova Sorte*. It is proper to insert the matter of this Petition here, to shew the situation of the Slaves, and the view that the Proctor for the Captor had taken of the situation of his Client with respect to the Slaves. The Petition is as follows, viz:—

That on the 20th day of December last, the said Polacca was brought into this Port for adjudication by your Honourable Court; that up to this day, a period of 31 days, no claim was made by any Person or Persons for the said Vessel, although the Master was perfectly at liberty to claim, was he minded to do so. That on this day, *the day named by your Honours for passing sentence*, the Master puts in his Claim, which Claim is by your Honours admitted, which will not only put off the trial of the said Vessel for some time longer, but will be the means of increasing considerably the costs of the suit; that the provisions which were on board the *Nova Sorte* are entirely consumed, and as your Honourable Court has declined to make the Claimant liable for costs, should he fail to substantiate his Claim, your Petitioner is at a loss to know in what manner or by what means, the said Slaves are to be supported. That your Petitioner cannot venture so far to commit his Client as to land the Slaves, as, in the event of a decision against him, it would render him liable to pay the value of them. And that, as neither Captor nor Claimant have any funds for their support, your Petitioner humbly prays that your Honours, taking all these Cases into consideration, will be pleased to order your Marshal to supply them with provisions, until your Honourable Court shall be pleased in its wisdom to give Judgment.

Mr. Altavilla was not disposed to give any order to the Marshal to feed the Slaves, he thought that the Captor who had brought them to Sierra Leone should feed them. But it being represented to him, that it could not be allowed that the Slaves should perish with hunger, whilst it was in deliberation who should bear the charge of feeding them, and that the British Commissioners would be responsible that the charge should not fall upon him, Mr. Altavilla concurred with the British Commissioners to issue an order that same evening to the Marshal, to feed the Slaves until further orders.

The British Commissioners, in acting thus, deemed that they were not going beyond the bounds of a fair discretion under the emergency of the Case.

On the 23d of January, the Master, with the assistance of the Proctor of the Court, who has been already alluded to, filed a Claim to the *Nova Sorte*, her tackle, apparel and furniture, goods, wares and merchandizes on board thereof at the time of capture, and for all costs, charges, losses, damages, demurrage, and expences, as had arisen, or might arise, by means of the capture and detention thereof. The Affidavit of the Master, annexed to the Claim, after some preliminary matter respecting the time of capture and the Ownership of the Schooner, stated as follows, viz:—

And deponent further maketh oath, that he verily believes the said Polacca and cargo are protected by the Treaty or Convention between His Britannick Majesty and His Most Faithful Majesty; that the Natives of Africa now on board the said Polacca, are not part of the cargo, or in anywise belonging or appertaining to the said Polacca; that they have, without exception, been

put on board the said Polacca by the capturing Officer, his boats and crew, without the concurrence of this Deponent; that the said Natives of Africa, before their forcible entry on board as aforesaid, were never on board the said Polacca, and that since the arrival of the said Polacca, on the Coast of Africa, this present voyage, she has not received any Slaves, Natives of Africa, on board, otherwise than those put on board as aforesaid.

On the 25th of January, with the view of confirming the other evidence brought forward on the part of the Captor, the Proctor for the Captor had taken the following answers to questions put by him to a female Slave of the Nova Sorte, named Cosebah, viz.:

1st Answer. Saith, her name is Cosebah, and her Country, Quegia. 2d. Saith, she is a Slave: she was purchased by the Boatswain. 3d. Saith, she was purchased on shore. 4th. Saith, she was five days on shore after being purchased, and on the 6th day she was put on board. 5th. Saith, she was put on board the Vessel that brought her here, by the Natives of Mina Piccaninny. 6th. This Witness points out the Nova Sorte, now lying in the Harbour, from the Commission-House. 7th. Saith, there were not any Englishmen at that Place at the time. 8th. Saith, she was on board the said Schooner, four days before the English Ship came in sight. 9th. Saith, that on the appearance of the Man-of-War, they were put down in the hold and there concealed, by first locking them up, and then covering the hatchway over with sails. 10th. Saith, that they were relanded from the Nova Sorte, after the arrival of the Brig-of-War. 11th. Saith, that they were relanded the same Night that the Brig-of-War came there. 12th. Saith, she cohabited with the Boatswain. 13th. Saith, she did not cohabit with the Boatswain until she came on board the said Schooner Nova Sorte. 14th. The Question was, did you cohabit with the Boatswain since you were embarked? The Note of the Registrar, the Examiner, is "already answered." 15th. Saith, she did not understand the Boatswain when he spoke to her.

The Proctor for the Captor, to account for the absence of the usual coppers, or boilers, and irons on board of the Nova Sorte, took the answers of Joachim, to questions put to him touching their absence. The answers of Joachim were to the effect, that the Nova Sorte had sailed from Bahia, with one large boiler, and with a great quantity of Slave-irons and Slave-chains; that they were sent on shore at Mina Piccaninny—the boiler to cook rice in for the Slaves, and the irons and Slave-chains to be put on the Slaves.

On the 27th of January, the Proctor for the Claimant brought forward, in support of his Case, Affidavits of the Boatswain, José Louis Fernandez, and of a seaman, Francisco José Bellem, to the effect, that at the time the Nova Sorte was detained by the Snapper, the Nova Sorte had no Slave or Slaves then on board; that the Nova Sorte, during her then voyage, had not received any Slave or Slaves on board from any part or Place on the Coast of Africa; that the Natives of Africa, or Slaves on board the said Vessel, when she arrived at Sierra Leone, were brought from the shore in the boats of the Brig-of-War that were manned by her Officers and men, and also in canoes procured for the purpose by the Commander of the Snapper.

The Proctor for the Claimant at the same time brought forward the Affidavit of another seaman, Francisco Gomez, touching some particulars of the seizure of the Nova Sorte, at Mina Piccaninny. The Affidavit was as follows, viz.:

That, on the 11th of October now last past, the said Brig Snapper hove in sight, with a Colour flying, which Deponent took either for a French or Portuguese Colour, was not certain which. Soon after said Brig fired a gun, and hoisted English Colours, the Polacca at same time hoisted Portuguese Colours; when the Polacca was boarded by the boat of said Brig Snapper, the Officer in which ordered his men, who were armed with cutlasses, to go below and search the said Polacca, which they did; but said Polacca not having Slaves on board, the said boat left her, and the next day the Brig-of-War went closer in shore; heard her fire great guns; same day a boat came from said Brig Snapper, commanded by an Officer, who stated, they came in order to be able to keep watch for another Vessel-of-War they expected to pass, as their own Vessel, the Snapper, lay so much more in shore. Same day saw a canoe come from on shore, and go along-side the said Brig Snapper. The boat which had brought the men of the Snapper on board, had left to return to their Vessel, but soon after, she came back, and took away her men; after this, the canoe which Deponent had seen a-stern of the Brig-of-War came along-side the Polacca, with Slaves; the said canoe was also accompanied by a boat from the said Brig-of-War. The Slaves were ordered out of the canoe on board the said Polacca, by the crew of the boat belonging to said Brig-of-War. The Captain of the Polacca, E. C. Lima, objected to this, but the Officer of the Brig-of-War forced compliance in the Night of same day, being the 12th instant. The Master of said Brig-of-War came on board, and took charge of the said Polacca, and on the Morning of the 13th instant, said Polacca was in charge of the said Brig-of-War, and so hath remained; that on the said 13th instant, other Slaves were brought on board the said Polacca.

With this Affidavit the proceedings, on both sides, were closed. The 1st day of February was appointed by the Commissioners to hear the arguments of the Proctors for the Captor, and for the Claimant, and for the Commissioners to give their decision upon the Case.

Shortly after the Master had formally appeared as Claimant in the Case, there was presented to the Commissioners a Petition purporting to be from the Negro Quashee, on his own behalf, and on the behalf of his fellow Negroes on board of the Nova Sorte, to the effect—that understanding he was not claimed as a Slave by the Master of the Nova Sorte, as neither were his fellow Negroes on board of the Vessel so claimed; conceiving that no other person than the Master had a right so to claim him, or his fellows, he prayed the consideration of the Commissioners towards his and their Case, and that the Commissioners would allow him and them to be landed, and disposed of, as the Commissioners might think fit.

This Petition was first presented to Mr. Altavilla who, following the natural impulse of humanity, acceded to the prayer of the Slave, by putting the word "granted" on the back of the Petition, with his signature subscribed thereto. The Petition was next presented to the British Commissioners who, though, as they trusted they were, alive to the generous feeling which had prompted Mr. Altavilla immediately to grant the prayer of the Petition, could not but be struck with so unusual a proceeding as the one which purported to emanate from an illiterate Negro. It appeared to the British Commissioners, that, even allowing the Petition originated with Quashee, they could not permit him to start up as a third party in the Case. It would be well understood why the Master of the *Nova Sorte*, did not include the Negroes in his Claim for the Vessel and her stores; he had been taken on a part of the Coast where the Slave-trade was prohibited; but it was a part of the question that the Commissioners had to try, whether Quashee and his Companions were, or were not, the Slaves of the Master, and he and they must abide by the event of the trial. The Proctor for the Captor had stated, in a Paper that had been given in by him, that he could not venture so far to commit his Client, as to land the Slaves, as, in the event of a decision against him, it would render him liable to pay the value of them. For the Commissioners to direct the landing of the Negroes with this declaration on the part of the Captor before them, and without the state of their health requiring an immediate landing, might embarrass the proceedings in the Case. The trial would soon take place, and the fate of the Negroes would soon be decided. Mr. Altavilla acquiesced in this representation that was made to him; the Negroes remained on board, and the Petition was withdrawn.

Mr. Hamilton, Registrar, subsequently called on Mr. Gregory, and stated, that having understood that the Petition of Quashee was not approved of by the Commissioners, he took the opportunity to say—that he had been instrumental in the drawing up of the Petition in a professional capacity; that there was not the least intention to embarrass, in any way, the proceedings of the Commissioners; on the contrary, that it was thought the best way to facilitate a landing, to which difficulties had been opposed. Mr. Gregory explained to Mr. Hamilton the reasons already stated, why the Commissioners did not grant the prayer of the Petition.

On the 1st February the Case came on for trial before the Commissioners. The Proctors for both Parties moved the Judgment of the Court upon the Case.

Mr. Gregory delivered, first, his opinion upon the Case. Mr. Gregory commenced by detailing the circumstances connected with the outfit of the *Nova Sorte*, at Bahia, as already detailed at the commencement of this Report; he then proceeded to comment upon the circumstances attending the detention of the *Nova Sorte*, by Lieutenant Rothery, at Mina Piccaninny. It appeared by Lieutenant Rothery's Declaration, that the *Nova Sorte* was detained, on the 14th October 1822, for being engaged in the illegal Traffick in Slaves. The Declaration of Lieutenant Rothery simply charged this. No Slaves were stated to have been on board of the *Nova Sorte* at the time of her detention, or at any time previous, nor was any mention made by Lieutenant Rothery of any Slaves being sent to Sierra Leone in the *Nova Sorte*. The Report of the Marshal of the Court, however, made on the arrival of the Vessel at Sierra Leone, stated the *Nova Sorte* to have brought to Sierra Leone 122 Slaves. The Declaration of Lieutenant Rothery was deficient, inasmuch as it did not give information of the circumstance of Slaves being on board of the Vessel, which circumstance was material to the prosecuting of the Captor's Case, without confusion at the outset; for confusion would be introduced into a Case when the grounds of seizure were not properly explained. Certainly, the Commissioners were in the dark as to the ground of seizure in this Case, until Lieutenant Rothery, in an Affidavit made by him on the 10th January, which Affidavit might be regarded as a Supplementary Declaration of the facts attending the detention of the Vessel, stated the manner in which the Slaves brought to Sierra Leone in the *Nova Sorte* came to be on board of that Vessel. From that Affidavit it seemed that it appeared to Lieutenant Rothery, that no Slaves were on board of the *Nova Sorte* at the time that he visited her on the 12th of October, and that he had no information of Slaves having been on board of her at any time previous to that day; that the ground of seizure was the fact of twenty Slaves being on board of the *Nova Sorte* on the 14th day of October. There did not appear to be any other ground than this. However, the embarkation of twenty Slaves, on the 14th of October, might have been the original ground of seizure, the Case, as it then stood before the Court, did not shew that it was the intention of the Captor to seek a Decree of condemnation on that ground. The embarkation of the twenty Slaves, on the 14th of October, was asserted by the crew of the *Nova Sorte*, to have been the act of the Captor, and it clearly appeared from Lieutenant Rothery's Affidavit of the 10th of January, that, in fact, the embarkation of these and of the other Slaves, making in all 122, was the act of Lieutenant Rothery, and not the act of the Master, or of others belonging to the *Nova Sorte*. The Slaves were demanded of the Caboccer of Mina Piccaninny, by Lieutenant Rothery, and were given up by the Caboccer, in consequence of the demand.

It appeared as if the mind of the Captor misgave him as to what might be the result of the suit, it prosecuted on the ground that 20 Slaves were on board of the *Nova Sorte*, on the 14th of October, for, after the examinations of the Master and Boatswain of the Schooner were taken, on the Standing Interrogatories, it was found that the Case hinged upon the question, whether certain Slaves were on board of the *Nova Sorte*, unknown to the Captor, on the Evening of the 12th of October, and whether they were conveyed out of the Schooner and relanded by her crew or not. This question must be the result of recent enquiry, for Lieutenant Rothery said in his Affidavit, that when the Schooner was visited, on the Evening of the 12th October, the usual Slave-holds were looked into, but no Slaves were found in them; the misgivings of the Captor's mind upon the legality of the original detention, were not without cause, as had the Case come

before the Commissioners, on the ground alone of that detention, they would have decided it against him, for this reason—that such an embarkation as that of the 20 Slaves, could not have been considered as the act of the Master of the *Nova Sorte*, but only as the act of the Captor, and, consequently, not an embarkation of Slaves for the purposes of traffick, according to the meaning of the Convention.

Having commented thus much upon that part of the Case, Mr. Gregory proceeded to observe upon the other prominent part which related to the question, whether certain Slaves were on board of the *Nova Sorte*, unknown to the Captor, on the Evening of the 12th of October, and whether or not they were conveyed out of the Schooner and relanded by her crew. With respect to that question, Mr. Gregory observed, that it was material to bear in mind that the *Nova Sorte* was properly equipped at Bahia, for purposes of Slave-trade.

The Vessel sailed from Bahia on the 24th May 1822, about the 30th July she was found by the Snapper off Elmina; on the 7th of August, she was found by the Snapper off Mina Piccaninny, with her cargo on board; and nine weeks afterwards, on the 12th of October, she was again found by the Snapper, off Mina Piccaninny, with but a small part of her cargo on board.

It was stated by the Master, that he anchored at Elmina for water and provisions. How he came to be so far North of the Equator, and out of the track from Bahia to Molembo, he does not explain. The Master stated, that he went to Mina Piccaninny also for water and provisions. The Boatswain said, that the Vessel anchored at Elmina to take in water, and to repair the main boom, and at Mina Piccaninny for water, and to repair the top-gallant mast. They denied having traded in Slaves at Mina Piccaninny, and having had any Slaves on board. Some others of the crew also denied that any Slaves were on board of the *Nova Sorte* at any time previous to her detention by the Snapper. The Master had said, in answer to special Interrogatories, that it took all the part of the cargo that was not on board at the time of capture, to buy water, provisions, and palm-oil. Now, this was the most considerable part of the cargo, and the part that remained on board was insignificant in comparison with it. Was it to be believed, that this cargo, which at Bahia was intended for Slave-trading purposes, could have been employed in the purchase of provisions at Mina Piccaninny? An extravagant price, indeed, must be supposed to have been given for the provisions, if it could possibly be believed that the greater part of the cargo had been employed in the purchase of them. But the Master had said, in answer to one question, that the remaining part of the cargo which was on board at the time of capture, was to have been delivered at Mina Piccaninny, for the account, risk, or benefit of the Owner: and in answer to another question, that the remainder of the cargo on board was to have been carried to Molembo, and there landed. What did these inconsistencies and contradictions indicate? They indicated, certainly, that the man had no honest design in remaining so long at Mina Piccaninny. If his pursuits there had been those of lawful commerce, his statements would have been consistent with each other.

Mr. Gregory concluded that the Master was engaged at Mina Piccaninny in the illegal Traffick in Slaves; he held, that if positive proof of this Traffick were required, it was furnished by the evidence given in the Case, by the Slaves that had been brought to Sierra Leone, in the *Nova Sorte*.

Mr. Gregory, before he referred to this evidence, adverted to what had been observed by the Proctor for the Claimant, that the evidence of the Negroes brought to Sierra Leone in Slave-ships was not to be relied upon, principally because they were interested Persons, in Cases where their freedom or slavery was at issue. Mr. Gregory did not think that such Negroes were disqualified to serve as Witnesses; for, uninformed and ignorant as they were, they could not possibly be aware how their answers were to affect the Case in which their evidence was required. Their situation was widely different from the situation of Europeans who had the misfortune to fall into slavery in some part of this Continent, or elsewhere. In Cases which affected their state of slavery, they would be held to be interested Witnesses, and might be deemed incompetent to give their evidence impartially; as, possessed of general information, as they might in general be imagined to be, the Europeans would be supposed to give such evidence as might favour their own particular Cases. But what general information had the poor Africans of the Slave-ships that were brought to Sierra Leone? Untutored as they were when they arrived at Sierra Leone, what knowledge could they possibly have of the Convention respecting the Slave-trade, that existed between the Governments of Great Britain and Portugal, or how could they possibly know the manner in which their evidence was to affect their state of slavery? Mr. Gregory considered the evidence of the Negroes to be good, generally, and that their evidence was to be depended upon in Cases of adjudication before the Mixed Commissions.

Considering the evidence of the Negroes of Slave-ships to be good, generally, Mr. Gregory placed more confidence in the particular evidence of the Negroes in this Case, than in the evidence of the Master and crew of the *Nova Sorte*. Mr. Gregory said, that placing out of view the Affidavit of Joachim, which in a manner had been impeached by the Proctor for the Claimant, and the examination of the female Slave, Cosebah, which had been objected to by the same party, he should place reliance on the Affidavit of Quashee, and on the statements of the five other Slaves who had been examined in the Case. Mr. Gregory referred to Quashee's Affidavit, and considered that the statement made by him was consistent, and that it was supported by the statements of the five Slaves, as far as the embarkation went. Mr. Gregory considered it strange that no questions had been put to Quashee, and to his companions, by the Proctor for the Claimant: Mr. Gregory thought that the Proctor for the Claimant considered that it would be dangerous to meddle with their evidence, by questioning them upon the statements which their evidence contained. Mr. Gregory concluded, by giving it as his opinion, that the *Nova Sorte* had been

illegally engaged in the Traffick in Slaves; that Slaves had been put on board of her by her crew, for purposes of Traffick, and that she should, therefore, be condemned as Prize. Mr. Altavilla dissented from Mr. Gregory's opinion: disbelieving the statements of Quashee and of Joachim, he did not think that there had been any embarkation of Slaves by the crew of the Nova Sorte, for the purposes of Traffick. Mr. Altavilla's opinion was, that the Nova Sorte should be restored to her Master, with compensation for all losses that the Master might have suffered by her detention.

Upon this disagreement of opinion betwixt the Portuguese and British Commissary Judges, the British Commissioner of Arbitration, Mr. Fitzgerald, was required to pronounce betwixt them, agreeably to the provision of the Convention.

Mr. Fitzgerald observed, that having considered the conflicting evidence of the Case upon which the two Commissary Judges had disagreed in opinion, he should deem it to be his duty to examine Quashee and the Slaves themselves, who were stated to have been embarked on board of, and relanded from the Nova Sorte by her crew. Mr. Fitzgerald wished that the examination of these Slaves should take place in open Court. Some of the Slaves were landed, and brought before the Court. The Court continued its sitting after the Commissary Judges had delivered their opinion upon the Case, in order that the examination of the Slaves should be proceeded in without delay.

The Slaves that were brought before the Court at this sitting were—Appear, Accommo, Desay, and Quamin. Their evidence cannot be well abridged; it is, therefore, given as it was taken upon questions put to them by Mr. Fitzgerald, as follows, viz:—

Appear.—Saith, his name is Appear, and his Country, Ashantée; he is a Freeman in his own Country, but not at this Place; he is a Slave here; he was purchased by the Captain and Mate of the said Schooner, (the Nova Sorte) whom he points out in the Court-room; he was put on board the Schooner which brought him here by his own Countrymen. This Witness points out the Nova Sorte from the Court-room, lying in this Harbour. Saith, that at the time of his going on board, the said Vessel was lying at Noocoo; he was put on board before the English Vessel came in sight; he was on board four days before that time; on the appearance of the Man-of-War Ship, the Portuguese people put him down and covered him up.

To the question, after the time that they, the Slaves, were hid, what was done with them?

Appear answered, that at the hour of breakfast they were brought upon deck, after which they were taken back again; after they had done eating their breakfast, they were desired to wash themselves, and if they did not, they were flogged and locked up again; he was never on shore after the first time of his being put on board, until his arrival at this Place; they were sent on board in three parties; one consisted of thirty-three, another of twenty, and another of fourteen; the Party that he went with, were the fourteen (was the party of fourteen); the party of fourteen, was the first that went on board; the fourteen (the party of fourteen) remained on board four days before they went on shore for the others; during these four days, in the day-time they were brought on deck, and at night-time they were taken below to sleep; he did not see the Snapper at that time; at all times they were put below in the same manner; they never covered his body with sails; when they put him below, they put over one thing that fits it, (meaning they put the hatches over the hatchway), and then put over it a sail; from the time of his first going on board, he did not go on shore again until his arrival here; he was on board the Schooner as one of the fourteen, four days before the others were brought.

Accommo.—Saith, his name is Accommo, his Country, Kagoo; he is a Slave; he was bought by the Master of the Nova Sorte whom he points out in the Court; he was put on board by the people where he was; points out the Nova Sorte from the Court-room, now lying at anchor in the Harbour; the said Vessel was at that time at Adina; he was put on board the said Schooner four days before the Brig-of-War came in sight; on the appearance of the Man-of-War, the Portuguese locked them up, and covered them over with sails.

To the question, after the time that they (the Slaves) were hid, what was done with them?

Accommo answered, at the time the Man-of-War came, they told him not to talk, that if he did, they would flog him; that at the time the Man-of-War came they were locked up in a hole, but they were afterwards set at liberty by the Man-of-War's people; he remained on board the said Schooner four days, and on the fifth day, the Brig-of-War took them; he did not go on shore at that Place after he went on board, until his arrival at Sierra Leone.

Desay.—Saith, his name is Desay, and his Country, Acomb, he is a Gentleman's son, but having got into a little trouble, he was in consequence sold; points out the Captain and Boatswain, who are now in Court, as the Persons who bought him; he was sold as a Slave for having had connexion with another man's wife.

To the question, after the time that they (the Slaves) were hid, what was done with them?

Desay answered, after they were locked up, they were put in irons, and remained so until liberated by the English people; they were afterwards brought upon deck, and did not go on shore until his arrival at Sierra Leone; he was put on board the first time by the Natives; he was on board the Schooner four days before the English came; does not know the difference between English and Portuguese, unless when he is told; he knows the difference

from those who came from the Schooner who bought him, and those who came from the *Mau-of-War* to take him; he repeats, that from the first time of his going on board, he never went on shore again until he came here; those who put them below belong to the Schooner; they are now on board, and would know them.

Desay re-examined.—Saith, he knows the two mariners now before the Court, as they used to bring them up to breakfast, and then again to supper; this was done in the same manner every day; the men had one place to stop in, and the women another; he came on board the Schooner with the first party of twenty with the other Witness Appear.

Quamin.—Saith, his name is Quamin, and his Country, Cormantin; he is a Slave; he was purchased by the Captain of said Schooner, whom he points out in the Court-room; he was put on board by his own Country people. This Witness points out the *Nova Sorte* from the Court-room, lying at anchor in the Harbour; the said Vessel was lying at the time he went on board at *Noocoo*; he was on board four days before the English Vessel came; on the appearance of the *Brig-of-War* the Portuguese locked them below.

To the question, after the time that they (the Slaves,) were hid, what was done with them?

Quamin answered, at the time the *Brig-of-War* came, he heard them fire; he was at that time down below; it was in the Evening; that at the time the English people took them, they were brought upon deck, and the irons which were at that time on them, were knocked off; from the time of their being taken on board, they continued to remain down below, until the English came on board; from the time of his first going on board, he did not go on shore again at that Place, until his arrival at Sierra Leone; at the time that they fired, one half of the Slaves were on shore; the English then sent a boat and brought off that part of the Slaves that remained on shore; they were put down below always in the same manner; he repeats, that he did not go on shore again at that Place, after having been put on board until his arrival at Sierra Leone.

On the 3d of February, Monday, the examinations of the Slaves were proceeded with. The Slave *Quashee*, whose evidence had principally determined Mr. Gregory's decision, was examined. This Slave spoke English, not so well but that it was necessary to have the assistance of an interpreter, in the course of his long examination.

Quashee.—Saith, his name is *Quashee*, he was a Slave of *Daendals*, (General *Daendals*, formerly Governor of the Dutch Fort of *Elmina*) then of Mr. *Blenkarne*; after that, he was bought by the Master of the *Nova Sorte*; Mr. *Blenkarne's* woman sold him to *Quarte Cudjô*; *Quarte Cudjô* then put irons upon him, and put him on board a Schooner belonging to *Akotejó*, who lives at *Quittah*; the said Schooner took him from *Accra* to *Mina Piccanniny*; *Quarte Cudjô* put him in irons; he was put in irons to prevent him from getting away; *Akotejó* was the Person who bought him, and the Person who sold him to the Portuguese People; the Portuguese Captain put irons on his neck, on the shore at *Mina Piccanniny*; saw the Captain in *Akotejó's* Schooner, who said he wanted to buy Slaves; the Captain purchased all of them on board, and sent a boat on shore to purchase more Slaves at *Mina Piccanniny*; and *Akotejó* sent his own Schooner to *Accra* for more Slaves; the Portuguese Captain sent *Akotejó's* Schooner to *Accra* for more Slaves; they sent him, (this Deponent) on shore, and put him in a house; after they had put them on shore, and sold them to the Portuguese; *Akotejó* went and told the English that he had sold his Slaves to the Portuguese people; on the appearance of the English People, they were sent into the bush; when the Vessel came that took them, he was on shore; the others that were left on shore were locked in a house, and would not be allowed to come out; he was one of them; one half put on board, the other half got away on shore; while he was kept on shore, they took him for necessary purposes in the back yard; he could see the Schooner; they were not otherwise allowed to walk out; a sentry was kept over them; he could see people go on board the Portuguese Schooner from that house; every time the Captain came on shore he took a party of Slaves and sent them on board the Schooner; the Captain did this every time, but when the *Man-of-War* came, he stopped sending off any more; those that they carried on board, they did not put back on shore again; at the time the *Snapper* took them, one half the Slaves were on shore, and the *Snapper's* boat was sent on shore to take them; the first party that was put on board was put down below; one of those who were on board, told him so; it was *Accotia* told him so when this Witness and the rest were put on board; *Accotia* was the only Person who told him, and the only one who could speak *Cormantin*; the time the *Snapper* came, the Portuguese told him the *Snapper* came to take them, and took them a back of the Farm in the bush; he only saw the *Snapper* one day from the Farm; the Portuguese Vessel and the *Snapper* were close to each other; saw the Portuguese Vessel every time; while he was on the shore he saw landed every day, tobacco, rum and cloth; the time the *Snapper* came, the Captain had purchased all his Slaves, and he was about to provide wood, water and victuals to feed the Slaves; after the *Snapper* came he did not see any thing more landed; at the time the *Snapper* sent on board the Schooner, the Portuguese were going to put Slaves on board from the shore, but on seeing the *Snapper*, they did not; after the *Snapper* came, he did not see any boat come from the Portuguese Schooner to the shore; after the *Snapper* came he did not see any Slaves come on shore from the Schooner; a great number of Slaves went on board at the same time with him; does not know the number.

Quashee re-examined.—Saith, he saw *Accotia* on shore before his going on board the Schooner; he saw *Accotia* on board when he (this Witness) was put on board; *Accotia* was put on board

four days before this Deponent; the same day that he, this Deponent, went on board, the same day he saw Accotia on board; the time Accotia went on board, he did not see the Brig Snapper.

Accotia examined.—Saith, his name is Accotia, and his Country, Zanah; he was sold for having another man's wife; he was bought by the Master of the Nova Sorte, whom he points out in Court; he was put on board the said Schooner by desire of the Master of the Nova Sorte; points out the Nova Sorte from the Court-room, now in the Harbour; the said Schooner at that time was lying off Adina; he was on board the said Schooner before the English Vessel came in sight; he was on board four days before that time, and on the fifth day the Man-of-War took them; on the appearance of the Man-of-War they were sent down below, and the door was shut upon them and covered over with sails, they wanted to talk, but they would not allow them to do so.

To the question, after the time that they (the Slaves,) were hid, what was done with them?

Accotia answered, that after they were put down below, they put a man over them, and told them not to talk; they remained in the hold for a long time; when the English came, the English Cook pulled the irons off their necks; he did not go on shore again after having been put on board the first time, until his arrival at Sierra Leone; they were always put down in the same place every day; he repeats, that Sierra Leone was the first Place he went on shore at, after being put on board the Schooner, from the time of his going on board, he did not go on shore at the same Place.

Accotto examined.—Saith, his name is Accotto, and his Country, Taffee; he is not a Slave in his own Country, but he is one now; he was bought by the Master of the Nova Sorte, whom he points out in Court; he was put on board the Schooner by the people of the said Schooner; points out the Nova Sorte from the Court-room, now in the Harbour; the said Vessel was lying off Adina at the time of his first going on board; he was put on board the said Schooner before the Man-of-War came in sight; he was put on board four days before that time; on the appearance of the English Man-of-War the Portuguese put them down below, and shut the door upon them, after which they covered it with sails.

To the question, after the time that they were hid, what was done with them?

Accotto said, after they were locked up, they were flogged; they were locked up for a long time down below; the English caught them first, and let them out; at day-light they were brought upon deck, and at night they were taken down below; he did not go on shore again after having, in the first instance, been put on board the said Schooner, until his arrival at Sierra Leone; at the time the Man-of-War came, they were told to go down below: they shut the door upon them; it was in the same place that they were always put (meaning that the place in which they were confined, was the same place into which they were always put) those that did not go down below, were flogged with a rope.

Cosebah examined.—Saith, her name is Cosebah, and her Country, Amfoy; she is a Slave; she was bought by the Boatswain of the Nova Sorte, whom she points out in Court; she was purchased on the shore; after she was bought she remained on shore three days, and on the fourth day was put on board the Schooner; she was put on board the Schooner by some Cormantins who lived there; points out the Nova Sorte from the Court-Room; the English ship was there at the time she went on board the said Schooner; she went on board the said Schooner in the Morning; the Sun had risen at the time; she saw the Snapper at that time; at the time she went on board the said Schooner not any Englishmen were on board of that Vessel; a considerable number of Slaves were on board—more than twenty; they were on a chain; they kept them below four days; they sent them below, and would not give them water to drink; they were told not to talk so much, or the English would catch them; they were at the bottom of the Schooner; they pulled them out, and sent them into the bush. Some were left on board; the Sun had risen at that time; it was not very light at that time; they only remained one day in the bush, and on the second day they were put again on board the Schooner; there were about twenty in the same boat with her when she came on shore; those that remained in the Schooner she did not see again in the bush; when she went back again to the Schooner, she did not see them; the two men now before the Court, Accotto and Accotia, did not go on shore with her; these two men were sent into the bush with her; did not know them in the Schooner before; she and those men walked the same road into the bush; herself and other women were on one chain, and these men, with others, were on another chain; these two were on board at the same time she was; after that, they put them in the bush.

Accotto re-examined.—Saith, he saw Cosebah the first day on board the Schooner; he saw her also the second, third and fourth day on board the said Schooner; he repeats again that he never went on shore after being put on board the said Schooner; they brought the men on board before the women.

Accotia re-examined.—Saith, himself and Cosebah were bought at the same time by the Portuguese Captain; they brought the men on board before the women; Cosebah was put on board the Schooner on the same day as himself; it was day-time when he was put on board, and it was also day-time when Cosebah was put on board; he also saw her the second and third day on board the Schooner; he has seen the woman Cosebah every day since that; on the appearance of the Snapper, they put them below, and told them not to talk much, else the Brig Snapper would catch them; he was on board the said Schooner four days; the women were also on board the whole of that time; they were confined the whole four days; they were liberated by the Snapper's people; they gave them a part below for the purposes of nature;

they remained down below four days and four nights ; they did not come on deck during that time ; the people said if they did they would talk too much.

Accotto re-examined.—Saith, he was put down below four days ; he was liberated by the English people.

Towards the close of the examinations of these last Witnesses, the Proctor for the Captor expressed an opinion that if the Slaves had not been re-landed, as originally stated by Quashee and Joachim, they had remained concealed on board of the *Nova Sorte*. The reason for this opinion was founded upon the statements of some of the Slaves—that they were kept on board for four days from the time that they were put below, on the approach of the English, until they were released by the English, having already repeated, that they were put on board four days before the English came, and the woman Cosebah having said, that some Slaves were left on board when she came on shore, whom she did not see again in the bush. The Proctor for the Captor thought that this alleged concealment might be substantiated, and he wished to examine Witnesses in order that it might be so substantiated. The Proctor for the Claimant observed, that it would be a great grievance to his Client if the opposite Party were allowed to raise a new Case, upon such slight foundations as might be laid in the evidence that had recently been brought forward. The Captor had already been allowed to build one Case upon the Case of the original detention. Both these Cases, as the Proctor for the Claimant contended, had fallen to the ground ; and he was now to be called upon to prepare fresh defences against the Case intended to be raised by the Proctor for the Claimant, and which, after a waste of time and trouble, might prove to be without any foundation at all ; he thought that the Proctor for the Captor had been sufficiently indulged by the Court.

Mr. Fitzgerald was of opinion that the Court was bound to investigate every matter that might arise, which might appear to be substantially connected with the ends of justice, but it was not bound to pursue every fleeting shadow that might rise in one moment and pass away in the next. In this opinion the other Commissioners concurred. The Proctor for the Captor thought that the concealment of part of the Slaves might be proved. The Proctor for the Claimant was told, that he might examine such Witnesses as he thought proper upon this new Case, and have the opportunity of cross-examining the Witnesses brought forward by his Opponent. Upon this the Court adjourned until the next day.

On the next day, the 4th of February, the Commissioners met in the Court.

Mr Fitzgerald addressed the Proctor for the Captor and informed him that, if he conceived that he possessed the means of establishing by proof, the new Case of a possible concealment of the Slaves on board, instead of a relanding, the Court was ready to go with him into the subject of that Case. The Proctor for the Captor said, that from enquiries made by him, in the interval since the adjournment of the Court on the preceding day, he had reason to think that a part of the Slaves had been landed, and a part had been kept in concealment on board, and that he had brought as Witnesses, to prove these last newly discovered matters, two boys, who were in attendance : it was desired that the boys might be brought into Court.

One of the boys was accordingly brought into Court ; the Proctor for the Captor requested that the boy might be examined out of Court. The Proctor for the Claimant begged that the Court would not allow the boy to be examined out of Court.

Mr. Fitzgerald said, that the examinations must take place in Court : the Proctor for the Captor then requested that a woman, named Jenny Andrews, should be allowed to interpret between the boy and the Court. The Proctor for the Claimant objected to the employment of this woman ; the request was also refused by Mr. Fitzgerald, who had thought, in the course of the previous examinations, that Jenny Andrews, and the other Interpreters, who had acted much in those examinations, got into a kind of hackneyed train, and led the Witnesses in that train. If the Proctor for the Captor would examine the boy, he must examine him in Court, and through the means of another Interpreter than Jenny Andrews.

Another Interpreter was procured. The Proctor for the Captor committed to writing the questions which he wished the boy to answer, the Paper containing these questions was given to the first Clerk of the Commissioners, who was in attendance upon the Court, in the absence of the Registrar : the questions were put by the Clerk to the boy : the answers of the boy were as follows, viz. :

Lochoo examined.—Saith, his name is Lochoo ; he is a Slave, he was bought by the Persons who are present ; points out the Master of the *Nova Sorte*, at this time in the Court-House ; he does not see the Person here, who put him on board the Schooner, which brought him here ; he was put on board by a Person, who had something on his shoulder, (at the same time he points at the epaulets on Captain Phillips shoulder,) who is at this time in the Court-Room.

When the last answers were given by this Witness, marks of impatience were manifested by the Proctor for the Captor, but when the boy pointed to one of the epaulets on the shoulder of Captain Phillips, the Commander of His Majesty's Ship *Bann*, who was sitting near to the boy, the Proctor for the Captor said, he did not think the Interpreter a good one. Mr. Fitzgerald, "you can get another." The Proctor for the Captor, "may the Witness be examined out of Court?" Mr. Fitzgerald, "no." The Proctor for the Captor, "then I cannot go on with the examination." The Proctor for the Captor said, that he protested against the cross-examination in open Court as being irregular. The Proctor for the Captor had previously said, that the examination was not his ; it was the examination of the Court.

The examination of Witnesses in open Court in this Case, had originated with Mr. Fitzgerald. But all the Commissioners were of opinion, that it was quite competent for them to examine Witnesses in open Court, if, in order to the conscientious discharge of their duty, they thought

proper so to examine them. The British Commissioners, for themselves, thought that they were fully authorized to take the examinations of Witnesses in open Court, under the Instructions, dated the 30th October 1822, received by them from His Majesty's Secretary of State for Foreign Affairs, respecting the examination of Witnesses under the Mixed Commissions. These Instructions were as follows, viz.: "With respect to the question, whether or not the Commissioners should be present when the Interrogatories are put to the Witnesses, I have to acquaint you, that it is the opinion of His Majesty's Legal Advisers, that, unless such examination takes place in open Court, it will be more proper that the Commissioners should not be present; more especially under the particular form of judicature authorized by the Commissions under the Treaties."

The examinations in this Case, of the *Nova Sorte*, were, as the British Commissioners conceived, within the exception contained in the foregoing Instructions, *they had been taken in open Court*, in the presence of the Proctors for both Parties; and in as publick a manner as they could be taken.

The Proctor for the Captor declined to examine further the boy *Lochoo*; he wished the Case to take its course: and that final Judgment might be given upon it. Mr. Fitzgerald said, that he would pronounce Judgment upon the Case the next day, the 4th of February.

On the next day the Commissioners met in Court.

The Proctor for the Captor moved that the *Nova Sorte* be condemned as Prize, and the Slaves on board of her be emancipated.

The Proctor for the Claimant, in moving that the *Nova Sorte* be restored to the Claimant, with compensation for losses and damages, took occasion to observe, that it was impossible that there could have been a concealment of Slaves on board of the *Nova Sorte*, in the manner that had been latterly supposed by the Proctor for the Captor; for it appeared from Lieutenant Rothery's Affidavit, of the 10th of January, that he caused 20 Slaves to be embarked on the 14th of October, and, subsequently, 102, making in all 122; this number of Slaves only had been brought to Sierra Leone, as appeared by the Report made by the Marshal, on the arrival of the Vessel in the Harbour. If Slaves had remained concealed on board, a greater number of Slaves than the number that was put on board at the instance of the Captor, must now be on board; this was not, however, the Case.

Mr. Fitzgerald proceeded to give Judgment upon the Case. Mr. Fitzgerald's Judgment was in the following terms, viz.:—

The original detention of the *Nova Sorte*, was decidedly illegal. The only grounds for that detention, alleged in the Declaration, are—that when visited by the *Snapper*, off *Mina Piccaninny*, on the 9th of August, the *Nova Sorte* had on board her cargo of merchandize, complete as embarked at *Bahia*, and that when visited again, on the 12th October, that cargo, with the exception of a trifling quantity, a few rolls of tobacco, had been landed and exchanged at the same Place for a cargo of Slaves.

It is not alleged that any Slave or Slaves had been found on board at the time of capture, or that any had been embarked in the course of the voyage preceding the capture, although it is well known that, according to the sixth Article of the Convention between Great Britain and Portugal, "no British or Portuguese Cruizer shall detain any Slave-ship not having Slaves actually on board," and that the utmost extension given to this provision is by the Additional Article, declaring that, "if there shall be legal proof that one Slave has been taken on board, in any part of the voyage, for the purposes of the traffick, the Vessel may be lawfully detained by the Cruizer, and shall be condemned by the Commissioners."

I take occasion here to say—that the sufficiency of one Slave, was considered to be according to the correct understanding of the Convention, long before the Additional Article was obtained. The British Commissioners were instructed, in the name of His Majesty's Government, to press that understanding upon the Foreign Commissioners, and the Foreign Commissioners resident in the Colony at that time, coincided in it with some minute circumstances of reservation; in the present Case not any embarkation of any Slave or Slaves, in any manner, or at any time, was alleged.

In the Affidavit of Lieutenant Rothery, of the 10th of January last, stating the manner of the embarkation of the Negroes brought to the Colony on board of the *Nova Sorte*, we are informed that, on learning from the Caboecer of *Mina Piccaninny* that the said Caboecer had supplied a cargo of Slaves to the *Nova Sorte*, the Deponent, Lieutenant Rothery, returned an answer desiring the said Caboecer to send the Slaves so supplied to the *Polacca* aforesaid, on board her immediately; that, on the 14th day of the said Month of October, said Slaves, to the number of twenty, were put on board the said *Polacca* by the canoes and people of said Caboecer, when Deponent sent his boat and seized her; that 102, being part of the said cargo of said *Polacca*, were subsequently put on board when she was sent to this Port for adjudication.

In this Affidavit, which has been considered as a kind of Supplementary Declaration, the detention is stated to have been made upon the embarkation of the twenty Slaves put on board on the 14th October, by the Caboecer, at the instance of Lieutenant Rothery, and this was evidently done in order to lay ground for the detention. The Commissioners have always declared that such embarkations cannot be considered legal grounds of detention, and, therefore, the detention of the *Nova Sorte* must be considered, in the first instance, illegal.

But in the course of the proceedings, upon this originally illegal detention, a disclosure was made by the Negro, named *Quashee*, by which it would appear that, before the detention of the *Nova Sorte*, and before the arrival of the *Snapper* at *Mina Piccaninny*, a considerable number of Slaves were put on board of the *Nova Sorte*, which Slaves were landed privately, in the Night, after the *Snapper's* arrival at that Place.

A question having been raised in the later arguments upon this Case, as to the right of engrafting upon the matters originally alleged against a Claimant, other matters, altogether new, and calling on the Claimant to answer those new matters, I think it expedient to meet that question here,

and to declare it as my opinion that, if any matters amounting to apparent acts of illegal Slave-trade shall be found in any stage of the proceedings, the right, and I will add the duty, of investigating those acts immediately follows. But the proper mode of pursuing that investigation should be settled and understood. The Claimant should be duly informed of the further charges against which he is required to make his defence; and the Court should be apprized of the further questions which it is called upon to try. This may be done, as I conceive, by adding to the original Declaration a Supplementary Declaration, intimating that the Captor hath further detained the Vessel in question, for the acts newly brought forward, which acts should be substantiated by Affidavit; and the intention of proceeding upon them should be made known to the Party, by delivering a Copy of the further Declaration to himself or to his Proctor, or by some mode equivalent to that. In cases of the total insufficiency of the original Declaration, the Commissioners might be moved or petitioned to allow it to be withdrawn and a new one to be substituted, due notice being given to the opposite Party in that case also.

But, in the present instance, the Court is in the situation of investigating, as the entire substance of the Case, matters which are not alleged either in the original Declaration, or in the Supplementary Affidavit of Lieutenant Rothery, respecting the embarkation of the Slaves put on board of the *Nova Sorte*. These matters were first brought under notice in the Affidavits of the Negro named *Quashee*, and *Joachim*, which were filed upon the application of Mr. Austin, by Petition for that purpose. In the present Case, there is not only the irregularity of a trial without any Declaration of the matters to be tried; but the further irregularity of investigating those undeclared matters upon a detention originally illegal.

I have been led to consider that point in the form of a question of this kind:—Can a Decree of condemnation be passed upon a detention altogether illegal? Unless such a decision could be pronounced upon such a detention it would be useless to pursue the investigation of this Case further. I think that we may go thus far, at least, in this view: that if the Case should come to this alternative, whether gross and clearly established acts of illegal Slave-trade should be suffered to escape the punishment provided for them by the Treaties, on account of illegality in the detention, or such illegality of detention be considered to be superseded by the illegal acts, I should not hesitate to prefer the punishment of the illegal acts, especially if that punishment should be attended with the emancipation of a number of Slaves, illegally purchased and kept in thralldom. This was the course adopted in the Case of the *Conde de Villa Flor*, and the decision in that Case was governed by the principle that I have stated. The enormity and the multitude of instances of illegal Slave-trade, and the vast mass of illegality constituted by those instances, combined together in that Vessel, countervailed the local illegality of seizing her within gun-shot of a Portuguese Fortress. I must, at the same time, observe, that the local illegality of the Place of seizure in the Case of the *Conde de Villa Flor*, does not stand upon such absolute grounds as this prohibition of capture, when no Slave is on board, nor has been during that particular voyage. This last prohibition is of the very substance and essence of the Treaty, and by it the application of the powers given by the Treaties is to be guided and governed.

Adverting more particularly to the situation of a Claimant under an illegal detention, or an insufficient Declaration, I think that the Master of a Vessel in such a situation may take the opinion of the Court—whether he should be called upon to submit to examination, or to make his defence? but if he goes to examination he is bound to answer truly; and the truth of his answers, if properly established, is equally available for his benefit as it would be against him, for the illegal Captor would be then bound to make compensation for the injury done. On the other hand, if acts which he had denied in his testimony shall be clearly proved against him, it is just that he should suffer for those illegalities which would then be aggravated by fraud and perjury.

These preliminary observations appeared necessary to open the way to the decision of the present Case, to shew the right to decide upon it, and the principles on which, as I conceive, that right rests. I am not disposed to impute blame to any body for having to examine a Case involving so many and such important points, upon the foundation of the Affidavits of two Negroes; for when these Affidavits were admitted by the Commissioners to be filed, the institution of proceedings upon them was sanctioned. These Affidavits might, however, have been distinctly connected with the Case, by stating in the Petition, that they were designed to bring forward acts of illegal Slave-trade, which did not appear in the examinations on the standing Interrogatories. I hope that more method will be observed in future. In the present Case, as it stands now, I think there would not be any violation of the principles of the Treaty in pronouncing a Decree of condemnation, if justice should so require, notwithstanding the illegality of the detention and the insufficiency of the Declaration. The Affidavits must, in this respect, be taken in the place of a special Declaration, and as containing the grounds of the detention, and the matters to be investigated and tried.

I will now review the evidence in this Case, touching principally upon the facts which came forth in the course of the examinations taken in open Court; for before these new examinations were taken, the inclination of my mind, I am free to say, was in coincidence with the opinion of Mr. Gregory. I coincided with him more fully, before I was aware that Mr. Altavilla had a different opinion, as having now for a considerable time reason to appreciate highly Mr. Altavilla's rectitude and impartiality, and his accurate discrimination of what is entitled to belief, from what is not so entitled; I could not be apprized of his sentiments, without feeling that I ought to suspend my decision, until I should be enabled to give myself better means of directing it. These means I sought through those further examinations that have taken place before the Commissioners in open Court. I have already more than once said, that, by instituting these examinations, I did not mean

to throw the slightest imputation upon the proceedings connected with the evidence, previously taken by the Registrar: I had not the slightest doubt that these examinations were conducted with perfect impartiality, with a due sense of the obligations attached to the Office; with all the propriety, and all the ability that are known to belong to the conduct and character of the Gentleman who fills that Office. The examinations originally proposed by me, had a very limited object. That object was supplementary to the matters declared in the previous testimony of the Negroes, who had been examined in support of the allegations of Quashee's Affidavit.

I also had it in contemplation to put some further questions to Quashee himself: I thought it my duty to hold these examinations in the open Court, before the Commissioners themselves, in order that all Parties, and all of the publick, who might be disposed to be present, should be witnesses of what should pass in them, and this is what I conceive to be the object of the direction given to the British Commissioners by His Majesty's Government, that it was thought better that they should not be present at the examinations, unless those examinations took place in open Court.

The object of my further enquiry was to ascertain, whether the Negroes in question were relanded after they were embarked, for if they should be found not to have been so relanded, the embarkation of them would not be consistent with the statement of an embarkation of Negroes, who were, subsequently, relanded, as described in the Affidavits of Quashee, and Joachim.

To put to these Negroes abruptly, and without any introduction, this kind of question:—what became of you, or what was done with you, after the Portuguese mariners put you in the hold, upon the approach of the English Vessel? appeared to me not likely to obtain the simple disclosure that was essential to the formation of my Judgment.—I thought that with these Witnesses some introductory proceedings would be necessary; and all of those who have had experience of African Witnesses, must be aware that such necessity exists. Indeed the experience of these very examinations must have proved it, to all those who were present in Court, while they were passing. The most proper introduction, according to my opinion, was the repetition of the questions previously put to them, and I also looked for this advantage from such repetition, that the consistency, or inconsistency of their present with their former answers, would be a safe and a proper test of the credit to be given to them in that further evidence, which it would be incumbent on me so minutely to weigh.

The result of this repeated examination, was far from being discreditable to these Negroes. With the single exception of the woman, named Cosebah, their repeated evidence coincided with the answers given by them before to the same questions, and I was, consequently, led to place the stronger reliance upon their answers to the further questions, which I felt it my duty to put to them. I will add, that these examinations have tended to confirm my persuasion, that the testimony of the Negroes is the most certain means of ascertaining the simple facts in Cases of Slave-trade, in which the evidence of white-men is involved in doubt and difficulty, by absolute assertions on one side, and denials as absolute on the other. For circumstantial details they are not such proper Witnesses, because they do not attend to the minuteness of them, and cannot comprehend the value of that minuteness.

All the Negroes stated themselves to be Slaves; some told how they were reduced to slavery; all pointed out the Master of the *Nova Sorte*, as the person who had bought them; they gave nearly the same account of the time and manner of their embarkation, four days before the *Man-of-War* came in sight, and of being put down below, on the appearance of the *Man-of-War*. When the further question came to be put, by the event of which my decision was to be guided, my confidence in their veracity was fixed by the consistency that I have noted. That question was: after the time that they were hid, what became of them? In the answer to this question, with more or less of circumstances touching what had taken place, every one of them declared that he had never put his foot on shore at that Place, from the time that he went on board; and again, that he did not go on shore from the time that he went on board there, until he came to Sierra Leone. This, or the contrary of it, being the fact to which I attached most importance, the question was repeatedly put amidst the variety of matters declared by each Witness, in explaining the manner of the treatment of the Negroes on board. Those who thus agreed were Desay, Accommo, Quamin, Accotia, and Accootoo; one man, who had not been examined before, gave the same answers very nearly as the others.

The woman Cosebah said, she had been kept on shore three days after she was bought, and on the fourth she was put on board the Schooner. In her former examination she said she was five days on shore, and was put on board on the sixth; she saw the Snapper there at that time. Upon finding that she persevered in declaring this fact, I was disposed to desist from examining her farther, as such an embarkation would not be consistent with the Case; but circumstances which then occurred, induced me to go on a little farther. She repeated that she saw the Snapper at the time of her going on board; that the Slaves were put below and kept there four days; that they were then landed and carried into the bush; some were still left on board, whom she did not see again in the bush. The men, shortly before examined, Accotia and Accommo, were brought into her presence; she said she saw them on board the *Nova Sorte* and saw them afterwards in the bush; they went the same way that she and the other women did. These men, being afterwards severally examined, said the woman was on board with them during the whole time of four days, at the end of which the English came on board. One of them being asked, whether he had seen her in the bush, said, he had seen her in the bush; being asked whether this was before or after he had seen her on board the *Nova Sorte*, he said it was after, but on being told that he had before said he had not put his foot on shore there, he said it was true, he had not.

I do not consider that the evidence in denial of the relanding was weakened by what this man had said of meeting Cosebah in the bush, after meeting her on board of the *Nova Sorte*;

it was probably through a misunderstanding as to the time, for he was unaltered in his declaration of not having himself gone on shore.

The Negro named Quashee, was re-examined, by putting the substance of his original Affidavit to him in the shape of interrogatories; he gave the former details of passing as a Slave through several changes, until he was sold by one Akotejó to the Master of the Nova Sorte on board of Akotejó's trading Schooner, from which he was taken to the Master's Slave-house on shore; but he did not repeat the material fact, to which he formerly deposed, of the embarkation of a number of Slaves in the long-boat of the Nova Sorte, four days before the Snapper came, although he did say that the Captain took a party of Slaves with him on board, every time that he came on shore, until the arrival of the Man-of-War. The other material fact contained in his former Affidavit, of his having seen a number of Slaves landed from the Nova Sorte, at Sunrise on the Morning after the arrival of the Snapper, was equally unconfirmed, or rather decidedly contradicted by his later Declaration; he had not seen any Slave come on shore from the Portuguese Schooner after the Snapper came. The fact of the hiding of the Slaves below, on the approach of the Snapper, was communicated to him on board of the Nova Sorte, by the Negro previously examined, named Accotia: this was the only knowledge that he had of that fact.

The evidence thus recapitulated, left not a doubt in my mind, that the statement of the embarkation of Slaves, alledged in the Affidavits of Quashee and Joachim, and of the subsequent relanding of those Slaves, was unfounded, at least in respect to the relanding. But some of those Slaves having said that they were kept on board in the hold for four days, from the time that they were put below on the approach of the English, until they were released by the English, having already repeated, that they were put on board four days before the English came, and the woman Cosebah having said, that some Slaves were left on board when she came on shore, whom she did not see again in the bush; I thought it right to notice in a particular manner this entire new Case; and, although I saw much inconsistency in it, to put it with some observations, founded on what I conceive a Proctor owes to the Court in which he practises, to the general principles of justice and propriety, and to his own character, whether he thought that he could sustain that Case. If he did think so, the Court would go into the investigation of that altogether new Case, although it would be the third Case in the proceedings, counting from the original Declaration inclusively.

The reasons for this explanation were these—the Court is bound to investigate every matter that may arise, which may appear to be substantially connected with the ends of justice; but it is not bound to pursue every fleeting shadow that may rise in one moment, and pass away in the next moment. The Court will probably see as soon as Parties can, whether any thing thus presenting itself, is likely to be substantiated, in fact, or in law, as a matter fit to be taken into account, in the formation of its Judgment or not; but the Parties can best judge whether they have or are likely to find the necessary evidence, and, therefore, the option of proceeding, or not proceeding, ought, generally at least, to be left to them or their Agents. It must, however, be felt, that the Parties or their Agents will not deal discreetly, with regard to their Cause, or to their principal, nor deal fairly with the Court, or with the due administration of justice under the Treaties, if they press, for the investigation of any matter which they have not some reasonable grounds to think that they can establish.

These observations I repeat, because I wish to have them fully understood. I am satisfied that they will be found correct; and those who make them, so far as they may be applicable to future Cases, the rule of their conduct in this, or in any other Court, will best consult their own respectability, and the due conduct of the business that may be entrusted to them. I will add, that every suggestion given by the Commissioners, either from the bench, or in their individual capacity, during the preparatory proceedings, is always directed to the despatch of the business before the Court, in the modes most conformable to the due course of justice, according to the Treaties; and that Parties and their Agents would, therefore, act most discreetly in conforming to these suggestions; for they cannot hope to advance the interests for which they appear, otherwise than in conformity with the due course of justice, as the Court is bound to administer it under the Treaties, which are the Law of the Court.

On these principles, and with these sentiments, upon the opening of the Court yesterday, I addressed the Proctor for the Captors again, and informed him, that if he conceived that he possessed the means of establishing by proof, the new Case of a possible concealment of the Slaves on board, instead of a relanding, the Court was ready to go with him into the investigation of that Case. I understood him to say, that, from enquiries made by him in the interval, since the adjournment of the Court on the preceding day, he had reason to think, that a part of the Slaves had been landed, and a part had been kept in concealment on board, and that he had brought as Witnesses, to prove these last newly discovered matters, two boys who were in attendance. These boys were brought into Court accordingly, but the Proctor for the Captors pressed that they should be examined out of Court.

Having instituted these examinations in the open Court, under the circumstances of having to pronounce the ultimate decision in a very complex and difficult Case; having done so in order that myself, and my brother Commissioners should see with our own eyes, and hear with our ears, and understand with our own faculties of intelligence, and that all who might be present in the Court should hear, see, and understand concurrently with us; I did not think right to depart from that course, at a moment when the Case was become more critical than ever. It was, therefore, determined that the examination of these boys should be taken in Court; very pressing instances were then made, that a woman, named Jenny Andrews, should be allowed to interpret be-

between the boy and the Court. I thought it right to refuse that also, having had reason to think, in the course of the previous examinations, that Jenny Andrews and the other interpreters, who had acted much in the prior examinations, got into a kind of hackneyed train, and led the Witnesses in that train. I am now fully persuaded, that she had so led the boy in the communications with the boy, before he was brought into Court, and that she had further misled the Agent for the Captors into an opinion that he could prove things which it was afterwards ascertained that he had not any opportunity of observing. Several other interpreters were sworn, and afterwards dismissed, for leading the boy, in the very commencement, after having been warned not to do so.

A proper interpreter having been provided, the boy, who required much management on the part of the interpreter, in order to get any answers from him, told his name, but could not tell the name of his Country; he pointed out the Master of the Nova Sorte as the Person who bought him; being asked who put him on board of the Nova Sorte, he said that person was not here; that he was a person who had something on his shoulder, which he shewed to be an epaulet, by pointing to the epaulet on the shoulder of the Commander of one of His Majesty's Ships then present. It was evident that this boy was carried on board of the Nova Sorte by Lieutenant Rothery himself, and that, therefore, he could not possibly have witnessed a previous embarkation of Slaves, and a subsequent landing of some of them, and the concealment of others on board of the Nova Sorte; as the Proctor for the Captors appeared to have understood; by the interpretation of Jenny Andrews, in the communications with the boy before he was brought into Court. It was then asked by the Court, whether the Proctor for the Captors was disposed to pursue the examinations of the boy any further, and he declined any further examination, unless it should be permitted to take place out of Court. I am sure that any reflecting person who has witnessed, or has heard of the occurrence that I have stated, will be satisfied that the Court would have acted very wrong, if, after that occurrence, a private examination, with a view to the objects which this boy was originally expected to prove, had been permitted. It is indeed obvious, that this boy, embarked, as he must certainly have been, by Lieutenant Rothery, could not prove any thing that had previously passed on board, and as to what might have passed, after the embarkations made by Lieutenant Rothery, the Court cannot possibly be bound to look into such subsequent matters for acts of illegal Slave-trade, on the part of the Master of the Nova Sorte, or of any of those connected with that Vessel, neither is it possible that such acts of those Parties, could be found in these subsequent matters.

The woman, named Cosebah, having said, that some of the Slaves of the shipment, in which she went, were kept on board of the Nova Sorte, while others were landed and carried into the bush with her; although I thought her evidence not entitled to much consideration, both because she said the Snapper was at that Place, and in her view when she embarked, that being in the day-time, as on account of many circumstances in the matters stated by her; yet, as some of the male Slaves had said, that from the time that they were put below, on the approach of the English Man-of-War, they were kept below until the English released them, I did examine and consider very minutely, whether that concealment after an embarkation, made by the Master of the Nova Sorte, before the approach of the Snapper, and continued during the presence of the Snapper, could be true. I found that the supposition was subject to a multitude of inconsistencies, amounting to absolute impossibility.

Those who say they were so concealed are inconsistent with themselves; for they say, that they were four days on board before the arrival of the Man-of-War, and that they were four days below before they were liberated by the English, and that they were four days on board before the English liberated them. They are inconsistent with the other Negroes, who were put on board at the same time, and who remained on board with them; never putting foot on shore, as all of them agree, until they came to Sierra Leone.

These others say, that they came upon deck to breakfast; they were then washed; they were then put down below, flogged with a rope or stick, if they did not go quickly, or if they made a noise below. This was done always and every day in the same manner. When they were put below on the approach of the Man-of-War, they were put in the same manner as at every other time. The hatchway was closed and a sail put over; some appear to say, that the sail was put over the hatchway; others to say, that the sail was put over them; but they generally agree, that this was done always in the same manner, and that there was no particular place or manner of concealment at any time.

I have said, that I consider it quite impossible that a number of Negroes requiring the long-boat of the Schooner and three canoes to transport them to the shore, could have been concealed on board of the Schooner when Lieutenant Rothery visited her, on the 12th of October, so as not to be discovered by him. I do not think that 20 or 14 could have been so concealed, these being the numbers stated to have been in the first shipment, by Negroes of that shipment; the more correct statement appears to be, that 20 was the number.

With what degree of minuteness Lieutenant Rothery made his search, it is not for me to enquire: I am bound to suppose, that he made it as it ought to be made: he found that the Vessel was completely ready for taking on board a cargo of Slaves, having landed her former cargo, consisting of tobacco, rum, and cloth, except a few rolls of the former; that he looked into the usual Slave-rooms, and did not perceive any thing. I am most anxious to discharge my duty on this Bench without offence to any body, and I hope I shall not be misunderstood so as to give offence to Mr. Rothery. I must, however, take leave to say, that the paragraph that I have just cited, while it has nothing incorrect, nothing inconsistent in it, appears to have been adapted to

the disclosures made a few days before, in the Affidavits of Quashee and of Joachim, and to leave room for the proof, that Slaves were on board, although not seen by Lieutenant Rothery, on his looking into the usual Slave-rooms. It appears, however, by the concurrent testimony of the Witnesses who were re-examined, that they were put below, on that occasion, in the same place, and in the same manner as at all other times, that they were not put into any extraordinary place of confinement, nor in any extraordinary manner.

From all these circumstances, and after due consideration upon them, I am convinced that there were not any Negroes concealed on board the Nova Sorte, at the time when Lieutenant Rothery visited her, on the 12th October, and kept in concealment for four days after, which would be two days after Lieutenant Rothery took possession, on the 14th of the same Month, those of such Slaves, who came upon deck to eat and to wash every day during that time, being unseen from the Snapper.

From the best view that I can form of the whole Case, as it has devolved to me for decision, I am persuaded that these Negroes, re-examined by me, were in the first shipment of twenty Negroes, put on board at the instance of Lieutenant Rothery, and that what they call the coming of the Man-of-War, is the final capture and bringing away of the Nova Sorte. One of the Negroes says, he did not know the difference between English and Portuguese, otherwise than as he was told; and again, he says, he knows the English as having delivered them. This explanation will reconcile some of the circumstantial inaccuracies, more or less to be found at all times in the evidence of all Negroes. One of the Negroes says, they were fed during the time by the English cook; another says, that while they were below he heard a firing, a circumstance that might have admitted explanation on the part of the Captors, by shewing at what times and in what manner, for what occasion and purposes the Snapper fired. I do think it one of the most extraordinary features of this very extraordinary Case that, although Lieutenant Rothery was of necessity accompanied by his boat's crew, not one of them is brought or tendered to confirm his statements, or to refute those of the other Party, especially the allegations of Francisco Gomez, who says, that the Officer who boarded the said Polacca ordered his men to go below and search, which they did. This Gomez also says, that a boat came from the Snapper the next day, and left some men; that these men were afterwards taken away, and that a canoe with Slaves came from a-stern of the Snapper, accompanied by a boat from the Brig-of-War. The Slaves were then ordered out of a canoe on board the Polacca, and although the Master of the Polacca objected to receive them, the Officer of the Brig-of-War enforced compliance. All these allegations, or such parts of them as could be contradicted or explained, were open to the testimony of the Officers and men of the Snapper, but from that Vessel we have not more than two Affidavits of Lieutenant Rothery himself.

I have now only to add one circumstance further. In the progress of the examinations instituted by me, I thought it my duty to consult with Mr. Gregory and Mr. Altavilla, in order to ascertain whether the impression of their minds coincided with mine: I had the satisfaction to find that their opinions were at every stage precisely the same.

On asking Mr. Gregory, while the woman Cosebah and the two men confronted with her were under examination on Monday, whether he thought that the supposition of a concealment of Slaves on board, during the time from the arrival of the Snapper until the seizure, was entitled to consideration, so as to make it a matter of duty to investigate it particularly? Mr. Gregory said, that such a supposition could not be reconciled with the statement of Mr. Rothery's Affidavit of the 10th of January, nor with the numbers of the Negroes stated in that Affidavit. Those numbers are 20 in the first shipment, and 102 after; the whole amounting to 122. The Reports of the Marshal and the Medical Officer, mentioned 122 as the total number brought to this Colony. Now, nothing can be more clear than, if one single Negro was concealed on board at the time of Lieutenant Rothery's first shipment, that Negro must be still unproduced, for he would make 123 if he had come forth, and every one of his companions would make one more. It is a matter of simple addition I am, therefore, convinced that there was neither an embarkation and relanding, nor an embarkation and a concealment on board of those so embarked.

My opinion is, that the Nova Sorte should be restored, and I am happy in being enabled to say that it is the unanimous opinion of the Court.

Mr. Gregory said, that he should desert his duty if he did not declare that the opinion that had been pronounced by Mr. Fitzgerald, was the unanimous opinion of the Court; he, Mr. Gregory, owed it to his situation, to his Colleagues, and to himself, to say, that the evidence of the Negroes that had been given in open Court had changed his opinion upon the Case; he concurred in opinion with his Colleagues, that the Nova Sorte should be restored to the Claimant.

The Proctor for the Captor then addressed himself to Mr. Gregory, and asked Mr. Gregory how it happened that his opinion was so much altered from what it had been; he, Mr. Gregory, having placed so much reliance upon the evidence of Quashee? Mr. Gregory said, that he would tell the Proctor for the Captor how this alteration had taken place. Quashee said, that a certain number of Slaves had been embarked and relanded from the Nova Sorte by the Portuguese. Now, some of the Slaves thus said to have been embarked and relanded, positively declared that having been embarked at Mina Piccaninny they were never relanded there, neither had they, to use their own expression, put their feet on shore until they came to Sierra Leone.

The Proctor for the Captor moved, that as the Slaves that had been brought to Sierra Leone on board of the Nova Sorte were not claimed by the Master of that Vessel, the Court would decree their freedom, and that Certificates of emancipation should be given to them.

Mr. Altavilla would not interfere with the Slaves in any manner, as the Slaves had been disclaimed by the Master of the Nova Sorte, and as the Vessel had not been condemned.

Mr. Fitzgerald was rather disposed to grant Certificates of emancipation to the Slaves of the Nova Sorte, conceiving that the spirit of the Convention guaranteed the freedom of Negroes in the situation of those on board of the Nova Sorte.

Mr. Gregory also thought that the spirit of the Convention guaranteed the freedom of such Negroes, but he did not think himself authorised to concur with Mr. Fitzgerald in a Decree, entitling the Negroes in question to Certificates of emancipation, when he had in recollection Mr. Secretary Canning's disapproval of the proceedings of the British Commissioners in the Case of the Spanish Schooner Rosalia, which proceedings, as Mr. Canning stated, might lay the foundation of a Claim for Bounties for the Slaves of that Vessel, as if her seizure had been meritorious. It was not disavowed that the object in moving for Certificates of emancipation for the Slaves of the Nova Sorte was to lay a foundation for a Claim for Bounties. Mr. Gregory conceived it to be his duty not to give ground for such a Claim, as he could not hold the seizure of the Nova Sorte to have been meritorious, he having concurred in a Decree for her liberation.

It was directed that the Slaves should be delivered over to the Colonial Government, under whose care they would share in the happiness of their brethren in this Colony. The British Commissioners said that they would submit to the British Government the question—whether or not these Negroes should receive Certificates of emancipation?

The question of costs, damages and expences, the Commissioners said they would take into consideration. It being, however, represented by the Registrar, that much trouble and inconvenience would be saved if the matter of costs, &c. were referred to him; the Commissioners agreed that they should be so referred. But at the outset, the Commissioners decreed that the Claimant was not entitled to demurrage, as the Nova Sorte must be taken to be under 100 tons burthen, upon a comparison of some of her Papers. These Papers were the Royal Passport and two Official Certificates given at Bahia, touching light dues: particular mention is made of these Papers at the commencement of this Report. The Proctor for the Claimant subsequently prayed that the Nova Sorte might be admeasured, in order that her real burthen might be ascertained. The admeasurement of the Nova Sorte was accordingly taken; her burthen was ascertained to be eighty-three tons and fifteen ninety-fourths of a ton, English, which would not be one hundred Portuguese tons.

(Signed) E. GREGORY.

Second Inclosure in No. 46.

*Papers in the Case of the Portuguese Schooner Nova Sorte,
E. C. Lima, Master.*

SCHEDULE.

1. Affidavit of Lieutenant Rothery	- - - - -	December 20, 1822.
2. Declaration of Lieutenant Rothery	- - - - -	— — —
3. Surgeon's Report	- - - - -	— — —
4. Marshal's Report	- - - - -	— — —
5. Petition for Monition	- - - - -	— — —
6. Monition	- - - - -	— — —
7. Examination of E. C. Lima	- - - - -	— — —
8. Examination of José Luis Fernandez	- - - - -	27, —
9. Medical Report	- - - - -	30, —
10. Petition of Proctor for Captor, with Affidavits annexed	- - - - -	January 7, 1823.
11. Examinations of Accootoo, Desay, Cooma, Acoopee, Cawcaw, Elooko	- - - - -	8, —
12. Examinations of Master, Boatswain, and Cook, of the Nova Sorte	- - - - -	— — —
13. Examination of Joachim	- - - - -	9, —
14. Affidavit of Lieutenant Rothery	- - - - -	10, —
15. Petition of Proctor for Captor, for speedy trial	- - - - -	— — —
16. Affidavit of Quashee	- - - - -	14, —
17. Petition of Proctor for Captor	- - - - -	21, —
18. Affidavit of Lieutenant Rothery	- - - - -	— — —
19. Claim, with Affidavit of Master of Nova Sorte	- - - - -	23, —
20. Petition of Proctor for Captor, with Examination of Cosebah annexed	- - - - -	24, —
21. Petition of Proctor for Captor, with Examination of Joachim annexed	- - - - -	— — —
22. Affidavits of Francisco José Belem, José Luis Fernandez, and Francisco Gomez	- - - - -	28, —
23. Examination of Desay	- - - - -	February 1, —
24. Examination of Quamin	- - - - -	— — —
25. Examination of Appear	- - - - -	— — —
26. Examination of Accomo	- - - - -	— — —
27. Examination of Quashee	- - - - -	3, —
28. Examination of Accootoo	- - - - -	— — —

29.	Examination of Accotia	-	-	-	-	-	-	-	February 3, 1823.
30.	Examination of Cosebah	-	-	-	-	-	-	-	— — —
31.	Re-examination of Accotia	-	-	-	-	-	-	-	— — —
32.	Re-examination of Accootoo	-	-	-	-	-	-	-	— — —
33.	Further examination of Accootoo	-	-	-	-	-	-	-	— — —
34.	Examination of Lochoo	-	-	-	-	-	-	-	— 4, —

(1.) *Affidavit of Lieutenant Rothery. December 20, 1822.*

Our Sovereign Lord The King, against the Polacca or Vessel Nova Sorte, Estevao Cazado da Silva, Master, her tackle, apparel, and furniture, and the goods, wares, merchandize, and Slaves on board the same, taken by His Majesty's Brig-of-War Snapper, Lieutenant Thomas Henry Rothery, Commander, and brought to Sierra Leone.

APPEARED personally, Thomas Henry Rothery, Lieutenant, Commander of His Majesty's Brig-of-War Snapper, duly authorised and empowered, according to the provisions of the Additional Convention to the Treaty between His Britannick Majesty and His Most Faithful Majesty, to make seizures of Vessels under Portuguese Colours engaged in the Slave-trade, being duly sworn, maketh oath, that, on the 14th day of the Month of October 1822, being in Latitude 6 deg. 5 min. North, and Longitude 1 deg. 25 min. East, he seized and detained the Polacca or Vessel called Nova Sorte, whereof Estevao Cazado da Silva was Master, by reason that the said Vessel was employed in the Traffick in Slaves, contrary to the existing Treaties entered into with His Britannick Majesty and His Most Faithful Majesty The King of Portugal. And the Deponent further maketh oath, that the Papers, Writings, and Documents hereunto annexed, marked from No. 1, to No. 23, inclusive, were given or delivered up to this Deponent by the Master of the said Vessel, and that the same are now brought and delivered up in the same plight and condition as when so received by this Deponent, without any fraud, addition, subduction, alteration, or embezzlement whatever, save the marking and numbering thereof.

(Signed) T. H. ROTHERY.

On the 20th Day of December 1822, the said Thomas Henry Rothery was duly sworn to the truth of this Affidavit, before me,

(Signed) D. M. HAMILTON, Registrar.

(2.) *Declaration of Lieutenant Rothery. December 20, 1822.*

I, THOMAS HENRY ROTHERY, Lieutenant, Commander of His Britannick Majesty's Brig-of-War Snapper, hereby declare, that, on the 14th Day of October 1822, being at Mina Piccaninny, in Lat. 6 d. 5 m. North, Long. 1 d. 25 m. East, of London, I then and there seized and detained the Polacca or Vessel called Nova Sorte, sailing under Portuguese Colours, and commanded by Estevao Cazado da Silva, bound from Bahia to Molembó, for being engaged in the unlawful Traffick in Slaves, contrary to the Convention entered into between His Britannick Majesty and His Most Faithful Majesty The King of Portugal.

And I further declare, that, on the 7th Day of August 1822, I boarded the said Vessel, she lying and being at anchor at the said Port of Mina Piccaninny, in Latitude and Longitude aforesaid, at which time she had on board her cargo of merchandize complete, as it was shipped at Bahia.

And I further declare that, on boarding the said Vessel, on the 14th Day of October aforesaid, I found that the said cargo had been landed at the same Place, viz:—Mina Piccaninny aforesaid; and had been there disposed of by the said Master and the Supercargo for a cargo of Slaves.

(Signed) T. H. ROTHERY.

Given on board His Majesty's Ship Snapper, this 14th Day of October 1822.

Thomas Henry Rothery maketh oath and saith, that the Declaration by him on this Sheet of Paper written, was and is true. (Signed) T. H. ROTHERY.

Sworn this 20th day of December 1822.

(Signed) D. M. HAMILTON, Registrar.

(3.) *Medical Report. December 20, 1822.*

The Report of John Shower, Surgeon.

HAVING proceeded on board the Portuguese Schooner Nova Sorte, Prize to His Majesty's Brig Snapper, Thomas Henry Rothery, Commander, with 122 Slaves on board,* with the Marshal of the Court, I find the whole of them, with the exception of two, who are rather emaciated, to be in a good state of health and strength, and perfectly free from any disease.

Sierra Leone, December 20, 1822.

(Signed) JOHN SHOWER, Surgeon:

* Men 70, Boys 21, Women 29, Girls 2;—Total 122.

(4.) *Marshal's Report. December 20, 1822.*

The Report of the Marshal of the Portuguese Mixed Commission Court.

THE Marshal has to report that he has proceeded, in company with the Medical Officer, on board the Vessel which has just come to anchor in the Harbour, and finds her to be the Portuguese Hermaphrodite *Nova Sorte*, captured by His Majesty's Brig *Snapper*, off Mina Piccaninny, with 122 Slaves on board, who are all well.

Sierra Leone, December 20, 1822.

(Signed) RD. GROVE, for the Marshal.

(5.) *Petition for Monition.*

Our Sovereign Lord The King, against the Polacca or Vessel *Nova Sorte*, whereof Estevao Cazado da Silva was Master, her tackle, apparel and furniture, and the goods, wares, merchandize and Slaves on board the same, taken by His Majesty's Brig of War *Snapper*, Thomas Henry Rothery, Lieutenant, Commander, and brought to Sierra Leone.

THE Petition of Thomas Henry Rothery, Lieutenant, Commander of His Britannick Majesty's Brig-of-War *Snapper*, humbly sheweth,—That the said Polacca, or Vessel, was seized and taken at Mina Piccaninny, in or about the Latitude of 6 d. 5 m. North, by reason that she was employed in the Traffick in Slaves, contrary to the existing Treaties entered into with His Britannick Majesty and His Most Faithful Majesty The King of Portugal, and brought into this Port for adjudication.

That your Petitioner has filed the Papers, Writings, and Documents found on board the said Vessel, with the Declaration in writing of the said Thomas Henry Rothery, in the Registry of the Court:—Your Petitioner, therefore, prays, that all Persons whatsoever, who have, or pretend to have, any right, title and interest in the said Polacca *Nova Sorte*, and her lading so seized and taken, be monished, cited and called to Judgment, so that they appear before your Honours, at such time and place as your Honours shall deem meet, to shew and allege in due form of Law, a reasonable and lawful cause, if any they have, why the said Vessel, and her lading, so seized and taken, should not be pronounced, at the time of the seizure of the same, to have been employed in an illegal Traffick in Slaves, and that it may further be intimated to the said Persons, that if they do not appear at such time and place as your Honours shall appoint, and shew a reasonable and just cause to the contrary, your Honours will proceed to adjudication, and will pronounce the Polacca and her cargo forfeited, and to be disposed of as directed by the said Treaties, and will pronounce all and singular the Slaves found on board to be emancipated:—and your Petitioner will ever pray,

(Signed) T. H. ROTHERY.

(6.) *Monition. December 20, 1822.*

George the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, to Charles Borrett, Gentleman, or his Deputy whomsoever, greeting.

WHEREAS our trusty and well-beloved Edward Gregory, and Joao Yacomo Altavilla, Esquires, His Britannick and His Most Faithful Majesties Commissary Judges, and Edward Fitzgerald, Esquire, His Britannick Majesty's Commissioner of Arbitration, appointed by Us and His Most Faithful Majesty The King of Portugal, to hear and determine all and all manner of causes and complaints, as to Ships, Goods and Slaves, seized and taken for the illegal Traffick in Slaves, and in contravention of the Treaties or Conventions between Us and His said Most Faithful Majesty, specially constituted and appointed, rightly and duly proceeding, at the Petition of Lieutenant Thomas H. Rothery, Commander of Our Ship-of-War *Snapper*, have decreed all Persons in general, who have, or pretend to have, any right, title, or interest in the Brigantine or Vessel called the *Nova Sorte*, whereof Estevao Cazado de Lima was Master, her tackle, apparel, and furniture, and the goods, wares, merchandize, and Slaves, on board the same, taken by Our said Ship-of-War *Snapper*, to be monished, cited, and called to Judgment at the time and place underwritten, and to the effect hereinafter expressed (justice so requiring).

We, therefore, strictly charge and command you, jointly and severally, that you omit not, but that by affixing these Presents upon one of the Pillars on the Crane at the Publick Wharf, at the usual time of the publick resort of Merchants and other Persons thither, and by leaving thereon affixed a true Copy thereof, you do monish and cite, or cause to be monished and cited, peremptorily, all persons in general, who have, or pretend to have, any right, title, or interest in the said Brigantine, her tackle, apparel and furniture, and the goods, wares, merchandize and Slaves, laden therein, to appear before the said Commissary Judges and Commissioner of Arbitration, in our Colony of Sierra Leone, upon the 3d day after service of these Presents, if it be a Court-day, or else on the Court-day next following, between the hours of Ten and Twelve A. M. of the same day, then and there to shew and allege, in due form of Law, a reasonable and lawful cause, if they

have any, why the said Brigantine, her tackle, apparel, and furniture, and the goods, wares, merchandize, and Slaves on board the same, should not be pronounced to have been employed illegally, and to be disposed of as is directed by the Treaties or Conventions in such case made and provided; and further, to do and receive in this behalf as to justice shall appertain, and that you duly intimate, or cause to be intimated, peremptorily, to all Persons aforesaid in general, to whom, by the tenour of these Presents, we also intimate, that if they shall not shew a reasonable and lawful cause to the contrary, the aforesaid Commissary Judges and Commissioner of Arbitration do intend, and will proceed to adjudication on the said capture, and may pronounce that the said Brigantine Nova Sorte, her tackle, apparel and furniture, and the goods, wares, and merchandize as aforesaid, are liable and subject to be adjudged, forfeited, and to be disposed of, as directed by the Treaties in that case made and provided; and also to pronounce all and singular the Slaves to be emancipated, the absence, or rather contumacy, of the Persons so cited and intimated in anywise notwithstanding; and that you duly certify to the said Commissary Judges and Commissioner of Arbitration what you shall do in the premises, together with these presents.

Given at Sierra Leone aforesaid, under the Seal of the said Commission, this 20th day of December, in the Year of Our Lord 1822, and of Our Reign the third.

(Signed) D. M. HAMILTON, Registrar.

(7.) *Examination of the Master, December 26, 1822.*

ESTEVAO CAZADO DE LIMA, Master on board the Schooner Nova Sorte, being produced, sworn, and examined upon the Standing Interrogatories, deposeth as follows:—

- To the 1st Interrogatory.—Saith, he was born at Pernambuco; he also resides at that Place; he is a Portuguese Subject; has not been a Subject to any other Prince or State; he is not married.
- To the 3d.—Saith, he was appointed to the command of said Schooner by the Owner Venceslaur Moguel de Almada; said Owner resides at Bahia; he is a Portuguese; took possession of said Vessel at Bahia, on the twenty-first day of May last past; possession was given him by the aforesaid Owner; has known said Schooner for some time previous to his taking possession of her; first saw her at Bahia; does not know where she was built.
- To the 5th.—Saith, he was present at the seizure and detention concerning which he is now examined; does not know upon what pretence or for what reason said Vessel was seized; she sailed under Portuguese Colours; had no other Colours on board.
- To the 6th.—Saith, the name of the Schooner is the Nova Sorte; has been called by that name ever since he has known her; does not know of her being called by any other name or names; does not know her tonnage or burthen; does not know the total number of Officers and mariners on board (exclusive of himself); they are all Portuguese; they all came on board at one Port; they were all hired by the Boatswain, does not know at what time, at Bahia.
- To the 7th.—Saith, neither himself, Officers, or crew, had any part, share, or interest, either in the Vessel or her lading; he was Captain on board the said Schooner; there were two Passengers on board; they were not secreted at the time of capture; the name of one of the Passengers was Joze Joaquim Refroza; the name of the other he does not know; they were both Portuguese; the former was a Minister; the other was his (the Minister's) own Slave; they both came on board at Elmina, in the Month of July last; they were going to Bahia; the Minister was going there to be confirmed as a Head Minister; and the other as his servant; neither of them had any interest either in the Vessel or her lading.
- To the 8th.—Saith, the present voyage commenced at Bahia, and was to have ended at the same Place; the last clearing Port, previous to capture, was Elmina; said Schooner during the voyage in which she was taken, touched and anchored at Elmina; and from that Place to Mina Piccaninny; she anchored and touched at the former Place for water and provisions; and at the latter Place also for water and provisions; no communication took place between the boats and the shore.
- To the 9th.—Saith, he first saw the capturing Vessel at Mina Piccaninny, in Latitude 6 deg. North, in the Month of August last past; said Schooner was captured at Mina Piccaninny; does not know the time said Schooner was captured. She was at an anchor at the time; her course was at all times, when the weather would permit, directed to the Ports or Places for which she appears destined by her Papers.
- To the 10th.—Saith, no guns are mounted on board the said Schooner; one musket is on board; no resistance was made at the time of capture; had no instructions for resisting, or instructions to avoid, or escape from, capture; or for destroying, concealing or refusing to deliver up, any or either of the Schooner's Documents or Papers.
- To the 11th.—Saith, Venceslaur Moguel de Almada was the Owner of said Schooner at the time of capture; he knows him to be the Owner, because he gave possession of said Schooner to him, (this Deponent); said Owner is a Portuguese; he resides at Bahia.
- To the 12th.—Saith, he does not know if any bill of sale was made to the aforesaid Owner; he verily believes, that if the said Schooner should be restored, she will belong to the aforesaid Owner, and to none others.
- To the 13th.—Saith, the aforesaid Owner is the lader and Owner of the merchandize on board, and Joaquim de Mererez is the Consignee; they are both Portuguese, they reside at Bahia, and

- carry on their business at that Place; has resided there for a considerable time; does not know where they resided before; the remaining part of the cargo which is now on board, was to have been delivered at Mina Piccaninny, for the account, risk, or benefit of the aforesaid Owner; the Consignee had not any interest in the merchandize; he can take upon himself to swear, that if the merchandize should be restored, it will belong to the aforesaid Owner, and to none others; his ground for such belief is, that the cargo is mentioned in the Papers, as belonging to the said Owner.
- To the 14th.—Saith, he does not know what cargo the Vessel brought out on her last voyage; the present cargo consists of tobacco, water and provisions, not any Slaves have been taken on board from the time they commenced trading; said Schooner anchored and touched at Princes Island since capture.
- To the 15th.—Saith, the Passports and other Papers are entirely true and fair; knows of no matter or circumstance to affect their credit.
- To the 16th.—Saith, the said Schooner was provided with a Royal Passport, conformable to the Model annexed to the Convention between His Britannick Majesty and His Most Faithful Majesty, signed at London, the 28th of July 1817. He received such Royal Passport in the Month of May last past; said Passport was delivered to him by the Owner; Tritao Piô da Santoz was the Minister of Marine of His Most Faithful Majesty, at the time he received such Passport; he is also the Principal Naval Authority from whence said Schooner cleared out; the signatures affixed to the said Passport are in every respect true and genuine.
- To the 17th.—Saith, not any of the Papers, Bills of Lading, Letters or other Writings, which were on board the said Schooner at the time she took her departure from the last clearing Port, and before the capture, were burnt, torn, thrown overboard, destroyed, concealed, or attempted to be concealed at any time; not any of the Papers were delivered out of the Vessel.
- To the 18th.—Saith, he does not know if there are any other Papers or Writings in any other Country.
- To the 19th.—Saith, he does not know if any Charter Party was signed for the voyage.
- To the 20th.—Saith, he does not know if the Schooner or cargo was insured; the direction and management with respect to her employment in Trade, has usually been performed by the Supercargo; the Supercargo corresponds in the concerns of the Vessel and cargo.
- To the 21st.—Saith, bulk was first broken at Elmina, then at Mina Piccaninny.
- To the 22d.—Saith, not any Slave or Slaves, have at any time been put or received on board the said Schooner during the present voyage in which she was taken.

(Signed) ESTEVAO CAZADO LA.
his
PHILLIP × ROMAINE,
Mark.

Taken and sworn this 26th day of December 1822, through the interpretation of Phillip Romaine, who was also duly sworn to interpret faithfully, before me,

(Signed) D. M. HAMILTON, Registrar.

(8.) *Examination of Joze Luis Fernandez. December 27, 1822.*

JOZE LUIS FERNANDEZ, Boatswain on board the Schooner Nova Sorte, being produced, sworn and examined upon the Standing Interrogatories, deposeth as follows:—

- To the 3d Interrogatory.—Saith, the name of the Master, or Commander of said Schooner, is Estevao Cazado de Lima; has known him about six months; he was born at Pernambuco; has no fixed place of residence; he is not married.
- To the 4th.—Saith, Venceslaur Moguel de Almda appointed the Master to the command; he resides at Bahia; said Master took possession of her at Bahia, about nine Months ago; possession was given him by the aforesaid Owner; has known said Vessel since January last; first saw her at Bahia; she was built at Bahia.
- To the 5th.—Saith, he was present at the time said Schooner was seized and taken; does not know why she was so seized; said Schooner sailed under Portuguese Colours; had no other Colours on board.
- To the 6th.—Saith, the name of said Schooner is the Nova Sorte; does not know how long she has been called by that name; does not know of her being called by any other name or names; does not know her tonnage or burthen; there were seventeen Officers and mariners on board, (exclusive of the Master), they are all Portuguese; they all came on board at one Port, they were hired by himself about seven or eight Months ago at Bahia.
- To the 7th.—Saith, neither himself, Officers or mariners on board, had any part, share, or interest, either in the Schooner, or her lading; he is Boatswain on board said Schooner; there were two Passengers on board said Schooner; they were not secreted at the time of capture; does not know their names; they were both Portuguese; one was a Minister, and the other his (the Minister's) servant; they were taken on board at Elmina, about three or four Months ago; they were destined to Bahia; the Minister was going to Bahia to be confirmed a Head Minister, and the other as his servant; had not any interest either in the Vessel or cargo.

- To the 8th.—Saith, the present voyage commenced at Bahia, and was to have ended there; the last clearing Port said Schooner sailed from, previous to capture, was Elmina; said Schooner, during the voyage in which she was taken, anchored and touched at Elmina, and Mina Piccaninny; she anchored at the first Place to take in water and to repair the main-boom; and at the latter for water and to repair the top-gallant-mast; no communication took place between the boats and the shore.
- To the 9th.—Saith, he first saw the capturing Vessel at Mina Piccaninny, about four Months ago; said Schooner was captured off Mina Piccaninny at an anchor; her course at all times, when the weather would permit, was directed to the Ports or Places for which she was destined by her Papers.
- To the 10th.—Saith, no guns are mounted on board the said Schooner; there is one musket on board; no resistance was made at the time of capture; had no instructions for resisting capture, or for destroying, or refusing to deliver up any of the Schooner's Documents or Papers.
- To the 11th.—Saith, Venceslaur Moguel de Almida, was the Owner of the Vessel at the time she was seized; knows him to be the Owner, because he gave him the command as Boatswain; he is a Portuguese; he resides at Bahia; does not know how long he has resided there.
- To the 12th.—Saith, he does not know if any Bill of Sale was made to the aforesaid Owner; if the said Schooner should be restored, she will belong to the aforesaid Owner, and none others.
- To the 13th.—Saith, the aforesaid Owner is the lader of the cargo, and Joaquim de Mererez is the Consignee; they are Portuguese; they reside at Bahia, and carry on their business there; does not know how long they have resided there; the cargo now on board was to be delivered at Molemo, for the risk or benefit of the aforesaid Owner; the Consignee had not any interest in the cargo; he can take upon himself to swear, that if the merchandize should be restored, the same did, does, and will belong to the aforesaid Owner, and to none others; his ground for such belief is, that he never saw any other Owner.
- To the 14th.—Saith, he does not know what the Schooner brought out on her last voyage; her present cargo consists of water, palm-oil, and some yams; no Slaves have been taken on board since the time of commencing trade; said Schooner anchored and touched at Prince's Island since capture.
- To the 15th.—Saith, that all the Passports and other Papers are entirely true and fair; knows of no circumstance to affect their credit.
- To the 16th.—Saith, the said Schooner was provided with a Royal Passport, conformable to the Model annexed to the Convention between His Britannick Majesty and His Most Faithful Majesty, signed at London, on the 28th July 1817; does not know the time when the said Passport was delivered; nor who delivered it to the Captain; the name of the Minister of Marine of His Most Faithful Majesty, is Tritao Pio da Santoz, at the time the said Passport was delivered; he is also the principal Naval Authority, from whence the Schooner cleared out; the signatures affixed to the said Passport are true and genuine.
- To the 17th.—Saith, not any of the Papers, or other Writings, have been burnt, torn, thrown overboard, or destroyed at any time; nor have any of the Papers been delivered out of the Vessel.
- To the 18th.—Saith, there are not in any other Country any Papers belonging to the said Schooner.
- To the 19th.—Saith, not any Charter Party was signed for the voyage.
- To the 20th.—Saith, neither the Vessel nor her cargo is insured; the direction and management, with respect to the employment in trade, has usually been performed by the Supercargo; the Supercargo corresponds on the concerns of the Vessel and cargo.
- To the 21st.—Saith, bulk was first broken at Elmina, and then at Mina Piccaninny.
- To the 22d.—Saith, no Slave or Slaves have been on board at any time during the voyage in which the Schooner was taken.

(Signed) JOZE LUIS FERNANDEZ.

his
PHILLIP × ROMAINE,
Mark.

Taken and sworn, this 27th day of December 1822, through the interpretation of Phillip Romaine, who was also duly sworn to interpret faithfully, before me,

(Signed) D. M. HAMILTON, Registrar.

(9.) *Medical Report. December 30, 1822.*

The Report of John Shower, Surgeon.

HAVING been on board of the Portuguese Schooner Nova Sorte, and examined into the state of health of the Slaves on board, I find that since my last Report, many of them have been affected with bowel complaints, which still continue, and the number increasing daily: as this is the case, I humbly submit that the whole of the Slaves be allowed to be landed as soon as possible.

Sierra Leone, December 30, 1822.

JOHN SHOWER, Surgeon.

(10.) *Petition of Proctor, with Affidavit annexed. January 4, 1823.*

THE Petition of Christopher Austin, on the part and behalf of Lieutenant Thomas Henry Rothery, Commander of His Britannick Majesty's Brig-of-War Snapper, humbly prays, that the Commissioners will be pleased to allow the annexed Affidavits, in the Case of the Portuguese Polacca Nova Sorte, to be filed in their Honourable Court. And your Petitioner will ever pray.

Free Town, Sierra Leone, January 4, 1823.

(Signed) C. AUSTIN.

APPEARED personally, Quashee, who, upon examination, appears to understand the principles of Christianity, which he professes, and who was, consequently, first duly sworn on the Holy Evangelists, deposes and saith, as follows, viz. :—

That he was the Slave of Captain Blenkarne, Governor of the British Fort of Accra; that about the time Sir Charles McCarthy, Governor and Captain-General of this Colony and its Dependencies, visited the said Fort of Accra, Deponent was by the said Captain Blenkarne given to a woman, a Native of Africa, who then lived with the aforesaid Captain Blenkarne; that said woman sold the Deponent to a man named Quarte Cudjô, a Native of Africa, and resident at Accra; that said Quarte Cudjô took Deponent, ironed by the wrists, in a canoe to a Place on the Western Coast of Africa, called Mina Piccaninny, and then and there sold him, the said Deponent, to a Portuguese man, Master of the Portuguese Polacca Nova Sorte, which Vessel was then and there lying at anchor, viz. at the aforesaid Place, called Mina Piccaninny (which Portuguese Master being present he identifies, and which Portuguese Polacca he points out lying at anchor in this Harbour); that Deponent being on the beach of the said Place, called Mina Piccaninny, he then saw and witnessed the embarkation of many men and women Slaves, Natives of Africa, on board the long-boat of the said Polacca, which long-boat conveyed the said Slaves, and put them on board the said Polacca, said Slaves being then and there in irons by the neck and wrists; that four days after the aforesaid Slaves were so put on board the aforesaid Vessel, he, the Deponent, with other Slaves not then embarked, perceived a Vessel approaching the said Place where said Polacca was lying at anchor, which Vessel he points out to be His Britannick Majesty's Brig-of-War Snapper; that before the Sun rose on the following day, he saw and witnessed the aforesaid Slaves, which were so embarked, land on the Beach of Mina Piccaninny aforesaid, from three canoes, and the aforesaid long-boat, and that he was, with the said Slaves and others who were not embarked, driven by the people of Mina Piccaninny aforesaid into the bush to a considerable distance.

(Signed)

QUASHEE, ^{his} ×

Mark.

Taken and sworn the 4th day of January 1823, before me,

(Signed) D. M. HAMILTON, Registrar.

PERSONALLY appeared, Joachim, a seaman on board the said Vessel, who being first duly sworn on the Holy Evangelists, through the interpretation of Quashee, one of the Slaves on board the said Polacca, who states himself to have been a Slave of Captain Blenkarne, Governor of the British Fort of Accra, and who, upon examination, appears to understand the principles of Christianity, and who was, consequently, first duly sworn on the Holy Evangelists faithfully to interpret, deposes and saith, as follows, viz. :—

That he is a seaman on board the said Portuguese Polacca Nova Sorte, in which Vessel he sailed from the Port of Bahia, in the Brazils, about six or seven Months ago; that he made three voyages to the Western Coast of Africa, in the said Vessel, viz. two voyages to the River Calabar, and one voyage to Mina Piccaninny, from which Places the said Vessel took at each time a cargo of Slaves, Natives of Africa, to the aforesaid Port of Bahia; that about two Months and a half ago, being at the aforesaid Port of Mina Piccaninny, on the Western Coast of Africa, in the aforesaid Polacca, then and there lying at anchor, many men and women Slaves, Natives of Africa, were then and there brought and received on board the said Polacca, at two several times, in the long-boat belonging to the aforesaid Vessel, the said Slaves being ironed by the neck and hands in four separate chains; that four days after the said Slaves were so embarked on board the said Vessel, a strange Vessel came in sight, which strange Vessel proved to be His Britannick Majesty's Brig-of-War Snapper; that on the appearance of the said Brig-of-War, all the aforesaid Slaves were driven by the Portuguese mariners of said Polacca into a part of the hold of said Polacca, (which place he describes to be under that part of the Vessel called the Fore Pic), and that the said Slaves were then and there covered and concealed by sails and provisions, the Portuguese mariners of said Vessel threatening to stab with a knife any one of the said Slaves who should speak or make any noise; that a short time after Sun-set of the same day, the boat of the English Brig-of-War aforesaid, came alongside the said Polacca, and shortly after left her; that about the middle of the Night of that same day, the Portuguese mariners put into three canoes, and the aforesaid long-boat, all the aforesaid Slaves then on board the said Polacca, viz. one chain of Slaves into each boat, and conveyed them on shore to the aforesaid Place called Mina Piccaninny, and that Deponent remaining on board the said Polacca, he does not know how they were after disposed of.

(Signed)

JOACHIM, ^{his} ×

Mark.

^{his}

QUASHEE, ×

Mark.

Taken and sworn the 4th day of January 1823, before me,

(Signed)

D. M. HAMILTON, Registrar.

(11.) *Examination of Accootoo, Desay, Cooma, Accoopoo, Cawcaw, and Elooko. January 8, 1823.*

THE Petition of Christopher Austin, on the part and behalf of Lieutenant Thomas Henry Rothery, Commander of His Britannick Majesty's Brig-of-War Snapper, humbly sheweth,—that your Petitioner, conceiving it requisite for the elucidation of the Case of the Portuguese Polacca Nova Sorte, that the Interrogatories annexed should be put to the following Witnesses, Accootoo, Desay, Cooma, Men; Acoopee, Cawcaw, Elooko, Women; they being Slaves, Natives of Africa, on board the said Polacca, humbly prays, that your Honours will be pleased to order the same:—and your Petitioner will ever pray.

Free Town, Sierra Leone, January 4th, 1823.

(Signed) C. AUSTIN.

Questions to be put to the Witnesses above-named.

- 1st.—What is your name and Country?
 2d.—Are you a Slave, if so, who bought you?
 3d.—Who put you on board the Vessel which brought you here?
 4th.—Point out that Vessel?
 5th.—Where was that Vessel lying at that time?
 6th.—Were you put on board before the English Man-of-War came in sight, if so, how many days before?
 7th.—What did the Portuguese mariners of that Vessel do with you, on the appearance of the English Man-of-War?

ACCOOTOO, one of the Slaves on board the said Polacca being produced, sworn (by fetish, according to the custom of his Country), and examined on Special Interrogatories annexed, by permission of the Court, deposeth and saith as follows, viz:—

To the 1st.—Saith, his name is Accootoo and his Country, Pawpaw.

To the 2d.—Saith, he is a Slave, and identifies the Captain of said Polacca as having bought him.

To the 3d.—Saith, the Portuguese Mariners of the Polacca put him on board the Vessel which brought him here.

To the 4th.—He points out the above-mentioned Polacca now at anchor off Free Town.

To the 5th.—Saith, that the said Vessel was then lying off Anucoo or Mina Piccaninny.

To the 6th.—Saith, he was put on board before the English Man-of-War came in sight; he was so put on board four days before her coming in sight.

To the 7th.—Saith, that on the appearance of the Man-of-War he was put down below, and covered with sails and yams.

(Signed)

ACCOOTOO. ^{his} ×
Mark.

her
JENNY × ANDREWS.
Mark.

Taken and sworn the 8th day of January 1823, through the interpretation of Jenny Andrews, a Country-woman of the examinant, who was first duly sworn on the Holy Evangelists faithfully to interpret, before me,

(Signed) D. H. HAMILTON, Registrar.

DESAY, one of the Slaves on board the said Polacca, being produced, sworn, (by fetish, according to the custom of his Country), and examined on Special Interrogatories annexed, by permission of the Court, deposeth and saith as follows, viz:—

To the 1st.—Saith, his name is Desay, his Country, Coromantin.

To the 2d.—Saith, he is a Slave, and was bought by the Captain of the Polacca afore-mentioned.

To the 3d.—Saith, he was put on board said Polacca by the Towns-people of the Place at which the Captain bought him.

To the 4th.—Points out the Polacca Nova Sorte, now lying off Free Town.

To the 5th.—Saith, the said Polacca was then lying off Mina Piccaninny.

To the 6th.—Saith, he was put on board four days before the appearance of the English Man-of-War.

To the 7th.—Saith, that on the appearance of the English Man-of-War, the Portuguese mariners put him and other Slaves below, and put sails over him and them.

(Signed)

DESAY. ^{his} ×
Mark.

her
JENNY × ANDREWS.
Mark.

Taken and sworn the 8th day of January 1823, through the interpretation of Jenny Andrews, who was first duly sworn on the Holy Evangelists, faithfully to interpret, before me,

(Signed)

D. M. HAMILTON, Registrar.

COOMA, one of the Slaves on board the said Polacca, being produced, sworn, (by fetish, according to the custom of his Country), and examined on Special Interrogatories annexed, by permission of the Court, deposeth and saith as follows, viz:—

- To the 1st.—Saith, his name is Cooma, and his Country, Wigam.
 To the 2d.—Saith, he is a Slave, and points out the Captain of said Polacca, who is present, as having bought him.
 To the 3d.—Saith, the Towns-people of the Town where said Captain bought him, put him on board the Vessel which brought him here.
 To the 4th.—Points out the Polacca Nova Sorte aforesaid, at anchor off Free Town.
 To the 5th.—Saith, that the said Polacca was lying at Mina Piccaninny at the time he was put on board her.
 To the 6th.—Saith, he was put on board the said Polacca four days before the English Man-of-War came in sight.
 To the 7th.—Saith, that on the appearance of the English Man-of-War, the Portuguese mariners of the Polacca put him below, and covered him with sails.

(Signed)

COOMA. ^{his}
 ×
 Mark.

^{his}
 WILLIAM × WALKER.
 Mark.

Taken and sworn the 8th day of January 1823, through the interpretation of William Walker, a Corporal in the 2d West India Regiment, who was first duly sworn on the Holy Evangelists, faithfully to interpret, before me,

(Signed)

D. M. HAMILTON, Registrar.

ACOOPEE, one of the Slaves on board of the said Polacca, being produced, sworn, (by fetish, according to the custom of her Country) and examined on Special Interrogatories annexed, by permission of the Court, deposeth and saith as follows, viz:—

- To the 1st.—Saith, her name is Acoopee, and her Country, Choma.
 To the 2d.—Saith, she is a Slave, and identifies the Captain of the Nova Sorte as having bought her.
 To the 3d.—Saith, the Portuguese mariners put her on board the Vessel which brought her to this Place.
 To the 4th.—She points out the above-named Polacca, Nova Sorte, as the Vessel which brought her here.
 To the 5th.—Saith, that the Vessel was then lying off Mina Piccaninny.
 To the 6th.—Saith, she was put on board the said Polacca Nova Sorte, four days before the English Man-of-War came in sight.
 To the 7th.—Saith, that on the appearance of the English Man-of-War, the Portuguese mariners put her below, and covered her with sails.

(Signed)

ACOOPEE. ^{her}
 ×
 Mark.

^{his}
 WILLIAM × WALKER.
 Mark.

Taken and sworn the 8th day of January 1823, through the interpretation of William Walker, a Corporal of the 2d West India Regiment, who was first duly sworn on the Holy Evangelists, faithfully to interpret, before me,

(Signed)

D. M. HAMILTON, Registrar.

CAUCAW, one of the Slaves on board the said Polacca, being produced, sworn (by fetish, according to the custom of her Country) and examined on Special Interrogatories annexed, deposeth and saith as follows, viz:—

- To the 1st.—Saith, her name is Caukaw, and her Country, Tanjapau.
 To the 2d.—Saith, she is a Slave, and identifies the Captain of said Polacca Nova Sorte, as having bought her.
 To the 3d.—Saith, the Portuguese mariners of the Polacca put her on board the said Vessel which brought her to this Place.
 To the 4th.—She points out the Polacca Nova Sorte, now lying off Free Town, as the Vessel that brought her here.
 To the 5th.—Saith, that the said Vessel was then lying off Mina Piccaninny.
 To the 6th.—Saith, she was put on board said Polacca, four days before the English Man-of-War came in sight.

To the 7th.—Saith, that on the appearance of the English Man-of-War the Portuguese mariners of said Polacca put her below in the Vessel and covered her over with sails,

(Signed) CAWCAW. ^{her} ×
Mark.
her
JENNY × ANDREWS.
Mark.

Taken and sworn the 8th day of January 1823, through the interpretation of Jenny Andrews, a Country-woman of the examinant, who was first duly sworn on the Holy Evangelists faithfully to interpret, before me,

(Signed) D. M. HAMILTON, Registrar.

ELOOKO, one of the Slaves on board the said Polacca, being produced, sworn, (by fetish, according to the custom of her Country), and examined on Special Interrogatories annexed, by permission of the Court, deposes and saith as follows, viz :—

To the 1st.—Saith, her name is Elooko, and her Country, Gean.

To the 2d.—Saith, she is a Slave, and identifies the Captain of the Polacca Nova Sorte, as having bought her.

To the 3d.—Saith, that the Portuguese mariners of the said Polacca put her on board the Vessel which brought her here.

To the 4th.—She points out the above-mentioned Polacca Nova Sorte, now lying at anchor off Free Town.

To the 5th.—Saith, that the said Vessel was then lying off Mina Piccaninny.

To the 6th.—Saith, she was put on board four days before the English Man-of-War came in sight.

To the 7th.—Saith, that upon the appearance of the English Man-of-War, she was put below and covered with sails.

her
ELOOKO. ×
Mark.
his
WILLIAM × WALKER.
Mark.

Taken and sworn this 8th day of January 1823, through the interpretation of William Walker, a Corporal of the 2d West India Regiment, who was first duly sworn on the Holy Evangelists, faithfully to interpret, before me,

(Signed) D. M. HAMILTON, Registrar.

(12.) *Examination of Master, Boatswain, and Cook. January 8, 1823.*

THE Petition of Christopher Austin, on the part of Thomas Henry Rothery, Lieutenant and Commander of His Britannick Majesty's Brig-of-War Snapper, humbly sheweth,—that your Petitioner, conceiving it necessary for elucidating the Case of the Portuguese Polacca Nova Sorte, that the annexed Special Interrogatories should be put to the Master, the Boatswain, and the Cook of the said Polacca, humbly prays,—that your Honours will be pleased to order the same :— and your Petitioner will ever pray.

Free Town, Sierra Leone, January 4, 1823.

(Signed) C. AUSTIN.

Special Interrogatories to be put, with permission of the Court, to the Master of the Portuguese Polacca Nova Sorte.

1st.—How much of your original cargo had you on board when captured?

2d.—Did it take all the remainder to purchase water and provisions?

3d.—With what were you to have purchased your cargo of 353 Slaves at Molembo?

4th.—For what purpose was that part of the cargo, still on board, to have been landed at Mina Piccaninny?

5th.—You remained at Mina Piccaninny four months; can you say for what purpose you stayed there so long?

6th.—What is become of the Slave passenger you took on board at Elmina?

7th.—Will you swear on the Holy Cross, that no part of the cargo so landed at Mina Piccaninny, was employed by you or the Supercargo in the purchase of Slaves?

Special Interrogatories to be put, by permission of the Court, to the Boatswain of the Portuguese Polacca Nova Sorte.

1st.—How much water did you take in on board at Elmina?

2d.—How many days were you going from Elmina to Mina Piccaninny?

3d.—Did you consume all that water in that time?

4th.—For what purpose did you land your cargo at Mina Piccaninny?

5th.—By what means was the cargo so landed?

6th.—With what did you intend to purchase your cargo of 353 Slaves at Molembo?

7th.—Will you swear on the Holy Cross, that not one of the Slaves brought to this Port in the Nova Sorte, were purchased by the Master or Supercargo of that Vessel?

8th.—If they were, for what purpose were they so purchased?

Special Interrogatory to be put by permission of the Court, to the Cook of the Portuguese Polacca Nova Sorte.

Will you swear on the Holy Cross, that none of the Slaves brought to this Port in the Polacca Nova Sorte, were purchased by the Master or Supercargo of that Vessel?

ESTEVAO CAZADO DE LIMA, Master of the said Polacca, being produced, sworn, and examined on Special Interrogatories annexed, put by permission of the Court, deposeseth and saith as follows, viz :—

To the 1st Interrogatory.—Saith, that he does not recollect what quantity of his original cargo was on board when the Vessel was captured; that not being his business, but that there was some left.

To the 2d.—Saith, that he took all the other part of the cargo to buy water, provisions, and palm-oil.

To the 3d.—Saith, that they don't always carry the number of Slaves as is stated in the Passport; and that he has a factory with goods at Molembo, with which goods, the Slaves were to have been purchased.

To the 4th.—Saith, the remainder of the cargo on board was to have been carried to Molembo, and there landed.

To the 5th.—Saith, that he remained at Mina Piccaninny only two months, he laid there so long on account of the strength of the current not allowing him to proceed to his destined Port.

To the 6th.—Saith, that at the time of capture, the Slave Passenger was on board His Britannick Majesty's Brig-of-War Snapper, and was afterwards landed at Princes Island.

To the 7th.—Saith, that he will swear on the Holy Cross, that no part of the cargo so landed at Mina Piccaninny was employed by him or the Supercargo in the purchase of Slaves.

(Signed) ESTEVAO CAZADO DE LA.
SIMAO RODRIGUER.

Taken and sworn the 8th day of January 1823, through the interpretation of Simao Rodriguer, who was first duly sworn on the Holy Evangelists, faithfully to interpret, before me,

(Signed) D. M. HAMILTON, Registrar.

LUIS FERNANDEZ, Boatswain of the said Polacca, being produced, sworn, and examined on Special Interrogatories annexed, deposeseth and saith as follows, viz. :—

To the 1st Interrogatory.—Saith, that they took on board three bareka of water at Elmina.

To the 2d.—Saith, that they were a few days going from Elmina to Mina Piccaninny, but does not remember how many days.

To the 3d.—Saith, that they consumed the whole of the three barekas of water, except a very little, in that time.

To the 4th.—Saith, that they landed the cargo at Mina Piccaninny, to purchase provisions, palm-oil, and a top-gallant-mast.

To the 5th.—Saith, that the cargo was so landed by canoes, and the launch of the said Polacca.

To the 6th.—Saith, that Wenceslair Moguel de Almada, the Owner of the Polacca Nova Sorte, has a Factory at Molembo, for the purpose of purchasing Slaves.

To the 7th.—Saith, that he will swear on the Holy Cross, that not one of the Slaves brought to this Port in the Nova Sorte, were purchased by the Master or Supercargo of that Vessel.

(Signed) JOZE LUIS FERNANDEZ.
SIMAO RODRIGUER.

Taken and sworn the 8th day of January 1823, through the interpretation of Simao Rodriguer, who was first duly sworn on the Holy Evangelists, faithfully to interpret, before me,

(Signed) D. M. HAMILTON, Registrar.

DUARTE VARGE, Cook of the said Polacca, being produced, sworn and examined on the Special Interrogatory annexed, deposeseth and saith, as follows, viz. :—

To the 1st Interrogatory.—Saith, that he will swear on the Holy Cross, that none of the Slaves which were brought here in the Polacca Nova Sorte, were bought by the Master or Supercargo of that Vessel.

(Signed) DUARTE x VARGE.
Mark.

SIMAO RODRIGUER.

Taken and sworn the 8th day of January 1823, through the interpretation of Simao Rodriguer, who was first duly sworn on the Holy Evangelists, faithfully to interpret, before me,

(Signed) D. M. HAMILTON, Registrar.

(13.) *Examination of Joachim. January 9, 1823.*

THE Petition of Christopher Austin, on the part and behalf of Lieutenant T. H. Rothery, Commander of His Britannick Majesty's Brig-of-War Snapper, humbly sheweth,—that your Petitioner wishing, at the suggestion of His Britannick Majesty's Commissioner of Arbitration, to take the Affidavit of Joachim, one of the seamen on board the Portuguese Polacca Nova Sorte, through the medium of another Interpreter, was unable to find such another as could speak his language with the fluency of the former, or to the satisfaction of the Registrar of your Honourable Court; he, therefore, humbly prays, that your Honours will be pleased to allow the annexed Interrogatories to be put to the said Joachim, and your Petitioner will either withdraw the aforesaid Affidavit, or let it remain on the file, as your Honours may judge expedient:—And your Petitioner will ever pray.

Free Town, January 9, 1823.

(Signed) C. AUSTIN.

Interrogatories to be put, by permission of the Court, to Joachim, one of the Seamen of the Portuguese Polacca Nova Sorte.

1st Interrogatory.—What is your name?

2d.—Are you a seaman on board the Polacca Nova Sorte?

3d.—Were you on board of that Vessel ever since she sailed from Bahia last?

4th.—Where was she lying when she was seized by His Britannick Majesty's Brig-of-War Snapper?

5th.—Had she received any Slaves on board previous to the appearance of said Brig-of-War; if so,—how long previous?

6th.—If so,—what was done with those Slaves on the appearance of said Brig-of-War?

7th.—Was any thing further done with said Slaves, either by the crew of said Polacca, or by any other Persons?

Answers of Joachim, a Seaman on board the Portuguese Polacca Nova Sorte, to Special Interrogatories by permission of the Commissioners.

Thursday, January 9, 1823.

To the 1st Interrogatory.—Saith, his name is Joachim.

To the 2d.—Saith, he is a mariner on board the Nova Sorte.

To the 3d.—Saith, he has been on board the said Schooner Nova Sorte, ever since she sailed from Bahia.

To the 4th.—Saith, said Schooner was lying off Mina Piccaninny at the time the said Schooner was seized by His Majesty's Brig Snapper.

To the 5th.—Saith, Slaves had been on board the Schooner four days previous to seeing the Man-of-War.

To the 6th.—Saith, that on the appearance of the capturing Vessel the Slaves that were on board were put in a small room where the yams were.

To the 7th.—Saith, that in the course of the Night the Slaves were sent on shore by the Portuguese mariners of said Schooner.

(Signed) JOACHIM ^{his} ×
Mark.
her
SALLY × CUDJAC.
Mark.

Taken and sworn this 9th day of January 1823, through the interpretation of Sally Cudjac, who was first duly sworn to interpret faithfully, before me,

(Signed) D. M. HAMILTON, Registrar.

(14.) *Affidavit of Lieutenant Rothery. January 10, 1823.*

PERSONALLY appeared, Thomas Henry Rothery, Commander of His Britannick Majesty's Brig-of-War Snapper, who being duly sworn on the Holy Evangelists, deposeth and saith as follows, viz. :—

That being, on the 12th day of October last past, in pursuance of Orders, in His Britannick Majesty's said Brig, in Latitude 6 d. North, and Longitude 1 d. 20 m. East, he saw a Polacca at anchor off Mina Piccaninny; that at half-past Six o'Clock of the same Evening, he anchored His Majesty's said Brig off the same Place, and proceeded in his boat to examine the said Polacca, she being under Portuguese Colours; that on boarding her she proved to be the Portuguese Polacca Nova Sorte, completely ready for taking on board a cargo of Slaves, she having landed her former cargo, consisting of tobacco, rum and cloth, except a few rolls of the former; that on looking into the usual Slave-rooms, he did not perceive any Slave, and Deponent consequently left her; that on the same evening, the Caboocer of Mina Piccaninny (conceiving His Majesty's said Brig to be a Slave-trading Vessel), sent his Messenger on board her, stating that he would

be happy to supply her with any number of Slaves she might want, as he had already supplied the Portuguese Polacca Nova Sorte, then at anchor in company, with a cargo of Slaves; that Deponent immediately returned an answer desiring the said Caboceer to send the Slaves, so supplied to the Portuguese Polacca aforesaid, on board her immediately; that on the 14th day of the said Month of October said Slaves, to the number of twenty, were put on board said Polacca by the canoes and people of the said Caboceer, when Deponent sent his boat and seized her; that 102 Slaves, being part of the aforesaid cargo of said Polacca, were subsequently put on board her when she was sent to this Port for adjudication. (Signed) T. H. ROTHERY.

Taken and sworn this 10th day of January, in the year of our Lord 1823,
(Signed) D. M. HAMILTON, Registrar.

(15.) *Petition of Proctor. January 10, 1823.*

THE humble Petition of Christopher Austin, on the part and behalf of T. H. Rothery, Lieutenant and Commander of His Britannick Majesty's Brig-of-War Snapper, humbly sheweth,—that your Petitioner having filed the Evidence in this Case, which he trusts will be sufficient to substantiate the charge of illicit Slave-trading against the said Polacca, and no Claim having been filed on the part of any Person or Persons, humbly prays, that your Honours will be pleased to name as early a day for passing Sentence as in your wisdom your Honours may deem meet:—And your Petitioner will ever pray.

Free Town, January 10, 1823. (Signed) C. AUSTIN.

(16.) *Affidavit of Quashee. January 14, 1823.*

THE humble Petition of Christopher Austin, on the part of Lieutenant Thomas Henry Rothery, sheweth,—that your Petitioner wishing to prove clearly to your Honourable Court that all the Slaves which came to this Port in the Nova Sorte, were purchased for her, humbly prays, that the annexed Affidavit may be filed in your Honourable Court:—And your Petitioner, as in duty bound, will ever pray.

Free Town, January 14, 1823. (Signed) C. AUSTIN.

PERSONALLY appeared, Quashee, one of the Slaves on board said Vessel, who, being first duly sworn on the Holy Evangelists, deposeth and saith, as follows, viz.:—

That on the landing of the Slaves from the Nova Sorte, (as deposed to by this Deponent in an Affidavit sworn in this Cause, before Daniel Molloy Hamilton, Esquire, Registrar to your Honourable Court), that he and they, with other Slaves which had not been embarked, were driven together into the bush, to a Place where the aforesaid Captain had a factory for the purpose of purchasing Slaves, and of keeping them until he could embark them; that all the Slaves which to this Port in the Nova Sorte, were kept in irons in the said factory or house, and fed by two Portuguese sailors of the said Polacca, one of whom was left in the aforesaid bush, and the other being present, he identifies.

(Signed) QUASHEE, ^{his} ×
Mark.

On the 14th day of January the said Quashee was duly sworn to the truth of this Affidavit, before me, (Signed) E. GREGORY, C. Judge.

(17.) *Petition of Proctor. January 21, 1823.*

THE humble Petition of Christopher Austin, on the part and behalf of Lieutenant T. H. Rothery, Commander of His Britannick Majesty's Brig-of-War Snapper, sheweth,—that, on the 20th day of December last, the said Polacca was brought into this Port for adjudication, by your Honourable Court; that up to this day, a period of thirty-one days, no claim was made by any Person or Persons for the said Vessel, although the Master was perfectly at liberty to claim, was he minded so to do; that on this day, the day named by your Honours for passing Sentence, the Master puts in his Claim, which Claim is by your Honours admitted, which will not only put off the trial of the said Vessel for some time longer, but will be the means of increasing, considerably, the costs of the suit.

That the provisions which were on board the Nova Sorte are entirely consumed, and as your Honourable Court has declined to make the Claimant liable for costs should he fail to substantiate his Claim, your Petitioner is at a loss to know in what manner or by what means the said Slaves are to be supported.

That your Petitioner cannot venture so far to commit his Client as to land the Slaves, as in the event of a decision against him it would render him liable to pay the value of them; and that as neither Captor nor Claimant has any funds for their support, your Petitioner humbly prays, that your Honours, taking all these cases into consideration, will be pleased to order your Marshal to supply them with provisions until your Honourable Court shall be pleased in its wisdom to give Judgment:—And your Petitioner, as in duty bound, will ever pray.

Free Town, January 21 1823. (Signed) C. AUSTIN.

(18.) *Affidavit of Lieutenant Rothery. January 21, 1823.*

THE humble Petition of Christopher Austin, on the part and behalf of Lieutenant Rothery, Commander of His Majesty's Brig Snapper, humbly sheweth,—that it is alleged by the Parties opposite in the Cause of the Portuguese Polacca Nova Sorte, that there were no coppers, such as are used for preparing Slave provisions, on board the said Vessel at the time of capture; your Petitioner therefore humbly prays, that, in order to shew that the said Vessel was originally furnished with such coppers, the annexed Affidavit may be filed in your honourable Court; and your Petitioner, as in duty bound, will ever pray.

Free Town, January 21, 1823.

(Signed) C. AUSTIN.

PERSONALLY appeared, Thomas Henry Rothery, Commander of His Britannick Majesty's Brig-of-War Snapper, who being duly sworn on the Holy Evangelists, deposeth and maketh oath as follows, viz. :—

That on or about the 30th or 29th day of July last past, this Deponent boarded the said Polacca, she being and lying at anchor under the Dutch Fort of Elmina, on the Western Coast of Africa; that the said Polacca was at that time furnished with, and had on board, one large copper, such as is usually found on board Slave-vessels; the same being used in such Vessels for the purpose of cooking provisions for Slaves.

(Signed) T. H. ROTHERY.

On the 21st day of January, this Deponent was duly sworn to the truth of this Affidavit,

(Signed) D. M. HAMILTON, Registrar.

(19.) *Claim, with Affidavit of Master. January 23, 1823.*

APPEARED personally, Estevao Cazado Lima, Master of the Polacca Nova Sorte, and maketh oath, that he is a Subject of His Most Faithful Majesty The King of Portugal, and was Master of the said Polacca at the time of the capture thereof, by His Majesty's Brig-of-War Snapper, Lieutenant T. H. Rothery, Commander, and that the said Polacca was so captured on the 13th day of October now last past, in the prosecution of her voyage from the Brazils, to the Coast of Africa, and at the time at anchor off Mina Piccaninny, with a cargo of tobacco, palm-oil and rum, and brought to Sierra Leone. And he further maketh oath, that Vencisllow Moguel d'Almada, of St. Salvadore, a Subject of His Most Faithful Majesty, was at the time of the said capture, and now is, the true, lawful, and sole Owner, and Proprietor of the said Polacca Nova Sorte, her tackle, apparel, and furniture, and merchandize on board the same. And Deponent further maketh oath, that he verily believes the said Polacca and cargo are protected by the Treaty or Convention between His Britannick Majesty and His said Most Faithful Majesty; that the Natives of Africa now on board the said Polacca, are not part of the cargo, nor in any wise belonging or appertaining to the said Polacca; that they have, without exception, been put on board the said Polacca by the capturing Officer, his boats and crew, without the concurrence of this Deponent. That the said Natives of Africa, before their forcible entry on board as aforesaid, were never on board the said Polacca, and that since the arrival of the said Polacca, on the Coast of Africa, this present voyage, she has not received any Slaves, Natives of Africa, on board, other than those put on board as aforesaid. And he further maketh oath, that no person or persons other than the person before mentioned, hath any right, title, or interest in the said Polacca, her tackle, apparel, and furniture, goods, wares, and merchandize on board the same, at the time of the said capture, and seizure thereof; that he is duly authorised to make the Claim hereunto annexed, and that the same is a true and just Claim, and that he shall be able to make due proof and specification thereof.

(Signed) E. C. LIMA.

On the 23d day of January 1823, the said Estevao Cazado Lima was duly sworn to the truth of this Affidavit, made through the interpretation of Francisco Gomez, and of the Claim thereto annexed; the said Francisco Gomez being first duly sworn faithfully to interpret, before me,

(Signed) D. M. HAMILTON, Registrar.

THE Claim of the said Estevao Cazado Lima, the Master of the said Polacca, a Subject of His Most Faithful Majesty The King of Portugal, for the said Polacca, her tackle, apparel, and furniture, goods, wares, and merchandize on board the said Polacca, at the time of the capture thereof, by His Majesty's Brig-of-War Snapper, Lieutenant T. H. Rothery, Commander, and brought into Sierra Leone, for the said Polacca, her tackle, apparel, and furniture, and her cargo, as the sole property of Vencisllow Moguel d'Almada, an inhabitant of St. Salvadore, in the Brazils, and as protected by the Treaty or Convention between His Britannick Majesty and His said Most Faithful Majesty, dated 28th of July 1817; and for all costs, charges, losses, damages, demurrage, and expences as have arisen or shall or may arise by means of the capture and detention of the said Polacca and her cargo as aforesaid.

(Signed) ESTEVAO CAZADO LIMA.

(20.) *Petition of Proctor, with Examination of Cosebah. Jan. 24, 1823.*

THE humble Petition of Christopher Austin, on the part and behalf of Lieutenant T. H. Rothery, Commander of His Britannick Majesty's Brig Snapper, sheweth,—that your Petitioner, anxious to substantiate the other evidence he has had the honour to lay before your Honours in this Cause, humbly prays, that the annexed Interrogatories may be put to Cosebah, one of the female Slaves on board the said Vessel. —And your Petitioner, as in duty bound, will ever pray.

Free Town, January 24, 1823.

(Signed) C. AUSTIN.

Special Interrogatories to be put to Cosebah, one of the Female Slaves of the Portuguese Polacca Nova Sorte, by permission of the Court.

First.—What is your Name and Country ?

Second.—Are you a Slave, if so, who purchased you ?

Third.—Were you purchased on shore ?

Fourth.—If so, how many days after were you put on board the Vessel which brought you here ?

Fifth.—Who put you on board that Vessel ?

Sixth.—Can you point out the Vessel that you were first put on board of ?

Seventh.—Were there any English in that Place, at that time ?

Eighth.—If not, how many days did you remain on board, before the English came in sight.

Ninth.—What did the Portuguese do with you then ?

Tenth.—Were you relanded after the English came ?

Eleventh.—If so, how soon after ?

Twelfth.—Did you cohabit with the Boatswain ?

Thirteenth.—If so, did you so before you were embarked ?

Fourteenth.—Did you so since ?

Fifteenth.—Do you understand the Boatswain when he speaks to you ?

(Signed) C. AUSTIN.

Answers, to Special Interrogatories, (put by permission of the Court) of Cosebah, one of the Female Slaves on board of the said Schooner.

To the 1st.—Saith, her name is Cosebah, and her Country, Quigidl.

To the 2d.—Saith, she is a Slave, she was purchased by the Boatswain.

To the 3d.—Saith, she was purchased on shore.

To the 4th.—Saith, she was five days on shore after being purchased, and on the sixth day she was put on board.

To the 5th.—Saith, she was put on board the Vessel that brought her here, by the Natives of Mina Piccaninny.

To the 6th.—This Witness points out the Nova Sorte now lying in the Harbour, from the Commission-House.

To the 7th.—Saith, there were not any Englishmen at that Place at the time.

To the 8th.—Saith, she was on board the said Schooner four days before the English Ship came in sight.

To the 9th.—Saith, that on the appearance of the Man-of-War, they were put down in the hold, and there concealed, by first locking them up, and then covering the hatchway over with sails.

To the 10th.—Saith, that they were relanded from the Nova Sorte, after the arrival of the Brig-of-War.

To the 11th.—Saith, they were relanded the same Night that the Brig-of-War came there.

To the 12th.—Saith, she cohabited with the Boatswain.

To the 13th.—Saith, she did not cohabit with the Boatswain, until she came on board the said Schooner Nova Sorte.

To the 14th.—Already answered.

To the 15th.—Saith, she did not understand the Boatswain, when he spoke to her.

(Signed) her
COSEBAH ✕
Mark.

her
JENNY ✕ ANDREWS,
Mark.

Taken and sworn this 25th day of January 1823, through the interpretation of Jenny Andrews, who was first duly sworn to interpret faithfully, before me,

(Signed) D. M. HAMILTON, Registrar.

(21.) *Petition of Proctor, with Examination of Joachim annexed.*
January 24, 1823.

THE humble Petition of Christopher Austin, on the part and behalf of Lieutenant T. H. Rothery, Commander of His Britannick Majesty's Brig Snapper, sheweth,—that your Petitioner feeling himself called on to account for the Polacca Nova Sorte not having on board the usual coppers or boilers, and the irons used in Slave-ships, humbly prays, that the annexed Interrogatories may be put to Joachim, one of the mariners of the said Vessel:—And your Petitioner, as in duty bound, will ever pray.

Free Town, January 24, 1823.

(Signed) C. AUSTIN.

Special Interrogatories to be put to Joachim, one of the Mariners of the Portuguese Polacca Nova Sorte, by permission of the Court.

- 1st.—Had the Nova Sorte, in which you came here, any coppers or boilers on board at the time she sailed from Bahia, such as are used for cooking Slave provisions?
2d.—If so, when, where, and for what purpose were they put out of the Vessel?
3d.—Had she any quantity of Slave-irons on board at the time she sailed from Bahia?
4th.—If so, when, where, and for what purpose were they put out of the Vessel?

Answers of Joachim, a Mariner on board the Portuguese Polacca Nova Sorte, to Special Interrogatories put by leave of the Court.

Saturday, January 25, 1823.

- To the 1st.—Saith, the said Schooner Nova Sorte had one large boiler on board at the time she sailed from Bahia.
To the 2d.—Saith, the said boiler was landed at Mina Piccaninny; it was so landed to cook rice for the Slaves belonging to the said Schooner Nova Sorte.
To the 3d.—Saith, there were a great quantity of Slave-irons and Slave-chains on board the said Schooner Nova Sorte, at the time she sailed from Bahia.
To the 4th.—Saith, that the Slave-irons were sent on shore at Mina Piccaninny, for the purpose of putting on the said Slaves. The boiler and Slave-irons were sent on shore at the same time.

(Signed) JOACHIM ×
his
Mark.JOHN × CONOLLY.
his
Mark.

Taken and sworn this 25th day of January 1823, through the interpretation of John Conolly, who was first duly sworn faithfully to interpret, before me,
(Signed) D. M. HAMILTON, Registrar.

(22.) *Affidavits of Francisco Joze Belem, Joze Luis Fernandez, and Francisco Gomez. January 27, 1823.*

THE humble Petition of William H. Savage, Proctor of the said Court, and on the part and behalf of Claimant for said Vessel, humbly sheweth,—that it being deemed essential to the interest of said Claimant, and to the due course of justice in the Cause now pending, that the Affidavits herewith may be allowed to be filed in Court among the other Papers and Documents now before your Honours, prays the same may be so filed accordingly:—and, as in duty bound, will ever pray.

Free Town, January 27, 1823.

(Signed) W. H. SAVAGE, Proctor for Clts.

January 27, 1823.

APPEARED personally, Francisco Joze Belem, mariner belonging to the said Vessel Nova Sorte. That at the time the said Vessel was seized and detained by His Majesty's Brig-of-War Snapper, Lieutenant T. H. Rothery, Commander, the said Vessel had no Slave or Slaves then on board; that the said Vessel, during her then voyage, had not received on board, from any Port or Place on the Coast of Africa, any Slave or Slaves; that the Natives of Africa, or Slaves on board the said Vessel, when she arrived in the Harbour of this Colony, were brought from the shore in the boats of the said Brig-of-War, and were manned by her Officers and men, and also in canoes procured for the purpose by the Commander of said Brig-of-War.

(Signed) FRANCISCO JOZE BELEM.
his
FRANCISCO × GOMEZ,
Mark.

On the said 27th January 1823, the said Francisco Joze Belem was duly sworn to the truth of this Affidavit through the interpretation of Francisco Gomez, first duly sworn faithfully to interpret, before me,
(Signed) D. M. HAMILTON, Registrar.

January 27, 1823.

APPEARED personally, Jose Luis Fernández, Boatswain of the said Vessel Nova Sorte, and being duly sworn, maketh oath and saith, that at the time the said Vessel was taken possession of by His Majesty's Brig-of-War Snapper, Lieutenant T. H. Rothery, Commander, the said Vessel had no Slave or Slaves on board, nor had the said Vessel, during her then voyage, at any Port or Place in Africa, received on board any Slave or Slaves; that the Slaves on board the said Vessel, when she was brought into the Harbour of this Colony, were Natives of Africa, taken from the shore and brought on board the said Vessel Nova Sorte, in the boats of, and manned by, the said Brig-of-War Snapper, or in canoes procured to be so employed by said Brig-of-War.

(Signed) JOZE LUIS FERNANDEZ,
his
FRANCISCO X GOMEZ,
Mark.

Sworn to the truth of the above Affidavit, through the interpretation of Francisco Gomez, first duly sworn to interpret faithfully, this 27th January 1823, before me,

(Signed) D. M. HAMILTON,
Registrar.

January 27, 1823.

APPEARED personally, Francisco Gomez a mariner of, and on board the said Vessel at time of capture by His Majesty's Brig-of-War Snapper; that, on the 11th of October now last past, the said Brig Snapper hove in sight with a Colour flying, which Deponent took either for a French or Portuguese Colour, was not certain which; soon after said Brig fired a gun, and hoisted English Colours; the Polacca at same time hoisted Portuguese; when the Polacca was boarded by the boat of said Brig Snapper, the Officer in which ordered his men, who were armed with cutlasses, to go below and search the said Polacca, which they did, but said Polacca not having Slaves on board, the said boat left her, and the next day the Brig-of-War went closer in shore; heard her fire great guns; same day a boat came from said Brig Snapper, commanded by an Officer, who stated they came in order to be able to keep watch for another Vessel-of-War they expected to pass, as their own Vessel, the Snapper, lay so much more in shore; same day saw a canoe come from on shore and go alongside the said Brig Snapper; the Boat which had brought the men of the Snapper on board had left to return to their Vessel, but soon after she came back and took away her men; after this the canoe which Deponent had seen a-stern of the Brig-of-War, came alongside the Polacca with Slaves; the said canoe was also accompanied by a boat from the said Brig-of-War; the Slaves were ordered out of the canoe on board the Polacca, by the crew of the boat belonging to said Brig-of-War; the Captain of the Polacca, E. C. Lima, objected to this, but the Officer of the Brig-of-War forced compliance. In the night of same day, being the 12th instant, the Master of said Brig-of-War came on board, and took charge of said Polacca, and on the morning of 13th instant, said Polacca was in charge of the said Brig-of-War, and so hath remained; that on the said 13th instant other Slaves were brought on board the said Polacca.

his
FRANCISCO X GOMEZ,
Mark.

The said Francisco Gomez was sworn to the truth of this Affidavit, this 27th January 1823, before me,
D. M. HAMILTON, Registrar.

(23.) *Examination of Desay. February 2, 1823.*

EXAMINATION of Desay, a Slave, on board the Schooner Nova Sorte, by desire of the British Commissioner of Arbitration, who was first duly sworn in the custom of his Country:—

First.—Saith, his name is Desay, and his Country, Acomb.

Second.—Saith, he is a Gentleman's son, but having got into a little trouble, he was in consequence sold; points out the Captain and Boatswain, who are now present in Court, as the persons who bought him; he was sold as a Slave for having had connexion with another man's wife.

Question.—After that time that they were hid what was done with them?

Answer.—Saith, after they were locked up they were put in irons, and remained so until liberated by the English people; they were afterwards brought up on deck, and did not go on shore until his arrival at Sierra Leone; said he was put on board the first time by the Natives; says, that he was on board the Schooner four days before the English came; does not know the difference between English and Portuguese, unless when he is told; says, he knows the difference between those who came from the Schooner who bought him, and those who came from the Man-of-War to take him; he repeats, that from the first time of his going on board, he never went on shore again until he came here; those who put them below belong to the Schooner; they are now on board, and would know him.

(Signed) DESAY, X
his
Mark.
his
DANIEL X MACKENZIE,
Mark.

Sworn in Court, this 2d day of February 1823, through the interpretation of Daniel Mackenzie, who was also duly sworn to interpret faithfully.

DESAY further examined by desire of the British Commissioner of Arbitration :—

Saith, he knows the two Mariners now before the Court, as they used to bring them up to breakfast, and then again to supper, this was done in the same manner every day; that the men had one place to stop in, and the women another. He says that he came on board of the Schooner with the first party of twenty, with the other Witness Appear.

(Signed) DESAY, ^{his} ✕
Mark.

^{his}
DANIEL ✕ MACKENZIE,
Mark.

(24.) *Examination of Quamin. February 2, 1823.*

EXAMINATION of Quamin, a Slave on board the Schooner Nova Sorte, on Special Interrogatories, put by desire of the British Commissioner of Arbitration, the said Quamin, being first sworn in his own Country-fashion :—

First.—Saith, his name is Quamin, and his Country, Cormantee.

Second.—Saith, he is a Slave, he was purchased by the Captain of the said Schooner, whom he points out in the Court Room.

Third.—Saith, he was put on board by his own Country people.

Fourth.—This Witness points out the Nova Sorte from the Court Room, lying at anchor in the Harbour.

Fifth.—Saith, the said Vessel was lying, at the time he went on board, at Nocoo.

Sixth.—Saith, he was on board four days before the English Vessel came.

Seventh.—Saith, that on the appearance of the Brig-of-War, the Portuguese locked them below.

Question.—After that time that they were hid what was done with them?

Answer.—Saith, that at the time the Brig-of-War came, he heard them fire, he was at that time down below, it was in the evening; that at the time the English people took them, they were brought upon deck, and the irons which were at that time on them were knocked off; from the time of their being taken on board, they continued to remain down below, until the English came on board; from the time of his first going on board, he did not go on shore again at that Place until his arrival at Sierra Leone; at the time that they fired, one half of the Slaves were on shore, the English then sent a boat and brought off that part of the Slaves that remained on shore; that they were put down below always in the same manner; he repeats that he did not go on shore again at that Place after having been put on board, until his arrival at Sierra Leone.

(Signed) QUAMIN, ^{his} ✕
Mark.

^{his}
DANIEL ✕ MACKENZIE,
Mark.

Taken and sworn in Court, this 2d day of February 1823, through the interpretation of Daniel Mackenzie, who was first duly sworn to interpret faithfully.

(25.) *Examination of Appear. February 2, 1823.*

ANSWERS of Appear, a Slave on board the Schooner Nova Sorte, to Special Interrogatories, put by desire of the British Commissioner of Arbitration, the said Appear being first sworn in his country-custom :—

First.—Saith, his name is Appear, and his Country, Ashantee.

Second.—Saith, he is a free-man in his own Country, but not at this Place; he is a Slave here; saith, he was purchased by the Captain and Mate of the said Schooner, whom he points out in the Court Room.

Third.—Saith, he was put on board the Schooner which brought him here, by his own Countrymen.

Fourth.—This Witness points out the Nova Sorte from the Court Room, lying in this Harbour.

Fifth.—Saith, that at the time of his going on board, the said Vessel was lying at Nocoo.

Sixth.—Saith, he was put on board before the English Vessel came in sight; he was on board four days before that time.

Seventh.—Saith, that on the appearance of the Man-of-War Ship, the Portuguese people put him down and covered him up.

Question.—After that time that they were hid, what was done with them?

Answer.—Saith, that at the hour of breakfast, they were brought upon deck, after which they were taken back again; after they had done eating their breakfast, they were desired to wash themselves, and if they did not they were flogged, and locked up again; he was never on shore after the first time of his being put on board, until his arrival at this Place; says, that

they were put on board in three parties, one consisted of thirty-three, and another of twenty-two, and another of fourteen; the party that he went with were the fourteen; the party of fourteen were the first who went on board; that the fourteen remained on board four days before they went on shore for the others; during these four days, in the day time, they were brought on deck, and at night time they were taken below to sleep; saith he did not see the Snapper at that time; that at all times they are put below in the same manner; they never covered his body with sails; when they put him below they put over one thing that fit it, and then put over it a sail; from the time of his first going on board he did not go on shore again until his arrival here; he was on board the Schooner as one of the fourteen, four days before the others were brought.

(Signed)

APPEAR, ✕

his
Mark.his
DANIEL ✕ MACKENZIE,

Mark.

Taken and sworn in Court, this 2d February 1823, through the interpretation of Daniel Mackenzie, who was first duly sworn to interpret faithfully.

(26.) *Examination of Accomo. February 2, 1823.*

EXAMINATION of Accomo, a Slave on board the Schooner Nova Sorte, on Special Interrogatories put by desire of the British Commissioner of Arbitration, the said Accomo being first sworn in his own Country-custom:—

First.—Saith, his name is Accomo, and his Country, Hogoo.

Second.—Saith, he is a Slave, he was bought by the Master of the Nova Sorte, whom he points out in Court.

Third.—Saith, he was put on board by the people where he was.

Fourth.—Points out the Nova Sorte from the Court Room now lying at anchor in the Harbour.

Fifth.—Saith, the said Vessel was lying at that time at Adina.

Sixth.—Saith, he was put on board the said Schooner four days before the Brig-of-War came in sight.

Seventh.—Saith, that on the appearance of the Man-of-War, the Portuguese locked them up and covered them over with sails.

Question.—After that time that they were hid, what was done with them?

Answer.—Saith, that at the time the Man-of-War came, they told him not to talk, that if he did they would flog him; that at the time the Man-of-War came, they were locked up in a hole, but they were afterwards set at liberty by the Men-of-War's people; he remained on board the said Schooner four days, and on the fifth day the Brig-of-War took them; he did not go on shore at that Place after he went on board, until his arrival at Sierra Leone.

his
ACCOMO, ✕
Mark.her
JENNY ✕ ANDREWS,
Mark.

Taken and sworn in Court, this 2d day of February 1823, through the interpretation of Jenny Andrews, who was first duly sworn to interpret faithfully.

(27.) *Examination of Quashee. February 3, 1823.*

EXAMINATION of Quashee, a Slave on board the Schooner Nova Sorte, on Special Interrogatories, put by desire of the British Commissioner of Arbitration, the said Quashee being sworn in his Country-fashion:—

Saith, his name is Quashee.

Saith, he was a Slave of Dandels, then of Mr. Blenkarne, after that he was bought by the Master of the Nova Sorte.

Saith, Mr. Blenkarne's woman sold him to Quarte Cudgó, Quarte Cudgó then put irons upon him, and put him on board a Schooner belonging to Akotejó, who lives at Kittah.

Saith, the said Schooner took him from Accra to Mina Piccaninny.

Saith, that Quarte Cudgó put him in irons, he was put in irons to prevent him from getting away; says Akotejó was the Person who bought him, and the Person who sold him to the Portuguese people; the Portuguese Captain put irons on his neck on the shore at Mina Piccaninny; saw the Captain in Akotejó's Schooner, who said he wanted to buy Slaves; the Captain purchased all of them on board, and sent a boat on shore to purchase more Slaves at Mina Piccaninny, and Akotejó sent his own Schooner to Accra for more Slaves; the Portuguese Captain sent

Akotejo's Schooner to Accra for more Slaves ; they sent him (this Deponent) on shore, and put him in a house ; after they had put them on shore and sold them to the Portuguese, Akotejo went and told the English that he had sold his Slaves to the Portuguese people ; on the appearance of the English people, they were sent into the bush ; when the Vessel came that took them he was on shore ; the others that were left on shore were locked in a house, and would not be allowed to come out ; he was one of them ; says, one half were put on board, and the other half got away on shore ; while he was kept on shore they took him for necessary purposes in the back yard ; he could see the Schooner ; they were not otherwise allowed to walk out ; a sentry was kept over them ; he could see people go on board the Portuguese Schooner from that house ; every time the Captain came on shore, he took a party of Slaves and sent on board the Schooner ; the Captain did this every time ; but when the Man-of-War came, he stopped sending off any more ; those that they carried on board, they did not put them back on shore again ; at the time the Snapper took them, one half of the Slaves were on shore, and the Snapper's boat was sent on shore to take them ; the first party that were put on board were put down below ; one of those who were on board told him so, (it was Acquiteer) ; Acquiteer told him so, when this Witness and the rest were put on board ; Acquiteer was the only person who told him, and the only one who could speak Cromontee ; says, the time that the Snapper came, the Portuguese told him the Snapper came to take them, and took them aback of the farm in the bush ; says, he only saw the Snapper one day from the farm ; the Portuguese Vessel and the Snapper were close to each other ; saw the Portuguese Vessel every time while he was on the shore ; he saw landed every day, tobacco, rum and cloth ; the time the Snapper came, the Captain had purchased all his Slaves ; and he was about to provide wood, water, and victuals to feed the Slaves ; after the Snapper came he did not see any thing more landed ; at the time the Snapper sent on board the Schooner, the Portuguese were going to put Slaves on board from the shore, but on seeing the Snapper they did not ; after the Snapper came, he did not see any boat come from the Portuguese Schooner to the shore ; after the Snapper came, he did not see any Slaves come on shore from the Schooner ; a great number of Slaves went on board at the same time with him ; does not know the number.

(Signed) QUASHEE, ^{his} ~~X~~
Mark.

DANIEL ^{his} ~~X~~ MACKENZIE,
Mark.

Taken and sworn in Court, this 3d day of February 1823, through the interpretation of Daniel Mackenzie, who was first duly sworn to interpret faithfully.

SAITH, he saw Acquiteer on shore before his going on board the Schooner ; he saw Acquiteer on board when he was (this Witness) put on board ; Acquiteer was put on board four days before this Deponent ; the same day that he (this Deponent) went on board, the same day he saw Acquiteer on board ; the time Acquiteer went on board he did not see the Brig Snapper.

(Signed) QUASHEE, ^{his} ~~X~~
Mark.

DANIEL ^{his} ~~X~~ MACKENZIE,
Mark.

Taken and sworn in Court, this 3d day of February 1823, through the interpretation of Daniel Mackenzie, who was first duly sworn to interpret faithfully.

(28. Examination of Accootoo. February 3, 1823.

EXAMINATION of Accootoo, a Slave on board the Vessel Nova Sorte, on Special Interrogatories, put by desire of the British Commissioner of Arbitration, the said Accootoo, being first sworn in his Country-custom.

First.—Saith, his name is Accootoo and his Country, Taffee.

Second.—Saith, he is not a Slave in his own Country, but he is one now ; he was bought by the Master of the Nova Sorte, whom he points out in Court.

Third.—Saith, he was put on board the Schooner by the people of the said Schooner.

Fourth.—Points out the Nova Sorte from the Court-Room, now in the Harbour.

Fifth.—Saith, the said Vessel was lying off Adina at the time of his first going on board.

Sixth.—Saith, he was put on board the said Schooner before the Man-of-War came in sight ; he was put on board four days before that time.

Seventh.—Saith, that on the appearance of the English Man-of-War, the Portuguese put them down below, and shut the door upon them, which they afterwards covered with sails.

Question.—After that time that they were hid, what was done with them?

Answer.—Saith, that after they were locked up, they were flogged; they were locked up for a long time down below; the English caught them first, and then let them out; says, that at day-light they were brought on deck, and at night they were taken down below; he did not go on shore again after having, in the first instance, been put on board the said Schooner, until his arrival at Sierra Leone; that at the time the Man-of-War came, they were told to go down below and shut the door upon them; it was in the same place that they were always put; those that did not go down below were flogged with a rope.

(Signed) ACCOOTOO, ^{his} ~~X~~
Mark.
his
GEORGE ~~X~~ KENDAL,
Mark.

Taken and sworn in Court, this 3d day of February 1823, through the interpretation of George Kendal who was first duly sworn to interpret faithfully.

(29.) *Examination of Accoteer. February 3, 1823.*

EXAMINATION of Accoteer, Slave on board the Vessel Nova Sorte, on Special Interrogatories, put by desire of the British Commissioner of Arbitration, the said Accoteer being first sworn in his Country-fashion:—

First.—Saith, his name is Accoteer, and his Country, Zanah.

Second.—Saith, he was sold for having another man's wife; he was bought by the Master of the Nova Sorte, whom he points out in Court.

Third.—Saith, he was put on board the said Schooner by desire of the Master of the Nova Sorte.

Fourth.—Points out the Nova Sorte from the Court-room, now in the Harbour.

Fifth.—Saith, the said Schooner at that time was lying off Adina.

Sixth.—Saith, he was on board the said Schooner before the English Vessel came in sight, he was on board four days before that time, and on the fifth day the Man-of-War took them.

Seventh.—Saith, that on the appearance of the Man-of-War they were sent down below, and the door was shut upon them, and covered over with sails; they wanted to talk but they would not allow them to do so.

Question.—After that time that they were hid, what was done with them?

Answer.—Saith, that after they were put down below, they put a man over them, and told them not to talk; they remained in the hold a long time; when the English came, the English Cook pulled the irons off their necks; he did not go on shore again after having been put on board the first time, until his arrival at Sierra Leone; they were always put down in the same place every day; he repeats, that Sierra Leone was the first Place he went on shore after being put on board the Schooner; from the time of his going on board he did not go on shore at the same Place.

(Signed) ACCOTEER, ^{his} ~~X~~
Mark.
his
GEORGE ~~X~~ KENDAL,
Mark.

Taken and sworn in Court, this 3d day of February 1823, through the interpretation of George Kendal, who was first duly sworn to interpret faithfully.

(30.) *Examination of Cosebah, February 3, 1823.*

EXAMINATION of Cosebah, a Slave on board the Vessel Nova Sorte, on Special Interrogatories; put by desire of the British Commissioner of Arbitration, the said Cosebah being first sworn in her Country-fashion:—

First.—Saith, her name is Cosebah, and her Country, Amfoy.

Second.—Saith, she is a Slave, she was bought by the Boatswain of the Nova Sorte, whom she points out in Court.

Third.—Saith, that she was purchased on shore.

Fourth.—Saith, after she was bought, she remained on shore three days, and on the fourth day was put on board the Schooner.

Fifth.—Saith, she was put on board the Schooner by some Cormenteens, who live there.

Sixth.—Points out the Nova Sorte from the Court-room.

Seventh.—Saith, the English Ship was there at the time she went on board the said Schooner ; saith, she went on board the Schooner in the Morning, the sun had rose at the time ; she saw the Snapper at that time ; at the time she went on board the said Schooner not any Englishmen were on board of that Vessel ; a considerable number of Slaves were on board ; more than twenty ; they were on a chain ; they kept them below four days ; they sent them below and punished them, and would not give them water to drink ; they were told not to talk so much, or the English would catch them ; they were at the bottom of the Schooner ; they pulled them out, and sent them into the bush ; some were left on board ; the sun had rose at that time ; it was not very light at that time ; they only remained one day in the bush, and on the second day they were put again on board the Schooner ; there were about twenty in the same boat with her when she came on shore ; those that remained in the Schooner she did not see again in the bush ; when she went back again to the Schooner she did not see them ; says, that the two men now before the Court, named Accootoo and Accoteer, did not go on shore with her ; these two men were sent into the bush with her ; did not know them in the Schooner before ; she and these men walked the same road into the bush ; herself and other women were on one chain, and these men with others were on another chain ; these two men were on board at the time she was ; after that they put them in the bush.

(Signed) COSEBAH, ^{her} ✕
Mark.
his
GEORGE ✕ KENDAL,
Mark.

Taken and sworn in Court, this 3d day of February 1823, through the interpretation of George Kendal, who was first duly sworn faithfully to interpret.

(31.) *Re-examination of Accoteer. February 3, 1823.*

RE-EXAMINATION of Accoteer at the desire of the British Commissioner of Arbitration, the said Accoteer being first sworn in his Country-fashion :—

Saith, himself and Cosebah were bought at the same time by the Portuguese Captain ; they brought the men on board before the women ; Cosebah was put on board the Schooner on the same day as himself ; it was day-time when he was put on board, and it was also day-time when Cosebah was put on board ; he also saw her the second and third day on board the Schooner ; he has seen the woman (Cosebah) every day since that ; on the appearance of the Snapper they put them below, and told them not to talk much, else the Brig Snapper would catch them ; he was on board the said Schooner four days ; the women were also on board the whole of that time ; they were confined the whole four days ; they were liberated by the Snapper's people ; they gave them a pail below for the purposes of nature ; they remained down below four days and four nights ; they did not come on deck during that time ; the people said if they did they would talk too much.

(Signed) ACCOTEER, ^{his} ✕
Mark.
his
GEORGE ✕ KENDAL,
Mark.

Taken and sworn in Court, this 3d February 1823, through the interpretation of George Kendal, who was first duly sworn, faithfully to interpret.

(32.) *Re-examination of Accootoo. February 3, 1823.*

RE-EXAMINATION of Accootoo, at the desire of the British Commissioner of Arbitration, the said Accootoo being first sworn in his Country-custom :—

Saith, he saw Cosebah the first day on board the Schooner ; he saw her also the second, third, and fourth days on board the said Schooner ; he repeats again, that he never went on shore after being put on board the said Schooner ; they brought the men on board before the women.

(Signed) ACCOOTOO, ^{his} ✕
Mark.
his
GEORGE ✕ KENDAL,
Mark.

Taken and sworn in Court, this 3d February 1823.

(33.) *Further Re-examination of Accootoo. February 3, 1823.*

Monday, February 3, 1823.

FURTHER re-examination of Accootoo, at the desire of the British Commissioner of Arbitration, the said Accootoo being first sworn, in his Country-fashion:—

Saith, that he was put down below four days; he was liberated by the English people.

(Signed) ACCOOTOO, ^{his} ×
Mark.

^{his} ×
GEORGE × KENDAL,
Mark.

Taken and sworn in Court, this 3d February 1823, through the interpretation of George Kendal, who was first duly sworn, faithfully to interpret.

(34.) *Examination of Lochoo. February 4, 1823.*

Tuesday, February 4, 1823.

EXAMINATION of Lochoo, a Slave on board the said Schooner *Nova Sorte*, on Special Interrogatories, put by the Court at the suggestion of the Agent for the Captors, the said Lochoo being first sworn in his Country-custom:—

1st.—Saith, his name is Lochoo.

2d.—Saith, he is a Slave.

3d.—Saith, he was bought by the Persons who are present. Points out the Master of the *Nova Sorte*, at this time in the Court-House.

4th.—Saith, he does not see the Person here who put him on board the Schooner which brought him here; he was put on board by a Person who had something on his shoulder; at the same time he points at the epaulets on Captain Phillips' shoulder, who is at this time in the Court-Room.

(Signed) LOCHOO, ^{his} ×
Mark.

^{her} ×
SALLY × BATTESLIE,
Mark.

Taken and sworn in Court, this 4th day of February 1823, through the interpretation of Sally Battleslie, who was first duly sworn to interpret faithfully.

No. 47.

E. Gregory, Esq. to Mr. Secretary Canning.—(Received
October 10, 1823.

(Extract.)

Sierra Leone, June 7, 1823.

ON the liberation of the Portuguese Schooner *Nova Sorte*, under a Decree of the British and Portuguese Court of Mixed Commission, the Proctor for the Captors moved, that the Court would Decree that the Slaves that had been brought to Sierra Leone on board of the *Nova Sorte*, as belonging to her, were entitled to Certificates of emancipation.

The Portuguese Commissioner was not disposed to accede to this motion, or to interfere with the Slaves in any manner, as the Slaves had been disclaimed by the Master and Claimant of the *Nova Sorte*, and as the Vessel had not been condemned. The Portuguese Commissioner apprehended that a Decree granting Certificates of emancipation, could only be consequent upon the condemnation of a Slave-vessel.

Mr. Fitzgerald was rather disposed to grant Certificates of emancipation to the Slaves of the *Nova Sorte*, conceiving that the spirit of the Convention guaranteed the freedom of Negroes in the situation of those on board of the *Nova Sorte*.

For my own part, Sir, my own opinion was in unison with that of Mr. Fitzgerald, but I did not think myself authorized to concur with Mr. Fitzgerald in a Decree, entitling the Slaves in question to Certificates of emanci-

pation, when I had in recollection the Letter that Mr. Fitzgerald and myself had the honour to receive from you, Sir, wherein our proceeding, in passing a special Decree of condemnation against the Spanish Schooner Rosalia, was disapproved of, partly on the ground that a foundation was laid by such Decree for the Captor of the Rosalia to claim bounties for the Slaves in that Case, as if he had made a meritorious seizure.

It was directed that the Slaves should be delivered over to the Colonial Government, under whose fostering care they would share in the happiness of their brethren in this Colony. The British Commissioners said, that they would submit the question, whether the Slaves should receive Certificates of emancipation or not, to His Majesty's Government.

Again, Sir, in the Case of the Portuguese Schooner *Sinceridade*, liberated by a Decree of the British and Portuguese Mixed Court, the Proctors for the Captors shewed a disposition to move the Commissioners, to grant Certificates of emancipation to the Slaves of that Vessel, who were directed by the Commissioners to be delivered over to the Colonial Government, in virtue of an agreement that had been entered into by the Parties in that Case.

The Commissioners did not grant any Decree for the formal emancipation of those Slaves. The *Sinceridade* having been liberated, it could not be held that her seizure was meritorious. The British Commissioners said, that they would submit the question of the formal emancipation of the Slaves, to the Superior Authority, in the same manner as they would submit the similar question as to the Slaves of the *Nova Sorte*.

I think it right, Sir, in submitting to your consideration, whether the Slaves of the *Nova Sorte*, and of the *Sinceridade* in particular, and whether, generally, Slaves placed in the situation of not being restored to the Slave-dealer with his Vessel, are entitled to Certificates of emancipation, to represent to you, that an idea has been entertained that if bounties are granted upon Certificates of emancipation, given to Slaves in the situation already described, such bounties may be a set off against damages to be awarded for illegal seizures; and that, therefore, such seizures may not only be made in Cases where there are many Slaves, without much risk, but even with benefit to the illegal Captor.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) E. GREGORY.

No. 48.

E. Gregory, Esq. to Mr. Secretary Canning.—(Received Sept. 17.)

(Extract.)

Sierra Leone, June 7, 1823.

IN connection with the Case of the Portuguese Schooner *Nova Sorte*, liberated under a Decree of the British and Portuguese Court of Mixed Commission, on the 5th of February last, I have now the honour to state to you certain proceedings, taken in that Court by the Proctor for the Captor, with a view to obtain a new trial in that Case.

These proceedings were, by the Proctor for the Captor, founded on the observation made by Mr. Fitzgerald, on passing Judgment upon the Case, with regard to the absence of statements on the part of the boat's crew, that accompanied Lieutenant Rothery on his visitation of the *Nova Sorte*, on the evening of the 12th of October. Mr. Fitzgerald observed, that "he did think it one of the most extraordinary features of this very extraordinary Case, that, although Lieutenant Rothery was, of necessity, accompanied by

“ his boat's crew, not one of them was brought or tendered to confirm his statements, or to refute those of the other Party, especially the allegations of Francisco Gomez, who said, that the Officer who boarded the said Polacca, ordered his men to go below and search, which they did.”

With reference to this observation, the Proctor for the Captor presented to the British and Portuguese Court, a Petition, dated the 18th of March 1823, accompanied by Affidavits of Lieutenant Rothery, of some of the Officers, and of some of the seamen of the Snapper, and of Joachim, the black seaman of the Nova Sorte. The Petition prayed, that the Commissioners would allow the Affidavits to be filed in Court, and if, in taking them into consideration, the Commissioners should see ground for rescinding their former Decree, that they would so rescind it. A copy of the Petition, with copies of the Affidavits, (1 to 12) are herewith inclosed.

The Affidavits were directed to several points in the Case, as it stood at the time of the final decision, on the 5th of February.

1st. To the point, contended for by the Proctor for the Captor, of the concealment of the hatches which closed those parts of the hold wherein the Slaves, alleged to have been embarked by the Portuguese previous to the 12th of October, were said to have been concealed on the evening of that day;—Two seamen of the Snapper, John Gahagan, and William Rivett, swore to such concealment; the first, to the “concealment of the fore-hatch, by a hawser being coiled over it;” the second, to the “concealment of the after-hatch by two casks, and some farina bags.” The Prize Master, Mr. Jeayes, who took charge of the Nova Sorte, on the 15th of October, swore, that “soon after going on board of her (the Nova Sorte) he perceived a hatch in the fore pic, which led to a detached part of the hold, capable of containing, at least, 16 men; and in the after Slave-room, or cabin, he perceived another hatch, or scuttle, opening, likewise, into another detached part of the hold, which part was capable of containing about nine grown persons, and further, that neither of those hatches were concealed in any manner whatever.”

2d. To the point, of the asserted relanding of the Slaves by the Portuguese of the Nova Sorte, in the night of the 12th of October;—Two seamen of the Snapper, John Bedford and David Griffiths, swore, that “in the night of the 12th of October, one of them, John Bedford, had charge of the watch; and the other, David Griffiths, was sentinel between the hours of eight and twelve, P. M., on board of the Snapper; that, at about a quarter of an hour from the said hour of twelve, P. M., as near as they could recollect, they saw two canoes very near the Nova Sorte, and rowing directly towards the beach of Mina Piccaninny, the canoes and the Vessels being in the situation represented in the drawing annexed;” they further swore, that “they did verily believe that the canoes did come last from the Nova Sorte, at the time of their perceiving them.” Lieutenant Rothery, and Mr. Cowie, Master of the Snapper, swore, that “a drawing which was annexed to their Affidavit, was a true representation of the situation of the Snapper, and of the Nova Sorte, as they lay at anchor off Mina Piccaninny, in the night of the 12th of October.” This was the drawing mentioned by the two seamen, Bedford and Griffiths. The Proctor for the Captor wishing clearly to prove that the places, in which it was said the Slaves were concealed, at the time the boat of the Snapper boarded the Nova Sorte, were fully capable of holding the Slaves, caused those places to be admeasured. The admeasurement was sworn to by the admeasurer, Mr. William Paulett.

3d. To the point, upon which some of the Slaves had said they were put below upon their being embarked, and were kept in irons some time after their embarkation;—William Parr, Quarter-master of the Snapper, swore, that “he was left in charge of the Nova Sorte, on her being seized on the Evening

“ of the 14th of October, and remained in charge of her until the next morning, when he was relieved by Mr. Jeayes, Master’s Mate of the Snapper; that during the time he so remained in charge of the Polacca, all the Slaves then on board her, about 20 in number (men, women, and children) remained on the upper deck, and that they were not in any manner prevented from going where they pleased about the Vessel, nor from speaking, or making as much noise as they liked to make.” Mr. Jeayes swore, that “ on the morning of the 15th of October, he took charge of the Nova Sorte, and remained in charge until she was restored by the Court; that during the time he was in charge of the Polacca, no Slave was kept in iron, or in any manner concealed below, nor was there any Slave mal-treated in any way, or prevented from speaking, or making as much noise as he or she thought proper; nor were they prevented from diverting themselves in any manner they chose.”

4th. To the point, upon which one of the Slaves had said, that when below in the hold, he heard a firing; Mr. Cowie and Mr. Jeayes, of the Snapper, swore, that “ on the evening of the 12th of October, at the time of rounding the Snapper to, in order to anchor off the Port or Place called Mina Piccaninny, one gun was fired from the Snapper.” Lieutenant Rothery and Mr. Cowie swore, that “ no gun was fired from the Snapper, after the first canoe, containing Negro Slaves, left the beach of Mina Piccaninny to go on board of the Nova Sorte on the evening of the 14th of October.”

The Affidavit of Joachim, the black seaman of the Nova Sorte, contained several matters to the effect, that “ at the time the Snapper detained the Nova Sorte, Lima, the Master of the Nova Sorte, called the men, and begged them to be of one mind, and say that he did not buy Slaves; that every day he begged the same; that when he, Joachim, went before the Court as a Witness,—(he was examined by the Registrar)—Lima took him by both hands, and said, ‘ Joachim, be a friend to me; I want to get back my Schooner; I want you to say that I did not buy Slaves; if you say so, I will give you ten dollars; he said this twice; sometimes he told him, Joachim, that if he did not say that he, Lima, did not buy Slaves, that when he left this Country he would cut his, Joachim’s, throat; that at the time the Snapper detained the Nova Sorte, Slaves were on board; they were at the bottom of the Vessel; the people of the Man-of-War did not see them; when the night came, they (the people of the Nova Sorte) took them and put them on shore.”

Upon these Affidavits, the Proctor for the Captor rested his prayer for a new trial. In some interviews that the Commissioners, separately, had with the Proctor for the Captor, in the course of the different proceedings relative to this Case, it was intimated to him, by two of the Commissioners, Mr. Altavilla and Mr. Gregory, that they were disposed to think that a new trial could not be granted under the provisions of the Convention. By Mr. Fitzgerald it was intimated, that he was rather disposed to think a new trial might be granted, if justice so required it. The Proctor for the Captor was understood to have said to each of the Commissioners, that, leaving the Affidavits brought forward by him for the consideration of the Commissioners, he left it for them to do what might appear to them to be proper in the Case.

The Commissioners, upon giving their attention to the stipulations of the Convention, and to the Affidavits brought forward, as I have mentioned, by the Proctor for the Captor, were not, upon coming to a resolution on the Case, inclined to grant a new trial. Mr. Altavilla and Mr. Gregory were not so inclined, because they conceived that the decision for the restitution of the Nova Sorte, must, under the stipulations of the Convention, and with respect to the Mixed Court, be considered to be a final decision. Mr. Fitzgerald was not inclined to grant a new trial, as he did not think that the matters con-

tained in the Affidavits, affected the decision that had been given for the restitution. The Proctor for the Captor did not press for a new trial, and the matter rested until the 27th of May, when the Commissioners met in Court upon the Petition of the Proctor, for the Claimant to consider of the Registrar's Report upon the question of costs, damages, and expences in the Case of the Nova Sorte. On that occasion, before the business upon which the Commissioners had met was entered upon, the Proctor for the Captor moved that a new trial be granted in the Case. This motion was supported by the Proctor for the Captor, by a reference to the merits of the Affidavits that have been mentioned.

The Proctor for the Claimant opposed the motion of the Proctor for the Captor, on the ground that a new trial could not be authorised by the terms of the Convention.

The Commissioners severally gave their opinions upon this motion of the Proctor for the Captor. Mr. Gregory did not think that a new trial could be granted under the provisions of the Convention. The first Article of the Regulations for the Mixed Commission, annexed to the Convention, said, "the Commissioners shall give sentence as summarily as possible, and they are required to decide (as far as they shall find it practicable) within the space of 20 days, to be dated from that on which every detained Vessel shall have been brought into the Port where they shall reside;—1st, upon the legality of the capture; 2d, in the Case in which the captured Vessel shall have been liberated, as to the indemnification which she is to receive. And it is hereby provided, that in all Cases the final Sentence shall not be delayed, on account of the absence of Witnesses, or for want of other proofs, beyond the period of two months, except upon the application of any of the Parties interested, when, upon their giving satisfactory security to charge themselves with the expence and risks of the delay, the Commissioners may, at their discretion, grant an additional delay, not exceeding four months." The third Article of the same Regulations, said, "the Commissary Judges of the two Nations, shall, in the first place, proceed to the examination of the Papers of the Vessel, and to receive the depositions on oath, of the Captain, and of two or three, at least, of the principal individuals on board of the detained Vessel, as well as the Declaration on oath of the Captor, should it appear necessary, in order to be able to judge and to pronounce if the same Vessel has been justly detained or not, according to the stipulations of the Additional Convention of this date, *and in order that, according to this Judgment, it may be condemned or liberated.* And in the event of the two Commissary Judges not agreeing on the Sentence they ought to pronounce, whether as to the legality of the detention, or the indemnification to be allowed, or on any other question which might result from the stipulations of the Convention of this date, they shall draw by lot the name of one of the two Commissioners of Arbitration, who, after having considered the Documents of the Process, shall consult with the above-mentioned Commissary Judges on the Case in question, *and the final Sentence shall be pronounced conformably to the opinion of the majority of the above-mentioned Commissary Judges, and of the above-mentioned Commissioner of Arbitration.*"

It appeared to Mr. Gregory, from the letter of these Articles, and from their spirit, which, discountenancing litigation productive of delay, required the speedy termination of Causes, that a decision for the condemnation, or for the restitution of a Vessel, once passed by the Mixed Court, according to the tenour of the third Article that has been cited, could not be rescinded. The decision must be final. Mr. Altavilla was of the same opinion. Mr. Fitzgerald did not say whether he agreed in this opinion or not. But Mr. Fitzgerald did not think that a new trial could be granted in the Case, upon a view of the merits of the further evidence that had been brought

forward by the Proctor for the Captor, since the Decree for the restitution of the Vessel had been passed. Mr. Fitzgerald commented at length upon this Evidence, as well as upon the evidence that had appeared previous to the Decree of restitution, and compared the one with the other. Mr. Fitzgerald's comments were partly committed to paper. Upon Mr. Fitzgerald's lamented death, I collected his Papers that had relation to this part of the Case of the Nova Sorte, with a view of putting you, Sir, in possession of Mr. Fitzgerald's sentiments upon the Case, as he would himself have done, if it had pleased the Almighty to have spared his valuable life. I only found such of his comments upon the evidence as he had already committed to writing, on the occasion of the Motion of the Proctor for the Captor for a new trial. Those comments that were given at the time, upon an immediate consideration of the arguments of the Proctor for the Captor, founded upon the matter of the Affidavits of the crew of the Snapper, did not appear to have been placed beyond the reach of death. Indeed, no time was allowed to my late respected Colleague to put them in a permanent form, for, on the eighth day of the delivery of his Decision, upon the Motion for a new trial, he was deprived of life. I have hesitated, Sir, whether I should lay before you such part of Mr. Fitzgerald's sentiments upon this occasion as have been preserved to me; but I think that I shall best discharge the duty that I owe to the memory of my late Friend, if I do lay them before you for your information. I accordingly beg leave to inclose herewith, a Copy of the Paper that contains them.

In giving an opinion upon the Motion of the Proctor for the Captor for a new trial, I did not think it necessary to enter upon the merits of the Evidence that had been brought forward by him, as I founded that opinion upon a construction of that part of the Convention that applied to the point in question. But I may be permitted, Sir, to say, with reference to that Evidence, that it could not change the opinion that I had given for the restitution of the Vessel; because, the fact that had altered my previous opinion for her condemnation, as stated in another Despatch of this date, that I have had the honour to address you—the fact stated by the Slaves, “that they were never relanded at Mina Piccaninny, after having been once embarked at that Place,” remained uncontradicted by themselves, the Proctor for the Captor not having thought fit to re-examine them on that point.

You may be desirous, Sir, to know why the Commissioners disregarded the renewed statements of Joachim, the black seaman of the Nova Sorte, that he was a witness to the re-landing of the Slaves from the Nova Sorte, in the night of the 12th of October. The Commissioners thought the Evidence of the Slaves who had been stated to have been relanded, and who had been examined in open Court, more worthy of credit than the Evidence of Joachim, as they were more untutored than Joachim, and, consequently, less subject to the suspicion of being partial Witnesses.

I have thus, Sir, related to you the proceedings of the Mixed Court in regard to the trial of the Nova Sorte. I trust, that you will approve of the conduct pursued by the British Commissioners in those proceedings. With respect to my late esteemed Friend, Mr. Fitzgerald, I may be permitted to say,—that his conduct throughout that trial was guided by a strict regard to principles of justice, and that he was unwearied in his exertions to arrive at the truth in the Case—the truth which should be the aim of impartial Judges, as it should be the guide of their conduct.

The Right Hon. George Canning, (Signed) E. GREGORY.
 &c. &c. &c.

*First Inclosure in No. 48.**Petition of Christopher Austin, Proctor, with Affidavits of Officers and Men of His Majesty's Brig Snapper.*

THE Humble Petition of Christopher Austin, on the part and behalf of Lieutenant Rothery, and the Officers and Ship's company of His Majesty's Brig Snapper, sheweth.—that His Majesty's said Brig sailed from this Harbour on the day on which the Claim of the Master of the said Nova Sorte was filed in your Honourable Court, which debarred your Petitioner from taking advantage of the annexed Affidavits of the Officers and Ship's company of His Majesty's said Brig.

That His Majesty's Commissioner of Arbitration, on whom the decision of the Case devolved, expressed his regret at the absence of said Affidavits. Your Petitioner has now the honour of laying the same before you, accompanied by an Affidavit of one of the then Seamen of the Nova Sorte.

Your Petitioner, therefore, humbly prays, that your Honours will allow the same to be filed in your Honourable Court, and if, in taking them into consideration, your Honours shall see ground for rescinding your former Decree in this Case, your Petitioner humbly prays your Honours will be pleased to do so:—and your Petitioner, as in duty bound, will ever pray.

Free Town, March 18, 1823.

(Signed) C. AUSTIN.

(1.) Affidavit of John Gahagan.

PERSONALLY appeared, John Gahagan, able seaman on board His Majesty's Brig Snapper, who, being duly sworn on the Holy Evangelists, deposes and saith as follows, viz :

That, on the evening of the 12th day of October 1822, Deponent was sent by Lieutenant Rothery, Commander of his Majesty's said Brig, to examine the Slave-rooms of the said Polacca Nova Sorte ; that Deponent did not then see any Slaves ; but, on looking into the fore-pic, he saw a hawser coiled, which hawser, he has since discovered, concealed a hatch, which opened into a part of the hold, where this Deponent has since been, and which he maketh oath, is of sufficient size to contain twelve or fourteen men.

(Signed) JOHN GAHAGAN.

On the 10th day of March 1823, this Deponent was duly sworn to the truth of this Affidavit, before me,

(Signed) D. M. HAMILTON, Registrar.

(2.) Affidavit of William Rivett.

PERSONALLY appeared, William Rivett, able seamen of His Majesty's Ship Snapper, who, being duly sworn on the Holy Evangelists, deposes and saith as follows, viz. :—That he was sent on the evening of the 12th day of October 1822, by Lieutenant Rothery, of His Majesty's said Brig Snapper, to examine the after Slave-room of the said Polacca Nova Sorte, that there was there two casks and some farina bags, which concealed a scuttle, or hatch, which Deponent has since discovered, and which opened into a detached part of the hold.

(Signed) WILLIAM RIVETT.

On the 10th day of March 1823, this Deponent was duly sworn to the truth of this Affidavit, before me,

(Signed) D. M. HAMILTON, Registrar.

(3.) Affidavit of John Jeayes.

PERSONALLY appeared, John Jeayes, Master's Mate of His Majesty's Brig Snapper, who, being duly sworn on the Holy Evangelists, deposes and saith as follows, viz. :—That, on the 15th day of October 1822, this Deponent (in pursuance of orders from Lieutenant Rothery, Commander of His Majesty's said Brig) took charge of the said Polacca Nova Sorte, that, soon after going on board her, he perceived a hatch in the fore-pic, which led to a detached part of the hold, capable of containing at least sixteen men, and, in the after Slave-room, or Cabin, he perceived another hatch or scuttle, opening likewise into another detached part of the hold, which part was capable of containing about nine grown persons ; and further, that neither of those hatches were concealed in any manner whatsoever.

(Signed) JOHN JEAYES.

On the 10th day of March 1823, this Deponent was duly sworn to the truth of this Affidavit, before me,

(Signed) D. M. HAMILTON, Registrar.

(4.) *Affidavit of John Bedford, and David Griffiths.*

PERSONALLY appeared, John Bedford, gunner's-mate, and David Griffiths, private marine of His Majesty's Brig Snapper, who being each duly sworn on the Holy Evangelists, depose and say as follows, viz:—

That on the Night of the 12th day of October 1822, the said John Bedford had charge of the watch, and the said David Griffiths was sentinel, between the hours of eight and twelve o'Clock, P. M. on board His Majesty's said Brig, that, at about a quarter of an hour from the said hour of twelve P. M. (as near as these Deponents can recollect), they saw two canoes very near the said Polacca Nova Sorte, and rowing directly towards the beach of Mina Piccaninny, the said canoes and the said Vessels being in the situation represented in the annexed drawing. And these Deponents further swear that they do verily believe that the said canoes did come last from the said Nova Sorte at the time of their perceiving them.

(Signed) JOHN BEDFORD.
D. GRIFFITHS.

On the 10th day of March 1823, these Deponents were duly sworn to the truth of this Affidavit, before me,

(Signed) D. M. HAMILTON, Registrar.

(5.) *Affidavit of Lieutenant Rothery, and David Cowie, Master.*

PERSONALLY appeared, Thomas Henry Rothery, Lieutenant and Commander of His Majesty's said Brig, and David Cowie, master of the same, who being each duly sworn on the Holy Evangelists, depose and say as follows, viz:—

That the annexed drawing, signed with their respective names, is a true representation of the situation of His Majesty's said Brig and the Portuguese Polacca Nova Sorte, as they lay at anchor off Mina Piccaninny, on the night of the 12th day of October 1822.

(Signed) T. H. ROTHERY.
D. COWIE.

On the 10th day of March 1823, these Deponents were duly sworn to the truth of this Affidavit, before me,

(Signed) D. M. HAMILTON, Registrar.

AND further, this Deponent, Lieutenant Thomas Henry Rothery, maketh oath, that after boarding the said Nova Sorte, the boat of His Majesty's said brig left that said Vessel about the hour of seven o'Clock, P. M. on the same 12th day of October, and from that time no person belonging to His Majesty's said Brig was on board of or had any communication with the said Nova Sorte until the Evening of the following day, viz. the 13th day of October 1822.

(Signed) T. H. ROTHERY.

On the 17th day of March 1823, this Deponent was duly sworn to the truth of this Affidavit before me,

(Signed) D. M. HAMILTON, Registrar.

This is the representation referred to in the annexed Affidavit. Dated March 10, 1823.
 (Signed) D. M. HAMILTON, Registrar.

REFERENCES.

- 1 Nova Sorte
 - 2 Snapper
 - 3 & 4 Canoes rowing towards the shore
- (Signed) T. H. ROTHERY.
 D. COWIE.

o Miaa Piccany.

4 |

3 |

1=D

2=D

 $\frac{1}{4}$ $\frac{1}{2}$

1

2

SCALE OF MILES.

(6) *Petition of Christopher Austin, Proctor.*

THE humble petition of Christopher Austin, on the part and behalf of Lieutenant Rothery, and the Officers and Ship's company of His Majesty's Brig Snapper, sheweth,—that your Petitioner, wishing to prove clearly to your Honourable Court that the places where it is said the Slaves were concealed, at the time the boat of His Majesty's said Brig boarded the Nova Sorte, were and are fully capable of holding them, humbly prays, that the annexed Measurement and Affidavit may be filed in your Honourable Court :—And your Petitioner, as in duty bound, will ever pray.

Free Town, April 25, 1823.

(Signed) C. AUSTIN.

(7.) *Affidavit of William Parlett.*

PERSONALLY appeared, William Parlett, who being duly sworn on the Holy Evangelists, deposes, and saith as follows, viz :—

That on the 24th day of April last past, Deponent went on board the Portuguese Polacca Nova Sorte, then lying in the Harbour, and carefully measured a part of the hold of the said Vessel, and found it to measure, as set forth on the other side, viz :—In extreme length from the stern to the chime of the foremost water casks, 12 feet; in extreme breadth, 15 feet; in breadth, at 7 feet 2 inches from the stern, 13 feet 6 inches; and in mean height from the kilson, 4 feet.

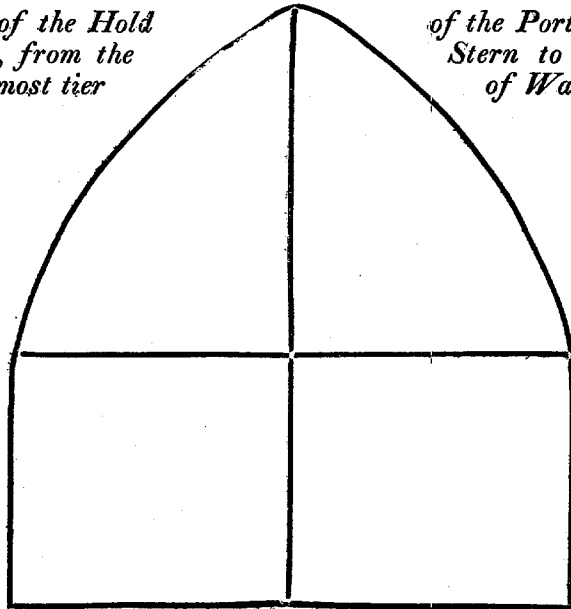
And further, Deponent measured another part of the hold of the said Vessel, situated under the cabin, and abait the after-bulk-head of the after-hold, and found it to measure, as set forth on the other side, viz :—In extreme length, from the after-bulk-head to the stern-post, 9 feet 10 inches; in extreme breadth, 10 feet 5 inches; in breadth, at 4 feet distance from the after-bulk-head, or extreme breadth, 6 feet 4 inches; and in mean height from the kilson, 2 feet 5 inches.

(Signed) WILLIAM PARLETT.

On the 25th day of April 1823, this Deponent was duly sworn to the truth of this Affidavit, before me, (Signed) D. M. HAMILTON, Registrar.

*Plan of part of the Hold
Nova Sorte, from the
of the foremost tier*

*of the Portuguese Polacca
Stern to the fore part
of Water Casks.*

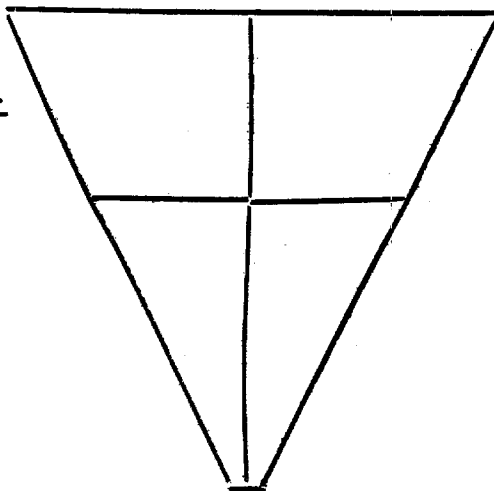


	Feet.		Inches.
Extreme length	12	..	0
Do. breadth	15	..	0
Breadth at 7 feet 2 inches from Stern	13	..	6
Mean height from the kilson	4	..	0



*Plan of part of the
tuguese Polacca
the Stern Post to
Head of the Af-*

*Hold of the Por-
Nova Sorte, from
the After-Bulk-
ter Hold.*



	Feet.		Inches.
Extreme length	9	..	10
Do. breadth	10	..	5
Breadth 4 feet from the after-bulk-head of the hold	6	..	4
Mean height from the kilson	2	..	5

(8.) *Affidavit of William Parr.*

PERSONALLY appeared William Parr, Quarter-Master of His Majesty's Brig Snapper, who being duly sworn on the Holy Evangelists, depose and saith as follows :—viz.

That he was left in charge of the Polacca Nova Sorte, on her being seized by His Majesty's said Brig, on the evening of the 14th day of October 1822, and remained in charge of her until the next morning, when he was relieved by Mr. Jeayes, Master's Mate of His Majesty's said Brig; that during the time Deponent so remained in charge of said Polacca, all the Slaves then on board her (about twenty in number, men, women, and children) remained on the upper deck, and that they were not in any manner prevented from going where they pleased about the Vessel, nor from speaking or making as much noise as they liked to make.

(Signed) WILLIAM PARR.

Sworn at Free Town, Sierra Leone, the 7th of March 1823, before me,

(Signed) D. M. HAMILTON, Registrar.

(9.) *Affidavit of John Jeayes.*

PERSONALLY appeared John Jeayes, Master's Mate of His Majesty's Brig Snapper, who being duly sworn on the Holy Evangelists, depose and saith as follows, viz :—

That on the morning of the 15th day of October 1822, Deponent took charge of the Polacca Nova Sorte, and remained in charge of her until the Decree of restoration, made in the above Cause by the above Court; that during the time Deponent so remained in charge of said Polacca, no Slave was kept in irons, nor in any manner concealed below, nor was there any Slave mal-treated in any way, or prevented from speaking or making as much noise as he or she thought proper, nor were they prevented from diverting themselves in any manner they chose.

(Signed) JOHN JEAYES.

Sworn the 7th March 1823, before me,

(Signed) D. M. HAMILTON, Registrar.

(10.) *Affidavit of David Cowie and John Jeayes.*

PERSONALLY appeared David Cowie, Master, and John Jeayes, Master's Mate, of His Majesty's Brig Snapper, who being each duly sworn on the Holy Evangelists, depose and say as follows, viz :—

That on the evening of the 12th day of October 1822 (at the time of rounding the said Brig to, in order to anchor), off the Port or Place called Mina Piccaninny, one gun was fired from the said Brig.

(Signed) DAVID COWIE.
JOHN JEAYES.

On the 10th day of March 1823, these Deponents were duly sworn to the truth of this Affidavit, before me,

(Signed) D. M. HAMILTON, Registrar.

(11.) *Affidavit of Lieutenant Rothery, and of David Cowie, Master.*

PERSONALLY appeared Thomas Henry Rothery, Lieutenant and Commander, and David Cowie, Master of His Majesty's Brig Snapper, who being each duly sworn on the Holy Evangelists, depose and say as follows, viz :—

That no gun was fired from His Majesty's said Brig after the first canoe, containing Negro Slaves, left the beach of Mina Piccaninny to go on board the Polacca Nova Sorte, on the evening of the 14th day of October 1822.

(Signed) THO. H. ROTHERY.
DAVID COWIE.

On the 10th day of March 1823, these Deponents were duly sworn to the truth of this Affidavit, before me,

(Signed) D. M. HAMILTON, Registrar.

(12.) *Affidavit of Joachim.*

PERSONALLY appeared Joachim, formerly a Slave, and a seaman on board the Polacca Nova Sorte, but now a free-man and a resident at Free Town, in this Colony, who being duly sworn on the Holy Evangelists, through the interpretation of Aude, who was first duly sworn faithfully to interpret, deposes and saith as follows, viz :—

That time Man-of-War take Nova Sorte, Lima call all men, he beg them be all one mouth, and say he no buy Slaves ; every day he tell them so ; that time I go Court speak palaver ; Lima call me, he take me in two hands, he say, Joachim be friend for me, I want to get back my Schooner, I want you say I no buy Slave ; suppose you say so, I give you ten dollars ; two time he tell me so ; some time he tell me, suppose I no say he no buy Slave, that time he leave this Country he cut my throat ; that time Snapper been took Schooner (Nova Sorte) Slave live aboard ; that time, he live down in bottom ; Man-of-War no see them ; that time night come we take them put them ashore.

(Signed) JOACHIM, X
his
Mark.
his
AUDE, X
Mark.

On the 17th day of March 1823, this Deponent was duly sworn to the truth of this Affidavit, before me,

(Signed) D. M. HAMILTON, Registrar.

*Second Inclosure in No. 48.**Notes of Mr. Fitzgerald for Judgment, on the Petition of the Captors for a New Trial, in the Case of the Portuguese Schooner Nova Sorte.*

THE original Affidavit of the Negro Quashee, upon which the Case of the Captors is founded, for they had no Case whatsoever until that Affidavit was brought forward, states, that "being on the beach of the said Place, called Mina Piccaninny, he there saw and witnessed the embarkation of many men and women Slaves, Natives of Africa, on board the long-boat of the said Polacca, which long-boat conveyed the said Slaves, and put them on board the said Polacca, said Slaves being then and there in irons by the neck and wrists ; that four days after the aforesaid Slaves were so put on board the aforesaid Vessel, he, the Deponent, with other Slaves, not then embarked, perceived a Vessel approaching the said Place, where the said Polacca was then lying at anchor, which Vessel he points out to be His Britannick Majesty's Brig-of-War Snapper ; that, before the sun rose on the following day, he saw and witnessed the aforesaid Slaves, who were so embarked, land on the beach of Mina Piccaninny aforesaid, from three canoes, and the aforesaid long-boat ; and, that he was with the said Slaves and others, who were not embarked, driven by the people of Mina Piccaninny aforesaid, into the bush to a considerable distance."

In corroboration of the statement thus made by Quashee, there was a collateral statement by a Negro belonging to the Nova Sorte, named Joachim. This Negro was on board the Nova Sorte, in the capacity of a Slave Mariner. His statement was brought forward, in the first instance, in the shape of an Affidavit, but the substance of that Affidavit was afterwards put into the form of Interrogatories, with answers :—of these, the most material are, the answer to the fifth Interrogatory, which says, "that Slaves had been on board the said Schooner four days previous to seeing the Man-of-War ;" and the answer to the sixth, saying, "that on the appearance of the capturing Vessel, the Slaves that were on board were put in a small room where the yams were ;" and the answer to the seventh, which is, "that in the course of the night, the Slaves were sent on shore by the Portuguese Mariners of said Schooner." In his Affidavit, this Joachim says, that on the appearance of the said Brig-of-War, all the aforesaid Slaves were driven by the Portuguese Mariners of said Polacca into a part of the hold of the said Polacca, which place he describes to be under that part of the Vessel called the fore-pic, and, that the said Slaves were then and there covered and concealed by sails and provisions.

In further corroboration, six Negroes, belonging to the Nova Sorte, were examined on Special Interrogatories ; the names are, Acootoo, Desay, Coma, Accoopee, Cawcaw, and Ellookoo.

All these persons say, in answer to the sixth Interrogatory, that they were put on board the Polacca four days before the English Man-of-War came in sight. In answer to the seventh Interrogatory, they say, that on the appearance of the English Man-of-War, they were put below and covered with sails. The one named Acootoo, says, he was covered with sails and yams ; he is the only one that says any thing of yams. The addition of yams in the answer of this individual requires particular notice, because the manner of the alleged concealment of the Negroes stated to have been on board of the Nova Sorte, on the approach of the Snapper, was one of the points most particularly investigated in the examination held in open Court, under the direction of the Arbitrator.

It was necessary for the Captors to shew that there was a concealment in another place than in the ordinary Slave-hold, for they had searched the ordinary Slave-hold, and found nothing there; or else of concealment in a particular part of the Slave-hold, by extraordinary means, such as heaping yams and sails upon the bodies of the Negroes; and, if the Captors were not themselves doubtful as to which of these two modes of concealment they would maintain, certainly the mode of proceeding and of argument on their behalf, appeared to the Court to vibrate between the one mode and the other. Although each is evidently contradictory of the other, the confusion originated probably from the very different terms in which this thing is described by Joachim, in his Affidavit and in his answers to the Interrogatories, leading in one instance to a concealment in a small separate room; in another, to a concealment in the hold, covered with sails and provisions: these two statements rest equally upon the credit of Joachim.

The addition of yams to the covering of sails, which the Slave Accotoo says were put over him and the other Slaves when they were put below, appears to be loosely and inaccurately mentioned by him, but, of such yams, the other five say nothing. A female Slave, named Cosebah, was also examined: she says, that on the appearance of the Man-of-War they were put down in the hold and there concealed, by first locking them up, and covering the hatch-way over with sails. This woman says, they were relanded the same night that the Brig-of-War came there.

In the examination, under the direction of the Arbitrator, the concealment was described by all the Slaves, as that they were put below in the ordinary place, and in the ordinary manner as they were at all times; they were covered with sails in the same manner as at all other times; there was nothing of being placed in a room under the ordinary Slave-hold, nor of any extraordinary concealment by means of sails heaped on the bodies for the purpose, as the Captors contended. The Slaves examined in Court were, *Appear, Accommo, Desay, Quamin, Accootia, Accootoo, and Loochoo.*

In the proceeding under the direction of the Arbitrator, it was intended merely to re-examine upon one or two particular points, those who had been before examined on behalf of the Captors, and to put one or two further questions to them; it happened, however, that those who were thus examined were, with the exception of two, altogether new Witnesses; this coincidence, with those previously examined, was consequently a further assurance of the truth of the matter affirmed by both.

But, besides the denial of a concealment, in an extraordinary place, and in an extraordinary manner, or by extraordinary means, upon the approach of the Snapper, there was another point of still greater importance on which there was a denial equally uniform. That point was, the landing after the concealment; for, if every Negro concealed in the manner alleged had not been landed, the numbers on board would not be consistent, for the number brought to the Colony was precisely the number delivered up by the Caboceer of the Place, on the requisition of Lieutenant Rothery, consisting of twenty in one shipment, and subsequently one hundred and two, making a total of an hundred and twenty-two.

With respect to a relanding after the first embarkation at *Mina Piccaninny*, every one of those examined in Court, says distinctly, that he never put his foot on shore at *Mina Piccaninny* after he was first embarked on board the *Nova Sorte*; that the first Place where he did put his foot on shore was at *Sierra Leone*.

This was the principal point to which the examination, under the direction of the Commissioner of Arbitration, was addressed; for, if a concealment and a landing, such as those alleged on behalf of the Captors, had taken place, every individual that was included in the concealment, must also have been included in the landing. They would have been landed in the very particular manner alleged; they would have been subsequently conveyed into the bush, and there further concealed together; and, subsequently, again, they would have been delivered up to Lieutenant Rothery by the Caboceer, and to all these matters they would have been able to depose, and to relate the circumstances attending them. On the other hand, if not any one of those brought forward in proof of the concealment had been landed, the concealment and the landing, upon which the Case of the Captors was founded, would be altogether unsupported by the evidence adduced in corroboration of it; or, rather, they would be altogether disproved by that very evidence.

This was in fact the termination of the Case of the Captors by the result of the examination in Court: besides the Negroes already enumerated, there was a woman, named *Cosebah*, in whose testimony, upon re-examination, there was so much inconsistency and apparent prevarication that no reliance could be placed on it. The Slave seaman, named *Joachim*, was represented to the Court as ready to retract all his former testimony, respecting the concealment and the embarkation of the Slaves in the Night, for the purpose of being landed, and to state that all this had been sworn by him under undue influence. Counter statements of undue influence by the other Party were advanced, and proof was tendered in support of them. It appeared advisable to the Bench to form its decision on the testimony of Witnesses, not entangled in these accusations and counter accusations, and not affected by the imputations necessarily resulting from them. The deposition of *Joachim* was, therefore, left out of consideration, except inasmuch as it may be confirmed by the testimony of Witnesses not open to similar impeachment.

The Negro *Quashee*, from whose communication the Case of an embarkation and subsequent landing of Negroes, prior to the detention of the *Nova Sorte*, appears to have been derived, was necessarily regarded as a Witness of great importance, in the further examinations under the direction of the Commissioner of Arbitration. The circumstances of the history of that Negro; his residence in the family of a British subject of high consideration, as Governor of one of His Majesty's Forts, and holding the rank of a Member of the Council of Administration for the British Settlements on the Coast; his transfer from that service to another in the same Fort, from

which he was sold as a Slave; his arrival in this Colony, so providential for his deliverance; conspired to give currency to reports, somewhat exaggerated, respecting his character and attainments; at least, I am led to think that such reports tended to form in ever-mind excessive expectations; I did expect to find that this Quashee was an African of superior intelligence and instruction. I was, therefore, greatly disappointed when I found that his knowledge of the English language (the medium of perceiving and estimating all his other acquired knowledge), was so imperfect that it did not enable him to understand what was said to him, nor to make himself understood when he spoke; it became necessary, in consequence, to examine him by means of an Interpreter, but even then, his understanding of the questions put to him, and his answers to those questions, shewed him to be far inferior in point of intelligence to the other Negroes examined in the Case, whom he had been stated greatly to surpass; he did, however, confirm, with additional circumstances of some importance, every part of his original statement, with the exception of the main fact, which was alone material to the Case to be decided,—the landing of the Slaves from the Nova Sorte before Sun-rise, on the Morning of the day after the arrival of the Snapper, which Slaves he had seen carried on board of the Nova Sorte four days previously. He stated in his original Affidavit that these Slaves were landed in three canoes and the long-boat of the Nova Sorte, and that they were afterwards driven into the bush with himself and other Slaves who had not been previously embarked. In his examination in Court, he distinctly and repeatedly said, that after the Snapper came he did not see any boat come from the Portuguese Schooner to the shore. After the Snapper came, he did not see any Slave come on shore from the Schooner. He had previously stated, in the same examination, that he received the information of the Slaves, having been put down below on the approach of the Snapper, from the Slave named Accotia, after he himself went on board; it was not till then that he heard of it, and it was from Accotia alone that he had the information. Now, it is obvious that if a number of Negroes, previously embarked, had been concealed on board, in order to escape discovery by the people of the Snapper, and had been landed clandestinely before sun-rise on the next Morning, as stated in Quashee's original Affidavit, those Slaves, when driven into the bush with him, as that Affidavit also states, would have made those occurrences the immediate subject of their conversation. Accotia would have told all to Quashee at once, instead of waiting to tell him on board. What Quashee saw and what he heard, and the time and place of seeing and hearing, would have concurred to confirm his statement, by the coincidence of the others concerned with him.—The coincidence is, indeed, found, but is found by Quashee's denial of that which he was before understood to have asserted,—that he had seen the Slaves, who had been embarked four days before the arrival of the Snapper, landed before sun-rise on the Morning after that arrival. His denial of having seen any such landing, and the uniform declaration of the others, that they had not been so landed, established a full conviction that no such landing had taken place; the supposition of a concealment on board without a landing, was refuted by reference to the numbers actually on board, which were precisely the numbers delivered up by the Caboceer of Mina Piccanniny, on the requisition of Lieutenant Rothery, and not one more: 20, and 102.

The evidence thus recapitulated did not appear to the Captor sufficient to warrant the Decree for the liberation of the Vessel, which the Commissioner of Arbitration founded upon it, with the concurrence of His Majesty's Commissary Judge, who, on the primary evidence, had pronounced for a Decree of condemnation.

The Proctor for the Captors, adverting to some remarks made by the Arbitrator on the want of evidence that might have been furnished from the Snapper, which Vessel had then sailed from Sierra Leone on a particular service, presents now several Affidavits from persons belonging to that Vessel, who were concerned in the searching and the detention of the Nova Sorte, and with them a Petition for a new trial, founded on the matters which the Affidavits contain.

Whether the nature of the jurisdiction confided to the Court of Mixed Commission can authorise the granting of new trials, is a question of much difficulty and delicacy.

I will venture to say thus much, that I should be sorry to think those Courts debarred from reconsidering and rectifying decisions, which may be reasonably and fairly regarded as incorrect or ill advised, in Cases of restitution, subject to demands for costs and damages, especially in Cases in which the primary decision for the liberation of the Vessel may be open to other views, arising from the evidence forthcoming upon the investigation of those demands.

It must, however, be admitted that, in these Courts, as in all those in which new trials are commonly allowed, a decision once pronounced ought not to be disturbed, unless strong reason shall be shewn for thinking that a different decision would be more proper; or, at least, that the declared grounds of the existing decision were inaccurate.

Do the Affidavits and the Petition now before the Court give reason to think that the grounds of the Decree of liberation in the Case of the Nova Sorte were inaccurate, or that a different decision would be more correct?

The remarks of the Commissioner of Arbitration, on the want of evidence from the Snapper, were literally these,—one of the Negroes says, that “they were fed during the time by the English Cook, that is, during the time between their embarkation and the detention of the Nova Sorte by the Snapper; another says, that while they were below they heard a firing, a circumstance that might have admitted explanation on the part of the Captors, by shewing at what times and in what manner, for what occasions and purposes, the Snapper fired. I do think it one of the most extraordinary features of this very extraordinary Case, that although Lieutenant Rothery was of necessity accompanied by his boat's crew, not one of them is brought or tendered to confirm his statements, or to refute those of the other Party, especially the allegations of Francisco Gomez, who says, that the Officer who boarded the said Polacca, ordered his men to go below and search,

which they did. This Gomez also says, that a boat came from the Snapper the same day and left some men; that these men were afterwards taken away, and that a canoe with Slaves came from a-stern of the Snapper, accompanied by the boat of the Brig-of-War; the Slaves, he says, were then ordered out of the canoe on board the Polacca,—and although the Master of the Polacca refused to receive them, the Officer of the Brig-of-War enforced compliance. All these allegations, or such parts of them as could be contradicted or explained, were open to the testimony of the Officers and men of the Snapper, but from that Vessel we have not more than the Affidavit of Lieutenant Rothery himself."

This recital will shew that the language of the Commissioner of Arbitration has been rather inaccurately described in the Petition now before the Court on behalf of the Captors, where he is represented as expressing his regret at the absence of further evidence from the Snapper. It is to be supposed that Parties bring, for their own interests, the best evidence that they can, and the Bench, which has no interest but that of impartial justice, cannot, with propriety, have any feelings of regret, that either Party has not better evidence than that which it brings.

The want of evidence, from a source so obvious and so accessible as the boat's crew of the Snapper, was a deficiency that could not well be passed over without some remark in pronouncing Judgment on the Case. But it does not follow, that this deficiency could, with propriety, be supplied after trial had taken place upon the Petition of the Parties, and after Judgment pronounced in a two-fold form; first, by the Commissary Judges, and in the second instance, by the Commissioner of Arbitration.

Parties are bound to see what evidence their Case requires, before it comes to Judgment; and if they have the means of bringing that evidence they ought to obtain leave to add it, and if a day be fixed for trial, they should apply to the Court to defer it until the evidence can be completed.—But to suffer Judgment to be pronounced, and then to bring further evidence to supply the deficiencies noticed by the Bench, in the Case as it comes to trial, would be to render remissness of Parties ground for a new trial, in order that they may supply in the second instance what they ought to have produced in the first. The present Case may, however, have some excuse in the peculiarity of the circumstance; and the chief object is to ascertain, whether justice has been done between the Parties in the Judgment already pronounced; or, whether the Affidavits annexed to the Petition, on behalf of the Captors for a new trial, give reason to think that a fresh investigation would lead to a different and a more accurate and more equitable result.

One of the first and most important Instructions to the British Commissioners, conveyed in Lord Castlereagh's Letter, accompanying the Standing Interrogatories, dated the 19th February 1819, is, "that they should be always mindful and cautious to obtain and weigh the whole facts of the Case, before they give their Judgment upon it." The object of this admonition, was steadily pursued in the present Case, and was, as I thought, sufficiently attained by the results of the various examinations previous to the Judgments that have been passed.

We will now examine, whether the Affidavits brought forward, since Judgment, on behalf of the Captors, lead to other and more correct conclusions.

The Petition for a new trial is founded upon several Affidavits made by Lieutenant Rothery, and by other Officers and seamen of the Snapper, and an Affidavit by Joachim, the Negro Slave-seaman of the Nova Sorte, who describes himself as being now a free-man and a resident of Free Town, in this Colony.

The Affidavit of Lieutenant Rothery, and of Mr. Cowie, Master of the Snapper, states, that no gun was fired on board of the Snapper, after the first canoe containing Negro Slaves left the beach of Mina Piccaniny, to go on board of the said Polacca Nova Sorte, on the Evening of the 14th day of October; this Affidavit is dated the 19th of March 1823.

The Affidavit of Mr. Cowie and Mr. Jeayes states, that, on the 12th day of October 1822, at the time of rounding the said Brig to, in order to anchor off the Port or Place called Mina Piccaniny, one gun was fired from the said Brig; this Affidavit also is dated the 10th of March.

An Affidavit by William Rivett, seaman of the Snapper, says, that he was sent on the Evening of the 12th day of October 1822, by Lieutenant Rothery, of His Majesty's said Brig Snapper, to examine the after Slave-room of the said Polacca Nova Sorte, that there were there two casks and some farina bags, which concealed a scuttle or hatch, which Deponent has since discovered, and which opened into a detached part of the hold; this Affidavit is dated the 10th of March.

The Affidavit of John Gahagan, able seaman on board His Majesty's Brig Snapper, states, that, on the Evening of the 12th day of October 1822, Deponent was sent by Lieutenant Rothery, commanding His Majesty's said Brig, to examine the Slave-rooms of the said Polacca Nova Sorte, that Deponent did not then see any Slaves, but on looking into the fore-pic he saw a hawser coiled, which hawser he has since discovered concealed a hatch which opened into a part of the hold, where this Deponent has since been, and which he maketh oath, is of sufficient size to contain 12 or 14 men.

Another Affidavit by Mr. Jeayes, Master's Mate of the Snapper:—"That, on the 18th day of October 1822, this Deponent, in pursuance of orders from Lieutenant Rothery, commanding His Majesty's said Brig, took charge of the said Polacca Nova Sorte; that soon after going on board her he perceived a hatch in the fore-pic, which led to a detached part of the hold, capable of containing almost sixteen men, and in the after Slave-room, or cabin, he perceived another hatch or scuttle, opening likewise into another detached part of the hold, which part was capable of containing about nine grown persons, and further, that neither of those hatches was concealed in any manner whatsoever." This Affidavit is dated the 10th of March.

The Affidavit of Joachim, given by the interpretation of a person named Aude, and expressed in the African style of English, says:—

That time Man-of-War take Nova Sorte, Lima call all men; he beg them be all one month, and say he no buy Slaves; every day he tell them so; that time I go Court speak palaver, Lima call me, he take me in two hands, he say Joachim be friend to me, I want to get back my Schooner, I want you say I no buy Slave,—suppose you say so, I give you ten dollars; two time he tell me, suppose I no say he no buy Slave, that time he leave this Country he cut my throat;—that time Snapper been look Schooner Nova Sorte, Slave live a-board; that time he live down in bottom; Mau-of-War no see them; that time night come we take them and put them on shore. Sworn on the 17th day of March 1823.

William Parr, Quarter-Master of His Majesty's Brig Snapper, swears, that he was left in charge of the said Nova Sorte on her being seized by His Majesty's said Brig, on the Evening of the 14th day of October 1822, and remained in charge of her until the next Evening, when he was relieved by Mr. Jeayes, Master's Mate of His Majesty's said Brig; that, during the time Deponent so remained in charge of said Polacca, all the Slaves then on board her, about twenty in number, men, women and children, remained on the upper deck, and that they were not in any manner prevented from going where they pleased about the Vessel, nor from speaking or making as much noise as they liked to make. This Affidavit was sworn the 7th of March.

Mr Jeayes, the Master's Mate, says, in another Affidavit, intended apparently to connect itself with this of William Parr, that, on the Morning of the 15th day of October 1822, Deponent took charge of the said Polacca Nova Sorte, and remained in charge until the Decree of restoration made in the above Cause by the above Court; that during the time Deponent so remained in charge no Slave was kept in irons, nor in any manner concealed below, nor was there any Slave mal-treated in any way, or prevented from speaking or making as much noise as he or she thought proper; nor were they prevented from diverting themselves in any manner they chose. Sworn the 7th March.

John Bedford, gunner's mate, and David Griffiths, private marine of His Majesty's Brig Snapper, swear, that, on the Night of the 12th day of October 1822, the said John Bedford had charge of the watch, and the said David Griffiths was sentinel between the hours of eight and twelve o'Clock P. M. on board His Majesty's said Brig; that at about a quarter of an hour from the said hour of twelve P. M. as near as these Deponents can recollect, they saw two canoes very near the said Polacca Nova Sorte, and rowing directly towards the beach of Mina Piccaninny, the said canoes and the said Vessel being in the situation represented in the annexed drawing; and these Deponents further swear, that they do verily believe that the said canoes did come last from the Nova Sorte at the time of their perceiving them. This Affidavit is dated the 10th of March.

There is annexed to this last mentioned Affidavit a drawing, accompanied by an Affidavit of Lieutenant Rothery and Mr. Cowie, Master of the Snapper, stating, that the annexed drawing signed with their respective names, is a true representation of the situations of His Majesty's said Brig and the Portuguese Polacca Nova Sorte, as they lay at anchor off Mina Piccaninny, on the Night of the 12th of October 1822. This Affidavit is sworn on the 10th March; there is sub-joined to it a further Affidavit by Lieutenant Rothery, which says, that after boarding the said Nova Sorte, the boat of His Majesty's said Brig left that said Vessel about the hour of seven o'Clock P. M., on the said 12th day of October, and from that time no person belonging to His Majesty's said Brig was on board of, or had any communication with the said Nova Sorte, until the Evening of the following day, viz: the 13th day of October 1822.

The object of all the Affidavits furnished from the Snapper, is to confirm the statements of the Negro Joachim, late a Slave seaman on board of the Nova Sorte, but now a free-man, and a resident at Sierra Leone, according to the description prefixed to his last Affidavit.—It is, therefore, essential to ascertain precisely what this Joachim has successively stated in the several Papers, in which his testimony has from time to time been brought forward.

The first of these Papers is an Affidavit sworn by him, on the 1st of January, by the interpretation of Quashee, the Negro formerly in the service of Mr. Blenkarne, who may be regarded as the originator of this Case, of an embarkation of Slaves on board of the Nova Sorte, before the seizure of that Vessel by Lieutenant Rothery, and of a relanding of those Negroes on the Morning after the arrival of the Snapper. The Affidavit first made by Joachim, was given to the Court in connection with that of Quashee, for the confirmation of Quashee's statement, by its coincidence with that Statement, in relating the transactions on board of the Nova Sorte.

The Affidavit agrees with the Statement of Quashee in stating, that many men and women Slaves were embarked on board of the Nova Sorte, at Mina Piccaninny, before the arrival of the Snapper.—The Affidavit says, that these Slaves were brought and received on board of the said Polacca at two several times in the long-boat belonging to the aforesaid Vessel, the said Slaves being ironed by the neck and hands in four separate chains.

That four days after the said Slaves were so embarked on board the said Vessel, a strange Vessel came in sight, which strange Vessel proved to be His Britannick Majesty's Brig-of-War Snapper; that on the appearance of the said Brig-of-War, all the aforesaid Slaves were driven by the Portuguese mariners of said Polacca, into a part of the hold of the said Polacca, (which place he describes to be under that part of the Vessel called the fore-pit), and that the said Slaves were then and there covered and concealed by sails and provisions, the Portuguese mariners of the Vessel threatening to stab with a knife any one of the Slaves, who should speak or make any noise; that a short time after sun-set of the same day, the boat of the English Brig-of-War aforesaid, came along-side the said Polacca, and shortly after left her; that about the middle of the Night of that same day, the Portuguese mariners put into three canoes and the aforesaid long-boat all the aforesaid Slaves then on board the said Polacca, viz: one chain of Slaves into each boat, and conveyed them on shore to the

aforesaid Place, called Mina Piccaninny; and that Deponent remaining on board the said Polacca, he does not know how they were after disposed of. Sworn the 4th day of January 1823.

The description of the mode of embarking these Slaves, by means of the long-boat loaded with chains and irons, is the same as given by Quashee,—with this difference, if it can be called a difference, that Joachim mentions the embarkation having been made at two several times, but Quashee does not specify, whether it was at one time or at several.—In respect to the manner of landing, by three canoes and the long-boat, both coincide.

It was suggested, that Quashee, having originated this Case of a previous embarkation, followed by a concealment during the search by the Snapper's people, and a relanding in the Night, he could not, for obvious reasons, be a proper Interpreter, for any testimony to be given by Joachim in support of his own statement; and further, that Affidavits were not the most proper form of evidence, being generally prepared by the Parties in the Cause, and sworn to in a summary manner. In consequence of these suggestions, Quashee was examined on Interrogatories by the interpretation of another person, named Sally Cudjoe.

To the 4th Interrogatory.—Saith, said Schooner was lying off Mina Piccaninny, at the time the said Schooner was seized by His Majesty's Brig-of-War Snapper.

To the 5th.—Saith, Slaves had been on board the said Schooner four days, previous to seeing the Man-of-War.

To the 6th.—Saith, that on the appearance of the capturing Vessel, the Slaves that were on board were put in a small room where the yams were.

To the 7th.—Saith, that in the course of the Night, the Slaves were sent on shore by the Portuguese mariners of said Schooner. Sworn the 9th January. The difference between the facts, as stated in the answers to the Interrogatories, and as stated in the Affidavit, is great and obvious.—The circumstance of embarkation by the means of the long-boat, and of conveyance to the shore in the Night by the long-boat and three canoes, in which circumstances the Affidavit of Joachim coincided with that of Quashee, are not found in the answers to the Interrogatories. The manner of the concealment below is differently described,—it is merely said, that on the approach of the capturing Vessel, the Slaves that were on board were put in a small room where the yams were. In the Affidavit it is said, that on the approach of the said Brig-of-War, all the aforesaid Slaves were driven by the Portuguese mariners of said Polacca into a part of the hold of the said Polacca, (which place he describes to be under that part of the Vessel called the fore-pic), and that the said Slaves were there covered and concealed by sails and provisions. Neither do we find any mention of the Portuguese mariners of the said Vessel threatening to stab with a knife any one of the said Slaves who should speak or make a noise.

Of all this threatening to stab with a knife, not one word is mentioned by the Negroes examined on behalf of the Captors. In their examination in open Court, they spoke of their being threatened with flogging if they should make a noise, in the same manner as at all other times, and some of them mentioned being commonly flogged with a rope to make them go below, or to prevent them from making a noise. This is surely very different from Joachim's allegations of the Portuguese mariners threatening to stab them with a knife if they should speak or make a noise.

So in respect to the concealment, they merely say that they were put below and covered with sails.

Thus far extend Mr. Fitzgerald's written notes upon the motion of the Proctor for the Captor for a new trial. But Mr. Fitzgerald, in giving his opinion upon the evidence that, in order to a new trial, had been brought forward by the Proctor for the Captor, commented further upon the evidence that had been first brought forward in the Case. He concluded his comments by observing "that the broad fact remained uncontradicted which had guided his decision for the restitution of the Vessel,—namely, the fact stated by the Slaves who had been examined in open Court,—that they had never set their feet on shore at Mina Piccaninny after they were first embarked on board of the Nova Sorte; that the first Place where they did set their feet on shore was at Sierra Leone." Mr. Fitzgerald was of opinion, upon his view of the merits of the evidence in the Case, that a new trial could not be granted.

E. G.

No. 49.

E. Gregory, Esq. to Mr. Secretary Canning.—(Received September 17.)

SIR,

Sierra Leone, June 8, 1823.

IN the Report on the state of the Slave-trade, that Mr. Fitzgerald and I had the honour to address to you, under date of the 29th of April last*, we noticed an abuse that was practised, as we conceived, on the part of the Portuguese Authorities in the Brazils, by overrating the tonnage of Vessels engaged in the Slave-trade, so as to enable them to carry, with the appearance of legality, an extraordinary number of Slaves.

The great importance that is attached to the suppression of all illegal

* See Sierra Leone, (General.)

Traffick in Slaves will be my excuse with you, Sir, for bringing again, and more particularly, under your notice, some instances, as they would seem to be, of overrate in the tonnage of Portuguese Slave-trading Vessels, that have come under the view of the British and Portuguese Mixed Commission.

The appearance of this overrate is found by a comparison of the tonnage of Vessels, as stated in the Royal Passport, and in the Certificates of admeasurement, with their tonnage, as stated in the receipts, for money paid on account of light dues. The overrate of the tonnage of four Vessels lately adjudicated in the British and Portuguese Court of Mixed Commission, as it appeared by a comparison of the Documents that I have mentioned, was as follows, viz. :

Schooner Nova Sorte; tonnage as stated in her Passport, $141\frac{1}{2}$ tons; as stated in the Certificate of Admeasurement, $141\frac{1}{2}$ tons; authorized to carry 353 Slaves; tonnage as stated in the Receipt for Light Dues, $84\frac{1}{4}$ tons; difference of tonnage, $57\frac{1}{4}$ tons; excess of Slaves 142 Slaves. This Vessel was admeasured by order of the Mixed Court; she was found to admeasure 83 tons and $15\text{-}94\text{ths}$ of a ton, English.

Schooner Conceição; tonnage as stated in her Passport, $167\frac{1}{4}$ tons; as stated in the Certificate of Admeasurement, $167\frac{1}{4}$ tons; authorized to carry 417 Slaves; tonnage as stated in the Receipt for Light Dues, 108 tons; difference of tonnage, $59\frac{1}{4}$ tons; excess of Slaves, 147 Slaves.

Schooner Lisboa; tonnage as stated in her Passport, $118\frac{1}{2}$ tons; as stated in the Certificate of Admeasurement, $118\frac{1}{2}$ tons; authorized to carry 295 Slaves; tonnage as stated in the Receipt for Light Dues, 92 tons; difference of tonnage, $26\frac{1}{4}$ tons; excess of Slaves, 65 Slaves. This Vessel had, when detained, 336 Slaves on board.

Brig Comerciante; tonnage as stated in her Passport, 245 tons; as stated in the Certificate of Admeasurement, 245 tons; authorized to carry 612 Slaves; tonnage as stated in the Receipt for Light Dues, 162 tons; difference of tonnage, 83 tons; excess of Slaves, 207 Slaves.

The Certificate of Admeasurement is given by competent Persons, as is expressed, in order that the tonnage of a Slave-trading Vessel may be stated in the Royal Passport, for the purpose of specifying the number of Slaves that a Vessel may carry. The Certificate of Admeasurement is, therefore, an important Paper that ought to be given upon an honest admeasurement of a Slave-trading Vessel.

Possibly, Sir, the Certificates of Admeasurement that have come under the view of the Commissioners may have been given upon an honest admeasurement of the Vessels to which they respectively belonged, and the tonnage of a Portuguese Vessel may be rated less by custom than it really ought to be rated, when the rate is to proportion the payment of light dues. But the Commissioners, not having the means of ascertaining whether this be the custom in the Brazils or not, must view with suspicion a difference of tonnage that appears upon the face of Papers belonging to one Vessel. The Commissioners must view this difference with the greater suspicion, as they are well aware that the inveterate habits of Slave-traders will lead them to commit every fraud they can devise to crowd their Slave-holds.

I beg leave, Sir, to request your consideration to what I have in this Letter deemed it to be my duty to state to you, as the minds of the Commissioners are unsettled in regard to the faith observed by the Authorities in the Brazils in fixing the tonnage of Slave-vessels. It is of the utmost importance that the tonnage of Slave-vessels should be honestly fixed; for by the tonnage, as stated in the Passport, the conveyance of Slaves is regulated. In Cases of restitution, the tonnage which proportions the number of Slaves allowed to be carried, is to regulate the damages to be awarded for loss of Slaves. In such Cases, it always serves to shew, at first view at least, the rate at which demurrage should be charged, when demurrage may be deemed to be due by the Commissioners.

I beg leave, Sir, to inclose herewith, for your information, a Copy of the Certificate of the admeasurement of the Schooner Nova Sorte, with Copies of the Certificates of, or receipts for monies paid for light dues on account of that Vessel; also translations of these Papers; with a Copy of the Report made to the Commissioners by the Person appointed by them to admeasure that Vessel.

I have the honour to remain, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) E. GREGORY.

(First Inclosure in No. 49.)

Certificate of Admeasurement of the Schooner Nova Sorte.

Illustrious Intendant of the Department of the Marine.

Granted. House of the Intendancy of the Marinae. Bahia, June 28, 1821.

(Translation.)

C. CARVALLO.

WENCESLAUS MIGUEL DE ALMEIDA, Owner of the Polacca Nova Sorte, that is ready to sail for Cabinda, makes known, that he requires, under Certificate, the Report of the admeasurement made by direction of the Intendancy; he, therefore, prays that you may be pleased to grant him said Report.

I. Lazaro Joze Muniz de Medeiros, Notary in the Intendancy of the Marine in this Town of Bahia for His Most Faithful Majesty, &c. do certify, that, on examination of the second Book of the Reports of Admeasurement, at folio 143, there appears as follows:—"On the 23d day of the Month of May of the year 1821, in this Town of Bahia, on board of the Polacca Nova Sorte, at the instance of Wenceslaus Miguel de Almeida, asserted Owner of the same, there appeared, by order of the Illustrious Intendant of the Department of the Marine and of the Royal Arsenal, the Commander Antonio Vaz de Carvalho, Adjutant of the said Intendant; Francisco Lopez de Carvalho, Builder; the Captain-Lieutenant, Manoel da Costa; and the second Lieutenant, Manoel Joaquim Joze da Cruz; the Master Caulker, Joao Baptista Correa; and the Master Sail-Maker, Antonio Bernardo Joze Vianna; all belonging to the Arsenal; with myself, the Notary of the Intendancy of the Marine, hereinafter declared, for the purpose of admeasuring the said Schooner, in conformity with the Alvarà, having the force of law, of 26th of January, of 1818. In effect, having admeasured the deck, (*convex*); the cabin, (*camara*); the false deck, (*baileo*); the fore-castle, (*castello*); places proper for the conveyance of Slaves; there were given 141½ tons, which, divided by two and multiplied by five, produce 353 heads of Slaves, which number is in the proportion of two tons for five Slaves, agreeably to the tenour of the aforesaid Alvarà. In faith and testimony whereof, they, the aforesaid persons, signed this Report, which I, Lazaro Joze Muniz de Medeiros, Notary of the Intendancy of the Marine, caused to be written." Francisco Lopez de Carvalho. "There appeared the Rubrick of the Attorney of the Crown, Manoel da Costa; Manoel Joaquim Joze da Cruz; Joao Baptista Correa; and Antonio Bernardo Xavier Vianna. And that the same may appear where necessary, I give these presents in the Intendancy of the Marine of Bahia, on the 13th day of June, of the year 1821. The same was caused to be written, and is signed by me,

LAZARO JOZE MUNIS DE MEDEIROS.

WE certify that the Polacca Nova Sorte, bound to Rio de Janeiro, owned by Wenceslaus Miguel de Almeida, has been rated at eighty-four tons, by skilful persons appointed for the purpose, in virtue of the Royal Orders; that, therefore, the contribution to be paid on her account for lights is 8400 reis; in faith and testimony whereof we give these presents, signed by us, and sealed with the Seal of the Royal Arms. Bahia, 15th May 1820. Written by Jose Francisco Cardozo de Moraes, Secretary of the Board.

(Signed)

JOZE PERD. LOPEZ SD. DE CARDO.
JOAO FERREIRA BETANCOUNT SD.
RAIMUNDO JD. DO VALLE.
JOZE FRANCISCO CARDOZO DE MORAES.



Regd. at f. 23.

(Second Inclosure in No. 49.)

(Translation.)

Receipt for Light Duties.

AT folio 79 of the 1st Book of the Receipts of Contributions on account of lights, there appears the sum of 8400 reis paid by Francisco de Souza Lapa, for 84 tons, at which the Portuguese Schooner Nova Sorte, bound to Molembo, has been rated. Bahia, 11th May 1822.

(Signed)

PAULINO DA SILVA LISBOA.
FRANCISCO JOAQUIM GOMEZ.

(Third Inclosure in No. 49.)

Report of William Cole, Sworn Measurer.

HAVING proceeded on board the Portuguese Brigantine Nova Sorte, to ascertain her admeasurement, do report as follows:—

Her extreme length is 64 feet, 8 inches; her breadth is 17 feet, 10 inches; admeasures by the British method, 83 tons, and 15-94ths of a ton.

(Signed) W. COLE, Sworn Admeasu

No. 50.

Messrs. Gregory and Hamilton to Mr. Secretary Canning--(Received Oct. 11.)

SIR,

Sierra Leone, September 1, 1823.

WE beg leave to inform you, that Mr. Altavilla, His Most Faithful Majesty's Commissioner at this Colony, has verbally acquainted us, that it is his intention to avail himself of leave of absence that has been granted to him by his Government, and to return to Europe by His Majesty's Brig Snapper, which quits this River to-day.

Mr. Altavilla has promised to address to us an official Communication of his intended departure from this Colony; but, fearing that such Communication may be delayed to the last moment of *Mr. Altavilla's* stay in the Colony, we hasten, Sir, to apprise you of his intentions to depart.

We have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed)

E. GREGORY.
D. M. HAMILTON.

No. 51.

Messrs. Gregory and Hamilton to Mr. Secretary Canning--(Received Oct. 22)

SIR,

Sierra Leone, Sept. 1, 1823.

WE have the honour to inclose herewith, for your information, a Copy of a Letter that we have just received from *Mr. Altavilla*, His Most Faithful Majesty's Commissioner at this Settlement, announcing his intention to proceed to England in His Majesty's Brig *Snapper*, which is at this moment quitting this Harbour.

We have the honour to remain, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed)

E. GREGORY.
D. M. HAMILTON.

(Inclosure in No. 51.)

The Portuguese Commissioner to the British Commissioners.

GENTLEMEN,

Free Town, September 1st 1823.

I HAVE the honour to acquaint you that my Government having been pleased to grant me leave to return to Europe for the recovery of my health, it is my intention to avail myself of such leave, by the opportunity of His Britannick Majesty's Brig *Snapper*, which proceeds immediately to England. With best wishes for your health and prosperity, I have the honour to be, &c.

(Signed)

J. G. ALTAVILLA.

To His Britannick Majesty's Commissioners,
&c. &c. &c.

No. 52.

Messrs. Gregory and Hamilton to Mr. Secretary Canning—(Received January 30, 1824.)

(Extract.)

Sierra Leone, September 6, 1823.

WE have now the honour to inform you that Mr. Altavilla quitted this Colony for England, in His Majesty's Brig Snapper, on the 1st of this Month.

We were informed by Mr. Altavilla, upon his departure, that we might soon expect the arrival of a Gentleman deputed by the Government of His Most Faithful Majesty to supply Mr. Altavilla's place in the Mixed Commission. No such Gentleman has yet arrived. We propose to act in the absence of Portuguese Commissioners, so that the business that may be brought before the Mixed Commission may not suffer by delay.

We have the honour to be, &c.

(Signed) E. GREGORY.
D. M. HAMILTON.

The Right Hon. George Canning,
&c. &c. &c.

No. 53.

Mr. Secretary Canning to Messrs. Gregory and Hamilton.

GENTLEMEN,

Foreign Office, November 1, 1823.

I HAVE referred to His Majesty's Advocate-General, your Despatch of the 7th of June 1823, for the opinion of that Officer, — whether a Sentence, pronounced in full Court, by the Mixed Commission under the Treaties for the suppression of illegal Slave-trade, is final, or whether a new trial may in such Case be granted.

The opinion of The King's Advocate is,—that a new trial cannot be granted on any rules of analogy derived from the practice of the Courts of common Law; or otherwise than as matter of special exception, arising out of some conduct of the litigant Parties, of fraud or surprise on the Court, which would virtually render the Sentence obtained, under such circumstances, a mere nullity. The general principles of justice would support such an exception; but The King's Advocate is not aware of any other ground which would justify a Court, of the description of the Mixed Commission, in proceeding to rehear a Case on which Sentence has been pronounced and recorded. In the particular Case of the *Nova Sorte*, described in the Papers sent by you, The King's Advocate is of opinion—that the Commissioners were perfectly right in refusing the prayer for a new trial.

I am &c.

(Signed) GEORGE CANNING.

The British Commissioners, Sierra Leone.

No. 54.

Mr. Secretary Canning to Messrs. Gregory and Hamilton.

GENTLEMEN,

Foreign Office, November 12, 1823.

I HAVE received your two Despatches of the 22d April, and the 6th of June 1823, relative to the capture of the Portuguese Slave-Ship *La Sinceridade*, by His Majesty's Ship *Bann*, and the subsequent liberation of that Vessel, after a trial under the Mixed British and Portuguese Court

at Sierra Leone:—Your conduct on this occasion appears to have been guided by a due sense of justice, and in strict accordance with the Treaties under which you act; and I transmit, for your further information, the Copy of a Despatch, dated the 25th ultimo, upon the Case of the Sinceridade, which, by His Majesty's Commands, I have addressed to The King's Minister at Lisbon.

I am, &c.

(Signed) GEORGE CANNING.

The British Commissioners, Sierra Leone.

No. 55.

Messrs. Gregory and Hamilton to Mr. Secretary Canning.—(Received April 26.)

SIR,

Sierra Leone, February 8, 1824.

WE had the honour to receive, on the 1st instant, your Despatch, with its Inclosure, of the 12th of November 1823, acquainting us that you had received the Despatches of the 22d of April, and the 6th of June 1823, which His Majesty's Commissioners had the honour to address to you, relative to the capture of the Portuguese Slave-ship *La Sinceridade*, by His Majesty's Ship *Bann*, and the subsequent liberation of that Vessel, after a trial under this British and Portuguese Mixed Court.

We are happy, Sir, to learn that the conduct of the Commissioners on that occasion has met with your approbation.

We have the honour to be, &c.

(Signed) E. GREGORY.
D. M. HAMILTON.

The Right Hon. George Canning,
&c. &c. &c.

SIERRA LEONE. (Netherlands.)

No. 56.

Messrs. Gregory and Hamilton to Mr. Secretary Canning--(Received Sept. 17.)

SIR,

Sierra Leone, August 14 1823.

WE have had the honour to receive your Despatch of the 19th of April 1823, inclosing ten Copies of certain Articles, explanatory of, and additional to, the Treaty concluded at the Hague, on the 4th of May 1818, for preventing illegal Slave-trade, which explanatory and additional Articles were signed at Bruxelles, on the 31st December 1822, and on the 25th of January 1823, between the Plenipotentiaries of His Majesty, and The King of the Netherlands, duly authorised to that effect.

We shall, agreeably to your instructions, consider these Articles as binding upon us, for the guidance of our conduct, in giving effect to His Majesty's intentions, in regard to the Stipulations therein recorded.

We beg leave, Sir, respectfully to offer our congratulations upon this extension of the powers that have been given to all who are concerned in the execution of the Treaty of the 4th of May 1818. It cannot fail to be beneficial to the cause of humanity.

M. de Marrée, His Netherlands Majesty's Commissioner at this Colony, has not received from his Government the notification of this extension of the powers given under the Treaty of the 4th of May 1818, but we have given to him one of the Copies of the explanatory and additional Articles relating thereto, with which you have been pleased to furnish us.

We have the honour to be, &c.

The Right Hon. George Canning,
 &c. &c. &c.

(Signed) E. GREGORY.
 D. M. HAMILTON.

No. 57.

Mr. Secretary Canning to the British Commissioners at Sierra Leone and Surinam.

GENTLEMEN,

Foreign Office, Dec. 31, 1823.

I HAVE to acquaint you, for your information, and the information of the other Gentlemen forming the Board of which you are Members, that a communication has been made to this Court by the Netherlands Ambassador, purporting, that the Netherlands Frigate, the *Dageraad* (*Aurora*) of 32 guns and 250 men, Captain *Van der Hart*, bound for the Coast of Guinea and the East Indies, has been furnished with a Copy of the Treaty of the 4th of May 1818, between His Majesty and The King of the Netherlands, and of the several Documents annexed thereto.

I am, &c.

(Signed) GEORGE CANNING.

The British Commissioners at Sierra Leone, and Surinam.

No. 58.

Mr. Secretary Canning to Messrs. Gregory and Hamilton.

GENTLEMEN,

Foreign Office, February 4, 1824.

IN reference to my Despatch to you, of the 6th of November 1823,* upon the subject of the charges of the *Marshal* of the Court, I furnish you, for your information and guidance, with a Copy of a Despatch, dated the 8th ultimo, and of its Inclosure, from His Majesty's Minister to the Court of the Netherlands, containing the acquiescence of that Government to the proposition made to them, as to the payment of the expences which may be incurred by the Marshal of the Mixed Commission Courts at Sierra Leone and Surinam.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners, Sierra Leone.

* See No. 9.

HAVANNAH.

No. 59.

Messrs. Kilbee and Jameson to Mr. Secretary Canning.—(Received June 10.)

SIR,

Havannah, April 16, 1823.

SINCE the date of our Despatch of the 27th of February, we have not observed that any Vessel has entered this Port under circumstances which would induce a suspicion of its being engaged in illicit Slave-trade; but we have heard it reported that two Spanish Slave-ships have lately been captured to the Eastward of Matanzas by an insurgent Privateer, and that their cargoes have been sold on that Coast.

The new Spanish *Penal Code* is to be in force throughout this Island from the 21st instant. We have the honour to inclose a translation of the Article which regards the illicit traffick of Slaves. The penalties denounced against the Captains, Supercargoes, and Masters of Vessels, both Spanish and Foreign, who shall import Negroes into the Spanish Dominions, or, in the case of Spanish Vessels, which shall be found with Negroes on board,—are, the forfeiture of such Vessels, and ten years hard labour at the publick works. The Negroes are to be delared free, and are to receive 100 dollars each, provided half the value of the Vessel be sufficient for that purpose; if not, such half is to be equally divided amongst them. The purchasers of Negroes, thus illegally imported, are subject to the forfeiture of such Negroes, and to a fine equal to the price paid for them, the half of which fine is to be delivered to the purchased Negro.

It would have been desirable that some reward should have been offered to any person informing against such illegal importation of Negroes, and the purchasers of them. It is true that the Negro himself, as the Law now stands, has a two-fold incitement, namely, his own liberty and the half of the fine; but for a long period after his arrival here, he will be too ignorant to avail himself of the provisions of the Law, and after the lapse of many years, he will find it very difficult to prove the time of his importation.

But, however vigorous and perfect the Law may be, we are warranted, by the experience of nearly four years, in stating—that it will prove, like the present, to be a mere dead letter, unless greater activity and energy than hitherto, shall be manifested by the local Government upon this interesting subject. A short summary of the result of our experience will, we trust, prove the justice of this opinion.

At the period of our arrival, in the year 1819, the Slave-trade to the North of the Line was illegal; and although it was a matter of notoriety that many, if not the greater number, of the Slave-Vessels which entered this Port, brought their cargoes from the Northern Coast, yet we never heard of any step having been taken by the Government to punish those infractions of Law and Treaty, to prevent their repetition, or indeed to investigate the matter at all.

On the 30th May 1820, the term expired which was allowed by Treaty for the clearing out of the Spanish Slave-ships for any part of the Coast of Africa; and yet several Vessels have since that period cleared out publicly

for that Coast "with effects for the Slave-trade." The publicity thus given to the object of their voyage was indeed subsequently put a stop to, but, till very lately, Vessels continued to sail for the Coast of Africa, without specifying for what particular branch of commerce, although it is well known that it could be but for one purpose.

On the 30th October of the same year, the term finally expired for the admission of Slave-ships from the Coast of Africa into the Spanish Dominions; yet numerous Vessels have been admitted since that date, generally upon the plea that they had cleared out in lawful time, and had not had sufficient time to complete their voyages, although many of them were foreign Vessels, belonging to Powers which had abolished the Slave-trade, and which, therefore, had no lawful time for clearing out.

At length the Government at Madrid issued orders, which were received here in November 1821, that no more Slave-ships should be admitted, and that the Stipulations of our Slave-trade Treaty should be strictly carried into effect.—Since that time, indeed, no Slave-ships have actually been allowed to enter this Port, but the most open contraband trade has been carried on. Vessels land their cargoes on the Coast, some even at the Mouth of the Harbour, and then come in, in ballast, professedly from the Danish Island of St. Thomas. The greater part of them are French, but many of them are Spaniards, notorious Slave-traders, and some of whom had publicly cleared out from hence for the Coast of Africa, after the legal time, with effects for the Slave-trade; and they are thus allowed to enter without any examination whatever, although no doubt can be entertained of the nature of their voyages. Indeed the Persons engaged in this traffick, at length became so bold, from the impunity with which they were suffered to carry on their dealings, that, within the last eight Months, they ventured publicly to expose their newly imported Negroes for sale at the depôts here, which were used for that purpose, previous to the abolition;—but this has been put a stop to.

It is quite imposible for us to form any correct calculation as to the extent to which this illicit trade has been carried on; but, there can be no doubt, that it has been very considerable. The extensive Coasts of the Island afford great facilities, as well as the numerous out-Ports, into which, we have good reason to believe, that, at least until very lately, Slave-ships were admitted and allowed to dispose of their cargoes without any difficulty.

Latterly, indeed, the traffick has not been so brisk, but this is principally to be attributed to the present depressed state of commerce and agriculture in this Island;—and we do not yet see any reason for altering the opinion, we gave in a former Despatch to the late Marquess of Londonderry, namely, that, but for these temporary causes, the Slave-trade with this Island would at this moment be as brisk and extensive as during any period whatever.

The powers of His Majesty's Commissioners, under the Treaty of 1817, between Great Britain and Spain, are limited to the adjudication of such British and Spanish Slave-ships as shall be detained and brought in here by the Cruizers of either Nation. As yet no Case has come before the Mixed Commission, but that of the Spanish Schooner *Antonica*, as reported in our Despatch of the 10th of December 1821, of which, as the detention was not effected by a Vessel of the Royal Navy, furnished with the necessary Instructions, we were not authorized by Treaty to take cognizance. We have, however, regularly reported to His Majesty's Government, the Cases of open violation of our Treaty, alluded to in this Despatch, and such suspicious Cases of illicit traffick as have reached our knowledge;—and we have also brought them under the consideration of the Principal Authority here, not in the shape of a remonstrance, which we are not warranted in making, but, considering it to be a mark of respect due to him, that he should be apprized of those infractions of Law and Treaty which we conceived it to be our duty to report to our Government. The late Marquess of Londonderry was pleased to

approve of this line of conduct; and, in his Despatch of July 27th of last Year, he directed us to continue to pursue the same.

His Majesty's Commissioner of Arbitration, being about to avail himself of the leave of absence, which has been granted him, will be the bearer of this Despatch; and we have taken this opportunity of thus drawing your attention, generally, to the state of the Slave-trade carried on with this Island, as the local experience which he has acquired by a residence of nearly four Years, will enable him to furnish you with the fullest information upon the subject.

It is a matter of the deepest regret and mortification to us, that we cannot make a more favourable report of the result of our proceedings, since we have been employed in this Mixed Commission; but we trust that it will be evident to you, that the little success, which has hitherto attended the exertions of His Majesty's Government, for the suppression of the nefarious traffick in this Quarter, is not in any manner to be attributed to a want of zeal on the part of His Majesty's Commissioners resident here.

We have the honour to be, &c.

(Signed)

H. T. KILBEE.
R. F. JAMESON.

The Right Hon. George Canning,
 &c. &c. &c.

Inclosure in No. 59.

Article 273 of the Spanish Penal Code.

(Translation.)

THE Captains, Supercargoes, and Masters of Spanish Vessels who shall purchase Negroes on the Coast of Africa, and shall import them into any Spanish Port, or shall be found with them on board their Vessel, shall forfeit such Vessel, the value of which shall be applied as a fine; and they shall, moreover, suffer the penalty of ten years hard labour at the publick works. The Captains, Supercargoes, and Masters of Foreign Vessels who shall, in like manner, import Negroes into any Port of the Monarchy, shall suffer similar penalties. In any of the Cases included in the present Article, the Negroes found on board, or imported, shall be declared free; and each of them shall receive 100 dollars, provided the half of the value of the Vessel shall be sufficient for this purpose; and if not, the said half shall be equally divided amongst them.

Those who shall purchase Negroes thus imported, contrary to the provisions of this Article, being aware of their illegal importation, shall forfeit such Negroes, who shall be declared free, and they shall also pay a fine equal to the price they may have paid for them, the half of which fine shall be delivered to the person thus purchased.

No. 60.

H. T. Kilbee, Esq. to Mr. Secretary Canning.—(Received July 10.)

SIR,

Havannah, May 24, 1823.

On the 2d instant, Major-General Don Francisco Dionisio Vives, landed here and assumed the chief command, Civil and Military, of this Island.

I am sorry to have to announce to you, that, on the 5th and 13th instant, three Spanish Schooners, namely,—the *Luisa*, Don Francisco Loureiro, Master;—the *Fabiana*, Don Juan Manuel Maria;—and the *Liberal*, Don Antonio Sanjurjo; sailed from hence for St. Thomas, on the Coast of Africa, for the purpose, little doubt can be entertained, of engaging in the Slave-trade.

Shortly after the arrival of the new Governor, I took an opportunity of calling his attention to the subject of illicit Slave-trade. I explained to His Excellency, generally, the nature of this Mixed Commission, and apprized him that His Majesty's Commissioners were in the habit of mentioning to the Local Authorities of His Catholick Majesty, those Cases of illicit Traffick

which came under their observation, and which, although not within the limits of their Powers to take cognizance of, they yet conceived it to be their duty to report to their Government. I informed him of the general manner in which illicit Slave-trade is now notoriously carried on, without any effectual attempt having as yet been made by the Government here to put a stop to it. I then noticed the Cases mentioned in this Despatch, of three Vessels having lately cleared out from this Port for the Coast of Africa, adding, that although I was aware that legitimate commerce with that Coast was not prohibited to Spanish Subjects, yet, as little doubt could seriously be entertained as to the nature of the traffick in which these Vessels were about to be engaged, I trusted that, upon their return, their Papers and crews would undergo a strict examination, and that the penalties denounced by the Spanish Penal Code should be inflicted, if they should be found to have been engaged in illicit Slave-trade. I concluded by venturing to observe, that, in my opinion, the surest mode of gratifying and securing the good opinion of the British Nation and Government, would be by the manifestation of a decided resolution on the part of His Catholick Majesty's Authorities, to carry into effect the Stipulations of the Slave-trade Treaty, and to do all in their power to check and, if possible, completely to suppress that abominable traffick.

The Governor replied, by assuring me of his disposition (in conformity with the Instructions of his Government) to fulfil strictly the engagements entered into by Spain with Great Britain. He observed, that his authority, with respect to maritime and commercial affairs, was very limited, but he promised to do all in his power towards the suppression of illicit Slave-trade, and he assured me of his readiness, at all times, to attend to any suggestions which I should think it advisable to make to him upon that subject.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) H. T. KILBEE.

No. 61.

H. T. Kilbee, Esq. to Mr. Secretary Canning.—(Received August 4.)

SIR,

Havannah, June 28, 1823.

ON the 21st instant the Spanish Schooner *Amable Socorro*, Don Jose Inzua, Master, consigned to Don Jorge Pioli, entered this Port in ballast from the Coast of Africa.

I lost no time in apprizing the Governor and the Intendant, of the circumstances which precluded all reasonable doubt as to the nature of the traffick in which this Vessel has been engaged. I informed them that she was a Slave-trader, during the time that that trade was lawful, under her present Master; that since the Abolition she has made two voyages to the Coast of Africa, and upon her return from each has entered this Port in ballast; that she is consigned to a Person deeply engaged in the Slave-trade;—and, finally, that there is not an Individual who has any practical knowledge of this Place, that is not perfectly convinced that she landed her cargo of Negroes on the Coast, previous to her arrival in Port.

Both the Governor and the Intendant agreed, as to the suspicions which justly attached to this Case, and promised to make enquiries about it. Some days after, the former stated to me, that he had ordered the matter to be investigated; that the Captain and Consignee had declared that the object of the voyage had been to obtain ivory and gold dust, in which they were disappointed: that although this story was not credited, yet as no fact had come

to light which would justify the prosecution of the Captain for engaging in illicit Slave-trade, the matter had dropped. His Excellency, however, assured me that he had given positive orders, that all Vessels arriving from the Coast of Africa should undergo an immediate and strict examination, and that all Vessels clearing out for that Coast, should give ample security that they were about to engage in lawful commerce, and not in the Slave-trade. These orders have caused considerable alarm among the Slave-traders; and, I am informed, that the Governor upon this occasion made use of strong language to the Subaltern Authorities, and that he manifested a firm resolution to do all in his power to check illicit Slave-trade, and, at all events, effectually to put a stop to the barefaced manner in which it has hitherto been carried on.

The Governor likewise informed me, that some Spanish Subjects, Inhabitants of the Floridas, who are desirous of emigrating to this Island, had applied to him for permission to bring their Negroes with them, which permission he had granted upon the express condition that they should produce the most satisfactory Certificates from the Local Authorities there, proving that the Negroes were, *bond fide*, their property, and that they had been imported from the Coast of Africa, previous to the abolition of the Slave-trade by His Catholick Majesty.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) H. T. KILBEE.

No. 62.

H. T. Kilbee, Esq. to Mr. Secretary Canning.—(Received October 4.)

SIR,

Havannah, August 9, 1823.

ON the 8th instant the Spanish Schooner *Descamisada*, Don Juan Sandrino, Master, entered this Port in ballast from the Coast of Africa. This Vessel sailed from hence for that Coast in the month of February last, as reported by Mr. Jameson and myself, in our Despatch of the 27th of that Month. Previous to her arrival here it was commonly reported that she landed a cargo of nearly 300 Negroes in the neighbourhood of Bahiahonda.

It is with deep regret that I have to announce this event, after the strong and satisfactory assurances which I lately received from the Governor upon this subject, and of which I apprized you in my last Despatch. I have not yet had an opportunity of drawing His Excellency's attention to the present Case; but I shall not fail to do so as early as possible.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) H. T. KILBEE.

No. 63.

H. T. Kilbee, Esq. to Mr. Secretary Canning.—(Received November 18.)

SIR,

Havannah, August 25, 1823.

FOR some days, after I had the honour of writing to you on the 9th instant, the Governor was so much engaged, in consequence of the discovery of a conspiracy for the establishment of the Independence of this Island, that I had not an opportunity of speaking to him on the subject of the Schooner *Descamisada*, mentioned in my Despatch of that date. Yesterday,

however, I had an interview with His Excellency, and I stated the circumstances of the Case; and added, that it was with much regret that I had been under the necessity of reporting them to you, so shortly after I had, in consequence of His Excellency's former assurances upon this subject, expressed to you my firm conviction that transactions of this description were not likely again to be allowed to pass with impunity.

The Governor informed me, in reply, that several days previous to the arrival of the Descamisada at this Port, he had received information that she had landed a cargo of Negroes near Bahiahonda. That, without loss of time, he had sent an Officer with a Detachment of Troops to take possession of the Negroes, but that the Officer had unfortunately been detained on the road by the bad weather, and upon his arrival he could find no traces of them whatever. His Excellency added, that as soon as the Vessel arrived here, he had directed the Captain of the Port to examine her Papers and crew; but that no suspicious circumstance had been reported to him which would justify further proceedings. His Excellency lamented that his exertions in this instance had not been attended with success; and again expressed his firm resolution to do all that was in his power to put a stop to illicit Slave Trade; adding, that he would be always most willing to hear any suggestions from me upon the subject.

I have the honour to be, &c.

The Right Hon. George Canning,
 &c. &c. &c.

(Signed) H. T. KILBEE.

No. 64.

H. T. Kilbee, Esq. to Mr. Secretary Canning,—(Received December 24.)

SIR,

Havannah, September 29, 1823.

I HAVE the honour to acknowledge the receipt of your Despatch of the 16th of May last, in which you have been pleased to transmit to His Majesty's Commissioners here, ten copies of certain *Articles explanatory of, and additional to,* the Treaty concluded at Madrid on the 23d September 1817, for preventing illegal Slave Trade; and directing us to consider the same as binding upon us, for the guidance of our conduct in future.

I lost no time in forwarding a copy of those Articles to His Catholic Majesty's Commissioners, requesting at the same time that they might be added to the archives of the Mixed Commission for our future guidance. The Spanish Commissioners replied; that as the Articles in question had been transmitted to me, officially, by my Government, they had no objection to accede to my request, although, as yet, they had received no communication whatever upon the subject from their own Government.

I have the honour to be, &c.

The Right Hon. George Canning,
 &c. &c. &c.

(Signed) H. T. KILBEE.

No. 65.

H. T. Kilbee, Esq. to Mr. Secretary Canning.—(Received December 24.)

SIR,

Havannah, October 20, 1823.

I HAVE the honour to acknowledge the receipt of your Despatch of the 1st of August last *, together with the Correspondence on the Slave Trade

* See No. 5.

laid before Parliament in the course of last Session, which you have been pleased to transmit for the information and guidance of His Majesty's Commissioners.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) H. T. KILBEE.

No. 66.

H. T. Kilbee, Esq. to Mr. Secretary Canning.—(Received December 24.)

SIR,

Havannah, October 25, 1823.

ON the 19th instant three Spanish Vessels cleared out from this Port for the Islands on the Coast of Africa, namely, the Brig *Orestes*, Don Domingo Zurbano, Master, for San Thomas'; and the Brig *Teresa*, Don Juan Sandrino, Master, and the Schooner *Socorro*, Don Antonio Pulles, Master, for Princes Island. The declared object of their Voyage is, of course, lawful Commerce in those parts, but their real object is undoubtedly the Slave Trade.

I am told that these Vessels have been fitted out in consequence of a report which has reached this Place, that our Squadron on the Coast of Africa has been considerably reduced in number.

On the 21st instant the Spanish Brig *Liberal*, Don Antonio Sanjurjo, Master, entered this Port in ballast, professedly from Baltimore. This Vessel was reported to you in my Despatch, of the 24th of May, of this year, as having sailed from hence on the 13th May, for St. Thomas', on the Coast of Africa. This circumstance, the character of the Consignee, who has always been largely concerned in the Slave Trade, and common report, afford to my mind the conviction, that this Vessel has not been at Baltimore, but has come direct from Africa with a cargo of Negroes, which she has probably landed on some part of the Coast of this Island; but at the same time I am in possession of no positive proof whatever to support my conviction.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) H. T. KILBEE.

No. 67.

H. T. Kilbee, Esq. to Mr. Secretary Canning.—(Received Jan. 16, 1824.)

SIR,

Havannah, November 26, 1823.

ON the 16th instant the Spanish Brig *Vengador*, Don Joaquim Zorrilla, Master, cleared out for Princes Island on the Coast of Africa.

In a conversation which, upon a late occasion, I had with the Governor, I mentioned the number of Vessels which had of late sailed from hence for the Coast of Africa. His Excellency said, that he was well aware of the truth of what I stated, which he sincerely lamented; but that he had been informed by his law advisers that he had no authority to prevent any Vessels clearing out for that Coast, and could only continue to require from them, as hitherto, an assurance that they were about to engage in lawful commerce, and not in the Slave Trade.

I took this opportunity to allude to the Case of the Spanish Brig *Liberal*, (mentioned in my last Despatch), which cleared out for Africa in May last, and arrived *professedly* from Baltimore in October. I observed how improbable this story was; and lamented that, if it were not true, some of the Officers of the department of the Custom-house, or of that of the Captain of the Port, must have lent themselves to the transaction, by suffering a false place of departure of the Vessel to be published. His Excellency promised to enquire into the matter.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) H. T. KILBEE.

No. 68.

H. T. Kilbee, Esq. to Mr. Secretary Canning,—(Received Jan. 16, 1824.

SIR,

Havannah, December 5, 1823.

I HAVE been informed by Commodore Sir Edward Owen, that a Vessel was captured on the 3d ult. by one of his cruizers, having on board 237 Negroes. The Master stated he was from Calabar, and bound to Santiago de Cuba. The Vessel is called the *Eugenie*, under Dutch Colours, from St. Eustatia, but last cleared from St. Thomas, is manned by Frenchmen, the Master being of the same nation. The Commodore found it necessary to land the Negroes, in consequence of the state they were in, and the smallness of the Vessel.

On the 2d instant the Spanish Privateer *Romano*, Don Joze del Cotarro, Captain, having 14 guns and 140 men, sailed from this Port. This Vessel was fitted out for the purpose of cruising against French Commerce, but as it is now too late for that, she is said to be destined for Costafirme; it is much to be feared, however, that she will ultimately try her fortune on the African Coast.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) H. T. KILBEE.

No. 69.

H. T. Kilbee, Esq. to Mr. Secretary Canning.—(Received March 14.)

SIR,

Havannah, January 12, 1824.

SINCE the date of my Despatch of the 26th of November last, five Vessels, the names of which are contained in the inclosed list, have cleared out from this Port for the Coast of Africa. I did not fail to call the attention of the Governor to the departure of these Vessels, stating that I was aware, from what His Excellency had said to me upon a former occasion, that their clearing out for that coast could not be prevented, as they would all, of course, declare that it was for the purposes of lawful Commerce; but that I trusted that, at their return, they would undergo a rigid examination. The Governor assured me that he had already given strict orders to that effect.

Although I have had frequent opportunities of conversing with the Governor, lately, he has never thought proper to renew the subject of the Spanish Brig *Liberal*, mentioned in my Despatches of the 25th October and

26th November of last year: and as in that Case the conduct of Individuals under the employment of this Government was directly implicated, I considered that I should be arrogating to myself functions which I do not possess, were I to press the matter farther than I had already done.

Since the fall of the Constitutional System, the new *Penal Code*, framed by the Cortes, has been declared null and void, and, consequently, the Decree of His Catholick Majesty, of December, 1817, respecting illicit Slave-trade, is again in force. This Decree is conceived in very vague and loose terms, and is likely to become again, as it was formerly, a mere dead letter. It is not possible, in a Country like this, to point out an effectual remedy for the evil of illicit Slave-trade; but, if a revision of the Law now in force should be in contemplation, I venture to recommend strongly the expediency of granting to any Person who shall denounce such illicit traffick, a liberal reward, to be recovered by summary means, from the property of the importer and possessor of Negroes illegally imported; and I think that the *onus probandi* of the legal importation should rest with the possessor of the Negroes, as, for this, it will be merely requisite to present the Papers with which, according to Law, all Negroes are or ought to be sold.

I am convinced that such a measure would have the effect of deterring persons from purchasing Negroes illegally imported, more than the most severe Laws.

The Right Hon. George Canning,
&c. &c. &c.

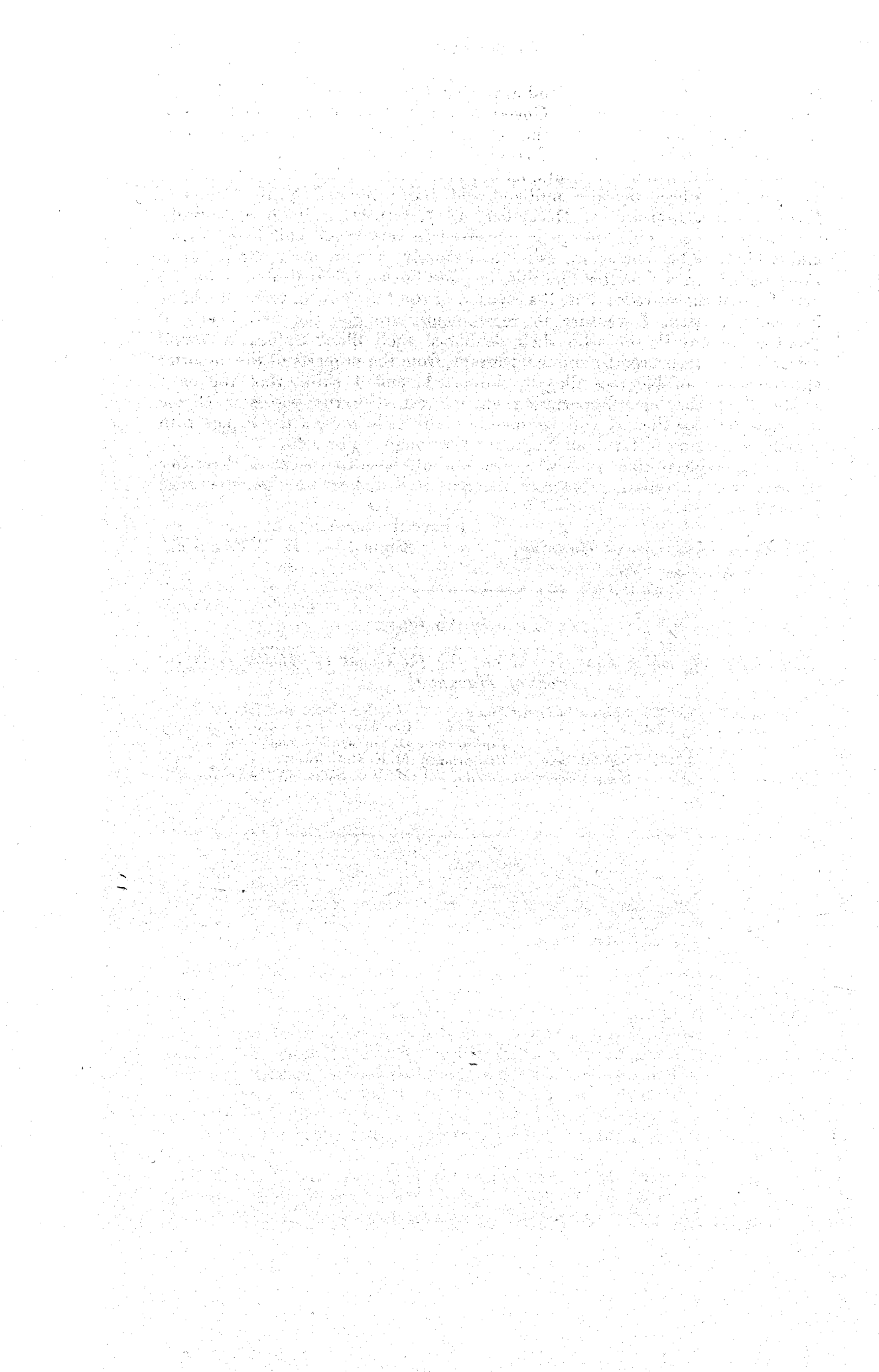
I have the honour to be, &c.

(Signed) H. T. KILBEE.

(*Inclosure in No. 69.*)

List of Vessels which have cleared out for the Coast of Africa from the Port of Havannah.

December 7, 1823,	Spanish Schooner <i>Chatica</i> ,	Don Joze Iriza,	Master.
January 2, 1824,	- - - - - <i>Feliciana</i> ,	Don Jayme Anlet,	- - -
- - - 2,	- - - - - <i>Especuladora</i> ,	D. Santiago Manzana,	- - -
- - - 4,	Swedish Brig <i>Rom-prinsen</i> ,	M. N. C. Collwilly,	- - -
- - - 9,	Spanish Schooner <i>Paulita</i> ,	D. Anto. Sanjurjo,	- - -



RIO DE JANEIRO.

No. 70.

*Messrs. Hayne and Cunningham to Mr. Secretary Canning.—
(Received June 25.)*

SIR,

Rio de Janeiro, March 5, 1823.

WE have the honour to acknowledge the receipt of your Despatch of 26th November 1822, together with its several Inclosures, viz: the Correspondence with His Majesty's Chargé d'Affaires at Lisbon, and the Draft of an Additional Article to the Convention of the 28th July 1817; the purport of which being, to extend the provisions of the Convention, for the case of the death of one of the Commissioners, to the case of *Vacancies*, occurring in the Commission from illness or leave of absence. Conveying also His Majesty's Commands that we should, without loss of time, come to an understanding with our fellow Commissioners to act in the spirit of the intended arrangement, until some more specifick agreement shall be entered into between the Contracting Parties.

In reply, we have the honour to state, for your information, that the Case in question was agitated in the course of last Summer at the Board of Commission, when Mr. Hayne, from ill health, wished to go into the Country for the change of air; the Case was referred to the Principal Secretary of State for Foreign Affairs, who, after reference to the Portuguese Commissary Judge, decided in adopting the same enlarged view of the Case which is proposed by the intended Additional Article.

We have the honour to enclose, Snr. Jozé Bonifacio's *Portaria* to the Commissary Judge on the subject, together with its translation, which we feel confident will be even more satisfactory to you than any agreement made by us with our Colleagues, more especially as the same Minister still holds the reins of Government. We have, therefore, merely communicated the contents of your Despatch to our Portuguese Colleagues, who expressed themselves ready to act upon the Minister's *Portaria* on the subject, which, in point of fact, for the time being, fully meets the object of the Additional Article.

As Mr. Hayne has since made an application to His Majesty's Principal Secretary of State, for leave of absence, it is but just that you, Sir, should be informed, that he did not avail himself of the permission of this Government, to absent himself from his Post in consequence of indisposition.

We have the honour to be, &c.

(Signed)

HENRY HAYNE.

ALEXANDER CUNNINGHAM.

The Right Hon. George Canning,

&c. &c. &c.

*Inclosure in No. 70.**Portaria of the Minister of State to the Portuguese Commissary Judge.*

(Translation.)

Palace, April 17, 1822.

THE Prince Regent orders the Secretary of State for Foreign Affairs to acknowledge the receipt of the information of the 13th of the present Month, which the Portuguese Commissary Judge of the Mixed Commission, José Silvestre Rebello, transmitted through this Secretary of State, in consequence of the Portaria sent on the 11th of the present Month, relative to the leave of absence granted to the British Commissary Judge, to go to the Minas Gerães and St. Pauls, for the benefit of his health; and on the subject of his temporary substitution in the above-mentioned Commission; and His Royal Highness is pleased to order, at the sight of the said information, that the Vacancy of the British Commissary Judge should be filled provisionally by the Deputy Consul-General of the same Nation, and that the Place of Commissioner of Arbitration should be substituted by the Vice-Consul, who resides at this Place, as is established by the Convention signed on the 28th July 1817, it being right, on no account whatever to alter what is therein adjusted and sanctioned by their Britannick and Most Faithful Majesties. This the Portuguese Commissary Judge will present to the Mixed Commission for its information.

(Signed) JOZE BONIFACIO DE ANDRADA E SILVA.
BRAZ MARTINS COSTA PASSOS, Secretary.

No. 71.

Messrs. Hayne and Cunningham to Mr. Secretary Canning.—
(Received June 25.)

SIR,

Rio de Janeiro, March 28, 1823.

We had the honour to receive on the 26th instant, your Despatch of the 10th January 1823, in which you were pleased to advert, in terms of approbation, to that part of our Despatch of the 19th of October 1822, wherein we stated that we felt it to be our duty to remain at our Post, and perform the functions of our Office in every respect, notwithstanding the political changes which are taking place in the Kingdom of Brazil.

We beg to express ourselves highly flattered by your approbation; and we earnestly hope, Sir, that our future conduct may prove equally satisfactory to you.

We beg to state, for your information, that we have uniformly found our Brazilian Colleagues, as well as the Government, ready to fulfil the Stipulations of the Convention as far as the Commission, has been concerned.

We have the honour to be, &c.

(Signed) HENRY HAYNE.
ALEXANDER CUNNINGHAM.

The Right Hon. George Canning,
&c. &c. &c.

No. 72.

Henry Hayne, Esq. to Mr. Secretary Canning—(Received July 6)

SIR,

Rio de Janeiro, April 26, 1823.

I HAVE the honour to annex a List of the Slave-Ships, with the amount of Slaves embarked, the number that died on the passage, and the number

landed in this Port, during the Months of January, February, and March of this Year, which I have the honour of transmitting for your information.

I have the honour to be, &c.

The Right Hon. George Canning, (Signed) HENRY HAYNE.
 &c. &c. &c.

Inclosure in No. 72.

List of Slave-ships and Slaves arrived at Rio de Janeiro during the Months of January, February, and March 1823.

Date of Arrival.	Description	Ship's Name.	Days Passage.	Whence.	Embarked.	Died.	Reached Rio.	Total.				
1823.												
January	6	Ship	-	Lucrecia	- - -	—	Angola	- - -	292	13	279	
"	16	"	"	Flor de Sintra	- - -	55	Mosambique	- - -	492	52	440	
"	"	Brig	-	Zephiro	- - - -	48	Quilimane	- - - -	416	9	407	
"	"	"	"	Dezengano	- - - -	—	Benguela	- - - -	460	14	446	
"	20	Ship	-	Principe Regente	- - - -	—	Mogambique	- - - -	733	44	689	
"	22	Brig	-	Trajano	- - - -	54	Quilimane	- - - -	517	24	493	
February	3	"	"	Boà Jesus Triumphe	- - - -	39	Angolo	- - - -	526	65	461	2754
"	5	Ship	-	Henriqueta	- - - -	47	Cabinda	- - - -	542	10	532	
"	9	Brig	-	Amazona	- - - -	66	Mogambique	- - - -	465	8	457	
"	13	Ship	-	Mariana	- - - -	65	- - - -	- - - -	520	79	441	
"	"	"	"	Nove de Janeiro	- - - -	108	Mogambique by Bengella	- - - -	594	66	528	
March	5	Brig	-	Conde dos Arcos	- - - -	63	Quilimane	- - - -	402	57	345	2419
"	6	Ship	-	Leopoldina	- - - -	65	- - - -	- - - -	481	201	280	
"	"	Brig	-	Minerva	- - - -	64	- - - -	- - - -	440	45	395	
"	7	"	"	Sna. da Guia	- - - -	66	- - - -	- - - -	338	98	240	
"	18	Ship	-	Camillus	- - - -	—	Bahia	- - - -	238	0	238	
"	"	Brig	-	Sna. de Baluarte	- - - -	96	Quilimane	- - - -	335	48	287	
"	21	"	"	Mercurio	- - - -	41	Benguela	- - - -	421	12	409	
									8212	845	7367	2194

No. 73.

Henry Hayne, Esq. to Mr. Secretary Canning.—(Received September 18.)

SIR,

Rio de Janeiro, June 19, 1823.

HAVING resolved upon availing myself of His Majesty's gracious permission to return to England, which you were pleased to communicate to me, in the Month of January last, I failed not to follow implicitly your Instructions, of making my intention known to the Board of Commission, and to the Local Authorities, as well as to His Majesty's Consul-General, on whom my duties devolve during my absence. There being no impediment to my leaving this, I purpose embarking this day for England, on board of His Majesty's Ship Creole.

I have the honour to be, &c.

The Right Hon. George Canning, (Signed) HENRY HAYNE.
 &c. &c. &c.

No. 74.

Henry Chamberlain, Esq. to Mr. Secretary Canning.—(Received Sept. 18.)

SIR,

Rio de Janeiro, July 5, 1823.

I BEG leave to inclose a Letter, dated the 19th ultimo, addressed to His Majesty's Principal Secretary of State, left with me by Mr. Hayne, His Majesty's Commissary Judge of the Mixed Commission, when that Gentleman embarked for England, on the 19th of last Month, on board the Creole Frigate: and at the same time to inform you, that, in compliance with a suggestion contained in a Letter from him, addressed to myself, which has been inclosed to the Commission, to be entered upon the Books, I have notified my readiness, to take the requisite oaths to enable me to take my seat at the Board as Commissary Judge, during the absence of Mr. Hayne.

The Brazilian Commissary Judge being absent in the Interior, no further steps have yet been taken in the matter.

I have the honour to be, &c.

(Signed) HENRY CHAMBERLAIN.

The Right Hon. George Canning,
 &c. &c. &c.

No. 75.

Mr. Secretary Canning to the British Commissioners at Rio de Janeiro.

GENTLEMEN,

Foreign Office, August 25, 1823.

IN reference to the Accounts of the *Emilia*, and the expences of the Slaves found on board of her, I furnish you, for your information and guidance, with a Copy of a Despatch which I have addressed, under this day's date, to His Majesty's Consul-General at Rio de Janeiro,* for regulating the principle on which the *expences of Slaves* are to be borne, between the period of their detention and that of the sentence on the detained Vessel, when that sentence is a condemnation.

You will be so good as to furnish His Majesty's Consul-General with every information you may possess on this head. I am, &c.

(Signed) GEORGE CANNING.

The British Commissioners at Rio de Janeiro.

* See Class A.

No. 76.

Messrs. Chamberlain and Cunningham to Mr. Secretary Canning.—
(Received December 20.)

SIR,

Rio de Janeiro, October 18, 1823.

WE have been honoured by the receipt of your Despatch, dated 1st August 1823,* inclosing, for our information and guidance, a Copy of the Correspondence on the Slave-trade, which has been laid before Parliament, in the course of the last Session; for which we beg leave to return our thanks.

We have the honour to be, &c.

(Signed) H. CHAMBERLAIN.
ALEXANDER CUNNINGHAM.

The Right Hon. George Canning,
 &c. &c. &c.

* See No. 5.

No. 77.

Mr. Secretary Canning to the British Commissioners at Rio de Janeiro.

GENTLEMEN,

Foreign Office, November 6, 1823.

I FURNISH you, for your information and guidance, with a Copy of a Despatch, with its Inclosure, which I have this day addressed to His Majesty's Commissioners at Sierra Leone,* upon the subject of the charges of the Marshal of the Court; and I have to desire that you will consider the Instructions therein conveyed as equally binding upon yourselves, in any Case, on which occasion may arise for their application.

I am, &c.

(Signed) GEORGE CANNING.

His Majesty's Commissioners at Rio de Janeiro.

* See No. 9.

No. 78.

Messrs. Chamberlain and Cunningham to Mr. Secretary Canning.—
(Received January 24, 1824.)

SIR,

Rio de Janeiro, Nov. 12, 1823.

WE have been honoured by the receipt of your Despatch of August 25th 1823, respecting the Accounts of the *Emilia*, and the expences of the Slaves found on board of her; and furnishing us, for our information and guidance, with a Copy of a Despatch, which you have addressed, under the above date, to His Majesty's Consul-General in this City, for regulating the principle on which the expences of Slaves are to be borne, between the period of their detention, and that of the sentence on the detained Vessel, when that sentence is condemnation: and you desire, that we will furnish His Majesty's Consul-General with every information we may possess on this head.

In reply, we beg leave, Sir, to assure you, that we will pay strict attention to your commands, and will be ready, at all times, to furnish His Majesty's Consul-General with every information which we may possess, concerning the expences of Slaves, between the period of their detention and that of the sentence on the detained Vessel, when that sentence is a condemnation.

We have the honour to be, &c.

(Signed) H. CHAMBERLAIN.
ALEXANDER CUNNINGHAM.

The Right Hon. George Canning,
&c. &c. &c.

No. 79.

Messrs. Chamberlain and Cunningham to Mr. Secretary Canning.—
(Received January 24, 1824.)

(Extract.)

Rio de Janeiro, November 12, 1823.

WE embrace this opportunity of informing you, that no Vessel has been brought into this Port for adjudication by His Majesty's Cruizers, under suspicion of having been engaged in the illicit Traffick for Slaves, since the Case of the *Emilia* Brig, condemned here on the 31st of July 1821.

We have the honour to be, &c.

(Signed) H. CHAMBERLAIN.
ALEXANDER CUNNINGHAM.

The Right Hon. George Canning,
&c. &c. &c.

No. 80.

Messrs. Chamberlain and Cunningham to Mr. Secretary Canning.—(Received March 23.)

(Extract.)

Rio de Janeiro, January 22, 1824.

IN compliance with the Instructions, dated 20th February 1819, directing us to transmit to His Majesty's Secretary of State for Foreign Affairs, Quarterly Reports of such Vessels as may be brought into this Port, for adjudication by His Majesty's Cruizers, under suspicion of having been engaged in the illicit Traffick for Slaves; we have the honour to inform you, that since our last Report, no Vessel has been brought into this Harbour by any of His Majesty's Ships-of-War, under the above-mentioned circumstances.

We have the honour to be, &c.

(Signed)

H. CHAMBERLAIN.

The Right Hon. George Canning,
&c. &c. &c.

ALEXANDER CUNNINGHAM.

No. 81.

Messrs. Chamberlain and Cunningham to Mr. Secretary Canning.—(Received April 14.)

SIR,

Rio de Janeiro, February 16, 1824.

WE have had the honour to receive your Despatch of the 6th November 1823, inclosing for our information and guidance, a Copy of a Despatch, with its inclosures, which you had addressed to His Majesty's Commissioners at Sierra Leone; and in which you desire that we will consider the Instructions therein conveyed, as equally binding upon ourselves, in every Case on which occasion may arise for their application.

We have also had the honour to receive your Despatch of the 17th of November last.* In reply, we beg leave to assure you, that we will pay strict attention to those Instructions upon all occasions, and we will take the earliest opportunity of communicating with the other Commissioners, acting with us, upon the subjects to which they refer; but, in the mean time, we beg leave to observe, that the Act of the I. and II. George IV. to which we are referred, (particularly Cap. 99, the sixth Section), has not been transmitted to us from the Foreign Office.

We have the honour to be, &c.

(Signed)

H. CHAMBERLAIN.

The Right Hon. George Canning,
&c. &c. &c.

ALEXANDER CUNNINGHAM.

* Same as No. 11.

No. 82.

Joseph Planta, Jun. Esq. to the British Commissioners at Rio de Janeiro.

GENTLEMEN,

Foreign Office, May 10, 1824.

IN compliance with the request contained in your Despatch, of the 16th of February 1824, I am directed by Mr. Secretary Canning to furnish you, for your information, with a Copy of the Act of the I. and II. George IV. Cap. 99,—relating to the proceeds of Vessels and cargoes of Vessels condemned for Slave-trade.

I am, &c.

(Signed) J. PLANTA, JUN.

His Majesty's Commissioners, Rio de Janeiro.

S U R I N A M.

No. 83.

J. H. Lance Esq. to Mr. Secretary Canning—(Received July 12.)

(Extract.)

Surinam, May 11, 1823.

I BEG leave to inform you, that the Schooner *Snow*, captured by the Netherlands Sloop-of-War, the *Kemphaan*, was condemned as prize on the 5th instant.

Inclosed I have transmitted an Abstract of her Case.

One of the Negro women taken in her, died since her arrival, and after she had been landed in this Colony; the remaining Slaves, 49 in number, have received their Certificates of Freedom, and have been placed by the Governor under the care of that very useful and respectable religious body, the Moravians, to the end, that when sufficiently instructed in the truths of the Christian Religion, they may all be baptized, after which, it is the intention of the Governor to employ them as Free Labourers.

I am sorry to be under the necessity of informing you, that one of the Sailors found on board the Slave-Schooner, named *William Askens*, is a British Subject, having acknowledged himself to be one, in two examinations which he underwent. Such being the case; immediately after the condemnation of the Schooner, I conceived it to be my duty, upon referring to a Despatch from the late Marquess of Londonderry to His Majesty's Commissioners at Surinam, dated 28th Nov. 1820, and to a Note from His Excellency the Earl of Clancarty, to His Excellency M. le Baron de Nagell, dated Brussels, Feb. 26, 1821, to claim the above-mentioned William Askens, of the Governor, for the purpose of having him sent by the earliest opportunity to some British Settlement, with a Copy of the Sentence of the Mixed Court here, and of such parts of the examinations as affect him, that he may take his Trial under the Act 51, Geo. III. c. 23, for being engaged in the Slave-trade.

His Excellency the Governor, after some consideration, in a conference which I had with him, admitted my claim, and kindly agreed, not only to lend me his assistance in keeping William Askens in safe custody, until an opportunity should occur, but to afford me the means of sending him to one of the British Settlements. His Excellency informed me, that the *Kemphaan* was then preparing for sea, and, as soon as some Ships should arrive from Holland, which he expected during the present Month, he should be able to spare her, and, if the Plan met with my approbation, she should convey William Askens to Barbadoes. I regretted extremely the necessity of keeping that individual in custody so long, but not being able to suggest any other safe method of disposing of him, I accepted of His Excellency's proposition.

I am happy to be able to inform you, that, during the whole of the proceedings no difference of opinion has existed between the Dutch Commissary Judge and myself. The Form of Process adopted, was that which had been agreed upon between him and Mr. Lefroy, and a Copy of which I believe Mr.

Lefroy transmitted to you. The examinations were framed upon the printed Interrogatories with which the Commission has been furnished.

The Schooner, with her apparel and furniture, was sold by Inventory at Public Auction, on the 9th instant; but I have not yet received an Official Report of the Sale. As soon as I shall receive a moiety of the Proceeds, I shall transmit it to Demerara in Bills of Exchange.

It gives me pleasure to be able to say, that no reports of fresh importations of Slaves have reached me since my last Despatch; but, I have heard it rumoured, and have reason to believe, that two Cargoes of Slaves which had been clandestinely imported from Africa, have been re-embarked in the same manner, and exported from this Colony.

I have the honour to be,

The Right Hon. George Canning,
&c. &c. &c.

(Signed) J. H. LANCE.

Inclosure in No. 83.

Abstract of the Case of the Slave-Schooner Snow.

THE Schooner Snow was fitted out at the Havannah for the purpose of Slave-trading. On the Coast of Africa she fell in with, and was captured by the Leona, a Colombian Privateer, commanded by a Lieutenant John Welsey, at which time she had not received any Slaves on board.

The Captors put 54 Slaves on board of her, and gave the command of her to a James Conningham, with a very mixed Crew of six men from their own Vessel. On the 1st of March 1823, His Netherlands Majesty's Sloop-of-War, the Kemphaan, fell in with her in lat. 17 n. 55 deg.; long. 64 m. 18 deg. west of Greenwich; when discovered she was carrying Netherlands Colours, but, afterwards hoisted the Colombian Flag.

The Commanding Officer of the Kemphaan, Lieutenant Godsen (the Captain being dead) upon bringing her to, found that she had water and provisions for 4 days only on board, and, therefore, took her into St. Bartholomew's to get provisions sufficient to enable him to send her to this Colony, where she arrived on the 7th ultimo.

At St. Bartholomew's James Conningham contrived to take four of the Slaves on shore, with whom he absconded. The only papers on board were an old Passport for a Schooner, called the Harlem, from the present Governor of this Colony, when Governor at St. Eustatia, a Copy of a Colombian Letter of Marque, and a Letter purporting to be from the Commander of the Leona to James Conningham, relating to his taking care of the Vessel and Cargo of Slaves.

The Master having disappeared as above stated, the Crew alone could be examined

The Mixed Court having made three Proclamations for the Master, or a Claimant to appear, and allowed three days between each Proclamation, and no person having appeared to Claim on the last day, proceeded on the 5th instant to pass sentence of condemnation against her; and decreed her Slaves to be emancipated.

(Signed)

J. H. LANCE.

No. 84.

J. H. Lance, Esq. to Mr. Secretary Canning. (Received July 12.)

SIR,

Surinam, May 18, 1823.

I HAVE the honour to acknowledge the receipt on the 13th instant of your Despatch of the 25th of October 1822, containing your observations upon the *Mode of Process* for the Mixed Court of Surinam, which Mr. Lefroy had transmitted to you. I lost no time in acquainting the Dutch Commissary Judge with your sentiments on the subject, and I received an answer from him yesterday.

With respect to the application of the money produced by the Sale of the Slave-Schooner *Snow*, the condemnation and sale of which I mentioned in my Despatch of the 11th instant, he informs me, that the Secretary had already made the payments for the necessary expences of the proceedings before the arrival of your Despatch of the 25th of October 1822, which consequently came too late to regulate the Court in that instance.

He then proceeds to observe, that the instructions from the British Ministry, though obligatory upon the British Commissioners here, are by no means so upon the Court; that "the Regulations" do not prescribe the form of Proceeding, but are merely Formularies, which have been conformed to as much as possible, except that more care has been taken to prevent prolixity in the Proceedings, or delay and expences to the Parties.

That His Majesty The King of The Netherlands, by His Decree of the 20th January 1820, has ordered a Mode of Procedure to be submitted to him, and, in the meantime, has given the Court the latitude to act according to circumstances. That the mode of Procedure which has been submitted to you cannot be considered as a Law, but only as a Projet, which the Commissary Judges have submitted to His Majesty, and as a Rule for their conduct while awaiting the decision of His Majesty; that Mr. Lefroy's zeal had induced him to have it printed, without his Colleague's consent or authority; that the Clause, nevertheless, by which the Projet had been adopted under the express condition of the approbation of His Majesty The King of The Netherlands, was so salutary, that though there should be absurdities, he should not consider himself compromised thereby. He concluded by observing, that Article Seven of the Projet, declaring that there shall be delivered Copies to the Parties requiring them, had been inserted contrary to his opinion, as, if it was adopted, it would not be possible to determine an Affair within the term prescribed by the Treaty; but that he had yielded it to Mr. Lefroy, solely on the principle of shewing respect to his Colleague.

In addition to the above observations, I beg to submit to you, that an objection exists here to the Court proceeding, *de die in diem*, on account of the Dutch Commissary Judge being also President of the Court of Civil Justice, with the Proceedings of which such a regulation might interfere.

For a further and more satisfactory explanation of what can be considered only as the temporary Rules of the Court, with the reasons of their adoption, I beg leave to refer you to Mr. Lefroy, who assisted in drawing them up, and who is now in England. In the meantime, until the Mode of Procedure is definitively settled, I shall not fail, in every Case which shall come before the Court, to impress upon it the necessity of acting as much as possible up to the spirit of the Treaty, so that all its provisions may be carried fully into effect.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) J. H. LANCE.

No. 85.

J. H. Lance, Esq. to Mr. Secretary Canning.—(Received August 7.)

SIR,

Surinam, June 8, 1823.

I HAVE the honour to acknowledge the receipt of your Despatch of the 27th of December 1822, informing me that His Majesty's Ambassador at the Court of The King of the Netherlands had been instructed to request an explanation of the conduct of the Fiscal, in restoring to the Consignee the Negroes brought into Surinam by *Charles Beverley*, and also to express a desire that inquiries might be instituted, as to whether the escape of Beverley was favoured by any Persons in the employment of the local Government, and whether any other British Subject besides Beverley, was concerned in the importation of Slaves with which that Person was charged.

I conclude from this that no interference on my part is expected.

I regret that it has been considered necessary by His Majesty's Ministers

so frequently to impress upon the British Commissioners here, the necessity of confining themselves to the Treaty, and the Act of Parliament founded thereon; but I hope that, in future, no circumstances will arise rendering it needful to repeat the admonition.

I am sorry to say, that in the memory of the oldest inhabitants, the Colony never was so sickly as it is at present. An epidemic fever, accompanied by a violent cough, has spread so rapidly both in the white and black population, that there is scarcely an individual in the largest families not affected; most of the houses in the town are shut up, the Public Offices are closed, and the streets are empty; I am also informed that on a considerable number of the plantations, all the works have been stopt, the greater part of the Negroes being in the hospitals.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) J. H. LANCE.

No. 86.

J. H. Lance, Esq. to Mr. Secretary Canning.—(Received October 11.)

(Extract.)

Surinam, July 20, 1823.

I HAVE the honour to acknowledge the receipt of your Despatch of the 19th April 1823, together with the Inclosures, and I immediately forwarded a copy of the Additional Articles to the Treaty to each of the Members of the Mixed Court.

In consequence of some reports which reached me the beginning of this month, of two Slave Ships being in the River Surinam, I proceeded in a boat to the spot where I had been told they were, for the purpose of ascertaining as far as possible the truth of the report, before I called upon the Governor to put in force the laws of the Colony against any importation of African Negroes. When I arrived at the place, I found no trace of any such Vessels; I have since spoken with the Governor on the subject, and he informed me that a large Vessel under *French* Colours, laden with Slaves, and bound from Gaudaloupe to Cayenne, had put into the river for water and provisions about the time I mentioned, that he had caused a strong detachment of military to be put on board, who did not leave her till she was fairly out at sea; that he had not allowed a single Negro to be landed, and had made the Captain pay 100 guilders a day as long as he remained; which was only three days, and that he had himself examined her papers, which were perfectly correct, or he should have seized her.

Notwithstanding this, I am still of opinion that a clandestine importation of Slaves is carried on, but to what extent I am unable to say, as it is entirely out of my power to substantiate the reports which I hear, so as to enable me to make an application to the Governor.

I am happy to be able to add, that the health of the Colony is now re-established.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) J. H. LANCE.

No. 87.

J. H. Lance, Esq. to Mr. Secretary Canning.—(Received October 11.)

(Extract.)

Surinam, August 2, 1823.

IN consequence of some reports which I had heard, and which I thought I could rely on, I waited on the Governor on the 31st ultimo, and presented him a Note, of which the inclosed is a Copy.

His Excellency, after reading it with great attention, observed to me, that, under these circumstances, the best thing to be done was to have a search, to which I immediately assented, adding, that the sooner it was made the more chance there would be of making discoveries. His Excellency expressed a determination of going himself to inspect the Plantation which I had pointed out as the depôt for newly imported Negroes, and made me an offer to accompany him. I replied, that having come with the intention of accepting such a proposal if offered, I was perfectly ready to accompany His Excellency immediately, and that I considered the promptitude with which His Excellency decided to act upon my information, as a most convincing proof of the sincerity of His Excellency's previous declarations to me, and of good faith on the part of the Netherlands Government. For a full detail of the further proceedings of that day, in which I was engaged, I beg to refer you to my Report inclosed, which I drew up yesterday at the request of the Governor. I wish to add, that, in the interval of time while waiting till the boat was made ready, His Excellency informed me, that he had full power to seize and detain any new Negroes, conducted about the Town for sale in the manner mentioned in my Note, that he should consider the not being able to speak the usual Negro language of the Colony, or any European language, as a sufficient proof that they were newly imported Africans; that the fact had never come under his own observation, and that he should feel much obliged to me if the first time I saw such a circumstance I would inform him immediately, and he would take care to follow it up properly.

For an account of the proceedings instituted by His Excellency, upon the information afforded to him by the Government Secretary and myself, on our return to Town, and also upon discovering that the Negroes whom we had seen, had been clandestinely removed, previous to the arrival of the Persons he had sent to apprehend them, I beg to refer you to the inclosed Proclamation, of which I also send a translation. It was made too late yesterday to appear in the Courant of to-day, but it will, I understand, be inserted in the Courant of Monday next the 4th instant. In this state the matter rests at present, and I shall not fail to give you early information of what further steps are taken, in bringing the business to a conclusion.

I cannot close this Despatch without expressing to you the high sense I entertain of the readiness and alacrity displayed by the Governor in the whole affair, as without the very prompt assistance which he afforded, I am convinced my exertions would have been entirely fruitless. The sensation which it has created in the Town, and the consternation into which it has thrown those Persons who are reported to be engaged in the Slave-trade, are such, that it will, I have very little doubt, tend more than any event which has hitherto taken place to repress that infamous traffick.

I have the honour to be, &c.

*The Right Hon. George Canning,
&c. &c. &c.*

(Signed) J. H. LANCE.

*First Inclosure in No. 87.**The British Commissioner of Arbitration to the Governor of Surinam.*

Paramaribo, July 30, 1823.

MR. LANCE, believing His Excellency to be actuated by a sincere desire to put an end to the abominable traffick in Slaves, wishes to draw His Excellency's attention to some facts relative to their importation into this Colony.

From what has fallen under Mr. Lance's observation publickly in the Streets, he has strong reasons for believing, that a clandestine importation of Slaves still continues. Mr. Lance has frequently seen Negroes who were evidently new, conducted about the Town for sale. Mr. Lance has also reason to believe that there is in Paramaribo more than one yard set apart for the reception of fresh imported Negroes, and, moreover, that there are at the present moment a great number of newly imported African Negroes for sale on a Plantation in the River Surinam. called Bellward.

Ignorant as Mr. Lance is, how far His Excellency's Authority extends, in entering Private Yards for the purpose of searching for newly imported Negroes, when the Vessel which brought them into the Colony is not known, or of seizing and emancipating them when found, it is impossible for Mr. Lance to suggest any course to be pursued by His Excellency; yet, situated as Mr. Lance is, he feels it to be his duty to direct His Excellency's attention to the above circumstances, as being too notorious to be passed over silently, not doubting but that His Excellency will do his utmost to put an end to the evil, which must be regarded as a most glaring infraction of the Treaty now subsisting between the Two Governments.

His Excellency General De Veer.

*Second Inclosure in No. 87.**The British Commissioner of Arbitration to the Governor of Surinam.*

(Report.)

August 1, 1823.

THE Undersigned, being requested by His Excellency the Governor to make a Report of the proceedings in which he, the Undersigned, was yesterday engaged, the 31st day of July, declares as follows:—

That, in consequence of a written Communication he made to His Excellency, about 9 o'clock in the Morning, His Excellency ordered a boat to be made ready immediately, and authorised the Undersigned to proceed to Plantation Bellward, situate on the River Surinam, to make an inspection for the purpose of ascertaining whether a number of newly imported African Negroes were not there for sale. That His Excellency at first expressed a determination to go with the Undersigned himself; but, after a little consideration, said, that having been indisposed, he had taken some medicine that Morning, which would prevent him from putting this intention into effect; that in his place, and for the purpose of giving effect and authority to such Commission, His Excellency ordered the Secretary to the Government to accompany the Undersigned to the above-mentioned Plantation. That, accordingly, a little before 10 o'clock in the same Morning, the Secretary to the Government and the Undersigned embarked together, and arrived at Plantation Bellward about 11. The Undersigned immediately on landing, saw a number of Negroes bearing every appearance of newly imported Africans, but to convince himself of the fact, he addressed some of them, but found them totally ignorant of the Language of the Colony. That the Secretary and the Undersigned proceeded on to the house, where they found a number of other Negroes, both male and female, and all bearing evident marks of being newly imported from Africa. A white Person then came forward, who spoke the French Language, and appeared to be a Frenchman. Upon asking him to whom the Plantation belonged, he said, that he and a Mr. Gardè, of Paramaribo, were joint Proprietors, but that the sale had not been completed, in consequence of 20,000 Florins being asked, when they would only give 18,000 Florins for it; he further said, that his own name was Fromentin; that there were 69 new Negroes there, that is, 61 healthy, and 8 sick; that they had been there about five Months; and that he was the Captain of the Vessel which brought them there; that it was his, and Mr. Gardè's, intention now to put the Estate in cultivation of sugar with these Negroes; and the Undersigned, in accordance with that declaration, saw a number of Cane-tops lying near the landing place; that the Government Secretary then addressed Mr. Fromentin, informing him that we were specially sent by the Government, that in the name and on the part of the Governor, he prohibited Mr. Fromentin from sending or allowing to be sent or taken away a single Person from the Plantation, until he received further orders from the

Governor, and that the Governor would consider Mr. Fromentin as responsible for every person so removed from the Plantation. That the Government Secretary and the Undersigned then re-embarked and returned to Town. And to this effect the Undersigned is ready to depose upon oath, if required.

His Excellency General De Veer.

(Signed) J. H. LANCE.

Third Inclosure in No. 87.

Proclamation of the Governor of Surinam.

(Translation.)

Paramaribo, August 1, 1823.

WHEREAS, on yesterday the 31st of July, a certain white person calling himself *Fromentin*, and pretending to be a Frenchman, having been in the dwellings on the Plantations called *Belwaarde*, situated in the River Surinam, together with sixty-nine Negroes, intimidated by the said *Fromentin* to be Slaves :

And whereas we having ordered the said Person of *Fromentin* not to absent himself, nor any of the Slaves, from the said Place, but, on the contrary, to remain there, together with the said Slaves, till our further commands against him and these Slaves should be given :

And whereas the said Person, *Fromentin*, having absented himself from the before-mentioned Place, together with the aforesaid Slaves, contrary to these our Commands ; in consequence whereof the persons whom we have despatched to fetch them, and to carry them before us, not having been able to trace them :

All and every one are hereby cautioned not to harbour or to conceal the aforesaid Person of *Fromentin* and the said Slaves, much less to give them any opportunity, or to assist them in their escape ; but, on the contrary, knowing where the aforesaid Person and Slaves are concealing themselves, to give immediate notice thereof to the nearest Publick Authority, either Military or Civil, and to assist in their apprehension ; and that otherwise, all and every one who shall act on the contrary shall be proceeded against according to Law.

All Publick Authorities in the Divisions of this Colony, and moreover all Officers and other Military men on the Posts upon the borders, are hereby invited, and forasmuch as need be, commanded, carefully to look out that the said fugitive Person and Slaves do not pass their Residences or Posts, but attempting the same, to detain them ; and further to make the necessary searches, and on discovering them, immediately to arrest the same, and to send them in safe custody to *Paramaribo*.

The aforesaid Person of *Fromentin* was dressed with a white shirt ; trowsers ; a waistcoat ; without a neck handkerchief,—and is, by guess, fifty years of age—full five feet tall—brown, and of a healthy colour,—

Forehead	- - - -	broad.
Countenance	- - - -	round.
Eyes	- - - -	gray.
Eyebrows	- - - -	light brown.
Nose	- - - -	common.
Mouth	- - - -	middling.
Chin	- - - -	round.

And in order that this may come to the knowledge of every one, We hereby command and order that this shall be published and affixed, and further be sent round the Colony from Plantation to Plantation.

(Signed) A. DE VEER.

Given at the Government-House, at *Paramaribo*,
this 1st of August 1823.

By command of His Excellency.
(Signed) J. C. GUICHERIT,
Government Secretary.

Faithfully translated from the Dutch Language, by,
CHS. LIONARONS, Sworn Translator.

No. 88.

Mr. Secretary Canning to J. H. Lance, Esq.

SIR,

Foreign Office, August 4, 1823.

I HAVE to acknowledge the receipt of your Despatch of the 11th of May 1823, respecting the capture and condemnation of the Slave-schooner *Snow*; and I have to convey to you His Majesty's approbation of your conduct, both in regard to the measures taken by you, conjointly with the Netherlands

Commissary Judge, for the condemnation of the Vessel, and to your exertions for bringing to trial the British seaman, *William Askens*, found on board of the condemned Vessel.

J. H. Lance, Esq.

(Signed)

I am, &c.

GEORGE CANNING.

No. 89.

Mr. Secretary Canning to the British Commissioners at Surinam, and Sierra Leone.

GENTLEMEN,

Foreign Office, September 3, 1823.

I HAVE to acquaint you, for your information, and the information of the other Members of the Board of Commission in which you act, that it has been duly notified to His Majesty's Government, through the Netherlands Minister at this Court, that the Netherlands Brig *Mercury*, (*De Merkuur*), of 18 guns and 100 men, commanded by Captain P. Muller, and destined for the Island of Curaçoa, will be furnished with a Copy of the Treaty of the 4th of May 1818, for preventing the Traffick in Slaves, and of the Documents annexed thereto.

I am, &c.

(Signed) GEORGE CANNING.

The British Commissioners at Surinam, and Sierra Leone.

No. 90.

Mr. Secretary Canning to J. H. Lance, Esq.

SIR,

Foreign Office, September 3, 1823.

IN reference to your Despatch of the 11th of May 1823, I have to acquaint you that the Governor of Barbadoes has been instructed by His Majesty's Secretary of State for Colonial Affairs to prosecute *William Askens*, for being concerned in the Slave-trade on board of the *Snow*. You will, therefore, send to the Governor of Barbadoes whatever information you may be able to obtain upon the subject.

I am, &c.

J. H. Lance, Esq.

(Signed) GEORGE CANNING.

No. 91.

J. H. Lance, Esq. to Mr. Secretary Canning.—(Received December 13.)

(Extract.)

Surinam, September 20, 1823.

WITH regard to the sixty-nine newly imported African Negroes, mentioned in my Despatch of the 2d ultimo, as having been seen by the Government Secretary and myself upon a Plantation in the River Surinam, and as having been afterwards clandestinely removed from thence, I have now to mention that the whole affair has been put into the hands of His Honour the Fiscal, whose particular province I understand it is to make the necessary enquiries, and bring the offenders to Justice.

A Court was accordingly held by his Honour, on the 5th ultimo, before which I was examined upon oath, relative to the facts stated in my Note and Report to the Governor, Copies of which I inclosed in my abovementioned Despatch. Since that time I have received no further Communications from

the Authorities here on the subject; but having learnt, on the 6th ultimo, by a Report upon which I thought I could depend, where the Negroes had been removed to, I deemed it right to acquaint His Excellency the Governor, and His Honour the Fiscal, with what I had heard, and the Inclosure is a Copy of the Note I addressed to the Fiscal on the occasion.

I understand that a search was made in consequence on the day following, upon the Estate I had mentioned; but as I have not been officially made acquainted with the result, I conclude that it was unsuccessful.

On the 10th instant, a large Brig, called *La Légère*, with 354 African Negroes on board, was brought into this Port, under the following circumstances, which I learnt from Captain Rich, of His Majesty's Ship Ringdove.

On the 7th instant, Captain Sir Thomas Cochrane, of His Majesty's Ship Forte, in company with Captain Rich, discovered her at anchor off the Coast of this Colony, without any Colours. Upon a signal being made for her to shew her Colours, she immediately cut her cable and endeavoured to escape, but finding that impossible, she hoisted the French Flag, and struck it again to Captain Rich at the same instant. As soon as she was boarded the Captain (a Frenchman), declared at once, that he knew he was a good prize and should, therefore, not attempt to conceal any thing. He informed Captain Rich, that his Supercargo had landed, and been in Paramaribo for three days, looking for a market, and if he could not succeed here, it was, he said, his attention, however absurd, to go on to Berbice and Demerara, and try to dispose of the cargo there.

Under these circumstances Captain Sir T. Cochrane detained her, and dispatched Captain Rich to Paramaribo, to give her up to the Authorities here. Although this was a Case clearly not within the jurisdiction of the Mixed Court, I thought it right to see His Excellency the Governor on the subject, and I was gratified to find that he had agreed to receive her as a Vessel taken in the act of attempting to violate the Decrees of The King of the Netherlands, and a force was accordingly dispatched to take possession of her, and bring her into this Port, where she is now laying for adjudication by the Fiscal.

The Captain and one of the Officers of the Brig, (neither of whose names have I been able to learn), have been put in close confinement.

The Negroes have all been landed, and I understand from His Excellency the Governor, that, as soon as the Fiscal shall have given Judgment, it is His Excellency's intention to apprentice them out to different Persons as free Negroes, according to the method pursued in the British Colonies with Negroes brought in there, since the abolition of the Slave-trade.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) J. H. LANCE.

Inclosure in No. 91.

The British Commissioner of Arbitration to the Fiscal.

Paramaribo, August 6, 1823.

MR. LANCE, wishing to assist the object of the Proclamation issued by His Excellency the Governor, on Friday last, the 1st instant, for the discovery of the Negroes who were clandestinely removed from Plantation Bellward, begs to communicate to His Honour the Fiscal a report which has reached Mr. Lance to-day, and to which he thinks some credit may be attached, of those Negroes being at present on an estate next to Plantation Zoelen, in the River Commewine, but the name of which Mr. Lance has been unable to learn.

Mr. Lance has imparted the above intelligence to His Excellency the Governor, by whom he was requested to lay it before His Honour, and Mr. Lance does not doubt but that His Honour will take all the necessary measures for ascertaining its correctness as soon as possible.

His Honour the Fiscal.

No. 92.

Mr. Secretary Canning to the British Commissioners at Surinam.

GENTLEMEN,

Foreign Office, October 30, 1823.

IN reference to your Despatch of the 18th May 1823, on the subject of Regulations for the proceedings of the Mixed Board of Commission at Surinam;—I transmit to you, for your information, the Copy of a Despatch, dated the 5th ultimo, with its Inclosure, which I have received from the Earl of Clancarty, His Majesty's Ambassador to The King of the Netherlands, stating, that Instructions were sent, on the 24th of June last, to the Local Authorities at Surinam, for the settlement of the Form of Process requisite for the direction of the proceedings of the Commission.

I am, &c.

(Signed) GEORGE CANNING.

The British Commissioners at Surinam.

No. 93.

Mr. Secretary Canning to the British Commissioners at Surinam.

GENTLEMEN,

Foreign Office, December 26, 1823.

IN reference to your Despatch of the 11th of May 1823, I send to you the Copy of a Communication which has been made by the Governor of Barbadoes to the Under Secretary of State for the Colonial Department, shewing that the Grand Jury at Barbadoes, upon hearing the evidence in the Case of *William Askens*, taken on board the Slave-vessel the *Snow*, threw out the Bill, and that the Judge of the Vice Admiralty had expressed his opinion, that William Askens had been harshly and improperly treated.

I am, &c.

(Signed) GEORGE CANNING.

The British Commissioners at Surinam.

Inclosure in No. 93.

The Governor of Barbadoes to the Under Secretary of State for the Colonial Department.

SIR,

Government-House, Barbadoes, October 16, 1823.

I HAVE been honoured by your Communication of 21st August last, covering various Documents relative to *William Askens*, taken on board the Slave-vessel the *Snow*, by His Netherlands Majesty's Sloop the *Kemphaan*, and in reply, have to state the following particulars with regard to that individual:

W. Askens arrived here from Surinam, in the *Kemphaan*, on the 4th of last July, and I, at the same time, received a Communication from Mr. Lance, the British Commissioner of Arbitration in that Colony, stating the circumstances of Askens' Case, and transmitting several Documents relating thereto, and requesting that he might be tried. The Documents alluded to were immediately forwarded to the Judge of the Vice-Admiralty Court of this Island, with my orders to bring him to trial without delay. On the 9th of the same Month, William Askens was brought before a Court of Vice-Admiralty Session; the Grand Jury, on hearing evidence in the matter, threw out the bill, and no charge appearing against him, he was in consequence discharged by my Order, on the requisition of the Judge of the Vice-Admiralty Court to that effect, who stated, that it appeared that Askens had been hardly and improperly used.

I have, &c.

(Signed) HENRY WARDE.

Wilmot Horton, Esquire,
 &c. &c. &c.

No. 94.

J. H. Lance, Esq. to Mr. Secretary Canning.—(Received April 26.)

SIR,

Surinam, February 4, 1824.

I HAVE the honour to acknowledge the receipt of your several Despatches to the 3d of September last, and also of the several Papers laid before Parliament relating to the Slave-trade, all of which arrived here on the 25th December last. I should have acknowledged the receipt of them much earlier had I not been prevented by illness, from which, owing to the unusual length and severity of the late dry season, few people in this Colony have escaped.

I shall take particular care to regulate all my future Correspondence with His Majesty's Government, in conformity with the instructions contained in your Despatches.

I acquainted the other Members of the Board of Commission in which I act, with the information contained in your Despatch of the 3d of September, that the Netherlands Brig *Mercury* (*de Merkuur*) of 18 guns, and 100 men, commanded by P. Muller, and destined for the Island of Curaçoa, would be furnished with a Copy of the Treaty of the 4th of May 1818, for preventing the traffick in Slaves, and the Documents annexed thereto.

A Form of Process has been sent out by the Netherlands Government for the use of the Mixed Court here on future occasions.

In reference to my Despatch of August 2, 1823, and the Inclosures therein contained, I have now to request your attention to the singular circumstance, that six months have elapsed, and no intelligence whatever has been gained of the 69 newly imported African Negroes, whom I, in company with the Government Secretary, saw upon a Plantation, called Bellward, in the River Surinam.

The prosecution of the whole affair, after the first discovery, rested with His Honour the Fiscal, and the conduct of that Officer in this business has been such as to impress me with a very unfavourable idea of his sincerity in enforcing the Decrees of His Majesty The King of the Netherlands for abolishing the Slave-trade. That I may not be thought to have formed this opinion upon insufficient grounds, I will detail the circumstances of the Case:

Plantation Bellward lies between the Town of Paramaribo and Fort Amsterdam, being on the same side of the River with the latter, from which it is about two miles distant, and it is impossible for Vessels of any description to reach either the Plantation or the Town without passing that Fortress.

Now, it is sufficiently surprising that the Vessel containing all those Negroes, and I believe many more which had been disposed of previous to my gaining information of them, should have eluded the vigilance of the sentinels of that Fort, in their way to Plantation Bellward, but that such a number of people should privately escape from thence, when they must have passed either the Town or the Fort in their flight, and that they should do that, not only without the knowledge of, but in the face of the measures taken by His Honour the Fiscal, and set at defiance all his enquiries afterwards, is to me so extraordinary that I think I am fully warranted by the facts, when I state, though with great reluctance, I cannot come to any other conclusion than that there must have been either great negligence or connivance on the part of the Fiscal, or of those employed under him.

I also think that other and more decisive measures might have been adopted for apprehending the accused party than the issuing the Proclamation, of which I inclose a Translation, citing him to appear before the Court of Policy and Criminal Justice on the 28th November last. Mr. Fromentin,

who had acknowledged himself to be a part Owner of the Negroes, and to have been the Captain of the Vessel which imported them, and was by such confession rendered liable to a fine of 5000 guilders, and five year's imprisonment, was not likely to give himself up to a simple citation; and no reward has been offered either for his apprehension or that of the Negroes in any stage of the proceedings.

I am happy to be able to add, in reference to my Note to His Excellency the Governor, inclosed in my Despatch of the 2d of August, that a complete stop has been put to selling newly imported Africans publickly in the Streets; nor do I believe that any Depôt for their reception exists at present in the Town, and though the importation may still possibly continue, it must be at a great distance from the Town and of a comparative limited extent.

Indeed His Excellency has repeatedly informed me, that, unless he is allowed more Ships-of-War by his Government to cruize off the Coast, it is absolutely impossible, with the best intentions, for him to put an entire stop to the importation; and when I state to you, that no Vessels-of-War of any description have been here from the end of June last, to the middle of December last, I think you will agree with me in considering it as a matter of surprise that more advantage has not been taken of such apathy or negligence on the part of the Netherlands Government, by persons interested in carrying on the African Slave-trade.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) J. H. LANCE.

(Inclosure in No. 94.)

(Translation.)

Proclamation of the Fiscal of Surinam.

CITATION BY EDICT.

IN pursuance of Authority granted by the Honourable Councillors, Commissaries of the Roll of the Court of Policy and Criminal Justice of this Colony, bearing date the 4th instant.

On the request of E. L. Baron Van Heeckeren, L. L. D. Councillor, Fiscal of the said Colony, R. O. Plaintiff, of the one Part, upon and against the Person of Fromentin, Defendant, on the other Part.

In the affair of sixty-nine (so called), *New African Negroes*, on the 31st July last, on the Plantation Belwaarde, situated on the left hand side in going up the River of Surinam, discovered by Messrs. J. H. Lance, Arbiter in the Mixed Court, and J. C. Guicherit, Government Secretary (who were commissioned by His Excellency the Governor to that effect) whom the Defendant, then there present, declared he had imported into this Colony five months before in his own Vessel, and had put them on the said Plantation, in order to cultivate the same; and which 69 Negroes, early on the morning of the 1st August last, were not found on the Plantation Belwaarde, nor was the person of the defendant then there present, notwithstanding Mr. Government Secretary, on behalf of His Excellency the Governor, did interdict the Defendant on his own responsibility, not to move any of the said Negroes, before he should have received the commands of His Excellency respecting the same. And whereas such importation having been effected in a clandestine manner, and without the knowledge of the Colonial Government, the same thereby gives birth to suspicions of a violent nature, that such importation has either been effected direct from the Coast of Guinea, or from some Colony where the direct Slave-trade from the Coast of Guinea is still allowed; and His Honour the Fiscal aforesaid, on account of the Police deeming it proper to take cognizance of such a deed, in order that those concerned in the same, for the example of others, should be convicted and punished, did apply for, and obtain from His Excellency the Governor (on account of the Court of Policy and Criminal Justice not being then sitting) a Decree of personal summons against the said Fromentin, in conformity whereof His Honour the Fiscal, by exploit from the door-keeper, bearing date 17th September 1823, did summons the said Fromentin to appear in person this day at the Criminal Roll Court, for all such purposes as is described in the said Act of Summation.

And whereas the defendant aforesaid not having complied with the said summons, as appears by his non-appearance, His Honour the Fiscal, R. O. did apply, that a summons should be served against the said Defendant, with the clause of edicte ad valvas curiæ.

We therefore, for the second time do hereby summons the said Fromentin to appear in person

on Friday the 28th day of this month of November, in the morning, at nine o'clock, at the Criminal Roll Court, in order that he may purge himself of his former non-appearance, in default of which he will be proceeded against according to Law.

This Summons by Edict will be published after the drum being first beaten from before the front of the Court-house, and affixed ad valvas curiæ.

Paramaribo, dated ut supra.

By command of Messrs. Counsellors Commissaries aforesaid.

(Signed)

J. BROMET, First Commissioner.

Faithfully translated from the Dutch language by

(Signed)

CHS. LIONARONS, Sworn Translator.

No. 95.

J. H. Lance, Esq. to Mr. Secretary Canning—(Received April 26.)

SIR,

Surinam, Feb. 6, 1824.

IN obedience to the directions which I have had the honour to receive, concerning the Office of *Marshal* of the Court of Mixed Commission established here, I have to inform you, that, in the only Case which has hitherto been brought before this Court, the services usually rendered by a Marshal in our Courts of Admiralty, were performed partly by the Secretary of the Court, and partly by the Person who has acted as door-keeper. As the Secretary has a regular Salary allowed by the Netherlands Government, no account of Services has been given in, nor any charge made by him.

As no provision had been made by the Netherlands Government, either in respect to the Person exercising the Office of Marshal, or the fund out of which the expences should be paid, the Court was obliged to take upon itself the appointing a Person, and the charges were defrayed out of the gross sum produced by the sale of the Vessel. The expences of the Crew and the Slaves on board of the captured Vessel, previous to her arrival at this Port, were also deducted out of the same fund, but, after her arrival, the Crew being placed in confinement till the decision of the Court was known, their expences were paid by this Government, while those of the Negroes were still deducted in the same manner as before. I presume a similar course will be pursued upon the capture of other Slave-vessels, until instructions arrive to the contrary; and, as it appears upon the whole to be fair and equitable, I humbly conceive that an alteration, with regard to this particular Court, would very probably not be more effectual for the purposes required, or give greater satisfaction than the present arrangement.

I now wish to draw your attention to a fact which probably you may deem worthy of some representation to the Netherlands Government, namely, that the Officers and Crew of the Vessel capturing, are not entitled to any part of the money produced by the sale of the Slave-vessel, nor are they, I am informed, allowed any equivalent by the Netherlands Government. I mention this circumstance, because I think it cannot fail to have great influence with Dutch Ships-of-War, in making future captures, as the Captain now runs all the risk of the Slave-vessel not being condemned, and of being thereby rendered liable himself to an action for damages by the Owners, for having illegally detained her, without any compensation for such a risk.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) J. H. LANCE.

No. 96.

J. H. Lance, Esq. to Mr. Secretary Canning—(Received April 26.)

SIR,

Surinam, Feb. 16, 1824.

IN reference to my Despatch of the 20th of September of last Year, I have now the honour to inform you, that the French Brig *La Légère*, with 353 Slaves on board (stated by mistake at 354 in my former Despatch) detained and sent in by His Majesty's Ship *Forte*, Captain Sir Thomas Cochrane, on the 9th of September last, was, after a very long investigation before the Fiscal and Court of Policy and Criminal Justice, acquitted of the intention of smuggling the Slaves into this Colony, and was accordingly restored to Jean Marie Bled, the Supercargo, and Pierré Pousin, the Captain, upon payment of all the legal and other expences incurred here;—the being found at anchor off this Coast, with provisions for forty days on board; the endeavouring to escape; the Supercargo being on Shore for three days, and coming to Town for fresh provisions only; and the Declaration of M. Pousin to Captain Rich at the time of the capture; being all considered as insufficient evidence of such an intention, so as to bring her within the Decrees of His Majesty The King of the Netherlands.

Such being the case, His Excellency the Governor determined upon sending her to Martinique, under escort of the Netherlands Sloop-of-War, the *Kemphaan*, there to be delivered up to the French Authorities, and, in pursuance of such determination, the Slaves were re-embarked on the 6th ultimo, and the Vessel was ordered to sail as soon as possible.

On the 8th she got under weigh, but, in proceeding down the River, accompanied by the *Kemphaan*, ran aground between the Town and Fort Amsterdam. The Captain of the *Kemphaan* immediately dispatched an Officer with some men to give the requisite assistance in getting her a-float again. The Officer, on going on board, found that the Supercargo and M. Pousin had absconded, and acquainted the Captain of the *Kemphaan* with that circumstance, who, thereupon, reported it by Letter to the Governor, and requested to know whether he should still carry the Brig to Martinique, and whether any fresh instructions were necessary.

The Governor instantly decided, that the absence of the Supercargo and M. Pousin was not of sufficient importance to prevent or delay the intended voyage, and, therefore, ordered the Captain to proceed with his charge forthwith; but shortly after, hearing a report that all the Negroes had been again disembarked and carried away, His Excellency dispatched an Officer on board to learn the truth, who, upon his return, brought the information, that only fifteen Negroes remained in the Brig, the others having been smuggled out of her in the most daring manner, while she lay under the guns of Fort Zealandia on the one side, and within musket-shot of the *Kemphaan* on the other.

Upon the receipt of this intelligence, the Court of Policy and Criminal Justice was immediately summoned, and the inclosed Proclamation (marked A,) was issued, "prohibiting all persons from concealing the Negroes, and offering a reward of ten thousand Guilders to whoever would give information, so as to apprehend and convict the persons guilty of carrying them away"; and the Governor, by the inclosed Proclamation (marked B) "in order to take away all means by which the Supercargo and Captain, together with part of the Crew of the Brig might escape, by clandestinely leaving the Colony"; laid an embargo upon all Vessels then in this Port, or which should arrive afterwards, except the Dutch Merchant Ships, which, nevertheless, were to be subject to all such searches as should be deemed proper.

Troops were also dispatched to the Mouths of all the Rivers and Creeks communicating with the Sea, with orders to arrest every boat or canoe proceeding out to Sea, and the reputed Agent and Consignee of the Brig, a Mr. Richard O'Ferral, junior, was placed in close confinement in the Fort.

In consequence of all these measures, His Excellency very soon obtained information of the Place where the Negroes were concealed, which he no sooner ascertained, than, having stationed a number of armed Sloops in different parts of the River, so as to preclude the possibility of any boat or canoe passing for the purpose of giving the alarm, he dispatched a strong detachment of troops, who arrived near the place, where the fugitives were all encamped in huts hastily erected, about 4 o'clock in the Morning of the 13th, (it being in a part of the bush near the Mouth of the Surinam River, called Younkerman's Creek,) and having surrounded the whole, succeeded in taking them into custody, together with the Supercargo, and a white man from Martinique, who had been on board the Brig, and one of the sailors, without any resistance or accident. Indeed, the Negroes were so well satisfied with the treatment they had experienced during the time they had been here, that they hailed the soldiers as their old friends, and the Supercargo and the sailor, the only persons who were prepared for, and most probably would have made, resistance, were disarmed and secured while sleeping.

The anxiety of the Governor for the success of the undertaking was so great, that he went in person to the spot and superintended the whole business.

The Negroes were all then conveyed to Town, and the past events having set at rest all doubts concerning the intention of smuggling them into this Colony; the Brig was immediately taken possession of by the Government; the Negroes were declared free, and all the white people concerned in carrying them away were placed in confinement, where they still remain awaiting the decision of the Court.

The conduct of the Governor throughout this whole affair has been such as to evince his sincerity in executing the Decrees of The King of the Netherlands against the Slave-trade, and I firmly believe that it is wholly owing to his individual exertions, made too at a period of the greatest family distress, from the death of one of his sons, and the severe illness of a daughter, that the recapture of the Negroes was effected; and this most barefaced attempt at setting his authority and the laws at defiance, met with the reward it merited.

You will observe by the inclosed Proclamation (marked C) by which the embargo is taken off, that only 269 Negroes are mentioned as being retaken. This is accounted for by the circumstance that 44 of the original number had been in the Hospital, and never were re-embarked on board the Brig, but had been secreted by the Consignee, and a false Certificate given to the Fiscal of their having been taken on board. The person having them in charge, finding the danger he ran in harbouring them, delivered them up to the Fiscal the day after the first Proclamation.

It has been ascertained that the Captain of the Brig took two Negro girls with him when he left the Vessel, who have not yet been discovered; that one Negro died in the bush during the time of their concealment, and 22 died in the Hospital since their arrival, which, with the 15 left on board, make up the original number of 353.

The embargo was continued some days longer in hopes of retaking M. Pousin, but no intelligence was gained concerning him, and, most probably, he has effected his escape.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed)

J. H. LANCE.

First Inclosure in No. 96.

Proclamation (A.) of the Governor of Surinam.

(Translation.)

CAUTION.

Paramaribo, January 10, 1824.

WHEREAS the Court of Policy and Criminal Justice of this Colony, having with indignation discovered that a great number of Negroes, who were on board of the French Brig *La Légère*, after their embarkation in the said Brig, on the Morning of the 6th January this Year, have been taken off and carried away, without the place of their present residence being known.

All and every one are hereby cautioned and forbidden not to secrete, or to conceal any of these Negroes, much less to buy any of them, on pain that those who shall be found to have secreted, concealed, or bought one or more of the said Negroes, shall incur the same punishments as are fixed by His Majesty's Decree of the 17th September 1818, against the Slave-traders.

Moreover all and every one knowing the person or persons guilty of carrying away the said Negroes, or the accomplices of such person or persons, are invited immediately to give notice to the Fiscal in such manner that the same may be convicted thereof, and in which case, a premium of ten thousand Guilders will be paid to any such person or persons, and his or their names, if required, be concealed.

And in order that nobody may pretend any ignorance hereof, this shall be published and affixed, where it is customary to be done.

(Signed) A. DE VEER.

Paramaribo, January 10, 1824.

By Command of the Court.

(Signed) R. VAN REES AZ, Secretary.

Faithfully translated from the Dutch Language, by

(Signed) CHARLES LIONARONS, Sworn Translator.

Second Inclosure in No. 96.

Proclamation (B.) of the Governor of Surinam.

(Translation.)

Paramaribo, January 10, 1824.

We, Abraham de Veer, &c. &c. &c.

WHEREAS we deem it of importance to discover where the fugitive Persons, Jean Marie Bled, Supercargo, and Pierre Pousin, Captain, along with some of the crew of the French Brig *La Légère*, together with the Slaves clandestinely carried away on the River of Surinam from on board of the said Brig, do conceal themselves, and in order to avoid all means by which they might escape our pursuit, by clandestinely leaving the Colony, or be carried away:

We have thought proper to command, as we do command by these presents, that an embargo be laid through the whole extent of this Colony, on all Ships and Vessels which are here, or those which shall arrive, with the exception of Netherlands Merchant-vessels belonging to Subjects of that Kingdom, which Vessels will, nevertheless, on their departure, be subject to all such searches and regulations as we shall deem proper for the aforesaid purposes:

And this measure shall take effect until the same shall be removed.

And We do further command that this shall be published, affixed, and inserted in the Government Paper and Gazette.

Done at Paramaribo, in the Colony of Surinam, this 10th January 1824, in the eleventh year of His Majesty's reign.

(Signed) A. DE VEER.

By command of His Excellency, in the absence of the Government Secretary.

(Signed) J. G. RINGELING,
1st Commis.

Faithfully translated from the Dutch Language, by

(Signed) CHS. LIONARONS, Sworn Translator.

Third Inclosure in No. 96.

Proclamation (C.) of the Governor of Surinam.

PUBLICATION.

(Translation.)

Paramaribo, January 23, 1824.

We, Abraham de Veer, &c. &c. &c.

TO all men unto whom this shall come, greeting. Whereas, the causes which have given occasion to the laying on of an embargo on the Ships, by our Publication of the 10th of this Month, now, for the most part, have ceased to exist, inasmuch as the fugitive Person of Jean Marie Bled, and one of the missing sailors of the Slave-trading French Brig *La Légère*, together with the number of 269 African Negroes, clandestinely carried off from the same Vessel, have been since apprehended by this Government, and the African Negroes freed from the Slavery into which the drivers of that prohibited and detestable trade carried them away.

And whereas, we trust that the Caution issued on the 10th of this Month, by the Court of Policy and Criminal Justice, will have its due influence on all the inhabitants of this extended Colony, and, that nobody will harbour, conceal, secrete, or clandestinely and criminally carry away from this Colony the Persons and Negroes of the aforesaid French Brig, still missing, that the same may get into the hands of Government.

And in order to ease and promote navigation and trade, we have resolved to remove the interruption which was occasioned by the embargo, and by these presents do free all Vessels and Ships from the same.

All Captains and Commanders are yet earnestly prohibited, on pain of being liable to a severe prosecution and punishment, not secretly and criminally to carry away any of the Persons or African Negroes still missing, in order that they may not escape our pursuit.

We do further command that this shall be published, affixed, and inserted in the Government Paper and Gazette.

Done at Paramaribo, in the Colony of Surinam, this 23d day of January 1824, in the eleventh year of His Majesty's reign.

Published and affixed the 24th following.

(Signed) A. DE VEER.

By command of His Excellency.

(Signed) J. C. GUICHERIT,
Government Secretary.

Faithfully translated from the Dutch Language, by

(Signed) CHS. LIONARONS, Sworn Translator.

No. 97.

J. H. Lance, Esq. to Mr. Secretary Canning.—(Received May 1.)

(Extract.)

Surinam, February 26, 1824.

I HAVE the honour to acknowledge the receipt of your Despatches to the 6th of November 1823, which arrived on the 22d of this Month.

I forwarded an Extract from your Despatch of the 6th of November, to the British Commissioners at Sierra Leone, upon the subject of a *Marshal* of the Mixed Court, to the Dutch Commissary Judge, and I have since had a conversation with him on that subject, in which he expressed his perfect readiness to concur, provisionally, with the British Commissioners upon the points mentioned in your Despatch, in any case on which occasion may arise for their application.

I have the honour to be, &c.

The Right Hon. George Canning,
&c. &c. &c.

(Signed) J. H. LANCE.

No. 98.

Mr. Secretary Canning to J. H. Lance, Esq.

SIR,

Foreign Office, May 9, 1824.

YOUR Despatches up to the 26th of February 1824, have been received and laid before The King.

The King has been graciously pleased to signify His approbation of the fidelity and discretion with which you appear to have exercised the duties of your Situation: and, in acknowledging the receipt of your Despatch, of the 16th of that Month, His Majesty's Government are glad to express the gratification with which they have perused the Report which you give, of the highly honourable conduct of the Governor of Surinam, on the occasion of the detention of the French Brig *La Légère*.

I am, &c.

J. H. Lance, Esq.

(Signed) GEORGE CANNING,