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ROYAL COMMISSION ON FUGITIVE SLAVES.

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R E P O R T

OF

THE COMMISSIONERS,

MINUTES OF THE EVIDENCE,

AND

A P P E N D I X,

WITH

G E N E R A L I N D E X

OF

MINUTES OF EVIDENCE AND APPENDIX.

---

Presented to both Houses of Parliament by Command of Her Majesty.

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L O N D O N :

PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,  
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.  
FOR HER MAJESTY'S STATIONERY OFFICE.

1876.

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## ROYAL COMMISSION.

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*VICTORIA* R.

**Victoria**, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

**To** Our right trusty and right entirely-beloved Cousin and Councillor Edward Adolphus, Duke of Somerset, Knight of Our Most Noble Order of the Garter; Our right trusty and well-beloved Councillor Sir Alexander James Edmund Cockburn, Baronet, Knight Grand Cross of Our Most Honourable Order of the Bath, Lord Chief Justice of England; Our right trusty and well-beloved Councillor Sir Robert Joseph Phillimore, Knight, Doctor of Laws, a Judge of Our High Court of Justice; Our right trusty and well-beloved Councillor Mountague Bernard, Doctor of Civil Law, a Member of the Judicial Committee of Our Privy Council; Our trusty and well-beloved Sir Thomas Dickson Archibald, Knight, one of the Judges of the Common Pleas Division of Our High Court of Justice; Our trusty and well-beloved Alfred Henry Thesiger, Esquire (commonly called the Honourable Alfred Henry Thesiger), one of Our Council learned in the Law; Our trusty and well-beloved Sir Henry Thurstan Holland, Baronet, Companion of Our Most Distinguished Order of Saint Michael and Saint George; Our trusty and well-beloved Sir Leopold George Heath, Knight Commander of Our Most Honourable Order of the Bath, Rear-Admiral on the Retired List of Our Fleet; Our trusty and well-beloved Sir Henry James Sumner Maine, Knight Commander of Our Most Exalted Order of the Star of India; Our trusty and well-beloved Sir George Campbell, Knight Commander of Our most Exalted Order of the Star of India; Our trusty and well-beloved James Fitzjames Stephen, Esquire, one of Our Council learned in the Law; and our trusty and well-beloved Henry Cadogan Rothery, Esquire, Our Registrar in Ecclesiastical and Admiralty Causes, greeting:

**Whereas** We have deemed it expedient that a Commission should forthwith issue to inquire into and report upon the nature and extent of such international obligations as are applicable to questions as to the reception of Fugitive Slaves by Our ships in the territorial waters of foreign States, and into all instructions from time to time issued to the Commanders of Our ships relative thereto, and whether any engagements into which this country has entered bear upon such questions, and whether in case such obligations, instructions, or engagements shall appear to be at variance with the maintenance by Our ships and officers in whatever waters they may be of the right of personal liberty, any and what steps should be taken to secure for them greater freedom of action in this respect.

**Now know ye**, that We, reposing great trust and confidence in your knowledge and ability, have authorised and appointed, and do by these presents authorise and appoint you the said Edward Adolphus Duke of Somerset, Sir Alexander James Edmund Cockburn, Sir Robert Joseph Phillimore, Mountague Bernard, Sir Thomas Dickson Archibald, Alfred Henry Thesiger, Sir Henry Thurstan Holland, Sir Leopold George Heath, Sir Henry James Sumner Maine, Sir George Campbell, James Fitzjames Stephen, and Henry Cadogan Rothery, to be Our Commissioners for the purposes aforesaid.

**And** for the better effecting the purposes of this Our Commission, We do by these presents give and grant unto you, or any three or more of you, full power and authority to call before you such persons as you shall judge likely to afford you any information upon the subject of this Our Commission, and also to call for, have access to,

and examine all such books, documents, registers, and records as may afford the fullest information on the subject, and to inquire of and concerning the premises by all other lawful ways and means whatsoever.

And We do by these presents will and ordain that this Our Commission shall continue in full force and virtue, and that you Our said Commissioners, or any three or more of you, may from time to time proceed in the execution thereof and of every matter and thing therein contained, although the same be not continued from time to time by adjournment.

And We further ordain that you, or any five or more of you, may have liberty to report your proceedings under this Commission, from time to time, if you shall judge it expedient so to do.

And Our further will and pleasure is, that you do, with as little delay as possible, report to Us, under your hands and seals, or under the hands and seals of any five or more of you, your opinion upon the several points herein submitted for your consideration.

And for your assistance in the execution of these presents, We do hereby authorise and empower you to appoint a Secretary to this Our Commission to attend you, whose services and assistance We require you to use from time to time, as occasion may require.

Given at our Court at Saint James's, the fourteenth day of February, one thousand eight hundred and seventy-six, in the Thirty-ninth year of Our Reign.

By Her Majesty's Command,

RICHARD ASSHETON CROSS.

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## R E P O R T.

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TO THE QUEEN'S MOST EXCELLENT MAJESTY.

By Your Majesty's Commission we are directed "to inquire into and report upon the nature and extent of such international obligations as are applicable to questions as to the reception of Fugitive Slaves by Your Majesty's ships in the territorial waters of Foreign States, and into all instructions from time to time issued to the Commanders of Your Majesty's ships relative thereto, and whether any engagements into which this country has entered bear upon such questions; and whether, in case such obligations, instructions, or engagements shall appear to be at variance with the maintenance by Your Majesty's ships and officers, in whatever waters they may be, of the right of personal liberty, any and what steps should be taken to secure for them greater freedom of action in this respect." Having inquired into and considered the subjects so referred to us, we humbly submit to Your Majesty the following Report:

### I.

The first question for our consideration is:

"The nature and extent of such international obligations as are applicable to the reception of fugitive slaves by ships of the Royal Navy in the territorial waters of foreign states"

We understand that under this head we are required to report on international obligations which are not created by treaty engagements, but such only as are recognized by maritime Powers in general as applicable to their commissioned ships when admitted into the ports and waters of foreign states.

The reception of fugitive slaves is not a matter in regard to which there has been any common understanding amongst nations. In several treaties concluded in the seventeenth and eighteenth centuries by various European Powers with States of the Barbary coast, and in some treaties concluded with them by the United States of America, provision has been made for the case of slaves who should escape to ships of war lying in Barbary ports; the principle generally adopted being that the slave should be free, though to this there are some exceptions. Otherwise, so far as we are aware, the question has never presented itself practically to any nation but our own.

It is clear that the jurisdiction of every independent nation within its own territory is supreme, otherwise the nation would not be independent. This supremacy entitles it to exclude all ships, whether merchant ships or ships of war, from its ports and harbours. It can also admit them on such conditions and subject to such regulations as it may choose to impose.

Where no special conditions are imposed all ships entering the territorial waters of a foreign state are bound by the obligations of international law, which may be held to be the result of the common understanding of nations as evidenced by their practice.

Merchant ships are subject to the laws of the state whose harbours they enter. Ships of war, on the other hand, being national ships, have certain privileges and immunities founded on universal custom.

It may, we conceive, be safely affirmed that a ship of war entering the waters of a friendly state is by the common practice of nations regarded as exempt, speaking generally, from the jurisdiction of the local authorities, and is at the same time under an international obligation, speaking generally, to respect the local law.

We are unable, however, to report that the extent of the immunity on the one hand, or the limits of the obligation on the other, have been so clearly and completely settled by international usage that they can be stated with absolute confidence and precision. There is room for a difference of opinion with respect to them, and such a difference of opinion exists. In like manner, with reference to the principles of international law applicable to the reception of fugitive slaves, a difference of opinion exists, and the views of some of the Commissioners on these subjects will be found annexed to the Report.



We think it better, therefore, to refrain from attempting a definition on which doubt must rest, the more so as, notwithstanding such difference, we are able to concur in the recommendations which will be found in this Report, and we believe that, if they be adopted by Your Majesty's Government, the measures necessary for giving effect to them would not afford reasonable cause of complaint to foreign countries. For it must always be remembered, that states within whose territories slavery continues to exist can refuse to admit British ships of war into their ports and waters, should they deem this extreme measure necessary for the protection of national or private interests.

We have endeavoured, through the Foreign Office, to ascertain what are the law and practice of foreign nations with reference to the reception of fugitive slaves on board their ships of war. It appears, as has been stated above, that the question has not presented itself practically to any of them; but much information has been courteously supplied to us bearing indirectly on the subject.

Thus Portugal and Holland hold that a slave seeking refuge on board a ship of war in the territorial waters of a foreign state would have to be surrendered to the authorities of such state on their request.

Germany and Italy consider that a ship of war is part of the national territory, and the Italian Minister for Foreign Affairs states, that according to Italian legislation there can be no doubt "that a slave who might take refuge on an Italian ship, considered by his government as a continuance of the national territory, whether on the high seas or in territorial waters, must be considered as perfectly free."

Your Majesty's Minister at Washington reports that the United States Secretary of the Navy gave it as his opinion "that at present no officer would for a moment think of giving up a slave who had taken refuge on board his vessel in order that he might return to his condition of slavery."

The Russian naval regulations contain a general prohibition to the officers of the navy against receiving any strangers on board their ships, but instruct them to act according to their own judgment and on their own responsibility in especially important cases, and state that the prohibition to receive strangers does not extend to the saving of persons in distress, of whatever nation they may be.

In France a wide discretion is left to the naval officer, as stated in the following letter of the Duc Decazes, Minister for foreign affairs :

The DUC DECAZES to LORD LYONS.

MONSIEUR L'AMBASSADEUR,

Versailles, le 21 Mars 1876.

VOTRE Excellence, par sa lettre du 8 de ce mois, m'a exprimé le désir d'avoir communication, pour les transmettre au Gouvernement de Sa Majesté Britannique, des documents relatifs à la protection des esclaves fugitifs qui cherchent un refuge à bord des bâtiments de guerre Français, soit en pleine mer, soit dans les eaux territoriales d'un état étranger.

Je m'empresse de vous faire savoir qu'il n'existe point d'instructions spéciales sur ce point dans la Marine Française.

Les difficultés que peut soulever la situation des esclaves fugitifs dans leurs rapports avec nos navires restent soumises aux principes généraux du droit des gens, chaque commandant devant s'efforcer d'en faire l'application la plus équitable, suivant les circonstances dans lesquelles des questions plus ou moins délicates viennent à se produire.

Agrééz, &c.

DECAZES.

Lord Lyons,  
&c. &c.

Spain, Belgium, Denmark, and Norway and Sweden give us no information whatever on the case of a slave taking refuge on board a ship of war in foreign territorial waters.

II.

The next question which we have to consider is—

"Whether any engagements into which this country has entered bear upon such questions."

We have examined all the treaties having reference to slavery, which are still in force as between Great Britain and foreign states.

We find that there are no engagements which would interfere with the reception of fugitive slaves on Your Majesty's ships of war, with the exception of the Treaty of 1865 with Madagascar.

Article IX. of that Treaty provides that, "No subject of the Queen of Madagascar shall be permitted to embark on any British ship, except such as shall have received a passport from the Malagasy authorities."

Under this article, therefore, the commander of a British ship of war could not properly receive a fugitive slave.

See Memo. on  
Treaties,  
Appendix, p. 88.

Case of the  
"Dryad" and  
"Nymph,"  
P.F. Slave  
Trade, No. 1,  
1876. See  
Appendix,  
p. 163.

### III.

The third question to be considered relates to—

"All the instructions from time to time issued to the commanders of our ships," having reference to the reception of fugitive slaves in their ships.

Those which we have obtained, comprising as far as we can learn all that have been issued within the last twenty years, are the following :

No. 1.

(A.)

The EARL OF CLARENDON to MR. JERNINGHAM.

SIR,

Foreign Office, June 19, 1856.

WITH reference to my despatch of the 30th of April last, approving the Circular despatch addressed by you to Her Majesty's Consuls in Brazil, instructing them to warn the masters of British merchant vessels of the liabilities to which they subjected themselves by harbouring slaves on board their ships, with the view to carry them away, I have to state that, as merchant vessels are subject to the law and jurisdiction of the country in whose ports they may be, it was right that warning should be given to the masters of British vessels with regard to this matter; but it should be borne in mind that if a slave were to take refuge on board a British ship of war, it will still, as heretofore, be the duty of the captain to refuse to surrender such slave.

I have, &c.,  
CLARENDON.

(B.)

MR. JERNINGHAM to the EARL OF CLARENDON.

MY LORD,

Rio de Janeiro, August 7, 1856.

WITH reference to your Lordship's despatch of June 19, in which your Lordship states, when alluding to a Circular which I had addressed to Her Majesty's Consuls in Brazil, instructing them to warn the masters of British merchant vessels of the liabilities to which they subjected themselves by harbouring slaves on board their ships with the view to carry them away, that although it was right such a warning should be given to the masters of British merchant-men in this matter, if, however, a slave were to take refuge on board a British ship of war, it will still, as heretofore, be the duty of the captain to refuse to surrender such slave, I beg to have the honour to announce to your Lordship that I have sent a copy of your Lordship's despatch to the British Admiral, Commander-in-Chief of Her Majesty's naval forces on this station, in order that he may be perfectly informed of the views of Her Majesty's Government upon the point in question.

I have, &c.,  
WM. STAFFORD JERNINGHAM.

No. 2.

(A.)

MR. HAMMOND to the SECRETARY TO THE ADMIRALTY.

SIR,

Foreign Office, January 6, 1870.

I AM directed by the Earl of Clarendon to acknowledge the receipt of your letter of the 7th ultimo, inclosing a letter from the commander of Her Majesty's naval forces on the East Coast of Africa, relative to the complaints preferred against the commanders of Her Majesty's ships "Nymph" and "Dryad," by the Hova authorities, with regard to their proceedings in carrying off and then liberating certain domestic slaves at Majunga, who swam off to those vessels to escape from their masters, and in destroying certain slave dhows at the same port, and I am to state to you in reply, for the information of the Lords Commissioners of the Admiralty, that Lord Clarendon conceives that the commanders of Her Majesty's ships "Nymph" and "Dryad" were not justified in sailing away with the slaves in question in the manner above set forth.

The status of slavery being acknowledged and lawful in Madagascar, the commander of a British ship-of-war is not borne out in depriving the inhabitants of slaves who are rightfully their property, and the owners of such slaves are plainly entitled to compensation from us for the losses incurred at our hands by their abduction.

If a British cruizer were at sea beyond the territorial jurisdiction of Madagascar, and slaves on shore were to seize a boat to escape to the British ship, the case would be different, and we might then fairly decline to surrender persons received on board under such circumstances; it is, however, impossible to approve the conduct of Her Majesty's officers in cases like the present, the facts of which simply amount to the entry into the waters of a friendly power of a British ship, and to her depriving the subjects of that power of their lawful property.

Such a course can, moreover, have no other effect than to indispose the natives and authorities towards us, and would in all probability tend to prevent their carrying out their engagements for the suppression of the slave trade.

The circumstances under which the "Nymph" destroyed the dhows are not stated, but if they were clearly ascertained to be slavers she would be justified in destroying them, if she could not send them to a port of adjudication, and the commander of the "Nymph" would also be borne out in requiring the slaves to be handed over to him, if, after communication with Her Majesty's Consul at Tamatave, it should appear that the Hova Government and authorities could not ensure the slaves their freedom. No British authority, however, naval or other, would be justified in demanding the surrender of the slaves if they were seized by the Hova authorities, and if the Hova Government undertook to see that they are properly cared for and not again reduced to slavery.

I am, &c.,  
E. HAMMOND.

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(B.)

The EARL OF CLARENDON to CONSUL PAKENHAM.

SIR,

Foreign Office, May 16, 1870.

I HAVE received your despatch of the 18th of October last, reporting your decision in the matter of some slaves who had escaped from Madagascar, and were carried away by Her Majesty's ship "Dryad," and we approve your proceedings in this case. I inclose, for your information and guidance, a copy of a letter addressed to the Lords of the Admiralty by my direction on the 6th of January last, containing my views upon the points which you have raised.

I was not aware that it could be proved that any of the escaped slaves had been imported into Madagascar in violation of the Treaty, which would, doubtless, give them a claim to British protection; but I am of opinion that the commanders of Her Majesty's cruisers are not justified, where slavery is legal, in receiving fugitive domestic slaves on board their vessels, or in carrying them away in spite of the local authorities; and in cases where naval officers are made aware that an escaped slave has been imported in violation of the Treaty, it would be better that they should communicate the facts to you, with a view to a proper inquiry being made into the case, than that they should carry off the slave on their own responsibility.

I am, &c.,  
CLARENDON.

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(C.)

The SECRETARY TO THE ADMIRALTY to COMMODORE SIR L. G. HEATH.

SIR,

Admiralty, May 19, 1870.

I AM requested by the Lords Commissioners of the Admiralty to transmit for your information and guidance a copy of a dispatch addressed by direction of the Earl of Clarendon to Her Majesty's Consul in Madagascar, in reference to the question of naval officers receiving and carrying away domestic slaves on board Her Majesty's ships.

2. Lord Clarendon informs Her Majesty's Consul that the commanding officers of Her Majesty's cruisers are not justified where slavery is legal, in receiving domestic slaves on board their vessels, or in carrying them away in spite of the local authorities, and that in cases where naval officers are made aware that an escaped slave has been imported in violation of the Treaty, it would be better that they should communicate the facts to the consul with a view to proper inquiry being made, rather than they should carry off slaves on their own responsibility.

3. My Lords desire that you will give the necessary instructions to the commanding officers of the ships under your orders, for carrying out the views of the Secretary of State.

I am, &c.,  
VERNON LUSHINGTON.

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No. 3.

EXTRACT FROM EAST INDIES STATION ORDERS, 1871.

Art. 147. Her Majesty's Minister for Foreign Affairs has decided that slaves coming on board ships-of-war within the territorial jurisdiction of the country from which they escape, that is to say, within three miles of the shore, should be returned to the owners; but when it appears that slaves coming on board Her Majesty's ships have been recently imported in violation of Treaties, the commanders of Her Majesty's ships should communicate the facts to the consul, with a view to proper inquiry being made, rather than carry off the slaves on their own responsibility.

Art. 148. With reference to the course to be pursued in the case of slaves captured by Her Majesty's cruisers who may prove to have been kidnapped within the territories of the Sultan of

Zanzibar, Her Majesty's Government is of opinion that slaves in the above category captured within the Sultan's territories or waters should for the future be restored to the proper authorities at Zanzibar; but that slaves captured on the high seas, or without the jurisdiction of the Sultan, ought not to be given up to the Zanzibar authorities.

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No. 4.

The ACTING SECRETARY TO THE GOVERNMENT OF BOMBAY to the POLITICAL RESIDENT in the PERSIAN GULF.

Bombay Castle, November 29, 1871.

I AM directed to inform you that his Excellency in Council has consulted the Law Officers with reference to the questions contained in your letter of the 17th July last, paragraph 10, and that in their opinion—

1. The Commander of a British ship-of-war is not bound to receive fugitive slaves on board his vessel, yet if he does receive them they become free.
2. The Honourable the Advocate-General states that he is not aware that the Persian Gulf has ever been diplomatically treated as a narrow sea. He would be sorry, without higher authority, to say anything which could be construed into an admission of the right of the riparian powers in the Persian Gulf; but if it is to be treated politically as a narrow sea, the legal consequence follows that it belongs to the surrounding territory or territories in as full and complete a manner as a fresh water lake, and that such riparian power has jurisdiction, *ad medium filum aquæ*, without any limitation as to the distance of a marine league, in regard to merchant and private vessels.
3. The commanders of British men-of-war would not only be authorised in refusing to surrender a slave who had found refuge on board his vessel, but would incur very serious legal responsibilities if he in any way attempted to coerce that slave to return to his master.

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No. 5.

Mr. AITCHISON, SECRETARY OF THE GOVERNMENT OF INDIA in the FOREIGN DEPARTMENT, to the ACTING POLITICAL RESIDENT in the PERSIAN GULF.

Fort William, January 7, 1874.

WITH reference to your letter, dated 19th September last, regarding a runaway slave who took refuge on board the "May Frere," I am directed to inform you that as the questions which you have put involve very important considerations of international law, the correspondence will be forwarded for the instructions of Her Majesty's government. Meanwhile, until the orders of the Secretary of State are received, I am to communicate to you the views of his Excellency in Council, so far as he is in a position to form a judgment on the question, and these views may be considered as provisional instructions for your guidance.

2. As regards British ships on the high seas, there appears to be little difficulty. Whether the vessel is a national ship or a private one it is subject on the high seas to British law. Persons coming on board are subject to British law also, and slaves taking refuge on board therefore become free.
3. In the case of British vessels lying within the territorial waters of a friendly state where slavery still prevails, the question is more complicated.

4. British vessels so situated, which are not national ships but the property of private owners, are subject to the jurisdiction and law of the state within whose confines they are, at least, to take a restricted view, so far as regards acts done by those on board which affect the peace of the state or the persons and property of its subjects. Under these circumstances the master of a private British ship would not, in the opinion of his Excellency in Council, be justified in refusing to deliver up a runaway slave to his lawful owner or to the authorities of the state on proper demand being made.

5. Vessels of war, on the other hand, have certain privileges within the local jurisdiction of a foreign nation, and although the authorities are not very explicit on the subject, his Excellency in Council apprehends that the same principles would apply to national and public vessels of a peaceful character, and that certain privileges (*e.g.*, in regard to claims against the ship itself, to matters affecting its internal discipline and affairs, and possibly also to service of process on board and the like), would extend to such vessels as well as to men-of-war. But his Excellency in Council is of opinion that these privileges do not, even in the case of vessels of war, operate to set aside the law of the country to the injury of the inhabitants thereof. In the opinion of his Excellency in Council, therefore, commanders of British national vessels ought, like masters of private British vessels, to give up fugitive slaves when duly demanded.

6. His Excellency in Council is disposed to think that, in the absence of any treaties or understanding with a foreign power bearing expressly on the subject, the following rules may be provisionally adopted as a safe guide for the treatment of such cases as are likely to occur:—

- (a.) Commanders of ships riding in foreign territory should not receive domestic slaves on board except under urgent circumstances, as *e.g.*, when a man would be drowned if he was rejected.
- (b.) They should return slaves to their lawful owners or to the public authorities of the place on proper demand being made.
- (c.) Commanders of ships which may be technically on the high seas, but practically are brought into close contact with the owners of domestic slaves, should do what they can to avoid receiving the slaves on board their vessels.

(d.) If nevertheless such slaves do come on board, the Commander may exercise a discretion whether to return the slave to his master, supposing proper demand to be made, or to retain him and set him at liberty.

(e.) Commanders of vessels which are to all intents and purposes on the high seas, should freely receive fugitive slaves on board and set them at liberty on the first convenient opportunity.

7. Applying these rules to the case of the "May Frere" and the slave Joah, the first important question is, where was the ship when the slave came on board? If the Island called Zairkoo, and said to be uninhabited, is also, as his Excellency in Council supposes it is, in the nature of no-man's-land, the ship was for legal purposes on the high seas. Major Grant, therefore, was within his right when he refused to give up Joah, and Joah is now entitled to be set at liberty.

8. Whether there is anything peculiar in the position of the pearl fisheries so as to give them the character of national property does not appear. The question arising in such a case as that of the "May Frere" may possibly be affected by the status of the fisheries: though probably they would not be.

9. In paragraph 10 of his letter of 17th July 1871, Colonel Pelly has raised a question about the legal position of the Persian Gulf which, if the case is not affected by any negotiations or prior proceedings, does not seem to his Excellency in Council very difficult to answer. In the opinion of his Excellency in Council a water so large as the Persian Gulf, the shores of which are owned by different nations, should be treated as a high sea at the usual distance from the shore.

With reference to this instruction we may call attention to the following extract from the evidence of Mr. Aitchison when he appeared before us:

EXTRACT.

Q. 1342. (*Sir Henry Maine.*) Practically the law which you have laid down in this letter corresponds more nearly with what is called the second circular than with the first?—Much more nearly. The first circular is not in accordance with the opinion of the Government of India.

No. 6.

CIRCULAR NO. 33.

Admiralty, July 31, 1875.

(RECEPTION OF FUGITIVE SLAVES.)

My Lords Commissioners of the Admiralty are pleased to issue the following instructions with reference to the question, how far officers in command of Her Majesty's ships are justified in receiving on board fugitive slaves who, escaping from their masters, may claim the protection of the British flag.

1. Cases of this kind may be divided into three classes:—

I. Where slaves come on board a ship or boat in harbour, or within territorial waters, either to escape from the alleged cruelty of their masters, or to avoid the consequences of their misdeeds.

II. Where the British ship or boat is on the high seas, and the refugee slave, escaping, perhaps, from a vessel also at sea, would be in danger of losing his life were he not received on board.

III. Where a person has been detained on shore in a state of slavery, and escaping to a British ship or boat, claims British protection on the ground that he has been so detained contrary to treaties existing between Great Britain and the country from the shores of which he escapes, as in the case of territories which, like Oman, Madagascar, and Johanna, are partially free.

2. The broad rule to be observed is, that a fugitive slave should not be permanently received on board any description of ship under the British flag, unless his life would be endangered if he were not allowed to come on board. The reason for this rule is, that were it otherwise, the practical result would be, in the first instance, to encourage and assist a breach of the law of the country, and next, to protect the person breaking that law. And a contrary rule would lead to endless disputes and difficulties with the legal masters of slaves; for it might happen, to take an extreme instance, that the whole slave portion of the crews of vessels engaged in the pearl fishery in the Persian Gulf, might take refuge on board British ships, and if free there, their masters would be entirely ruined, and the mistrust and hatred caused in their minds would be greatly prejudicial to British interests.

3. Such being the general and broad rule, it remains to apply it, as far as possible, to the three classes of cases mentioned above.

In the first class, the slave must not be allowed to remain on board after it has been proved to the satisfaction of the officer in command that he is legally a slave.

In the second, the slave should be retained on board on the ground that on the high seas the British vessel is a part of the dominions of the Queen, but when the vessel returns within the territorial limits of the country from a vessel of which the slave has escaped, he will be liable to be surrendered on demand being made, supported by necessary proofs.

In the third class, a negro might claim protection on the ground that being by the terms of a treaty free, he was nevertheless being detained as a slave. It would then become the duty of the commanding officer to satisfy himself as to the truth of this statement, and to be guided in his subsequent proceedings in regard to such person by the result of his inquiries, and the law which would then affect the case. Those interested in maintaining the slavery of the person claiming his

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freedom should assist at the inquiry, and in the event of his claim being established, the local authorities should be requested to take steps to ensure his not relapsing into slavery.

4. As a general principle, care should be taken that slaves are not misled into the belief that they will find their liberty by getting under the British flag afloat, or induced by the presence of a British ship to leave their own ships, if at sea, or their employment if on shore.

5. When surrendering fugitive slaves, commanding officers should exercise their discretion in endeavouring, according to the circumstances of each case, to obtain an assurance that the slaves will not be treated with undue severity.

6. A special report is to be made of every case of a fugitive slave seeking refuge on board one of Her Majesty's ships.

7. The above instructions are also to be part of the General Slave Trade Instructions, and to be inserted at page 29 of that volume, with a heading of "Receipt of Fugitive Slaves."

By command of their Lordships,  
ROBERT HALL.

To all Commanders-in-chief, Captains, Commanders,  
and Commanding Officers of Her Majesty's Ships  
and Vessels.

## No. 7.

## CIRCULAR No. 51.

Admiralty, December 5, 1875.

## (RECEIPT OF FUGITIVE SLAVES.)

MY Lords Commissioners of the Admiralty are pleased to issue the following Instructions for the guidance of the Commanders of Her Majesty's ships in reference to the receipt of fugitive slaves.

These Instructions are to be considered part of the General Slave Trade Instructions, and to be inserted at page 29 of that volume, with the heading of "Receipt of Fugitive Slaves" but they are also intended for the guidance of Commanders of Her Majesty's ships generally.

93A. When any person professing or appearing to be a fugitive slave seeks admission to your ship on the high seas, beyond the limit of territorial waters, and claims the protection of the British flag, you will bear in mind that, although Her Majesty's Government are desirous by every means in their power to remove or mitigate the evils of slavery, yet Her Majesty's ships are not intended for the reception of persons other than their officers and crew. You will satisfy yourself, therefore, before receiving the fugitive on board, that there is some sufficient reason in the particular case for thus receiving him.

93B. In any case in which, for reasons which you deem adequate, you have received a fugitive slave into your ship, and taken him under the protection of the British flag upon the high seas, beyond the limit of territorial waters, you should retain him in your ship, if he desires to remain, until you have landed him in some country, or transferred him to some other ship, where his liberty will be recognized and respected.

93C. Within the territorial waters of a foreign state, you are bound, by the comity of nations, while maintaining the proper exemption of your ship from local jurisdiction, not to allow her to become a shelter for those who would be chargeable with a violation of the law of the place. If, therefore, while your ship is within the territorial waters of a state where slavery exists, a person professing or appearing to be a fugitive slave seeks admission into your ship, you will not admit him, unless his life would be in manifest danger if he were not received on board. Should you, in order to save him from this danger, receive him, you ought not, after the danger is past, to permit him to continue on board; but you will not entertain any demand for his surrender, or enter into any examination as to his status.

93D. If, while your ship is in the territorial waters of any chief or state in Arabia, or on the shores of the Persian Gulf, or on the East Coast of Africa, or in any island lying off Arabia, or off such coasts or shores, including Zanzibar, Madagascar, and the Comoro Islands, any person should claim admission to your ship and protection on the ground that he has been kept in a state of slavery contrary to treaties existing between Great Britain and the territory, you may receive him until the truth of his statement is examined into. In making this examination, it is desirable that you should communicate with the nearest British Consular authority, and you should be guided in your subsequent proceedings by the result of the examination. In any case of doubt or difficulty, you should apply for further instructions either to the senior officer of your division, or the commander-in-chief, who will, if necessary, refer to the Admiralty.

93E. A special report is to be made of every case of a fugitive slave seeking refuge on board your ship.

By command of their Lordships,  
VERNON LUSHINGTON.

To all Commanders-in-chief, Captains, Commanders,  
and Commanding Officers of Her Majesty's Ships  
and Vessels.

Evidence :  
Q. 74, 111, 145,  
685, 1098.

From the evidence which we have received it appears that in former years naval officers deemed themselves entitled to exercise a wide discretion with reference to cases of slaves seeking refuge on board their ships.

The instructions issued to the officers of the navy of late years with reference to the reception of fugitive slaves have limited that discretion, and have, moreover, materially varied in character.

#### IV.

We now come to the fourth and last head of our Inquiry :

“ Whether, in case such obligations, instructions, or engagements shall appear to be at variance with the maintenance by our ships and officers, in whatever waters they may be, of the right of personal liberty, any and what steps should be taken to secure for them greater freedom of action in this respect.”

In considering what steps should be taken to secure for our naval officers greater freedom of action, we must remember that the object which the British Nation has at heart is the extinction of slavery, and that whatever policy will most surely conduce to that result will be the most acceptable to this country. This end cannot, however, be attained without the consent and concurrence of other nations ; their opinions and interests cannot therefore be disregarded.

It has been suggested that the British Government might declare, by a public notice to all countries in which slavery is a legal institution, that if a slave escapes to a British ship of war in foreign waters and claims the protection of the British flag, that protection he shall receive ; and that it might instruct its naval officers accordingly.

Q. 131, 232,  
1214, 1326,  
1433.

Whether such a measure would conduce to amicable relations with countries where slavery is still legal, and whether the ultimate object of extinguishing slavery would be thus accelerated, may reasonably be doubted.

We may add that such a course would raise a question which it would be on every ground desirable to avoid. The owners of the slaves so received might probably consider themselves entitled to compensation for the loss of that which, by the local law, is their property. But the payment of such compensation might excite great opposition, and moreover might be found to be impracticable.

Even if it were thought advisable to impose on officers in command of ships the duty of receiving everywhere indiscriminately, without regard to circumstances, all slaves who might have recourse to them, we are of opinion, for reasons which will hereafter appear, that it may be fairly questioned whether such a course would be for the unqualified advantage of the slaves themselves. We cannot, therefore, recommend the adoption of this policy. We are however of opinion, that a discretion, as hereinafter specified, should be given to naval officers in dealing with fugitive slaves.

In entering upon the consideration of the subject, we may observe that the following cases may arise :

A commanding officer may be called upon to consider the question—

- (a.) Whether he shall retain on board his ship a slave found there, having got on board without his knowledge or permission.
- (b.) Whether he shall retain on board his ship a slave taken or permitted to come on board for a temporary purpose, who being on board desires to remain there.
- (c.) Whether he shall permit a slave to enter his ship with a view to his being retained on board.

It appears to us that the mere fact of the slave's actual presence on board, without any intention on the part of the commanding officer to allow him to remain there, cannot be regarded as depriving the officer of the discretion as to refusing or retaining him which the officer might have exercised had the slave not succeeded in getting on board.

The question, therefore, which we shall consider, will be, in what cases a slave ought to be retained on board a ship.

Naval officers should be instructed that although ships of the Royal Navy should not be made a general asylum for fugitive slaves, they are not debarred from using their own discretion in retaining such fugitives on board and affording them protection on the principles which we shall proceed to recommend for their guidance.

In the exercise of this discretion the officer should be guided, before all things, by considerations of humanity. Whenever, in his judgment, humanity requires that

the fugitive should be retained on board,—as in cases where the slave has been, or is in danger of being, cruelly used,—he should retain such fugitive.

Where it appears that the fugitive has been newly reduced to slavery, or has been imported in violation of treaty engagements, he should always be retained.

Should any unforeseen or exceptional case present itself, the officer should be allowed to exercise his discretion as to the course to be pursued.

The officer, in all cases where he decides that the fugitive should not be retained, should be at liberty to consider what course in disposing of him is most for the interest of the slave himself; whether he should be put on shore, or allowed to go ashore, or delivered over to the nearest British Diplomatic or Consular Officer, or to the local authorities.

Naval officers should understand that, whilst entrusting them with this discretion, their Government does not claim a right to interfere actively with the institution of slavery in countries where it is upheld by the local law, and directs them to abstain from such interference. They should be reminded that in acting on these instructions they are, in conformity with the purport of the Queen's Regulations, to avoid as far as possible giving cause of offence or dissatisfaction to the authorities or inhabitants of those countries.

It appears indeed from the evidence that, as a general rule, naval officers would not retain on board any slave who may be employed in piloting, in provisioning, or in coaling their vessels, or in any other duties of the port into which the ship has been admitted; and this, not so much on account of any special instructions, as because a contrary course would be unfriendly, and might lead to embarrassment.

We have endeavoured to state the general principle on which, in our opinion, the instructions to the Navy should be framed. But it will be seen from the following remarks, that in the practical application of that principle, less difficulty will be likely to arise in some countries than in others.

Brazil is, with the exception of Cuba, the only Christian country in which slavery is now a legal institution. Mr. Hunt, who has been for some years Consul at Rio de Janeiro, and who has visited many parts of the country, assures us that there has been no importation of slaves into Brazil since the year 1851.

On the 19th of April 1869 an Act was passed by the British Parliament (32 Vict. c. 2) repealing the Act of the 4th of August 1845 (8 & 9 Vict. c. 122), on the ground that the circumstances which had led to the passing of that Act no longer existed, by reason of the cessation of the importation of slaves into Brazil from Africa.

By a law of Brazil all persons born within the dominions of the Emperor after the 28th September 1871 are free, and arrangements have been made for the gradual abolition of slavery; and we are assured that the measures now in force are being steadily carried into effect.

The slaves employed in coasting vessels, in harbour boats, in provisioning and coaling steam ships, are remunerated for such work, and we have been unable to discover any instance of a fugitive slave, who, within recent years, has appealed to a British officer for protection against ill-treatment by his Brazilian master.

We are therefore glad to think, that as the Brazilian Government under their present enlightened rule, are pursuing a course directed to the substitution of free for slave labour, few instances, if any, are likely to occur of slaves seeking refuge on board a British ship of war.

With regard to Cuba, we must observe that this island is in a peculiar state from internal revolt as well as from the late political troubles of Spain, but the evidence which we have received in regard to both slaves and coolies shows that their condition is unsatisfactory in the highest degree. The Spanish government has pledged itself to abolish slavery in Cuba as soon as the insurrection in that island is brought to an end; and we hope that the pledge so given will be faithfully kept.

When, however, we turn our attention to slavery in the Eastern hemisphere, more complicated questions present themselves.

The character of Eastern slavery is explained in the evidence which we have obtained. The slaves are generally well treated, and are often highly esteemed. Thus it is said the chief minister of Oman is himself a slave. The head manager and the cashier of the Arab merchant to whom the vessels of the Steam Navigation Company, in the Persian Gulf, were consigned, were slaves. The captains and the crews of many vessels trading in the Eastern seas are slaves, who are employed by their masters in positions of trust.

Para. 45,  
Queen's Regu-  
lations, 1862.  
See Admiralty  
Papers, Ap-  
pendix, p. 220.  
Q. 150, 443,  
640, 649, 670.

See Memo.  
on Treaties in  
Appendix, p 80.

Q. 830.

See Memo. on  
Treaties, p. 80,  
and Reports on  
Law and  
Practice of  
Foreign  
Countries in  
Appendix, p.95.  
Q. 641, 643,  
644, 834, 841.

See Reports  
on Law and  
Practice of  
Foreign  
Countries in  
Appendix,  
p. 118.  
Q. 584-631.

Q. 75, 247, 364,  
374, 526, 756,  
817, 824, 1019,  
1105, 1155,  
1160, 1164,  
1178, 1188,  
1281, 1472-  
1477, 1483.



As a general rule domestic slavery among the Arabs is a mild form of servitude; this is fully explained by Dr. Livingstone in the accompanying letter in reference to slavery among the Arabs :

## EXTRACT.

DR. LIVINGSTONE to the EARL OF CLARENDON

“ East Africa, lat. 11° 18' S.  
 “ long. 37° 10' E.  
 “ June 11th, 1866.

“ Let us calmly view the subject of stopping the external slave trade in connection with what is universally admitted to be the normal condition of slavery among the Arabs. It is the mildest possible form; the master lives with his slaves as the father of the family. He dislikes toil, and is too indolent to force others to work for more than the mere necessities of life. This indolence is frankly avowed at Zanzibar, and as the Arabs there form no exception to the generality of Arabian slaveholders, it does not appear very obvious why the mere cessation of large additions to the existing number of slaves should produce the frightful convulsions predicted. The abolition of the external slave trade would leave the relationship of master and slave exactly as it is at present, with the exception that the slave would be of increased value, and therefore less likely to be discarded than before.”

Although, however, Arabian slaveholders may be lenient masters, and domestic slaves in Mahomedan communities may be treated as members of the family, yet the cruelties practised in Africa to obtain these slaves can hardly be overstated. The numbers annually brought from the interior are not accurately known, but it is admitted that every year many thousands are carried away by force, and driven down to the sea coast for sale.

We are told that even in the centre of Africa for the sake of obtaining a few women and children for the slave trade whole villages are destroyed, most of the male population killed, and others driven into the jungle to die of starvation.

The trade from Central Africa consists almost exclusively of slaves and of ivory. The slaves are in many cases purchased for the carriage of the ivory, and those who survive the sufferings of the journey, are subsequently sold on arrival at the sea coast.

There are no indications that this inhuman traffic is coming to an end, or is even materially decreased. A few British cruisers dispersed along an extent of coast reaching from the Red Sea to Mozambique are inadequate to prevent it, and their difficulties are increased by the numerous islands, creeks, and rivers on that coast. The natives, moreover, with rare exceptions, regard slavery with no disapprobation, and the trade, when checked at one place by the vigilance of our cruisers, finds an exit in some other direction.

The eastern coast of Africa is under the rule of various governments, many of which cannot enforce their own laws, or fulfil their engagements. It is difficult to treat with rulers who claim to be independent, while they are powerless to control their own subjects. Such rulers exercising an uncertain and feeble authority over their own territories cannot be allowed to claim the rights, while they fail to fulfil the duties, of sovereignty.

In the Portuguese dominions slavery has been abolished by law. It continues, however, to exist very largely and in an oppressive form within the great tract extending from Delagoa Bay to Cape Delgado, to which the crown of Portugal asserts its claim, and from many points on that coast an active slave trade with Madagascar is carried on.

The intentions of the Portuguese government are probably frustrated by the circumstance that, except in a few places and within very narrow limits, its control over its East African possessions is little more than nominal.

Further, although we are assured that the officers of the Portuguese navy have a sincere wish to co-operate with us for the suppression of the slave trade, the attainment of this end has hitherto been impeded by a difficulty in securing combined action on the part of the British and Portuguese authorities.

We are of opinion that it would be most important, for the purpose of checking the slave trade, that British cruisers should have the right, which they possessed from 1847 to 1853, under protocols signed in London in 1847 and 1850, to enter the bays, ports, creeks, rivers, and other places within the dominions of Portugal on the east coast of Africa, where no Portuguese authorities are established.

Hertslet's State  
 Papers, Vol. 59,  
 pp. 1022-3.

Q. 90, 901,  
 1507, 1508.

Q. 60, 284,  
 389, 1597.

Q. 1508, 1616.

Q. 1512-1516.

Q. 1603.

Q. 16, 944,  
 1541, 1592.

See Memo. on  
 Treaties, Ap-  
 pendix, p. 77.  
 Q. 280, 427,  
 672, 687, 906-  
 965, 1657,  
 1666.

Q. 272, 280,  
 932, 1666.

Q. 1671.

Hertslet's  
 Treaties, Vol. 8,  
 p. 808, Vol. 9,  
 p. 656.

In our treaty with Zanzibar, we have agreed not to interfere with domestic slaves carried in dhows, or with slaves employed in navigation, provided such slaves are not detained against their will; there is evidence to show that a disguised slave trade has already to a certain extent sprung up under the cloak of this permission, and much vigilance will be required to check its extension.

Q. 85, 243, 294,  
351, 1037, 1629.

A custom of long continuance, and depending on the courtesy of the Governments of the several Eastern countries, exists in Northern Africa, in Turkey, and in the Persian Gulf. By this custom the slave who seeks refuge in the consulate almost invariably receives his freedom from the local authorities on the request of the consul when he has any well founded reason for making such an application.

See Reports  
on Law and  
Practice of  
Foreign  
Countries,  
Appendix,  
p. 94.

Q. 1101-1105,  
1693.

So far as we have been able to ascertain, the cases of fugitive slaves seeking refuge in our ships of war have been few. Where the facilities for escape are greatest, as in shore-boats and coasting dhows, the slaves, being fairly treated, are least tempted to take advantage of the opportunities for escape.

With a view to the mitigation and eventual abolition of slavery, it would be impolitic to create a general notion in the minds of the Negro population that the British navy would liberate all fugitive slaves. The rumour of such an intention would irritate the Arabian masters, and induce them to regard their domestic slaves with suspicion and distrust, and possibly to treat them with severity.

Q. 132.

We recommend that attention should be paid to the competency of the interpreters, with whom, under an existing rule, ships of war on the East coast of Africa are now furnished. Such interpreters, if thoroughly conversant with the language of the African coast, would materially assist the officers in ascertaining the character of any slaves who might present themselves on board, and in explaining to the slaves themselves that, although released from slavery, they cannot live in idleness.

Q. 1233.

There is even now some difficulty in providing properly for the male and female slaves whom we release,—a difficulty which would be greatly enhanced if there were a large increase of their number. Hitherto they have been for the most part transferred to the Seychelles Islands, but they may, under arrangements partially carried into effect, be taken to the Cape Colony or to Natal.

See Col. Off.  
Papers, Ap  
pendix,  
pp. 204, 205.

Q. 1740-1751.

Sir Bartle Frere has given us much valuable evidence, which shows, that for the present at least, there are the means in Johanna, Mombaza, Bagomoyo, and Zanzibar, of finding employment for liberated Africans under humane supervision. Some witnesses recommend the establishment of a settlement on the eastern coast of Africa; a new colony in a climate suited to the negro, where the emancipated slaves might be educated and civilised.

Memo. by  
Sir B. Frere,  
Appendix,  
p. 231.

Q. 252, 267,  
1583, 1702-  
1710.

In all these cases it would appear that some plan of compulsory labour for a limited period, at regulated wages, is the only mode of providing for the liberated slaves. The plan is not altogether satisfactory, and the working of it requires very careful and constant supervision. With the most humane intentions on the part of the British Government it is difficult to provide for the physical and moral welfare of the liberated slave, and his condition must in great measure depend on the character of the master to whom he has been temporarily assigned. This difficulty applies more especially to the case of female slaves.

Q. 1703.

It will be apparent that in dealing with questions relating to fugitive slaves, a discretion must be left to Your Majesty's naval officers, as it is impossible to foresee all the cases which may occur, not only in foreign territorial waters, but even beyond the three miles limit, as for instance, on the pearl banks in the Persian Gulf.

Q. 1251-1256,  
1310-1313.

To use the language of Sir L. Pelly, in his report of 1865 on these pearl fisheries, "The beds along the Arabian coast are held to be the property of the Arabs in common; for instance, an Arab of Koweit may dive along the Bahrein or Rass-ool-Khaimah coast and vice versâ. But no person other than the Coast Arabs is considered to have any right of diving. And it is probable that any intrusion on the part of foreigners would create a general ferment along the coast line."

We have now stated what we believe will be the best course to promote the humane and enlightened policy which this country has consistently pursued, but it will be convenient to recapitulate the purport of our recommendations:—

- I. While on the one hand naval officers should abstain from any active interference with slavery in countries where it is a legal institution, the commander

- of a ship of war should not be altogether prohibited from exercising his discretion as to retaining a fugitive slave on board his vessel, whether such slave has come on board clandestinely or in any other way.
- II. The cases that present themselves to naval officers vary so much in character that it would be inexpedient, even were it possible, to lay down any strict rules for their guidance under all the different circumstances which may occur.
- III. Ships of the royal navy should not be made a general asylum for fugitive slaves; and the commander should, therefore, before retaining a slave on board satisfy himself that there is some sufficient reason for so doing. Such reason (where there is no Treaty authorising the release of the slave), consisting not only in the desire of the slave to escape from slavery, but in some circumstance beyond this desire.
- IV. In dealing with this question the officer should be guided, before all things, by considerations of humanity. Whenever, in his judgment, humanity requires that the slave should be retained on board,—as in cases where the slave has been, or is in danger of being, cruelly used,—the officer should retain him. In other cases he should do so only where special reasons exist.
- V. When it appears that the fugitive has been newly reduced to slavery, or imported in violation of treaty engagements, or entitled to his freedom under the special provisions of a Treaty—as under the Treaty with Zanzibar of 1875,—he should always be retained.
- VI. If the delivery of a fugitive slave, whom the officer would otherwise have thought it right to retain, be claimed on the ground that he has committed a criminal offence, that is, an offence for which he would equally have been punishable according to the local law if he had been a free man, the officer ought, before complying with the request, to satisfy himself that the charge is not merely a colourable pretext for procuring the restitution of the slave, and also that the slave, if delivered up, will not be treated with inhumanity.
- VII. Where a slave has come on board under such circumstances as to give his master a right to expect that he will not be harboured there against the master's will, as in the case of slaves attending their masters on visits of ceremony, or entering a ship in order to coal her, or with provisions for sale, the slave should not be retained unless his retention should appear to be demanded by strong reasons of humanity.
- VIII. In all cases where the officer decides that the fugitive should not be retained, he should consider what course would be most for the interest of the slave himself; whether to put the slave on shore, or allow him to go ashore, or deliver him over to the nearest British Diplomatic or Consular officer, or to the local authorities. But the officer should not compel the slave to leave the ship unless satisfied that such a measure would not lead to any ill-treatment of him on account of his attempt to escape.
- IX. Where facilities are available for communicating with any of Your Majesty's Diplomatic or Consular authorities, the officer should in all cases without delay inform such authority of the steps he has taken.

We hope that the instructions which we have recommended to be given to our naval officers will, if carried into effect, tend to some mitigation of the cruelties of slavery which have been brought to our notice.

It is obvious that the benefits to be derived from these recommendations will depend to some extent upon the degree to which a similar policy may be adopted by other nations. It is not within the scope of our duty to suggest the manner in which this result should be brought about, but we regard it as a matter of the first importance.

It must be observed that the reception of fugitive slaves is only a small part of the great problem of slavery which this country earnestly desires to solve, and must be treated as subordinate to that greater purpose. For this end the British Government must, if the evidence which we have taken is to be trusted, enter into some arrangements with those powers whose possessions are in the immediate neighbourhood of the slave-trading districts. If the Red Sea is to serve the purpose of the slave-dealer, and the hoisting of the Turkish or Egyptian flag is to protect this traffic, our efforts to abolish the slave trade must be ineffectual. So again in Portuguese

waters, we should seek to obtain the right of search which under former treaties we possessed. It would also be desirable to obtain some modification of the treaty with Madagascar.

Some of these matters are perhaps beyond the strict limits of the inquiry for which this Commission was appointed, but the release of a few fugitive slaves would have little effect on slavery or the slave trade, unless measures were also taken to block the larger channels through which the slave dealer can still conduct a lucrative trade in African captives.

In concluding this Report we must express the great obligations under which we are to Foreign Governments, and to Your Majesty's officers, both at home and abroad, for the valuable assistance and information they have afforded us in our inquiry.

SOMERSET.

A. E. COCKBURN.

\*ROBERT PHILLIMORE.

MOUNTAGUE BERNARD.

T. D. ARCHIBALD.

ALFRED HY. THESIGER.

H. T. HOLLAND.

L. G. HEATH.

H. S. MAINE.

J. F. STEPHEN.

H. C. ROTHERY.

HENRY HOWARD, Secretary.

May 30, 1876.

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\* I agree with the Report except on one point. I do not approve of the last sentence of Section III. (p. xviii) of the Recommendations.—ROBERT PHILLIMORE.

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### Reasons given by Sir George Campbell, K.C.S.I., for dissenting from the Report.

I most entirely defer to my colleagues on all questions of law, fact, and obligation; and have only to express my concurrence in their report so far as the first three heads of our inquiry are concerned. But I am unable to sign the Report, because, when we come to the fourth head, viz., the steps which should now be taken with a view to the maintenance by our ships and officers of the right of personal liberty, and to secure to our officers greater freedom of action in that respect, I feel that the question is no longer a legal one, but one of political and social morality on which I am bound to form the best opinion I can, and to maintain it. I find myself unable to assent to some passages in the Report, which to my mind involve a vitally important principle. It seems to me that the Recommendations of my colleagues would render it necessary for our officers to some extent to recognise and enforce slavery, while taking precautions against abetting any excessive abuse of that institution. I, on the other hand, think that the time has come when this country may fairly say, "we will under no circumstances aid in the enforcement of slavery,—we will have nothing to do with this nefarious and accursed thing."

I quite agree that, under present circumstances, and especially with reference to the peculiar character of eastern slavery, we cannot actively interfere to release all slaves; we cannot direct officers, who accept for our ships of war the use of the ports and harbours of slave-holding powers, to offer an asylum to all slaves who may desire to seek their protection in those waters. I do not think that we could take such a course, even in respect to the rare western countries which still maintain the more revolting form of slavery, without the concurrence and assistance of other civilised powers. But I do think that when any person has been admitted into a British ship of war, no British officer should be

the instrument of handing him back to slavery. I would give naval officers only the discretionary power to receive slaves in the territorial waters of slave States, for special and sufficient reasons, which my colleagues have recommended; but once admitted on board, I would hold those officers to be in no case bound to surrender any slave; on the contrary, I would prohibit their doing so. My view is very much that taken by the Government of Bombay, viz., "The commander of a British ship of war is not bound to receive fugitive slaves on board his vessel; yet if he does receive them they become free." That instruction I would apply to territorial waters. On the high seas I think that our officers should receive and rescue all persons flying from slavery whenever they can.

I believe that I am entirely fortified by the opinions of my colleagues in the belief that there are no existing obligations to prevent the adoption of the course which I recommend. It appears that there are no well established and generally received rules of international law making it obligatory on the commanders of ships of war to surrender slaves found on board their vessels; also that there are no treaties by which they are bound to do so. On the other hand, the traditions of the navy and the belief of the people of this country that the deck of a British man of war is a soil consecrated to freedom, and that there is no power to demand the rendition of a slave once there, are in a great degree supported by all the documents bearing on the subject which we have found prior to the year 1870. Even before the claims of the negro to the treatment of a man were recognized by England, we find that the principle of the inviolability of a British man-of-war to the slave-owner was set forth in the seventeenth and eighteenth centuries both in the treaties with slave-holding powers and in the orders of Lord St. Vincent and the presiding authorities of the British Admiralty. We find the same principle very distinctly asserted by the British Foreign Office in the year 1856, both as a present instruction and as being the practice *heretofore*, thus: "it should be borne in mind that if a slave were to take refuge on board a British ship of war, it will still, as heretofore, be the duty of the captain to refuse to surrender such slave." This it should be observed was expressly issued for the guidance of officers in the waters of Brazil, and to distinguish ships of war from "merchant vessels which are subject to the law and jurisdiction of the country."

Up to 1870 it appears that British naval officers considered that they were under no obligation to surrender slaves, and if in any case they did so it was only when it seemed to the individual officer that the retention of the slave would be a breach of faith and justice on his part in the particular case.

It was in 1870 that the first order limiting the power of naval officers to retain slaves on board their ships was issued. From that time the instructions issued have, as stated by my colleagues, limited the discretion previously exercised by the officers of the navy

My opinion is, that as the world has advanced, as public opinion not only in our own country but in other countries has advanced, as all the most civilised and powerful nations have abolished slavery, we should certainly not go back in this matter, but should advance with the times. I would on no account place British officers in a position less favourable to giving liberty to the slave than that which they held before 1870, but would rather advance a step farther (if advance it be) to the general application of the principle which I humbly recommend, viz., that no British officer should by any act of his enforce slavery upon any human being.

I am the more confirmed in this view because I find that it is that which is indicated by the great majority and weight of opinion of the most important foreign countries, as shown in the replies to our inquiries on the subject. While the representatives of only two minor States think that the slave should be surrendered, those of the United States, Italy, Germany, France, and Russia indicate a contrary opinion. The United States Secretary of the Navy says, "no officer would for a moment think of giving up a slave who had taken refuge on board his vessel in order that he might return to his condition of slavery." The Italian minister says, "a slave who might take refuge on an Italian ship must be considered as perfectly free." The legal opinion obtained from France is decidedly in the same sense, and the French minister only qualifies that opinion by stating that a very wide discretion is left to the naval officers.

I venture to think that while these opinions are held by the greatest foreign nations it is neither desirable nor justifiable that the British Government should so far take lower ground as in any case to compel a British officer to render back into slavery any person who has once obtained a refuge on his ship.

The course which I recommend is non-interference but refusal to aid in enforcing slavery, and this has been very much suggested to me, especially as regards the Eastern form of slavery, by my experience in India. In the year 1843 the Indian Legislature declared that no claim arising out of an alleged right in the property of another as a slave should be recognised or enforced by any British officer, magistrate, or court. This involved no active interference to break up any domestic relations, but only that the arm of the British officer should not be used to compel any person, who had for a time put an end to relations involving slavery, to return to a state of slavery. My experience is highly favourable to this Indian system. I entered the Indian service just when it was adopted, and during my whole service I have scarcely known any complaints of its operation.

If we apply such a rule to our ships of war it would be necessary that notice should be given to slave-holding countries that commanders of British vessels of war entering their ports can take no cognizance of any demand founded on the alleged slavery of any person.

We should let such countries understand that our ships will not, when admitted into their waters, offer a general asylum to their slaves; but we must firmly tell them that British officers have orders in no way to aid the maintenance of the institution of slavery by any acts of theirs, and that if those officers have seen sufficient reason to admit any person to their ships they cannot surrender him only because he is a slave. We need not suggest to them that they may exclude our ships, but, if in any case any power does so, our Government will no doubt act according to the circumstances.

I apprehend, however, that the cases in which my recommendation would go beyond those of my colleagues, would be in practice so few, that serious difficulty would not arise. It is only in regard to the principle involved that the difference is somewhat wide. While seeking to maintain the most friendly relations with all foreign countries, I would not surrender the principle in order to conciliate and satisfy those which still maintain slavery. It would be enough, I think, to maintain complete good faith in our relations with them.

I would not permit our officers to receive slaves on board our ships of war on visits of ceremony or the like on any understanding that they should be compelled to return. And commanding officers should be instructed to avoid, wherever it is possible, accepting the services of slaves on board. In the case of pilots and others, nominally slaves in the eastern form, and whose employment may be on some few occasions unavoidable, it seems probable that they will not seek the protection of our flag. In any very rare case in which when on board they do so, it may be necessary to guarantee the master against pecuniary loss arising from the acts or agreements of our officers.

If I were to formulate the instructions to naval officers which I venture to recommend, I would put them somewhat as follows:

I. On the high seas fugitive slaves may be received and set free.

II. In the territorial waters of foreign states where slavery is legal, a fugitive slave is not to be received on board unless the commanding officer is satisfied, in the particular case, that his life is in danger, or that he is in danger of being cruelly used, or that there is reasonable ground for believing that he has been kept in a state of slavery contrary to treaties, or that there is some other special and sufficient reason for receiving him.

III. No slave who has been admitted on board is to be surrendered to those who claim him as a slave or compelled to leave the ship under circumstances which would necessarily involve his return to slavery, unless the commanding officer is satisfied that he has committed some criminal offence on account of which he would have been surrendered or expelled if he had been a free man.

As respects all matters mentioned in the report of my colleagues other than the surrender of slaves, I concur in the report.

GEORGE CAMPBELL.

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Papers referred to in the last paragraph of page vii. of the  
Report.

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I.

**Statement of Opinion as to Principles of International Law  
applicable to reception of Fugitive Slaves, by the Lord Chief  
Justice, Mr. Justice Archibald, Mr. Thesiger, Sir Henry T.  
Holland, Mr. Stephen, and Mr. Rothery.**

The Report states that a difference of opinion exists in the Commission with reference to the principles of international law applicable to the reception of fugitive slaves who may take refuge on board British ships of war lying in the territorial waters of a foreign state in which slavery exists by law.

We, the undersigned members of the Commission, whilst concurring in the Recommendations of the Report, think it our duty to express our opinion upon this question. Our views are summed up in the following propositions.

1. A slave who gets on board a British ship of war in foreign territorial waters does not acquire any right whatever to be retained by the mere fact of his presence there.
2. The established principle of international law, that no state is justified in encouraging its subjects to violate the law of other states, ought to be observed with special care by officers who, in virtue of their public employment, are enjoying the hospitality of foreign states. Any exemption from the coercive power of the local law, to which such officers may be entitled by reason of their position, affords no reason why they should disregard this principle, but, on the contrary, an additional reason why they should respect it. This country has no right to force its own law on an independent state, nor (except in such extreme cases as those herein-after referred to) to authorise its subjects to violate the law of the latter because it disapproves of that law.
3. This principle extends to countries in which slavery is established by law, and to the conduct of naval officers towards slaves found on board their ships in the territorial waters of such countries.
4. Although slavery has happily become abhorrent to the British nation, and has been abolished in British territories, yet the rights conferred upon the owners of slaves by the laws of their own countries have been, on more than one occasion since the abolition of slavery by this country, recognised and enforced by English courts of justice. Upon this fact, as well as upon the principles of international law, we think that the commanding officers of British ships of war in foreign territorial waters would do wrong if they afforded protection to all slaves indiscriminately who might be found on board their ships.
5. Respect for the local law ought not, however, to be carried to such an extent as to make British naval officers accessory to acts of cruelty; and in cases in which they have reason to believe that such acts have been, or, unless protection is afforded to him, probably will be, practised upon a slave found on board their ships, or asking permission to come on board, they ought to be authorised to afford protection to the slave, although such conduct may be opposed to the strict theory of international law. A rigid adherence to that theory by the commanding officers of British ships in foreign territorial waters, in all cases whatever, would be neither practicable nor desirable;



and we think that the Recommendations in the last part of the Report contain as distinct a statement as can properly be made of the extent to which naval officers ought to be authorised to depart from it in regard to fugitive slaves seeking protection on board the vessels under their command in such waters.

Of the undersigned the Lord Chief Justice, Mr. Stephen, and Mr. Rothery have stated in separate papers some of their reasons for adopting these opinions.

A. E. COCKBURN.  
T. D. ARCHIBALD.  
ALFRED HY. THESIGER.  
H. T. HOLLAND.  
J. F. STEPHEN.  
H. C. ROTHERY.

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## II.

### Statement of Opinion on the Question of International Obligations, by Sir R. Phillimore, Mr. M. Bernard, and Sir H. S. Maine.

WE should have been content to sign the Report without expressing any opinion, beyond what is contained in it, on the first Question. But since it has been thought right that opinions should be expressed on that point, we will state the considerations which in our view justify, so far as international law is concerned, the conclusions of the Report, confining ourselves to such considerations, and not entering into a detailed examination of precedents or authorities.

At the same time we think that a careful and discriminating examination of such authorities would support the views we are about to express.

The question is substantially this:—what instructions the Government may, without doing violence to any international obligation, give to its officers respecting the reception of fugitive slaves in foreign waters.

I. It is true, as a general proposition, that a naval officer, entering with the ship under his command the waters of a friendly State, ought to respect the local laws, and to refrain from lending his assistance to any violation of them. It is right that he should receive instructions to this effect, and such instructions British officers now receive. They are directed by the Queen's Regulations to "cause all those under their orders to show due deference to the established rights, ceremonies, customs, and regulations" of the places they have occasion to visit; and they are prohibited in general from receiving on board, whilst lying in the ports of a foreign country, persons who may seek refuge for the purpose of evading the local laws to which such persons may have become amenable.

The foregoing proposition, however, is only a general expression of what, in given circumstances, one maritime State may fairly and reasonably expect at the hands of another; and it would be an error to regard it as a canon of international law, absolute, inflexible, and admitting no qualification. It admits, and indeed requires, at least one material qualification. Where the execution of the local law would be plainly repugnant to humanity or justice, the Sovereign with whose commission the ship sails cannot reasonably be held bound to instruct his officers to enforce the law, or permit it to be enforced, on board of her. He may rightly instruct them not to enforce it there, and not to permit it to be enforced.

It is a general assumption, on which Governments must habitually act, that the laws of civilised States, framed to secure public order and private rights, will not so operate as to be in conflict with humanity or justice. But this general assumption must and does sometimes give way, whether from the necessary imperfection of human laws, or from particular defects which cannot be immediately removed in the institutions of particular States, or from real differences of national sentiment as to what is humane or just—differences which the progress of civilisation, tending though it does continually to produce a general uniformity, has not yet entirely effaced.

In cases of this kind,—which though exceptional, are by no means rare—it is not a sufficient answer to point to the local law and to the sovereign authority which enacted it. Where British subjects are interested, this country deems it no infringement of an international obligation to insist, against the local law, on its own view of what justice or humanity demands, and even, if need be, to exact redress by force. Where no British interest is involved, the British Government has the right to say at least that the authority delegated by it to its officers shall not be used to do what is plainly inhuman or unjust.

This qualification of the general rule is demanded by the national self-respect of every State which commissions a ship of war; and it is consistent with the ordinary principles on which the intercourse of civilized States proceeds.

That there is no unqualified obligation to assist or permit on board a ship of war the enforcement of the local law is assumed in the instructions which British naval officers receive with regard to political refugees, and has been assumed in the cases where, before the issue of those instructions, the refusal to give up a refugee has been approved by the British Government. A political refugee may be an object of partizan rancour and passion; but he is also commonly a criminal in the eye of the local law, the administration of which is in the hands of a Government inimical to him.

Laws which uphold slavery are local not only in the sense that they have legal force in particular countries, but in the further sense that they create a status not recognised in other countries. The right to own a slave as property in a slave-holding country may be recognised elsewhere, and it has been recognised in English courts of justice; but the right to compel the obedience of a slave cannot be enforced in any place where slavery is not legal. But this is far from being the whole account of the matter, though it may perhaps be all that a court of law could properly take notice of. The State, in judging what instructions (as between itself and other States) it may rightly give to its officers, is not confined to the considerations which might be urged before a court of law. Slavery is not only an institution of this strictly local character, but, so far as it operates to keep human beings forcibly and against their will in the condition of mere objects of property, is regarded by nearly the whole of Christendom as repugnant to justice. In Brazil and Cuba it survives only because the total and immediate abolition of it—involving, as this would, the destruction of a large mass of proprietary rights—has not hitherto been found practicable. The deliberate conviction of Great Britain on the subject has been shown in many ways, by her legislation, by the sacrifices she has undergone, by the uniform and unremitting exertions of her Government. It is an institution also which, from its nature, cannot by any restraints of law or custom be so regulated and controlled as to prevent it from sometimes operating in ways repugnant to humanity, and that not alone by the infliction of mere bodily suffering.

International law, it is to be observed, is not stationary; it admits of progressive improvement, though the improvement is more difficult and slower than that of municipal law, and though the agencies by which change is effected are different. It varies with the progress of opinion and the growth of usage; and there is no subject on which so great a change of opinion has taken place as slavery and the slave trade. Bynkershoek, in one of his latest works, published in 1737, maintains that, as a conqueror may in the exercise of an extreme right do what he pleases with his captive, he may, though the practice has fallen into desuetude, put him to death, or, as a consequence of that right, may sell him into slavery.\* Such a doctrine would now be held not merely unlawful, but atrocious; and the trade in negro slaves, which was formerly competed for as a legitimate source of profit, has in a great number of treaties been assimilated to the crime of piracy.

These considerations are sufficient to justify Great Britain in instructing her officers not to enforce slave laws, or permit them to be enforced, on board her ships of war in foreign territorial waters, either altogether or in particular circumstances in which the claims of humanity or justice assert themselves more plainly and imperatively than in others. Which of these two courses she should adopt may be a question of prudence, and perhaps also of humanity itself; but we do not think it can be solved by reference to a positive rule of international law. Against either of them slave-holding States have, as is pointed out in the report, an extreme remedy in the power of excluding British vessels from their ports. But in exerting that power, should they deem it necessary to do so, they would be protecting themselves or their subjects,

\* *Quæst. Juris Publici*, L. i. c. 3.

not against a violation of international law, for there would be none, but only against apprehended loss.

It is difficult, no doubt, in practice, to draw with theoretical precision the line of demarcation between an active interference with slavery and the refusal to enforce the master's right over his slave. An officer who declines to give up a fugitive does to some extent interfere with the local institution of slavery. He not only protects from injury, but takes away from the slave-owner, the terrified man or helpless girl who by the local law is a marketable object of property; and it makes little practical difference—to the owner none—whether the slave has scrambled on board with the officer's leave or without it. But in these cases it may fairly be said that he interferes no more than he inevitably must unless he is to be actively instrumental in forcing the fugitive back into slavery; if he were to go further, to incite slaves to escape, hold out to them inducements to do so, or use force or contrivance to liberate them, this would be an interference of a different kind. In the Recommendations of the Report this distinction is kept in view, and an officer who should be careful to observe it would find little difficulty in doing so.

II. In the foregoing remarks it has been assumed,—

1. That a commanding officer on board his ship, even when she is lying within the territorial waters of a foreign State, is to be regarded, not as in subjection to the authority and laws of that state, but exclusively as a subject of his own Sovereign and an officer of his own government.

2. That the laws of the foreign State cannot be forcibly executed on board unless by his order or permission as commanding officer.

It is necessary to say a few words on these two assumptions, and in doing so to advert to the distinction between a ship owned by private persons and employed by them for purposes of trade or pleasure, and a ship commissioned by the State and employed in the public service.

A private vessel is not, according to the present practice of States, what a ship has been called by a great authority (Lord Stowell) a "mere moveable." She is also a floating habitation, subject to the law and jurisdiction of the State under whose flag she sails,—a jurisdiction which covers all persons on board, of whatever nationality, enjoying the protection of the flag, which follows her everywhere, and is not interrupted even when she is in the territorial waters of a foreign Power.\* According to French authorities and French practice, this jurisdiction is treated as exclusive in all such matters as do not affect the rights of persons not belonging to the ship, nor the peace and order of the port. But in other matters, if not in these, it is universally admitted that the ship and all on board of her are amenable to the law of the country in whose waters she happens to be, although the question may arise (as it has lately arisen) whether that law ought to be held enforceable in the case of vessels navigating within the range of coast-water and not lying in port.

A person therefore who enters a foreign port in a private ship becomes, while there, temporarily a subject of the foreign State, owing a "local allegiance" to its laws, though he is also, when on board, subject to the jurisdiction of the country which extends to him the protection of its flag. He cannot therefore refuse to obey the local laws, for subjection to a law allows no discretionary choice between obeying and not obeying it. Nor can the claim of the local officers of justice to board the ship, search her, and take out of her anyone who has become amenable to those laws be disputed or resisted.

Ships of war, on the other hand, have a recognised immunity, which places them, when within foreign waters, in a condition materially different from that of a private and uncommissioned vessel. So much as this is admitted on all hands. A long succession of writers, English, French, German, and American, referring to this immunity as established by usage and general consent, have described it as an exemption from the "law," the "jurisdiction," or the "law and jurisdiction," of the foreign State, or by other equivalent phrases; language which, though leaving somewhat to argument and inference, has nevertheless a plain and natural meaning.† Some of these writers have been judges, some diplomatists, one an officer in the naval service of France, whose book has a deserved reputation for lucidity of statement as well as for sense and

\* Reg. v. Sattler, D. & B. C. C. 525; Reg. v. Anderson, 1 C. C. R. Law Rep., 161.

† Ortolan, *Diplomatie de la Mer*, L. II., ch. x, xiii.; Heffter, *Europäisches Völkerrecht der Gegenwart*, s. 79.; Blüntschli, *Droit International Codifié*, art. 321.; Calvo, *Droit International*, 1, 383, 2nd Ed.; Twiss, *Law of Nations*, 1, 228; Woolsey, *International Law*, s. 54.; Halleck, *International Law*, p. 171.; Field, *Draft Outlines of an International Code*, art. 309. For the opinion of Kent, see Commentaries, 156 and note.

moderation. Whatever value we may be disposed to assign to testimony of this kind, it is, for the last half century at least, substantially unanimous. The general practice of Governments, and the general belief or impression current in every naval service, appear to have been in accordance with it. No one, it is true, disputes, or has disputed, the right of every sovereign State to exclude foreign ships of war altogether from its ports, or to attach such conditions as it may think expedient to the admission of them. During maritime wars very stringent conditions have been frequently imposed by neutral Powers on the admission of belligerent ships: for example, in the more recent of such wars, when ships of both belligerents have been in a British port at the same time, one has not been allowed to put to sea until after the lapse of twenty-four hours from the departure of the other. It need hardly be said that regulations as to mooring and anchoring, observance of sanitary precautions, and the like, are everywhere usual, though not everywhere the same. Nor has it been contended that a Sovereign, by permitting the entrance of a foreign vessel, abandons the right to repel or arrest by force, if need be, actual or threatened violence towards his subjects, or those under his protection; and this right has been occasionally exerted. But we do not know of an instance within this period in which a right has been conceded or asserted to take a person or thing from on board a ship of war by legal process without leave of the officer in command, or to hold the officer, or any of those under his command, personally amenable to the local jurisdiction for acts done on board in contravention of a local law. Nor are we aware that this state of things has produced any practical inconvenience.

It has been suggested that, whilst the vessel herself as an object of property should be free from process, and the discipline of the ship as well as the cognizance of any offences which one member of the ship's company might commit against another should be left to her own authorities, no further exemption should be allowed. The condition of a man-of-war seeking the accommodation of a foreign port would then be not very different from that which the law of France assigns to a private vessel, except as regards the immunity from proceedings *in rem*. She would be liable to be boarded and searched by the local authorities: persons who had sought refuge in her either from slavery or from the rage of a victorious faction could be seized and carried ashore, even if they had come on board in a place out of the jurisdiction: the captain himself indeed might be taken from his own quarter-deck on a charge of having offended against some local regulation. A privilege so curtailed—if it be a privilege at all—appears to be but imperfectly adapted for securing to maritime Powers undivided control over their ships of war or for preventing hazardous conflicts of authority. But, whether expedient or not, it is certainly different from the understanding which we believe to exist universally at present, and on which naval officers and their Governments have thought themselves entitled to rely.

This suggestion has been urged by two Italian jurists, Lampredi and Azuni. "A nation," says the former, "which resolves to act vigorously will not make the least difference between a merchant vessel and a ship of war, whenever long custom or a privilege accorded has not established the contrary, and thus set a limit to the exercise of its sovereign rights."\* But he admits himself to be in opposition to many writers, and his opinion does not appear to be shared by the present Italian Government.†

Lampredi, in the chapter referred to, asserts the positions that a ship at sea is to be regarded as a mere vehicle (*vettura per mare*), and two ships meeting one another at sea as vehicles meeting in an unoccupied desert; and hence that the persons on board are not protected by the flag, but solely as individuals by the law of nature, which makes every man free and independent except in regard to his legitimate Sovereign. It is evident that according to these positions a slave, a refugee, a person liable to conscription or impressment, or any other subject, might be forcibly taken out of a foreign ship by the Power claiming him, not only in territorial waters but on the high seas.

A like limitation of the privilege is favoured by Pinheiro-Ferreira. But this author, an avowed theorist, maintains also (in his Annotations on Martens) that ambassadors should be deemed liable to criminal and civil process. It has some support likewise in a *dictum* of Mr. Justice Best in "Forbes v. Cochrane," and in the far greater authority of Lord Stowell.‡ It must be observed, however, that that whole subject of the national sovereignty over ships has undergone much discussion, not only since Lampredi but since the time of Lord Stowell; and that the effect of those discussions has been to

\* Del Commercio dei Popoli Neutrali in Tempo di Guerra, ch. x. (published in 1788).

† Letter of the Italian Minister of Foreign Affairs in Appendix.

‡ Letter in Appendix.

carry the jurisdiction of a State over vessels entitled to use its flag to a more advanced point, and place it on a firmer basis, than it had reached in 1820.

It may be that should the extent of the privilege ever become a question in courts of law, some qualifications of it might be allowed, the necessity or expediency of which there has not hitherto been occasion to consider. A concurrent jurisdiction might be held to exist for some purposes, as in matters of civil *status*. Courts of law are accustomed, in dealing with such questions, to proceed very much, as speculative writers do, on considerations of general convenience; and some questions might easily be suggested as to which it would be hazardous to predict what answer they would receive. But the matter referred to this Commission is one upon which any decisions that could be pronounced by courts of law could have but an indirect bearing. As between State and State, the right which every naval commander in foreign waters has hitherto believed himself to possess of saying, "My ship is the castle of my sovereign under my command; no one enters it, and no force can be exerted in it, unless by my permission; and for the orders I give here I am not amenable to any foreign jurisdiction," appears to us to be sustained by usage and opinion, and, we may add, by convenience. The privilege of the ship is the privilege of the Power whose flag she displays and in whose service she is employed. And the responsibilities of the officer who in foreign waters acts in obedience to instructions, to the detriment (should this be so) of the foreign country or any of its people are assumed, and would be wholly borne, by the Government which instructed him.

III. In conclusion, we are of opinion that Her Majesty's Government may, without transgressing any international obligation, give such instructions to officers commanding Her Majesty's ships with respect to the disposal of fugitive slaves who may seek refuge on board their vessels as the Government may judge most consonant to humanity and prudence.

Officers acting on such instructions would be responsible to the authority from which they received their orders, and would not be responsible to the foreign territorial authority.

Her Majesty's Government could not deny to any foreign Sovereign the right to interdict the entrance of British ships of war into his ports, although it might not admit that the exercise of the right was under the circumstances necessary or reasonable, and might indeed, should it think proper to do so, reciprocally exclude from its own ports the vessels of any Power which had recourse to this measure.

ROBERT PHILLIMORE.  
MOUNTAGUE BERNARD.  
H. S. MAINE.

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### III.

#### Memorandum by the Lord Chief Justice.

WE are called upon by the Commission to advise, with a view to instructions to be given to officers commanding Her Majesty's ships of war as to the reception of fugitive slaves on board such ships, upon the nature and extent of the international obligations applicable thereto, and as to any engagements which this country may have entered into which may affect the matter of such reception; and with both these heads of inquiry I am prepared to deal. But in order to complete the inquiry it appears to me to be further essential to consider how the matter stands with reference to our own municipal law. For it would obviously be anything but satisfactory if instructions should be given to our officers relatively to this matter, and conduct should be pursued by them, which should prove to be inconsistent with the law of England. I propose, therefore, in the course of my observations, to consider the subject with reference to our own law as well as with reference to the obligations arising from the law of nations. But I will first deal with the subject with reference to the latter.

The reception of a fugitive slave on board a ship of war may take place under two sets of circumstances, which it is essential to distinguish from one another: that is to say, it may take place on the high seas, or it may take place in the waters of a state by the law of which the fugitive is a slave.

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The first case presents no difficulty. By the law of nations, as now universally established, a ship on the high seas carries with it the law of the nation to which it belongs, and no other. It is bound, no doubt, to respect the rules of international law should they become applicable, but it is not bound by, or called upon to apply, the municipal law of any other country.

But slavery, though, as we shall see presently, not contrary to the law of nations, forms no part of that law. It is universally acknowledged that a country which does not admit of slavery in its own subjects is not called upon, when a person, previously a slave in a country where slavery exists, is found within its territory, to give effect to the right which the master had in the slave by the law of his own country. For slavery, to use the words of Lord Mansfield, is an institution "*positivi juris*," that is to say, it is the creation of the particular law under which it exists. The rights which it involves are therefore limited to the area to which that law extends. Beyond the limits of the authority and jurisdiction of such law these rights disappear and can no longer be insisted on. This being so, and a ship on the high seas being subject to the law of its own country and carrying that law with it, it follows that if a fugitive slave gets on board a British ship on the high seas it becomes the same thing as though he were on British soil. The former owner has there no right in him which he can enforce. The commander of the ship can no more give him up than, to use the emphatic language of Mr. Justice Best in *Forbes v. Cochrane*, "he could throw him into the sea."

This doctrine that the right of the slaveowner is confined to the territory by the law of which the right to the slave exists does not rest on theoretical considerations alone, but was fully established in the leading case of *Forbes v. Cochrane*,\* where slaves belonging to a person resident in a Spanish colony—this country being then in amity with Spain—having escaped, and got on board a British man-of-war *beyond the limits of the Spanish waters*, it was held that the commander of the ship was justified in refusing to deliver them up on the demand of the owner.

I have indeed seen it asserted in print that not only is the property in the slave not divested by his removal beyond the jurisdiction of the local law which gives the right to his owner, but also that that right may be insisted on where the slave has been taken on board a vessel on the high sea, just as the right to property which has been washed overboard in a storm, and picked up at sea by another vessel, may be claimed on being identified. But as it seems to me there is this essential difference between the two cases. The right of property in a thing is *universi juris*. It is recognised by the tribunals of all countries. Not so the right of property in human beings. This it is true is recognised as a right within the limits of a state in which slavery is allowed by the law, or, which is the same thing, in a ship of such state; but it is not recognised beyond the actual limits in which such law prevails. There is therefore no analogy between the two cases.

The question assumes, however, a very different aspect when we proceed to apply the principles of international law to the case of slaves found on board a foreign ship of war in the local waters of a state, by the law of which slavery exists, and the owner has by it a right of property in the slave.

The question as to the reception of a slave on board a ship of war, or as to his protection against the local law and the owner's rights under it, may present itself in more than one form. If the commander knows that the slave seeks to come on board in order to escape from his owner, in breach of the local law, ought he to receive him? If the slave, having come on board in attendance on some local ruler, paying a visit to the commander, or having brought a pilot to the ship, should refuse to go back, and insist on remaining,—or if he has come on board in performance of some contract entered into by the commander of the ship with the owner of the slave for the supply or service of the ship, and, taking advantage of the occasion, desires to remain on board to escape from slavery,—ought he to be allowed to do so? Or suppose the slave, for the purpose of escaping from his master, has come on board surreptitiously, against the will and in defiance of the orders of the commander, should he be allowed to remain?

As regards the principles of international law applicable to the case in hand the matter appears to me free from doubt; and, as it seems to me, these principles may be stated in a few short propositions, and also, as free of all question as to the extritoriality of ships of war, to which subject, however, I propose to revert further on.

It is a principle of the law of nations, of universal application, that a nation cannot encourage, much less authorise, its subjects to violate the law of another country with

\* 2 R. and C., 448.

which it is at peace, or to invade the rights of the subjects of such country as established by its laws, or to assist the subjects of such country to break its law or evade justice; nor can a nation afford in any manner its sanction to such conduct on the part of its own people; and, *à fortiori*, still less can it do so in respect of any violation of the law by its subjects, especially such of them as are in its service, when enjoying the hospitality of the other country, as is the case when a ship of war is lying within the territorial waters of another nation.

Moreover, as every maritime state has the absolute and exclusive dominion in its own territorial waters, if such a state opens its ports to the ships of war of other nations, it is always on the implied understanding that, while in its waters, they shall respect its laws, and leave the rights of its subjects unmolested.

It may, perhaps, be said that, inasmuch as the commander of the ship does not take the slave from the possession of his owner, but is simply passive in receiving him, or in allowing him to remain on board, he does nothing in violation of the local law. I cannot admit the validity of this argument. The permitting the slave to remain on board the ship must be taken in connection with the assertion of the exterritoriality of the ship, and the exclusion of the owner and the local authorities from enforcing the law by taking possession of the fugitive, and with the means thus afforded to the slave of setting his owner and the law at defiance. It must also be taken in connection with the fact that the fugitive has no conceivable right to be on board the ship at all, unless it is to be understood that Her Majesty's ships in the waters of slave-holding states are intended to be asylums for fugitive slaves, and that our officers are bound to act accordingly—a position which will hardly be maintained. The allowing the slave thus to escape from the necessity of serving amounts to what in our law would be termed "harbouring" him. In the old action for harbouring a servant, it would have been enough to show that the servant had been allowed to take shelter in the defendant's house, and that the door had been shut against the master.

Again, it may perhaps be said that, as a British ship of war represents British soil, and a slave on British soil is to be treated as a freeman, the slave on board such a ship is entitled as of right to be dealt with as such, and therefore cannot be given up, or suffered to be seized as a slave. Of course this argument begs the whole question of the exterritoriality of a ship of war. Assuming, however, for the purpose of the argument, that a ship of war enjoys the privilege of this so-called exterritoriality, there must of necessity still remain this essential difference between British soil and a British ship of war—that whereas the former is open, at all events in time of peace, to all comers of all nations, no stranger has the right to set his foot on board a British man-of-war, or at all events to remain on board, without the assent of its commander. Even if it be conceded that the fugitive cannot be given up, or suffered to be taken when on board, still, as he has no right to remain in the ship, the suffering him to do so, when the effect is to enable him to break the local law and to defeat the right of his owner, makes the commander a party to the breach of the local law committed by the slave in withdrawing himself from the possession of his master, in derogation of the rights which the law gives to the latter.

But is it clear that this quality of exterritoriality attaches to a ship of war in the waters of another state—at all events to the extent contended for, namely, of altogether exempting the ship from the local law, when that law has been violated by some one who is on board? It may readily be admitted that by the universal concurrence of all maritime nations, so far as the government and discipline of a ship of war are concerned, those on board remain subject to the law alone which the ship carries everywhere with her, namely, the military law of the nation under whose flag she sails. But to say that where a crime has been committed against the local law by any one on board the vessel, either on shore, or on board the vessel itself, within the waters of a foreign state, the law of that state shall be powerless to arrest the criminal and bring him to justice, is a proposition to which I am not prepared to assent, and to convince me of which, in the face of the monstrous consequences which have been already pointed out with so much force as following from it by our colleague, Mr. Fitzjames Stephen, in his most able paper, will require much better argument, or much stronger authority, than any I have yet seen. Mr. Stephen puts the case of the murder of one Frenchman by another, on board an English ship in a French port. Is the captain of the vessel to refuse to surrender him to the local authorities, and to bring him to this country for trial? Or, to put a case nearer home: A man commits a murder or other crime on shore, and takes refuge in a foreign ship of war lying off the Isle of Wight or in Plymouth Sound; or, to take another case put by Mr. Stephen, one Englishman murders another on board such foreign ship; or, a person belonging to the ship commits a murder on shore and then returns to the ship; or, suppose an Englishman does an act on board the vessel which would be an offence on

shore, but has not been made by law an offence if done by an Englishman abroad ; and the captain of the ship refuses to give him up. "Oh," but it will be said, "this is sure not to happen ; the foreign captain would not hesitate under such circumstances to give up the offender."

Possibly not. But in that case what becomes of the exterritoriality of the ship? If the ship is to be considered exterritorial in the sense in which that term is now used, namely, as forming virtually part of the soil of her own country, and in a legal point of view as not being within the territory of the local state, or subject to its law, then, in the case last put, the crime has not been committed on English soil, and does not come within English jurisdiction. In the former cases, if the ship is exterritorial in the full sense in which it is contended that that term is to be understood, the captain has no authority to give up the offenders, because, as has been so well pointed out by Mr. Stephen, the delivering of them up could then only be effected by virtue of treaties of extradition, and these treaties confer no powers on captains of ships of war, and require particular formalities which could not be carried out on board. But let us suppose, what is quite possible, that the captain of the foreign ship, taking his own view of his duty in such a case, were to refuse to surrender a criminal who had taken refuge on board, are we prepared to say that our law would be powerless to arrest the criminal and bring him before one of our own courts for trial? I can only say that, so far as I am concerned, I am not prepared to give my sanction to a doctrine which I believe to be neither consonant to the law of nations, as thus far settled, nor to our own.

Another case occurs to me as presenting a serious difficulty. A man belonging to a foreign ship of war lying in our waters commits a murder on board, and escapes to the shore, where of course the foreign captain has no authority to arrest him. If it be true that the ship is in all respects exterritorial, the crime has not been committed on British territory, and the criminal, not being a British subject, and as such amenable to our law, cannot be arrested by our authorities till a demand has been made for his extradition, accompanied by all the necessary formalities. In the meantime the criminal makes his escape. It surely cannot be contended that the possibility of such a result ought to exist; and I cannot suppose that those who contend for the doctrine of exterritoriality have sufficiently considered all the consequences which may flow from it.

A still stronger case occurs to me as possible. Suppose a British subject to be improperly confined in a foreign ship of war in our own waters, is it to be assumed that a writ of Habeas Corpus could not be issued to set him at liberty? Suppose that in Somerset's case the slave, instead of being carried on board an English vessel, had been taken on board a foreign ship of war, bound for some foreign colony in which slavery existed, to be there sold as a slave, can it be that our law would have been powerless to prevent him from being carried off?

In the face of these complications and difficulties, what authority have we for this doctrine of exterritoriality? The doubtful authority of one or two publicists—a class of jurists to whose theories I am seldom disposed to ascribe very much weight, except when they are able to refer us to treaties or the settled practice of nations as an ascertained fact. For, international law is the result either of express agreement by treaty, or of the common understanding of nations as evidenced by their practice. Where neither treaty nor practice can be referred to, the abstract reasoning and speculations of theoretical writers, however boldly they may take upon themselves to declare the law, are, in my humble judgment, entitled to but very little weight.

Before we proceed to review the authorities, it may be worth while to consider the other instances in which an analogous principle prevails. For it is from these analogous instances that the doctrine of the exterritoriality of a ship of war has taken its origin. It is universally agreed that a sovereign, while commorant in a foreign state, is personally exempt from its law, both civil and criminal; and the same privilege extends to his suite. The property of a sovereign is in like manner beyond the reach of the law of another country in which it may be. An ambassador, as the representative of his sovereign, enjoys the like privilege: he is exempt from the local law. So also is his residence; so also are his personal goods. His suite are said to be equally exempt from civil process; but it has not been conceded thus far (in this country at least) that they are not liable to arrest, and to be tried and punished on a criminal charge. On the contrary we are told that in the case of the coachman of Mr. Gallatin, when minister of the United States in this country, the British government claimed the right to arrest him on a criminal charge, for an assault committed outside the residence, and to make the arrest within its limits; admitting, however, the propriety of first giving notice to the minister, that he might deliver him up, or make



arrangements with the police as to the time and manner of their entering to search and seize.\*

That this is the view taken by the French authorities appears from a remarkable case reported by Mons. Calvo.† In 1867 a Russian presented himself at the Russian Embassy at Paris, and applied for assistance, and this having been refused, rushed on M. de Balsche, one of the attachés, and stabbed him with a dagger, doing the same to two other persons who came to the assistance of the attaché. The proper authorities having been applied to, the man was apprehended by the officers of police, and committed for trial before the Cour d'Assises. Some time afterwards, the Ambassador, who had been absent at the time of the occurrence, having become acquainted with what had happened, claimed the surrender of the prisoner as being a Russian subject, as also on the ground that the offence having been committed in the hotel of the embassy, and the privilege of extraterritoriality attaching to the latter, the matter was not within the cognisance of the French tribunals. But the French authorities refused to give up the criminal, not only on the ground that any right of extraterritoriality had been waived by the application to the local authorities by those in charge of the embassy, but also—"suisant nous," says M. Calvo, "avec toute raison"—that the legal fiction referred to did not extend to such a case.

The privilege conceded by the general practice of nations to sovereigns and their representatives stands upon very sufficient grounds, and is simple enough. In fact, it was too simple for the jurists, a class who perhaps may be said to be somewhat too partial to fictions. So they invested it with the fanciful appellation of extra- or ex-territoriality, according to which the sovereign, or the ambassador, though bodily resident on the soil of the foreign country, was to be considered as in law resident in his own, while his house was to be deemed in like manner part of the latter. Having adopted which fiction, they proceeded to draw from it all the inferences which would follow from the fact, if existing in reality.

In like manner a passage through its territory or an entry into its waters being sometimes conceded by a neutral to a belligerent, or to the ships of war of another nation in time of peace, and the necessity of the case requiring that such army, fleet, or ship should remain subject to military law, the local sovereign has allowed that law to be exercised within the limits of his own dominions. Here again the jurists have applied the fiction of extraterritoriality, and have thence inferred that not only did the army, fleet, or ship of war, so far as those composing it were concerned, remain subject to their own law, but that the assent of the local sovereign was thence to be implied to an entire relinquishment of his own jurisdiction. And though, as we have just seen, the doctrine of extraterritoriality would be insufficient to prevent the arrest and trial of a criminal who had taken refuge in the hotel of an ambassador, nevertheless, extending the fiction and the privilege supposed to spring from it, certain authors have claimed for the army or the ship absolute and entire exemption from the local jurisdiction. There has been no greater source of confusion and embarrassment in the application of the law than legal fiction!

Let us proceed to consider the authorities on which this doctrine of extraterritoriality rests. To the extent to which it is now contended for it is certainly of comparatively modern origin, and appears to me to have but little authority to support it. Vattel has no reference to the subject of ships of war. He speaks of the passage of the army of a belligerent through the territory of a neutral, but without dealing with the question of the liability of the persons composing it to the local law during such passage.

Casaregis, a jurist of considerable authority, who wrote in 1740, states, what is no doubt perfectly true, that when the army or fleet of a belligerent is permitted to enter the territory or territorial waters of a neutral, such army or fleet remains, by the custom of war, subject to the authority and law of the sovereign to which it belongs. "Quum vero de exercitu vel bellicâ classe, sen militaribus navibus agitur, tunc tota jurisdictio super exercitum vel classem, residet penes principem, aut ejus ducem, quamvis exercitus, ve bellica classis, existat super alieno territorio vel mari, quia ex belli consuetudine illa jurisdictio quam habet rex, seu princeps, aut illorum duces super exercitum prorogatur de suo ad aliorum territorium." And he gives as the reason "quia, absque tali jurisdictione, exercitus vel classis conservari et consistere non posset." "Quamobrem omnes et quoscumque, militiæ suæ, vel terrestres, vel maritimæ, milites et homines, etiam in alieno territorio delinquentes, princeps, vel illius dux, quâlibet pœnâ, etiam capitali, plectere valet, vel quoscumque alios jurisdictionis actus erga eos exercere, ac si in proprio

\* Dana, Notes to Wheaton, p. 128.

† Droit Internat., vol. i., p. 650.

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“territorio maneret; ut *mirum in modum* tradunt Baldus,” and various other authors whom he cites. “Reverâ,” he adds, “Autores omnes supra laudati, agentes de militiâ, sive exercitu, aut bellicâ classe, aut navibus militaribus, se fundant super ordinariâ, vel delegatâ jurisdictione, quam habeat Imperator, vel duces etiam, de consuetudine belli, in militiam suam terrestrem vel navalem.” And he adverts to what he justly calls the “mirabilis verborum expressio,” of Bartolus, “Quod licet quis non habeat territorium, si tamen habeat potestatem in certas personas, propter illas personas dicitur habere territorium.”\*

In another place (Discursus, 174), after saying that no one can exercise jurisdiction in the territorial waters of another state, except the local authority, he adds, “Exceptis tamen ducibus et generalibus alicujus exercitus vel classis maritimæ vel ductoribus alicujus navis militaris. Nam isti in suos milites, gentem et naves, libere jurisdictionem, sive voluntariam, sive contentiosam, sive civilem, sive criminalem, in alieno territorio quod occupant, tanquam in suo proprio, exercere possunt.”

There is, however, here no express assertion as to extraterritoriality in the sense in which that term is now used, namely, as excluding the local jurisdiction. An army, or fleet, or even a ship of war, in time of peace, as well as in time of war, can only be kept under due control and discipline by military rule; and therefore, if allowed an entry into neutral territory, it carries with it, not merely by the custom of war, but ex necessitate, the military law of its own sovereign. But Casaregis nowhere says that the soldiers or sailors composing it become thereby exempt from the civil jurisdiction of the state in whose territory they are for the time. It is obviously one thing to say that soldiers or sailors remain subject to the military law of their own country, and another, and one which by no means follows, to say that, if one of them commits a murder or other crime on the territory of another state, which the army, fleet, or ship has been permitted to enter, he should not be subject to the local law. Casaregis certainly asserts no such proposition.

Hübner, however, a Danish jurist, who, in 1759, wrote a treatise, “De la Saisie des Batiments Neutres,” for the express purpose of contesting the right of search, and the interference on the part of belligerents with neutral commerce, goes further, laying down, with a view to the conclusion he desired to establish, in general terms, that neutral ships were, to use his words, “sans contredit des lieux neutres”—“d’où il s’ensuit,” he continues, “que quand ils seraient incontestablement chargés pour le compte de l’ennemi, les belligérants n’ont aucun droit de les inquiéter au sujet de leurs cargaisons, puis qu’il revient au même d’enlever les effets d’un navire neutre, ou de les enlever sur un territoire neutre.”

Hübner’s reasoning was vigorously combated by a jurist of far greater authority than himself, namely by Lampredi, as well as by another Italian publicist, Azuni, by Schmalz, a German publicist, and by Pinheiro-Ferreira, a writer of considerable ability. But we are not interested in the contest so far as the position of Hübner is concerned. For Hübner is speaking of ships on the high seas, not of ships in territorial waters. As to these, his authority, whatever it may be worth, is the other way, for he says expressly: “Ces vaisseaux (vaisseaux de guerre) s’y trouvent eux mêmes sous la jurisdiction passagère du souverain des lieux; au moins autant que la sûreté des citoyens, la tranquillité de l’état, et les lois générales de la société, l’exigent.”

Nevertheless, the observations of Lampredi on the subject of ships of war in the waters of a foreign state are well worthy of attention. I quote them from the French translation by Peuchet, not having the original at hand: “Malgré ces principes incontestables, grand nombre de personnes ont soutenu et soutiennent encore cette opinion, que les navires de guerre doivent être réputés territoire de la nation à laquelle ils appartiennent et dont ils portent le pavillon, nonseulement en haute mer et dans les parages qui ne sont ni ne peuvent être occupés, mais même dans les endroits occupés, tels que les ports, rades, havres, côtes, etc. Mais cette opinion est fautive, puisqu’il n’y a personne dans l’étendue d’un État, sur qui le prince n’ait autorité, et que ce droit n’est altéré ni par la nature de la voiture sur laquelle se trouvent les étrangers qui entrent sur le territoire, ni par le nombre de ces mêmes étrangers.”

Lampredi takes care to point out the difference between those acts which must be judged of according to the local law and those which have reference to the nationality of those on board. “Une nation à qui appartient l’équipage du navire qui porte son pavillon, peut déclarer que le vaisseau sera regardé comme territoire national, pour tous les actes qui peuvent avoir du rapport aux lois de la patrie, et y être reconnus pour légitimes; par exemple, que les enfans qui y naîtront, seront réputés nés dans le pays même: que

\* Discursus de Commercio, 136.

“ les donations, testamens, transport de biens auront la même force que s'ils y avaient également été faits ; mais rien ne peut soustraire le navire à la juridiction du prince dans l'étendue de la juridiction duquel il se trouve, aux lois de police et à l'autorité qu'il y a établies.”

Hence, he observes, arises the mistaken idea that a ship of war in the waters of a foreign state is altogether independent of the law of such state, “ Ainsi, quand on voit que dans un vaisseau français, par exemple, on observe les lois civiles de France, qu'on y obéit aux ordonnances de la marine de France, on est porté à croire que l'on est sur le territoire français ; et l'on ne se trompe pas si l'on n'a égard qu'aux actes qui doivent ensuite être reconnus pour légitimes en France, et si l'on ne fait attention qu'à la police intérieure du navire, établie par les lois françaises, et à laquelle les marins sont obligés d'obéir. Mais l'on se tromperait beaucoup si l'on étendait cette manière de voir à tous les actes extérieurs des marins et aux actes de commandement dans le pays, qui ne peuvent appartenir qu'au prince dans le territoire duquel ils se trouvent, et à la juridiction de qui l'équipage et le navire sont soumis aussi long-tems qu'ils y restent, sans qu'ils cessent pour cela d'être dans la dépendance de leur souverain naturel.”

Adverting to the exercise of military law on board a ship in foreign waters according as that law exists in the country to which the ship belongs, he points out the mistake in supposing that the power of the commander in this respect arises from the ship being considered as part of the territory of the nation to which she belongs, whereas it arises from the will of the sovereign whose commission she bears, and the acquiescence of the local sovereign in the exercise of that law as essential to the maintenance of order and discipline on board.

It appears to me, I must say, that if the matter is to be decided by authority, the opinion of such a writer as Lampredi is entitled to very great weight.

Pinheiro-Ferreira makes a vigorous attack on the doctrine of exterritoriality. He first deals with the fiction of the exterritoriality of an ambassador's residence, after which he continues : — “ Après avoir assimilé l'hôtel de l'envoyé au territoire de son pays, ils (les publicistes) ont cru, et avec plus de raison, il faut l'avouer, que les vaisseaux de guerre devaient aussi être considérés comme des portions détachées du territoire auquel ils appartiennent, et que, par conséquent, lorsqu'ils sont mouillés dans un port étranger, les malfaiteurs du pays doivent trouver à leur bord un asile aussi inviolable que dans l'hôtel de l'ambassadeur ou dans le pays même auquel ces vaisseaux appartiennent. Cette application de leur chimérique fiction aux vaisseaux de guerre est encore plus dénuée de raison que lorsqu'il s'agit de l'hôtel et des équipages de l'ambassadeur.”\*

I have mentioned Azuni. Without ascribing any very great weight to his opinions, his reasoning on this subject is so entirely what has occurred to my own mind, that I cannot refrain from citing him. He says as follows† :—

“ En voyant exercer les droits de souveraineté jusqu'à la peine de mort par les commandans des vaisseaux armés en guerre dans les ports et les baies appartenans à une autre puissance, quelques auteurs, du nombre desquels est Hubner, ont prétendu qu'on devait regarder ces vaisseaux comme territoire étranger, par la raison spécieuse que si l'endroit où se trouve le vaisseau de guerre continuait d'être le territoire du souverain du port, on ne pourrait pas exercer, en sa présence et dans son domaine, des actes aussi complets de pleine juridiction.

“ Il est facile de résoudre cette difficulté, en réfléchissant que l'action de cette juridiction, de quelle manière qu'on la suppose exercée sur un vaisseau de guerre, n'est pas fondée sur le droit de territoire, mais sur la nature du commandement militaire qui s'exerce à bord, et y conserve l'intégrité et l'usage de sa force, toutes les fois que le souverain du port consent à recevoir un vaisseau de guerre comme tel. Sans cette continuation de pouvoir militaire, il serait impossible de gouverner l'équipage de ce bâtiment et de maintenir la discipline dans sa garnison. L'exercice de ce pouvoir, selon toute son étendue, dans l'intérieur du navire, est donc une conséquence nécessaire de l'asile qui lui a été accordé, sans être un droit propre au commandant du vaisseau, et encore moins un droit de territoire.

“ Il suit de là que le commandement militaire reste intact par la qualité et la nature du vaisseau de guerre, mais que sous tout autre rapport, ce même navire et son équipage sont soumis à la juridiction du souverain du port. Mon opinion, à cet égard, est fondée sur le principe généralement adopté, qu'une armée étrangère qui passe ou qui

\* Cours de Droit Public, tome 2, s. 18.

† Droit Maritime, p. 302.

“ séjourné sur le territoire d'un autre souverain est toujours soumise à la juridiction  
 “ du souverain du pays, quoique le commandement militaire reste intact entre les mains  
 “ de son chef, en vertu du consentement tacite de ce même souverain, par le principe de  
 “ raison universelle, qui veut qu'un droit accordé le soit avec toutes les dépendances et les  
 “ facultés sans lesquelles on ne pourrait pas l'exercer et en faire usage.”

That this doctrine of extritoriality, as now put forward, was generally unknown in practice down to the close of the last century may be gathered from the following report of the Attorney-General of the United States to his Government in 1794,\* in a case which, as Mr. Rothery suggests, was probably one of impressment :

“ June 24th, 1794.

“ The Attorney-General has the honour to report to the Secretary of State that he has not been able to meet with any case in the English reports from which it appears that a habeas corpus has been actually awarded to bring up an English subject illegally detained on board a foreign ship of war. Whether this be owing to no such detention having taken place, or to any modern courtesy of applying to the minister of the proper nation before redress is sought in the usual course of law, the Attorney-General cannot determine, but he is satisfied that a British subject, detained on board such foreign vessel in the courts of that kingdom, is entitled to this writ, and that the commander may be legally compelled to obey it. It is a writ extensively remedial, and in Bourn's case, even before the Habeas Corpus Act, it was declared to be ‘ a prerogative writ, and that it concerns the King's justice to be administered to his subjects ; for the King ought to have an account why any of his subjects are imprisoned, and it is agreeable to all persons and places.’ Hence, it has been awarded to every part of the King's dominions, to places usually privileged, and where, in ordinary cases, the King's writ does not run.

“ The ports and harbours of England are a part of the kingdom. The jurisdiction of the nation is as complete over them as over the land itself ; and the laws of nations invest the commander of a foreign ship of war with no exemption from the jurisdiction of the country into which he comes. Indeed it cannot be conceived that any sovereign power would permit its subjects to be imprisoned in its own territory by foreign authority, or violence, without using the most effectual means in its power to procure their enlargement. Even the house of a foreign minister cannot be made an asylum for a guilty citizen, nor (it is apprehended) a prison for an innocent one. And though it be exempt from the ordinary jurisdiction of the country, yet in such cases recourse would be had to the interposition of the extraordinary powers of the state. The commander of a foreign ship of war, however, cannot claim that extritoriality which is annexed to a foreign minister and his domicile ; but is conceived to be fully in the reach of and amenable to the usual jurisdiction of the state where he happens to be.

“ The Attorney-General therefore conceives that a writ of habeas corpus might be legally awarded in such case, although the respect due to the foreign sovereign may require that a clear case be made out before the writ may be directed to issue.

“ WM. BRADFORD.”

That no such doctrine had been generally adopted even as late as the year 1820 is quite clear from the advice given to the Government in that year by the great master of international law, Lord Stowell, in the case of a Mr. Brown, the details of which are given us in Mr. Rothery's valuable paper.

Brown, a British subject, having taken part in the revolutionary movement in Lima, and having been taken prisoner by the Spaniards, had escaped, and, having got on board a British ship of war, had been brought away to England, and there set at liberty.

The question having been put by the Government to Lord Stowell, then Sir William Scott, “ Whether any British subject coming on board one of His Majesty's ships of war in a foreign port, escaping from civil or criminal process in such port, and from the jurisdiction of the state within whose territory such port may be situated, is entitled to the protection of the British flag, and to be deemed as within the Kingdom of Great Britain and Ireland ? ” — the great civilian gives the following answer :

“ Upon this question proposed *generally* I feel no hesitation in declaring that I know of no such right of protection belonging to the British flag, and that I think such a pretension is unfounded in point of principle, is injurious to the rights of other countries, and is inconsistent with those of our own.

“ The rights of territory are local, and are fixed by known and determinate limits. Ships are mere moveables and are treated as such in the general practice of nations. It is true

\* Opinions of American Attorney-Generals, vol. I., p. 47.

that armed neutralities have attempted to give them a territorial character, but the attempt, when made, has always been most perseveringly and at all hazards, resisted and defeated by the arms of our own country, as inconsistent with the rights of hostility and capture. No such character is allowed to protect ships of war when offending against the laws of neutrality upon the high seas, where no local authority whatever exists.

“ Still less can it be claimed when there is a visible and acknowledged authority belonging to an independent State in amity with the nation to which the ship of war belongs. Such a claim can lead to nothing but to the confusion and hostility which wait upon conflicting rights.

“ The common convenience of nations has for certain reasons and to a certain extent established in favour of foreign ships of war, that they themselves shall not be liable to the civil process of the country in whose ports they are lying; though even this immunity has been occasionally questioned. But that individuals merely belonging to the same country with the ship of war are exempted from the civil and criminal process of the country in its ordinary administration of justice by getting on board such ship, and claiming what is called the protection of its flag, is a pretension which, however heard of in practice occasionally, has no existence whatever in principle.

“ If the British flag converts a ship of war into British territory, the flags of other nations must be allowed to possess the same property in favour of their marine; for there is no principle whatever that can appropriate it exclusively to the British flag. It, therefore, must be allowed reciprocally that a Spaniard getting on board a Spanish ship of war lying in Portsmouth or Plymouth Harbour shall be protected from British justice. I believe that the administrators of that justice would return a very speedy and decisive negative to any such pretension urged on behalf of a Spaniard charged with being amenable to British law. But the inconvenient effects of considering such a ship as Spanish territory would go much further, to the extent of protecting even a British criminal who found his way into her, for no process of British justice can be executed upon a British subject in a foreign territory.

“ When I give this as my decided persuasion upon this subject generally I do not mean to say that in the infinite possibility of events cases may not arise in which such a protection might be indulged. But such cases are justified only by their own peculiar and extraordinary circumstances which extend no further than to those immediate cases themselves, and furnish no rule of general practice in such as are ordinary.”

We are told that since Lord Stowell's time a great improvement has taken place in international law, and that his views are no longer applicable to such a case as the present. In some respects I admit that there has been improvement. Not only have all civilised nations prohibited the slave-trade, but amongst such nations slavery itself has become all but extinct. True it is that since the time when that opinion was written, a general understanding prevails that political refugees should not be given up if they can succeed in taking refuge on board a ship of war of another nation. The revolutions and political changes which have been of every-day occurrence in the last half century, and the proneness of the victorious party to take vengeance in hot blood on those over whom it has triumphed, has led to the adoption of the generous and humane practice of receiving political refugees on board ships of war of this as well as of other nations. But the principles of international law laid down by Lord Stowell remain the same: so far as we know, no compact or understanding has been come to since between our own and other governments inconsistent with them; and with regard to extritoriality as now contended for, I deny, in the first place, that there is any proof that it has in point of fact been generally acquiesced in; and I venture, with all due deference, to think that it would be no improvement on the law of nations if it had. And I must here, in passing, observe that no improvement in our own views on any principle of international law will justify us in forcing the law, as we view it, on another state, which does not take the same view that we do. It is not because we have come to look on slavery with abhorrence, and have abolished it by our law, that we can take upon us to treat the law of a country which sanctions it as non-existent, or the rights which it gives as of no effect.

If, down to the time when slavery still existed in our West Indian Colonies, French ships of war, from a detestation of slavery entertained by the French nation, had taken on themselves to receive the slaves of British colonists, and carry them away, should we have tamely submitted on the score of such ships being extritorial? If not, are we justified in treating other states in a manner which we should not have submitted to ourselves? Or suppose that down to the time when, only a few years since, slavery existed in the Southern States of the Union, a British ship of war having been driven by stress of weather into a southern port, a number of slaves, taking advantage of the occasion, had come on board and claimed to be free, and the commander had refused to give them up, would the United States have acquiesced in their being borne away from their owners on the principle of extritoriality, or on the score of

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some assumed improvement of the principles of international law. I should very much doubt it.

Wheaton, an author of much research, stands up, no doubt, for the doctrine of extritoriality. He lays it down that "a foreign army or fleet, marching through, sailing over, or stationed in the territory of another state, with whom the foreign sovereign is in amity, are, in like manner" (i.e., like the foreign sovereign himself, or his ambassador,) "exempt from the civil and criminal jurisdiction of the place."

But Wheaton founds this assertion entirely on the judgment of the supreme court of the United States, as delivered by Chief Justice Marshall, in the case of the schooner "Exchange,"\* which occurred in 1812. And there is no doubt that the language of Chief Justice Marshall, a most distinguished judge, bears out the proposition as laid down by Wheaton.

After pointing out that a foreigner, while in another country than his own, is subject to the law of such country, there being no ground on which exemption from it can be based, the Chief Justice adds: "But the situation of a public armed ship is, in all respects, different. She constitutes a part of the military force of her nation, acts under the immediate and direct command of the sovereign, is employed by him in national objects. He has many and powerful motives for preventing those objects from being defeated by the interference of a foreign state. Such interference cannot take place without seriously affecting his power and his dignity. The implied license, therefore, under which such vessel enters a friendly port may reasonably be construed, and it seemed to the court ought to be construed, as containing an exemption from the jurisdiction of the sovereign within whose territory she claims the rights of hospitality.

"Upon these principles, by the unanimous consent of nations, a foreigner is amenable to the laws of the place, but certainly in practice nations had not yet asserted their jurisdiction over the public armed ships of a foreign sovereign entering a port open for their reception."

The law of nations, as thus laid down by the Chief Justice, is beyond all question correct, if limited, as in judicial application it should be, to the case before him. The ship in question, having been the private property of American owners residing at Baltimore, had been improperly seized by French authorities at St. Sebastian in Spain, and having been converted into a ship of war by the French Government, had entered the Port of Philadelphia bearing the French flag, as a ship of war belonging to the Emperor Napoleon, with whom the United States were at peace. Her former owners having claimed her, and instituted a suit to recover her, the Court could have no difficulty in rejecting their claim, upon the plain and obvious ground that the property of a foreign sovereign cannot be brought into question in the courts of another country. A ship of war is to be taken to be the property of the sovereign whose commission she bears, and the language of the Chief Justice, in laying down as a principle of public law that "national ships of war, entering the port of a friendly power open for their reception, are to be considered as exempted by the consent of that power from its jurisdiction," if restricted to the ship itself, which was all the court had to deal with, may be accepted as perfectly correct. It is no doubt true that it cannot be supposed that the foreign sovereign, in sending his ship to the port of another country, intended to submit his property in her to a local tribunal, or contemplated the possibility of her seizure or detention by its decree; and the local sovereign by admitting the ship into his waters may well be taken to have thus far waived his jurisdiction in respect of her. But if applied to those on board the vessel—while the foreign sovereign has no doubt the same interest in the independence of the crew from the operation of the local law as he has in the independence of the ship—yet, inasmuch as the crew may commit offences against the local law, which the ship, being an inanimate thing, cannot, it cannot be equally implied that the local sovereign has consented that if they violate the local law they shall enjoy immunity from its penalties. On the contrary, it is universally admitted that for breaches of the law committed on shore, persons belonging to the ship, if found on shore, may be arrested and brought before the local tribunals. Yet, as has just been observed, the sovereign in whose service they are has, lest he should lose their service, the same interest in their being independent of the local law, when for the moment on shore, as he has when they are on board their ship. But if persons belonging to the ship are liable, as they undoubtedly are, to be arrested and tried for offences against the local law committed on shore, why, as regards the general convenience of the thing, should they be exempt because they get back to their ship before they are taken? And *à fortiori*, why should a person living under the local law, as a subject of the local state, be able to withdraw himself from the operation of that law by getting on board a ship, which,

\* Reported in 7 Cranch's Rep., p. 116.

but for this alleged extritoriality, would clearly be within its jurisdiction? Is it necessarily to be implied that, because by the comity of nations the ports of every state are open to the ships of war of other states, the local sovereign has assented to his law becoming powerless in respect of crime committed within its jurisdiction in case the criminal can get on board a foreign ship of war lying in his waters? Has this country ever assented to this doctrine? Is it prepared to do so now? Can any instance be cited in which a criminal has been allowed to escape because he found his way to a foreign ship of war? Certainly none such has been brought to our knowledge. If, indeed, we assume the status of extritoriality, in other words, beg the whole matter in dispute, the answer to these questions becomes simple and easy. But if, before we admit the fiction, we take care to see that it holds good in all essential particulars, we may possibly arrive at a different result.

It may further be observed in passing that the sovereign to whom a ship of war belongs has the same interest in keeping the crew under the control of military law when the ship is lying in her own waters, as when lying in those of another state. Yet the crews of ships so circumstanced are never withdrawn from the jurisdiction of the local law. Thus, as to the criminal law, the Naval Discipline Act provides, s. 101, "Nothing in this Act contained shall be deemed " or taken to supersede or affect the authority or power of any court or tribunal of ordinary " civil or criminal jurisdiction, or any officer thereof, in Her Majesty's dominions, in " respect of any offence mentioned in this Act which may be punishable or cognizable by " the common or statute law, or to prevent any person being proceeded against and punished " in respect of any such offence otherwise than under this Act."

The instructions given to the officers of Her Majesty's ships are, as might be expected, in entire conformity with the law. The Queen's Regulations direct that "the commanding " officers of Her Majesty's ships will afford every facility to the civil power in detecting " and apprehending persons serving on board any of Her Majesty's ships who may be " accused of having committed any crime. They will require any constable or other civil " officer coming on board one of Her Majesty's ships for the purpose of searching for " or apprehending persons so accused, to produce his warrant or to show some evidence " of the character in which he acts; but when satisfied of the official character of a constable " or officer, they will aid him to the utmost in the execution of his duty."

The same duty is equally imposed on army and marine officers by the annual Mutiny Acts.

Mons. Hautefeuille, who, in his well-known work "Des Droits et des Devoirs des Nations Neutres," goes further perhaps than any other writer in maintaining what he calls the "territoriality of ships," private as well as public, and who, in his desire to protect neutrals against belligerents by establishing this "territoriality," carries this idle fiction so far as to assert that the spot of ocean on which a vessel floats is to be considered as part of the territory of her nation, affords a remarkable example of the strange reasoning into which a writer may fall when he seeks to solve legal difficulties by recourse to legal fictions. He begins with merchant vessels, and deals first with those which are in the territorial waters of a foreign state. He points out, what is perfectly true, that for many purposes such a ship, though within foreign waters, carries the law of its own nation with it. Thus a child born on board preserves its nationality. A will or a donation made on board must be made according to the law of the country to which the ship belongs. The respective rights and obligations of the master and the mariners depend on the contract signed at home, and its effect by the home law. The consul has in some respects jurisdiction over the vessel and those who belong to it. "But," says M. Hautefeuille, "no law can obtain beyond the territory of the sovereign from whom it emanates. Therefore " the vessel on which the law of its own country still prevails in these respects must be " a portion of the territory of the sovereign." He does not assert in terms, but his reasoning implies, what certainly is an egregious non-sequitur, that, because the ship is territorial for some purposes, it must be so for all.

Of course, according to Mons. Hautefeuille, all this applies still more strongly to a ship of war. Such a ship, he observes, forms part of the national force. It is commanded by the officers of the sovereign. It is governed by the military law of its own country; even the punishment of death may be pronounced and carried into effect; and all this in the view of the local sovereign who cannot interfere to prevent it. Therefore, says M. Hautefeuille triumphantly, "Le bâtiment de guerre, ou de commerce, même dans un port étranger, " est administré, gouverné, protégé, par les mêmes lois, par les mêmes moyens, que le " territoire continental, lois et moyens qui ne sont applicables qu'au territoire: *il est donc " lui même une partie de ce territoire.*"

Mons. Hautefeuille, who, as has been observed, goes far beyond all others in ascribing extritoriality to merchant vessels as well as to ships of war—all other writers being agreed

that no such privilege can attach to the private ship—here fails to perceive that what takes place on board the vessel according to her own law, takes place by the assent of the local sovereign, who may well be taken to assent to those who belong to the vessel being dealt with when on board according to their own law, but whose assent to immunity from his own law when that law is violated, especially in the case of his own subjects, it would appear unreasonable, in the absence of express assent, or actual practice, to imply. But what evidence have we of any such express assent, or actual practice? When has this country assented, expressly or tacitly, to the principle that a British subject committing a crime on our own territory ceases to be within the reach of our law because he gets on board a foreign ship-of-war lying in our waters, or that a person entitled to the protection of our law shall invoke it in vain if he can be got on board such a vessel? So important a principle requires, as it seems to me, something more than the opinion of theoretical writers to establish it.

Another author by whom this fiction of exterritoriality is upheld is Mons. Theodore Ortolan, a captain in the French navy. To establish this position Mons. Ortolan begins by contending that by its peculiar constitution, a ship of war and those who belong to it form part of the government to which it belongs. Consequently, he continues, “quelque soit le lieu où ils se trouvent, qui que ce soit au monde, étranger au gouvernement auquel ils appartiennent, n’a le droit de s’immiscer en rien dans ce qui se passe à leur bord, et encore moins d’y pénétrer par la force.”\*

It is to be observed that thus far Mons. Ortolan confines himself to what takes place “on board,” though, as we shall presently see, he afterwards goes further.

He observes that the doctrine he is thus laying down has been embodied under the figure or metaphor of exterritoriality; according to which “tout bâtiment de guerre est une partie du territoire de la nation à laquelle il appartient; d’où la conséquence que, même lorsqu’il est dans un port étranger, les officiers, l’équipage, et toute personne quelconque qui se trouve à son bord, est censée être, et que tout fait passé à bord, est censé passé, sur ce territoire.” But Mons. Ortolan is too sensible not to see that this so called exterritoriality is nothing but a fiction or figure of speech. “Sans doute, il n’est past vrai qu’un navire quelconque soit une portion du territoire de la nation à laquelle ce navire appartient, il n’est pas vrai que ceux qui sont sur ce navire se trouvent sur ce territoire, ni que les faits passés à bord de ce navire se soient passés sur ce territoire. Tout cela n’est pas vrai; si on le dit, ce n’est que par métaphore, par figure de langage; et cette figure, loin de pouvoir servir de raison justificative à la règle, a besoin d’être justifiée elle-même.”

He then proceeds to enumerate the grounds on which the fiction of territoriality may be justified—namely, on the ground that a ship of war is a “floating habitation,” the population of which is subject to the laws and government, as well as under the protection of the nation to which the ship belongs. Then, that the ship—here we have more metaphor—is a “floating fortress” carrying a part of the public force of the state, an organised body of public functionaries of the nation. If such a ship enters into the waters of an independent nation does it become subject, asks Mons. Ortolan, to the jurisdiction of the local sovereign; or does it remain, “pour tout ce qui se passe à son bord,” under the law and the authorities of its own country and government? Mons. Ortolan makes short work of the matter. He solves the question by reference to what he terms the uniform custom. “S’il s’agit de navires de guerre, la contume internationale est constante: Ces navires restent régis uniquement par la souveraineté de leur pays; les lois, les autorités, et les juridictions de l’état dans les eaux duquel ils sont mouillés leur restent étrangères; ils n’ont avec cet état que des relations internationales, par la voie des fonctionnaires de la localité compétents pour de pareilles relations.” Otherwise, adds Mons. Ortolan, the government to which the ship belongs would have to submit to the authority of the local government, which would be inconsistent with its independence. But in support of what he calls the “uniform custom” of nations, Mons. Ortolan does not cite a single instance of the assertion of this alleged right of exterritoriality on the one hand, or of its admission on the other. Moreover, it is here again obvious that if this argument founded on the officer and crew forming part of the public force or government of the nation to which the ship belongs, has any force, it must apply to them as much when on shore, as when on the territorial waters of the local state. But it is admitted on all hands that when on shore the persons belonging to the ship are subject to the local law. The commander himself, if he committed a crime on shore, would in vain appeal to the doctrine of exterritoriality.

But the main difficulty, the same as the one we have ourselves to deal with, remains, namely, how this question of exterritoriality, which it is easy enough to dispose of with

\* *Diplomatie de Mer*, liv. II., ch. 10.



reference to offences committed on board the vessel itself, is to be dealt with with reference to offences committed on shore, especially by subjects of the local government, who, having offended against the local law, take refuge in the foreign ship. Mons. Ortolan has an easy way of dealing with the difficulty. He gives the go-by to it by here giving up the theory of extritoriality altogether. "Jamais," he says, "le commandant d'un navire de guerre n'appliquera le bénéfice de l'extritorialité de son navire en faveur des malfaiteurs du pays, pas plus que l'ambassadeur l'extritorialité de son hotel et de ses équipages, et que dans le cas où certains criminels seraient parvenus à se réfugier à son bord, il existe des règles internationales relativement à leur expulsion du navire, ou à leur extradition."

What is to happen if no such rules should exist, M. Ortolan does not stop to inform us. As the general result of his reasoning, he lays down the following rule: "Il résulte de cette règle, que les commandants des bâtiments de guerre doivent réserver aux tribunaux de leur pays la connaissance des crimes ou délits commis à leur bord, même dans les eaux étrangères, non seulement lorsque la répression de ces crimes ou délits touche au commandement militaire, mais aussi dans tout autre cas. Toutefois, si la partie lésée et l'auteur du fait sont l'un et l'autre nationaux du pays, dans les eaux duquel le fait a été commis, on conçoit qu'un commandant puisse et doive même, selon les circonstances, les abandonner à la justice locale, lorsque les droits de sa nation n'ont pas reçu d'atteinte."

He ends by saying that the fiction of the extritoriality of ships of war is so convenient, that if it did not exist it would be right to invent it. To my mind this fiction, when carried to the extravagant lengths contended for by these authors, would be attended with far greater inconvenience than possible advantage.

Professor Bluntschli, in his work entitled "Das Moderne Völkerrecht," seems at a loss how to deal with the question. After saying in general terms, in Article 319, that ships of war in a foreign harbour are exempt from the local jurisdiction, he subjoins a note in which he says: "This immunity from the local jurisdiction and police has reference to the maintenance of order in the ship, and resumes its natural limits when contraventions of the rights of other ships, or of the local population, are committed by those on board. In such case the local authority is fully justified in taking the necessary measures for the protection of the port, and if necessary may direct the foreign ship to quit. In like manner, if any of the crew of the ship commit offences on shore, they are liable to be brought before the local tribunals to answer for such offences. At the same time, should such a case happen, notice should be given without delay to the commander of the foreign vessel, and an understanding should be come to as to the further prosecution and punishment of the offenders, whether through the local tribunals or through the naval law of the foreign ship. Strict principle would prescribe that the matter should be left to the local jurisdiction; but regard to international practice and the friendly relations subsisting between different peoples would oftener recommend the extension of the foreign nautical jurisdiction."

I have translated the passage literally. What the learned professor exactly means by it I leave to others to determine. Where an offence has been committed by any of the crew on shore, and the offenders are taken on shore, there can be no doubt as to the jurisdiction of the local authorities, but Professor Bluntschli suggests that an arrangement should be come to between the local authorities and those of the ship. But we are not told what is to happen if the offenders have gone back to their ship, and the local authorities, the offence being a serious one, claim the right to arrest them. Still more completely does the professor leave us in the lurch just where we most need his assistance. As to what is to be done with a native subject, who, having committed a crime, takes refuge on board a foreign ship of war, he is altogether silent.

Heffter, another well-known German publicist, while he lays down in general terms that ships of war, being in a foreign port with the assent of the local authority, are not subject to the local jurisdiction, there drops the subject and enters into no further detail.

We are further referred to an opinion given by Mr. Caleb Cushing when Attorney General of the United States, in 1855, in the case of the "Sitka."\* The facts were these: The "Sitka," a Russian ship, had been captured by a British man-of-war, and brought into San Francisco with a prize crew on board. Two persons (prisoners on board) presented a petition to a competent judge of the State, praying for a writ of habeas corpus, for the purpose of trying the validity of their capture and detention. The writ having been issued and served, the commander of the "Sitka" got under way and departed, taking his prisoners

\* Opinion of United States Attorney-Generals, vol. vii., p. 123.

with him. The question being submitted to the Law Officer to advise whether the conduct of the commander of the "Sitka" constituted a just cause of complaint on the part of the United States Government, nothing could be more simple than an answer in the negative. Judicial decisions, universally acquiesced in, have settled the point that, except where there has been a violation of its neutrality, as occurred in the well-known case of the "Santissima Trinidad," the court of a neutral state has no jurisdiction to decide on the validity of a capture made by a belligerent. Mr. Cushing therefore states the result of the authorities quite correctly when he says, "It being thus demonstrated that the 'Sitka' was rightfully within the port of San Francisco, it only remains to consider what jurisdiction, if any, the United States have over prisoners of war, if any there were, on board the 'Sitka.'"

"Now the courts of the United States have adopted, in its fullest extent, the doctrine that they have no jurisdiction to redress any supposed torts committed on the high seas, even as against our own citizens, by a cruiser of a foreign and friendly power, except when such cruiser has been herself guilty of a violation of our neutrality (L'Invincible, 1 Wheaton, p. 239). There can be no question of such exception here, because the captor was a national ship of war."

"This doctrine," says Mr. Cushing very truly, "has been affirmed by us" (that is, in the United States) "on various occasions, among which is the emphatic case of a vessel, herself a prize, taken from a citizen of the United States." For which position he cites several authorities which fully bear him out, so far as relates to the matter of jurisdiction in respect of prize, but which have nothing whatever to do with the matter we have here to consider.

The proposition thus laid down would have been quite sufficient for the solution of the question submitted to Mr. Cushing, but he thinks it necessary to add: "Our courts have also adopted unequivocally the doctrine that a public ship of war of a foreign sovereign, at peace with the United States, coming into our ports and demeaning herself in a friendly manner, is exempt from the jurisdiction of the country. She remains a part of the territory of her sovereign." A perfectly correct proposition, without resorting to the fiction of territoriality, if confined to such a case as that of the "Sitka," in which there had been no infraction of the local law. If the legal proposition thus stated was intended as of universal application, it rests on the opinion of the officer stating it, and who in making such statement, cites no authority except that of M. Hautefeuille, who, as we have seen, carries the fiction of extraterritoriality to such extravagant lengths as to deprive his opinion on this subject of all weight or authority.

Monsieur Calvo, the principal merit of whose voluminous work, "Le Droit International," consists, rather, in its being a compilation of all that has been written or done before than in the criticisms of the author or the force of his reasoning, adds to the fiction of extraterritoriality by placing the commander of a ship of war on the same footing as a diplomatic agent accredited to a state or sovereign, and her officers and crew on that of the "personnel officiel et non officiel" of a diplomatic mission; and this having been quietly assumed, the author reasons away upon it, and, of course, can arrive at only one conclusion. "De cette assimilation, qu'un usage universel a d'ailleurs consacré en fait,"—for which we have nothing but the writer's assertion,—"*il résulte, comme première conséquence, que tout bâtiment de la marine militaire, et l'ensemble du personnel qu'il renferme sont couverts par la fiction de l'extraterritorialité, avec toutes les prérogatives et les immunités qui s'y rattachent. La seconde conséquence à en déduire c'est qu'aucune autorité, autre que celle du gouvernement auquel il appartient, n'a le droit de s'immiscer dans ce qui passe à bord d'un navire de guerre.*"

Here again we have an author, who, applying the fiction of extraterritoriality to a ship of war, concludes that all those who belong to the ship are exempt from the local jurisdiction, but who shuts his eyes to the application of the principle when the question is what shall be done with subjects of the local state who commit a crime on board the ship, or, having broken the law on shore, take refuge on board.

It may be worth while to observe that none of the writers referred to go the length of saying that to take away slaves from their owners is consistent with the principles of international law.

It may be that an understanding has been come to among the governments of the great maritime states, practically establishing the rule as asserted by these writers on public law. If so, I presume there must be some proof of it to be found in treaty or diplomatic correspondence; or, possibly, without any express agreement having been come to, a general

understanding may have arisen from a practice generally adopted and acquiesced in. But, had any such understanding and practice existed, of course it must be known to our Government. Of course our naval officers would long since have been instructed as to it, with the view of their conforming to it. As we are furnished with no information on the subject, we may fairly assume that nothing of the sort has occurred. Probably, if a local subject, having committed an offence against the local laws, were to find his way on to a British ship of war, the commander would at once give him up to the local authorities. Even if one of his own crew had committed an offence on shore he would probably do the same. Not as waiving any assumed exterritoriality of the ship, but because his good sense would tell him that in respect of crimes committed within the territory of the local state, whether on land or water, the local law ought to have jurisdiction; to which might be added that, ultra the ship itself, which is the property of its sovereign, and the maintenance of discipline on board of it, the doctrine of exterritoriality is an idle and unnecessary fiction. If no such understanding exists, if no such instructions have been given, if, as is not unlikely, no case has presented itself in which a conflict of jurisdiction between the shore and the ship has arisen, then it becomes obvious that the publicists, as they are somewhat apt to do, are in fact making the law which they are professing to declare. The train of reasoning they have followed is pretty plain. The ship of war being protected as the property of its sovereign, and its crew being by the common consent of maritime states left to the government of the military law of their own country, these writers have hastily applied their favourite fiction of exterritoriality, without waiting to see that it was capable of application *in omnibus*. That an international understanding should be come to on the subject, and a distinct rule laid down, is no doubt highly desirable, not only for the guidance of our naval officers, but also to determine the conduct of our civil authorities, including our courts of justice. For the latter, in the case of a criminal escaping from justice, in the instances to which I have called attention, or of one of our own subjects being confined in a foreign ship, would probably take their stand on the law as laid down by so great an authority as Lord Stowell, and would insist on some better proof of the alleged rule of international law than the assertion of text writers or the fiction of exterritoriality, and, if necessary, from its process being resisted, might call on the Government to support the law; in which case, if the aid of the executive were refused, an unseemly conflict, if it were afforded, a serious international difficulty, might arise. The rule which reason and good sense would, as it strikes me, prescribe, would be that, as regards the discipline of a foreign ship, and offences committed on board as between members of her crew towards one another, matters should be left entirely to the law of the ship, and that should the offender escape to the shore, he should, if taken, be given up to the commander of the ship on demand, and should be tried on shore only if no such demand be made. But if a crime be committed on board the ship upon a local subject, or if, a crime having been committed on shore, the criminal gets on board a foreign ship, he should be given up to the local authorities. In which way the rule should be settled, so important a principle of international law ought not be permitted to remain in its present unsettled state.

No doubt it may be said that the case of the fugitive slave differs from that of the criminal offender,—a distinction to which I will advert presently. But if the reception of the slave is to be protected by the exterritoriality of the ship, the same principle must obviously apply to criminals, and would consequently be productive of the mischievous consequences which have been already pointed out.

I have dwelt upon the question of exterritoriality longer than was necessary for the purpose of our inquiry, but I have been led to do so from a conviction that this theory has been taken up somewhat hastily, and on inconclusive authority; and that if pushed to its extreme consequences it is likely to lead to inconvenient and mischievous results; and because in the case of fugitive slaves it is put forward in this country as a reason why such slaves should not, under any circumstances, be given up.

But in truth, even if the position that our ships of war are exterritorial, and so are inaccessible to the owners of fugitive slaves who desire to retake possession of them, were fully admitted, it would by no means follow that to afford protection to the offender or the fugitive could be justified as rightful on the principles of the law of nations. The existence of such a privilege, as attaching to our ships of war, would obviously matter nothing to the inquiry whether the reception of fugitive slaves on board such ships in the waters of slaveholding nations, and the withholding them from their owners, is conformable to the law of nations. It is not because our ships are beyond the reach of the local law that those on board are justified in invading rights which that law confers.

Of course it will be said—it suggests itself at once—that there is all the difference in the world between the criminal and the slave; that the slave does nothing morally wrong or

blamable in endeavouring to escape from slavery, a state forced upon him against his will, and in violation of what, according to received opinions, are his natural and inalienable rights. All this is quite true; but it is equally true that the slave in endeavouring to escape from slavery is breaking the law of the country to which he belongs—indeed is committing an offence against it; and if the principle of international law with which I set out, namely, that no state can be justified in encouraging its subjects, and, above all, those in its employ, to violate the law of other states, more especially when enjoying their hospitality, by invading the rights of their subjects, or by aiding others of their subjects to break the law or evade justice—but that, on the contrary, it is its duty to prevent this, so far as lies in its power,—if this principle be, as I take it to be, except where there exists an understanding to the contrary, as is now the case with reference to political refugees, one of universal application—at all events unless where the life or personal safety of a human being are at stake—one conclusion only can be arrived at by those who, not suffering themselves to be carried away by impulses, however generous and humane, are not prepared to make fundamental principles bend to meet a particular purpose, however praiseworthy that purpose may be—namely, that it is the duty of the Government not only not to encourage, but as far as lies in its power to discourage the reception of fugitive slaves on board Her Majesty's ships.

But there is another point of view in which the question requires to be looked at. No proposition of international law can be more incontestible than that every maritime nation has the right of absolute and exclusive dominion within its own territorial waters. And though by the comity of nations the territorial waters of all maritime states are open to the ships, public and private, of every other state with whom they are at peace, there can be no doubt whatever that it is competent to every maritime state to prohibit the entry into its waters to any other nation or nations, if its own interests require it; nor would such an exclusion amount to a cause of war, or indeed of well-founded remonstrance, if rights were insisted on within those waters, by foreign ships, incompatible with the interests or rights of the local state or its subjects. To be sure it is not likely that, for the sake of a few slaves, the slaveholding powers of the West would shut their ports to our ships of war. But such a result is quite possible if the reception of fugitive slaves in any considerable number were to take place, and must not altogether be lost sight of. What if, the escape of slaves through our ships of war becoming a serious matter, the Brazilian Government were to remonstrate and insist on its discontinuance, or on our ships no longer putting in at Brazilian ports: what course would it be incumbent on Her Majesty's Government to pursue? The position, to say the least, would be an awkward one. The kings or chiefs of the half-civilised peoples of Africa, or those of the opposite Eastern coast, who have placed themselves under our so-called "Protectorate," are doubtless in a different position; they are powerless, and must submit to what the British Government may be prepared to dictate. But is that any reason why we should treat them on different principles from those by which our conduct towards more powerful nations would be determined? I should hope not. And this brings me to the question of our obligations towards the Eastern tribes in the matter of slavery, as arising from treaty.

The only treaties, so far as I am aware, which have any direct bearing on the subject before us, are our treaties with Zanzibar and with Madagascar. By the former we have agreed not to interfere with domestic slaves, though found on board ship, under certain specified circumstances.

#### "ARTICLE I.

"The presence on board of a vessel of domestic slaves in attendance on or in discharge of the legitimate business of their masters, or of slaves *bonâ fide* employed in the navigation of the vessel, shall in no case of itself justify the seizure and condemnation of the vessel, provided that such slaves are not detained on board against their will. If any such slaves are detained on board against their will they shall be freed, but the vessel shall, nevertheless, not on that account alone be condemned.

#### "ARTICLE II.

"All vessels found conveying slaves (other than domestic slaves in attendance on or in the discharge of the legitimate business of their masters, or slaves *bonâ fide* employed in the navigation of the vessels) to or from any part of His Highness' dominions, or of any foreign country, whether such slaves be destined for sale or not, shall be deemed guilty of carrying on the slave trade, and may be seized by any of Her Majesty's ships of war, and condemned by any British Court exercising Admiralty jurisdiction."

By Article IX. of the treaty with Madagascar it is provided "that no subject of the Queen of Madagascar shall be permitted to embark on any British ship except such as shall have

“ received a passport from the Malagasy authorities.” So that a fugitive slave could not be received on board a British ship without a passport.

But I doubt very much whether there is not an implied stipulation arising out of our protectorate in the Persian Gulf. Having undertaken that protectorate with a full knowledge of the existence of slavery in those countries as an existing institution, and our ships being entitled under those treaties to lie in the waters of the states in question, so that their expulsion could not be insisted on without a violation of the treaties, it strikes me very forcibly that, morally, we are bound to respect the local law, and in so doing not to break the rights which the local law gives to the owner in respect of the slave.

It next becomes important, as I have already suggested, to consider how far the reception of fugitive slaves, with a view to their escape from the dominion of their owners, is consistent with our own municipal law. For it would be in the highest degree awkward and inconvenient if acts done by the commanders of our ships of war under the directions of the government should prove unable to stand the test of legal proceedings before our courts of justice.

It occurs to me to ask myself how this question would have been dealt with if it had arisen before the growing abhorrence of slavery had led to the emancipation of the West Indian negro. What if a slave or slaves had taken refuge on board a British man-of-war in the waters of Jamaica, or any other of our West Indian islands, and the commander had refused to give them up, and had brought them to England, thereby altogether depriving the owner of them? Would such a proceeding have been permitted to pass unproved by the government authorities? Can it be doubted that the owner would have recovered the value of a slave so taken from him in an action brought here? If he could, there is abundant authority for saying that the same right would accrue to a foreigner deprived by the wrongful act of a British subject of one in whom he had a right of property by his own law. It becomes therefore in my view essential to consider the authorities and decisions of our courts bearing on this subject, in order to see, first, what was the position of a slave coming to this country; secondly, what was his position if he returned to his own.

That slavery, under the name of villenage, existed in this country down to a comparatively recent period is of course well known. Villenage in gross was neither more nor less than domestic slavery in its simplest and most comprehensive form. Villenage regardant was predial slavery with its attendant hardships. Villenage in gross, it is true, died out at a comparatively early period; but it was not till the beginning of the seventeenth century that, thanks to desertions, and manumissions, and the unceasing efforts of the courts of law to favour the emancipation of villeins against their lords, predial villenage came to its end. It was, however, never abolished by law; so that, even as late as the year 1749, we have no less an authority than Lord Chancellor Hardwicke declaring that it was still competent to a man to declare himself a villein in gross by record, and that an action of trover would lie for a negro in a court of law in this country. And so little was it generally acknowledged or understood that a person who had been a slave elsewhere became free from the control of his master when once in England, that we find the Law Officers of the Crown, both of them afterwards Lord Chancellor of England, advising, only a few years before, that a slave brought into England not only remained a slave but was liable to be forcibly taken back as a slave to the country from which he had been brought. Such, however, was not the opinion of others, and among them of that great judge, Lord Holt; and I advert to the views of Lord Hardwicke and Lord Talbot, not as approving of them, but merely for the purpose of showing how unsettled in their day was the state of legal opinion—and popular opinion must have been equally so—on the subject of slavery, so far as the negro slave was concerned. Indeed we know that at that period it was an everyday occurrence for inhabitants of the West Indies coming to England to bring negro slaves with them, as attendants, and to take them back with them as slaves on their return.

Not so as to the Englishman himself. Villenage had ceased to exist; and the struggle for freedom in the past century, and its triumphant issue in the revolution of 1688, had produced in the minds of men the conviction that personal liberty except when forfeited to the law through his own act, was the birthright of the “free born” Englishman, and the dearest of his rights; so that the status of slavery became a thing unknown to the law, and one of which our courts, who, to do them justice, had been the best friends of the villein in forwarding his emancipation, refused to acknowledge the possibility. Hence it followed that, as every one on British soil and within the jurisdiction of a British court of justice is entitled, whatever may be his country or his colour, to the benefit of the law, slavery being impossible in England, and personal liberty the right of every man before the law,

the man who had been a slave elsewhere became entitled, if brought into this country, to vindicate his liberty if attempted to be deprived of it; while it would avail the master nothing to allege that the man was his slave, slavery being a thing of which, as unknown to the law, and, so far as personal freedom was concerned, altogether foreign to its jurisdiction, an English court could take no cognizance. Thus the negro slave, brought into this country, if he chose to assert his liberty, became practically free: whence there arose a notion, inconsistent, as we shall see further on, both with principle and authority, that being once free here he became free for ever, and not only here but elsewhere—even in the country in which he had originally been a slave—a principle which some persons believe—but as it seems to me most erroneously—to apply to the slave who once sets foot on board a British ship of war.

But however jealous of their own liberty the people of England might be, they were by no means unwilling that the African negro should be imported into the colonies on the other side of the Atlantic, as a slave, to till the soil which the white man was physically incapable of cultivating. And not only did Christian England look on with complacency and satisfaction while thousands of unhappy negroes were torn from their native country and consigned to slavery in its worst and most revolting form, but England became the most active promoter of the inhuman and abominable traffic; the trade being for the most part carried on by English merchants. By the treaty of Utrecht, *the Assiento*, a contract by which the Royal Guinea Company, settled in France, had undertaken to supply the Spaniards with negroes at a concerted price, was transferred to the English; and a new instrument was signed in May 1713, to last 30 years, by which this country bound herself to send 4,800 negroes yearly to Spanish America.\* It was not till the end of the last and the beginning of the present century that the public conscience was aroused to a sense of the wickedness of the traffic, and that the legislature was induced to put a stop to it; more, perhaps, from a conviction of the incessant warfare among the African tribes engendered by the demand for slaves, and the horrors attendant on their transport across the ocean, than from the abhorrence of slavery itself, though that was destined to be abolished a quarter of a century later.

For it should be observed, that in putting an end to the slave trade the legislature was careful not to infringe on the rights of the colonial slave owners; nor did it finally extinguish slavery without a money compensation in the shape of 20 millions of money. This will be seen by referring to the Acts of Parliament passed for the suppression of the slave trade.

By the 46th Geo. III. c. 52. the exportation of slaves from British dominions or territories was prohibited under penalties; and British subjects residing in His Majesty's dominions were prohibited from conveying slaves from Africa or elsewhere to foreign colonies, and from supplying slaves on the coast of Africa to foreigners; but the importation of slaves into British colonies remained undisturbed, as did the exportation of slaves from one British colony to another, though, as regards the latter, a license had first to be obtained, unless in the case of slaves employed as sailors or attending their masters as domestic slaves.

By the 47th Geo. III. c. 36. the African slave trade was prohibited under heavy penalties, and all ships employed in the trade, or fitted out for the purpose of it, were to be forfeited. Still the rights of the owners in slaves actually their property were not at all affected.

By 5 Geo. IV. c. 113. (1824) not only was the dealing in slaves by way of purchase and sale, barter, or transfer, made illegal, but it was made punishable by heavy penalties; and any one conveying any person or persons on the high seas, for the purpose of their being taken into any place as slaves, or being sold or dealt with as slaves, was declared guilty of piracy and felony, and the punishment was to be death. Nevertheless the dealing in persons being already slaves, in any of the colonies, or their transport from one colony to another for the purpose of their being there employed as slaves, was expressly protected; so that while the suppression of the slave trade by British subjects was thus sought to be enforced, the status of slavery and the property in slaves in a part of the British dominions was fully recognised as legal.

Being general in its terms, this statute could apply to British subjects only when within British jurisdiction, but it was thought right to prevent the British subject, wherever he might be, from meddling in the hateful traffic in human flesh. Accordingly, by the 6 & 7 Vict. c. 98., the provisions of the former Act were made applicable to British subjects, whether within the dominions of the Crown or in a foreign country. But here again there was a special proviso, protecting existing rights. "In all the cases in which the holding or taking of slaves shall not be prohibited by this or any other Act of Parliament,

\* See 3rd vol. of "Collection of Treaties of Peace," published in 1732, p. 375.

“ it shall be lawful to sell or transfer such slaves, anything in this or any other Act contained notwithstanding.” To which was added a further proviso protecting persons “ acquiring or transferring shares in any joint stock company established before the passing of the Act, and holding slaves, as well as any person selling any slave who was in his possession before the passing of the Act, or of whom he had become bonâ fide possessed by inheritance, devise, bequest, or otherwise by operation of law.” Thus we have, as late the year 1843, a distinct recognition by Parliament of the legality of slavery in those parts of the dominions of the Crown in which slavery had theretofore existed.

Lastly it should be borne in mind that when by the Act of 1833 slavery was abolished in the colonies, that abolition was accompanied by compensation to the slave owners in no less a sum than 20 millions of money.

With such a parliamentary recognition of the right of the slave owner, I cannot doubt that if, while slavery existed as a lawful institution in the West Indian Colonies, any one had harboured and carried away a slave from his master, whether in a ship of war or otherwise, an action could have been maintained in an English court to recover the value of the slave. That this would have been the case becomes manifest from a review of the authorities to which I am about to call attention.

Though the dealing in slaves everywhere, and the holding of slaves except in certain of the colonies, were inconsistent with the law, our courts, while deploring the existence of slavery, have never failed to recognise its legality in countries where slavery is an established institution, whether in our own territories or those of foreign states, or to give effect to it, if rights arising out of it were violated by persons amenable to their jurisdiction.

The first case in which the question arose was that of *Smith v. Brown* in 1707 (2 Salkeld, 666)—a case the more remarkable as having given occasion to the memorable dictum of Lord Holt—then for the first time pronounced—that as soon as a negro comes into England he becomes free. But the case is also remarkable as showing a full recognition of slavery in a British colony as founding a cause of action in an English court of justice.

The plaintiff declared in an *Indebitatus Assumpsit* for 20*l.* for a negro sold by the plaintiff to the defendant, *viz.*, in *Parochia beatae Mariæ de Arcubus in Warda de Cheape*, and verdict for the plaintiff; and on motion in arrest of judgment, Holt, C.J., held that “ as soon as a negro comes into England he becomes free. One may be a villein in England but not a slave.” And per Powell, J.—“ In a villein the owner has a property, but it is an inheritance; in a ward he has a property, but it is a chattel real; the law takes no notice of a negro.” Holt, C.J.—“ You should have averred in the declaration that the sale was in Virginia, and that by the laws of that country negroes are saleable, for the laws of England do not extend to Virginia; being a conquered country their law is what the king pleases, and we cannot take notice of it but as set forth.” Therefore it was directed that the plaintiff should amend, and the declaration should be made “ that the defendant was indebted to the plaintiff for a negro sold here at London, but that the said negro at the time of sale was in Virginia, and that negroes by the laws and statutes of Virginia are saleable as chattels.”

The proof, however, that legal opinion on the subject of slavery was at this time anything but settled is to be found in the fact, already adverted to, that some years afterwards Sir P. Yorke, afterwards Lord Chancellor Hardwicke, then Attorney-General, and Mr. Talbot, afterwards Lord Chancellor Talbot, then Solicitor-General, gave an opinion, that the status of the slave was not affected by his being brought to this country; and, as we are told by Lord Mansfield, pledged themselves to the British planters against the consequences of slaves coming over to this kingdom, or being baptized—a notion having at that day prevailed, that it was because negroes were heathens that it was lawful to enslave them, and that on being baptized they would regain their freedom. The opinion was as follows: “ We are of opinion, that a slave by coming from the West Indies, either with or without his master, to Great Britain or Ireland, doth not become free, and that his master’s property or right in him is not thereby determined or varied; and baptism doth not bestow freedom on him, nor make any alteration in his temporal condition in these kingdoms. We are also of opinion that the master may legally compel him to return to the plantations.”

We are further told on the same authority, that Lord Hardwicke, sitting as Chancellor in 1849, declared that trover would lie for a negro slave who had come over to this country.

Nevertheless, 13 years later, Lord Chancellor Northington, in the case of *Shanley v. Hervey* (2 Eden, 126) is reported to have said, “ As soon as a man puts foot on English ground

“ he is free. A negro may maintain an action against his master for ill-usage, and may “ have a habeas corpus if restrained of his liberty.”

The case is ill reported, but the facts appear to have been these. A slave had been brought to England, as a boy, and given by his master, the plaintiff in the suit, to his niece, who had had him baptized, and had changed his name. The niece just before her death, had made him a gift of a sum of between 700*l.* and 800*l.* The master instituted the suit to have an account of this money, I presume on the ground, though it is not so stated, that the recipient being his slave could acquire nothing for himself. But the Lord Chancellor dismissed the bill with costs, and in doing so used the language above cited. The existing practice seems, however, to have been strangely at variance with the view thus taken of the law. For we are told by Lord Stowell, in his judgment in the case of the slave Grace, that “ at this time the personal traffic in slaves resident in England was as public and “ as authorised in London as in many of our West Indian Islands ;” that “ they were sold “ on the Exchange and other places of public resort, by parties themselves resident in “ London, and with as little reserve as they would have been in any of our West Indian “ India possessions.”

Next came, in 1722, the celebrated case of the negro Somerset, a case which appears to have given rise to much misconception, inasmuch as it has led to the belief that a slave once setting foot on English soil becomes to all intents and purposes for ever free. But Somerset’s case decided nothing of the kind, and the decision would have been bad law if it had. The facts were simply these. Somerset, the slave of a Mr. Stewart, in Virginia, having been brought by his master to this country, refused to return, whereupon he was put into irons by his master, and sent on board a ship for the purpose of his being taken to Virginia and there sold as a slave. A writ of habeas corpus having been applied for, and the case having been argued on the return to the writ, setting forth the facts, Lord Mansfield, in the course of the discussion, says, “ Contract for the sale of a slave is good here. The sale is matter to “ which the law properly and readily attaches, and will maintain the price according to the “ agreement. But here the person of the slave is the object of inquiry.” In giving judgment, Lord Mansfield, after stating the substance of the return, confines himself to a few short sentences.

“ The only question before us is, whether the cause on the return is sufficient. If it is, “ the negro must be remanded ; if it is not, he must be discharged. Accordingly, the “ return states that the slave departed and refused to serve ; whereupon he was kept, to be “ sold abroad. *So high an act of dominion must be recognised by the law of the country “ where it is used.* The power of a master over his slave has been extremely different in “ different countries. The state of slavery is of such a nature that it is incapable of being “ introduced on many reasons, moral or political, but only by *positive law*, which preserves “ its force long after the reasons, occasion, and time itself from whence it was created is “ erased from memory. It is so odious, that nothing can be suffered to support it but “ positive law. Whatever inconveniences, therefore, may follow from the decision, I cannot “ say this case is allowed or approved by the law of England, and therefore the black must “ be discharged.”

It is to be observed that Lord Mansfield here carefully abstains from saying that the former status of slavery had been changed by the residence in England. All he says is, that so “ high an act of dominion ” as that of depriving a man of his liberty, putting him in irons, and sending him on board a ship to be taken away and sold as a slave, can only be justified by the law of the country where it is exercised ; that slavery is so odious that it can only be admitted when it is established by positive law, and that there is no such positive law here ; consequently that this “ high act of dominion ” was unauthorised, and the man must be set at liberty. As to what would be the status of the man if again brought under a law which recognized slavery, Lord Mansfield is very properly silent. It was unnecessary for his purpose. And, what is more, it was beyond his authority. An English judge has no power to dictate the law to the tribunals of another country.

This case then establishes no more than that to justify the forcible deprivation of liberty within the jurisdiction of the English law a cause must be assigned which that law recognizes. But slavery is a thing which has no existence within the limits to which the authority of English law extends. It cannot therefore be admitted as a ground for depriving a man of his liberty. But there is nothing in this which warrants the further inference that if a person, having been originally a slave, has, from the law of England ignoring the status of slavery, enjoyed freedom in this country, he becomes free for ever, or will be other than a slave, if quitting this country he returns to one in which slavery is an established institution. The decisions of our courts establish directly the contrary.



The case of *Forbes v. Cochrane*\* has been supposed to establish the position that a slave who sets his foot on a British man-of-war becomes at once free, and cannot be given up. But this view has arisen from a misapprehension of the facts of that case. The slaves had escaped from the province of East Florida, then in the possession of Spain, in which slavery existed, and had taken refuge on board a British man-of-war, and the officer in command had refused to give them up; on which the action was brought to recover their value. But the ship, when the slaves were taken on board, was lying de hors the waters of E. Florida, and within a mile of Cumberland Island, at that time in the possession of the English, and where, consequently, the law of the Spanish province did not obtain. And upon this all-important fact the judgment of the Court proceeded. "The law of slavery," says Mr. Justice Holroyd, "is a law in invitum; and when a party gets out of the territory where it prevails, and out of the power of his master, and gets under the protection of another power, without any wrongful act done by the party giving that protection, the right of the master, which is founded on the municipal law of the particular place only, does not continue, and there is no right of action against a party who merely receives the slave in that country without doing any wrongful act." And he adds the reason why the act of the defendants was not wrongful:—"The defendants were not subject to the Spanish law, for they *never entered the Spanish territories, either as friends or as enemies.*" Speaking of the slaves, he says, "The moment they got on board the English ship, there was an end of any right which the plaintiff had by the Spanish law over them as slaves. They had got beyond the control of their master, and beyond the territory where the law recognizing them as slaves prevailed." And Mr. Justice Best places the matter on the right footing. Speaking of the slaves, he says, "The moment they put their feet on board of a British man-of-war, *not lying in the waters of East Florida (where undoubtedly the laws of that country would prevail)*, these persons who had before been slaves were free. The defendants were not guilty of any act prejudicial to the rights which the plaintiff alleges to have been infringed. These rights were at an end before the defendants were called upon to act."

The question, whether a slave who had come to this country, and who afterwards returned to the place where he had been a slave, resumed on so doing his status as a slave, presented itself, but incidentally only, in the case of *Williams v. Brown*,† which was before the Court of Common Pleas in 1802.

The plaintiff, a slave in the island of Grenada, having run away, and come to this country, embarked as a seaman on board a vessel bound to the West Indies. The vessel having touched at Grenada, he was there recognised and claimed by his former owner. The defendant, the master of the ship, thereupon agreed with the claimant to pay a given sum as the price of the man's manumission, the man himself, who was a party to the arrangement, agreeing, in consideration of the purchase of his freedom by the defendant, to serve the latter, for three years, at a lower rate of wages than he would otherwise have been entitled to. Notwithstanding which the plaintiff, on the return of the ship to this country, treating the agreement as a nullity, on the ground that on his return to Grenada he was in point of law a free man, brought an action against the master of the ship for the full amount of wages. But the court gave judgment for the defendant, on the footing that the plaintiff, having returned to Grenada, had, under the law of the island, again become a slave, and that, consequently, the purchase of his freedom by the defendant formed a good consideration for the agreement into which the plaintiff had entered.

The question presented itself directly for decision in the case of the slave Grace,‡ which, in 1827, came before Lord Stowell, then Sir William Scott, on appeal from the Vice-Admiralty Court of the island of Antigua. The facts were as follows: Grace, a female slave, had accompanied her mistress, the wife of a Mr. Allan, a resident in the island of Antigua, from that island to this country. On the return of her mistress to Antigua she voluntarily accompanied her. She was afterwards seized by the waiter of the customs at Antigua, as forfeited to the king, as having been imported into the island contrary to the statute which prohibited the further importation of slaves into the colonies. Thereupon Mr. Allan put in a claim in which he claimed the woman as his slave. The Judge of the Vice-Admiralty Court having decided in his favour, and the judgment having been appealed against, Lord Stowell, in an elaborate and powerful argument, affirmed the judgment and dismissed the appeal with costs. The judgment of Lord Stowell, certainly one of the greatest jurists and judges whom this or any other country ever produced, has been criticised by a distinguished living authority, who has spoken of it as "one of the most questionable judgments ever pronounced by Lord Stowell." In this view, so far as regards the conclusion at which Lord Stowell arrived, I cannot concur. I admit that there are parts of Lord

\* 2 B. & C., 448.

† 3 Bosanquet & Fuller's Rep., p. 69.

‡ 2 Haggard, Admiralty R., p. 94.

Stowell's reasoning from which I must dissent. I cannot accept his adverse criticism on the case of Somerset, which in my opinion was rightly decided. For, while I am fully sensible of the inconvenience, pointed out by Lord Stowell, as resulting from the anomalous conflict with regard to slavery between the law of this country, as settled by Somerset's case, and that of the West Indian colonies, with whom this country was in constant intercourse, Lord Mansfield and the Court of Queen's Bench could only decide according to the law of England, leaving to the Legislature to bring the two laws into accord. But though compelled to differ from this part of Lord Stowell's reasoning, I cannot bring myself to doubt for a moment of the perfect propriety of his judgment. And my reason may be given in a very few sentences. Where two countries have laws independent of one another, the law of the one cannot be overridden by that of the other. Rights which have arisen under the law of one of them, and which, so far as that law is concerned, remain unimpaired, cannot be abrogated or modified, because in the meantime, the parties, or one of them, have been resident in another country, by the law of which such rights were not acknowledged, and under which consequently they could not be enforced. To hold otherwise would obviously be to deprive the one country of her autonomy and legal independence.

Now, Antigua had a legislature of its own, and a law of its own, wholly independent of the law of England. True, its laws and legislature were subject to the control of the Imperial Parliament of Great Britain; but in the absence of special legislation by Parliament the law of Antigua was wholly independent of ours. True, an appeal from the local tribunals lay to courts in this country; but in case of such an appeal the merits of the case would depend, and the rights of the conflicting parties would be determined, not according to the law of England, but to that of Antigua. This being so, what answer could it possibly be to a man claiming another as his slave at Antigua, to say, "This person who by our law was formerly your slave, has been to England, where no one can be a slave. He has thereby become free, and consequently your right in him is gone." The reply would be, "What have we to do here with the law of England? The law of England is not paramount to ours, which is independent of it. Before a court administering the law of Antigua, the only question is what is the law of Antigua, and what are the respective rights of the parties according to it?"

I think no answer could be given to such an argument, and I cannot bring myself to entertain the least doubt that the decision of Lord Stowell was right.

I am confirmed in the view I take of this judgment by the fact that Lord Stowell's judgment had the entire approval of another great jurist, Mr. Justice Story. We learn from the life of the latter judge\* that Lord Stowell communicated his judgment to Justice Story, stating the question before him to have been, as it in fact was, "whether the emancipation of a slave brought to England insured a complete emancipation of him on his return to his own country, or whether it only operated as a suspension of slavery in England, and his original character devolved on him again on his return;" adding that "the question had never been examined since an end was put to slavery 50 years ago"—evidently referring to the decision in Somerset's case—"but the practice had regularly been that on his return to his own country the slave resumed his original character of slave." Story, in reply, says, "I have read with great attention your judgment in the slave case. Upon the fullest consideration which I have been able to give to the subject, I entirely concur in your views. If I had been called upon to pronounce a judgment in a like case, I should have certainly arrived at the same result." He adds, "In my native state (Massachusetts) the state of slavery is not recognised as legal; yet, if a slave should come thither, and afterwards return to his own home, we should certainly think that the local law attached upon him, and that his servile character would be reintegrated."

The question could hardly fail to arise in the United States of America, where, in states lying immediately contiguous to one another, slavery was legal in some, and illegal in others. It has come before the Supreme Court of the United States in two recorded instances. The first was the case of *Strader v. Graham*, reported in 10th Howard's Reports, p. 52. In that case the slaves had been taken with the consent of the owner, from Kentucky, in which State slavery was lawful, to Ohio where it was not, to be employed in the latter, and had been afterwards brought back to Kentucky. The Supreme Court held that their status when brought back to Kentucky, as free or slave, depended on the law of Kentucky, and not on that of Ohio, and therefore adjudged them to be slaves. The same question presented itself again before the same court, in 1854, in the great case of *Dred Scott v. Sandford*

\* Life of Story, Vol. I., pp. 552-5.

(19 Howard, p. 393), which came before the court on a writ of error from a circuit court of the United States. In addition to the great constitutional question arising in the case, as to whether a man of African descent on acquiring freedom became a citizen of the United States, and as such would be entitled to sue in a circuit court of the United States, in which, according to the constitution, none but citizens are entitled to sue—a question with which we have here nothing to do—the Court had to decide on the claim of the plaintiff to be free by reason of his owner having taken him from Missouri, in which state he was a slave, to the state of Illinois, in which slavery did not exist. The plaintiff had already instituted proceedings to vindicate his freedom in the State Court of Missouri, where the decision was in his favour; but the case having been carried on appeal before the Supreme Court of that province,\* that court reversed the judgment, on the ground that, upon the principles of international law, foreign laws have no extra-territorial force, except such as the state within which they are sought to be enforced may see fit to extend to them, upon the doctrine of the comity of nations; and that consequently the removal of the slaves to the state of Illinois had no effect on their status on their returning to Missouri.

In like manner, when the case came before the Supreme Court of the United States, the Chief Justice and six of his brother judges held that the plaintiff had acquired no right to freedom from his residence in Illinois. Two judges differed from the rest, mainly on the ground that by taking a slave into a country where slavery did not exist, a master must be taken to have emancipated his slave, inasmuch as he could there have no right to compel him to serve as a slave, and, furthermore, could have no right to compel him to return to a state of slavery,—a view adopted, it seems, by the courts in more than one of the slaveholding states. But the answer given to this reasoning, and as it seems to me rightly, was that it must depend on the law of each individual state to determine whether the circumstance of the slave having been taken into a free territory shall operate as a virtual manumission or not. And I may observe, in passing, that it obviously would not apply to the case of a fugitive slave who had escaped from his master into another territory, for there no question of constructive emancipation could arise. In the Supreme Court, Chief Justice Taney, after referring to the case of *Strader v. Graham*, just now mentioned, continues thus, “So in this case. As Scott was a slave when taken into the state of Illinois by his owner, and was held there as such, and brought back in that character, his status as free or slave depended on the laws of Missouri and not of Illinois.”

Judge Nelson observes: “The argument is, that the laws of Illinois, forbidding slavery within her territory, had the effect to set the slave free while residing in that state, and to impress upon him the condition and status of a freeman; and that, by force of these laws, this status and condition accompanied him on his return to the slave state, and of consequence that he could not be there held as a slave. Our opinion is, that the question is one which it belongs to each state to decide for itself, either by its legislature or courts of justice—and hence, in respect to the case before us, to the state of Missouri,—a question exclusively of Missouri law, and which, when determined by that state, it is the duty of the federal courts to follow. In other words, except in cases where the power is restrained by the constitution of the United States, the law of the state is supreme over the subject of slavery within its jurisdiction.”

“Every state or nation,” he continues, “possesses an exclusive sovereignty and jurisdiction within her own territory; and her laws affect and bind all property and persons residing within it. It may regulate the manner and circumstances under which property is held, and the condition, capacity, and state of all persons therein; and also the remedy and modes of administering justice. And it is equally true, that no state or nation can affect or bind property out of its territory, or persons not residing within it. No state, therefore, can enact laws to operate beyond its own dominions; and if it attempts to do so, it may be lawfully refused obedience. Such laws can have no inherent authority extra-territorially. This is the necessary result of the independence of distinct and separate sovereignties.”

“Now, it follows from these principles, that whatever force or effect the laws of one state or nation may have in the territories of another, must depend solely upon the laws and municipal regulations of the latter, upon its own jurisprudence and polity, and upon its own express or tacit consent.”

The conclusion which, after considering these authorities and the principles involved in them, I arrive at is, that while the slave, by being brought into, or escaping into, a territory where slavery does not exist, and therefore cannot be enforced by law, and where consequently

\* The case is reported in 15 Missouri Rep., p. 576.

any attempt to enforce it by force would be a breach of the law, becomes for the time practically free, and consequently cannot while in such country be compelled to serve, or to return to his former country, yet if he does return to it, his status as to slavery or freedom must be determined by the law of the latter, and must depend on whether that law holds his residence in the other country as amounting to emancipation or not. It seems to me impossible, consistently with the undeniable principle of the autonomy of independent states, to say that the legal status of a man in the country where he is, can be determined by the law of some other country in which he has been, but no longer is.

In other words, I hold it to be impossible to say, consistently with the acknowledged principles of international law, that because the law of England, or of any other country, does not permit slavery to exist within the sphere of its authority, it can therefore override the law of another nation which does admit of slavery, and deprive a man of the right in the slave which that law gives him. Before I quit the subject, I would fain put this question, and am curious to know what answer can be given to it by those who assert that to have set foot on British soil converts the slave for ever into a free man. The status of a man claimed as a slave in a slave-holding country, after a residence in this, must of necessity be determined by the tribunals of the country in which he is, and in which the claim is made. By what law are such tribunals to decide on the right?—by their own law, or by that of this country?

The cases which follow are, if possible, still more to the purpose of the present inquiry, as they show that the rights of foreigners in slaves, if slavery is sanctioned by the law of the country to which they belong, will be upheld by the tribunals of this country, if injuriously invaded by British subjects. I refer to the cases of the “*Diana*” and “*Le Louis*” decided in the High Court of Admiralty, and to the important and decisive cases of *Madraza v. Willes*, and *Buron v. Denman*.

In the case of the “*Diana*,” \* a Swedish ship engaged in the slave trade had been seized off the coast of Africa, and condemned in a British Vice-Admiralty Court, against which condemnation the owners appealed.

In the prior case of the “*Amediê*,” † followed by that of the “*Fortuna*,” ‡ American vessels, had been captured by British cruisers, and it appearing that the trade was not permitted by the law of the United States, the condemnation of the vessels had been upheld here on appeal. But, in the present instance, it not appearing that the trade had become unlawful by the law of Sweden, Sir William Scott reversed the sentence.

“ The principle which has been extracted by the judge of the court below from the case of the “*Amediê*” is the reverse of the real principle there laid down by the superior court, which was that, where the municipal laws of the country to which the parties belong have prohibited the trade, the tribunals of this country will hold it to be illegal upon the general principles of justice and humanity, and refuse restitution of the property ; but, on the other hand, though they consider the trade to be generally contrary to the principles of justice and humanity, where not tolerated by the laws of the country, they will respect the property of persons engaged in it under the sanction of the laws of their own country. The Lords of Appeal did not mean to set themselves up as legislators for the whole world, or presume in any manner to interfere with the commercial regulations of other states, or to lay down general principles that were to overthrow their legislative provisions with respect to the conduct of their own subjects.”

In the case of “*Le Louis*,” § which occurred in 1817, a French vessel engaged in the slave trade had been captured by an English cruiser and had been condemned by a Vice-Admiralty Court as lawful prize. On an appeal being brought in the High Court of Admiralty here, Sir William Scott reversed the sentence of condemnation, holding that, France not having prohibited the slave trade, still less consented to a right of search by British ships, and trading in slaves not being piracy by the law of nations, but, on the contrary, a traffic which was not only permitted to their subjects, but actually encouraged by many states, the British cruiser had acted illegally in insisting on forcibly searching the vessel and detaining her. The following observations, which occur in the course of the judgment, appear to me well worthy of observation :

“ A new and very extensive ground is offered to the court by the suggestion, which has been strongly pressed, that this trade, if not the crime of piracy, is nevertheless crime,

\* 1 Dodson's Admiralty Reports, p. 95.

† 1 Dodson, p. 81.

‡ 1 Acton's Admiralty Reports, p. 246.

§ 2 Dodson's Admiralty Reports.

“ and that every nation, and indeed every individual, has not only a right but a duty  
 “ to prevent in every place the commission of crime. But neither this court, nor any other,  
 “ can carry its private apprehensions, independent of law, into its public judgments on  
 “ the quality of actions. It must conform to the judgment of the law upon that subject;  
 “ and acting as a court in the administration of law, it cannot attribute criminality to an  
 “ act where the law implies none. It must look to the legal standard of morality; and  
 “ upon a question of this-nature that standard must be found in the law of nations as  
 “ fixed and evidenced by general and ancient and admitted practice, by treaties and the  
 “ formal transactions of civilised states; and looking to these authorities I find a difficulty  
 “ in maintaining that the traffic is legally criminal. . . . There are nations  
 “ which adhere to the practice [of slave trading] under all the encouragement which  
 “ their own laws can give it. What is the doctrine of our courts of the law of nations  
 “ respecting them? Why, that their practice is to be respected, that their slaves, if taken,  
 “ are to be restored to them, and if not taken under innocent mistake, to be restored  
 “ with costs and damages. Recent treaties with foreign powers stipulate for a permitted  
 “ continuance of this traffic to them for a course of years; and, in such a state of law and  
 “ fact, the court cannot hold the traffic to be a gross violation of the law of nations.

“ It is pressed, as a difficulty, what is to be done, if a French ship laden with slaves  
 “ for a French port is brought in? I answer, without hesitation, restore the possession  
 “ which has been unlawfully divested, rescind the illegal act done by your own subject, and  
 “ leave the foreigner to the justice of his own country.

“ It is said, and with just concern, that if the search of foreign ships be not permitted  
 “ in time of peace, it will be extremely difficult to suppress the traffic. But the difficulty  
 “ of the attainment will not legalise measures that are otherwise illegal. To press forward  
 “ to a great principle by breaking through every other great principle that stands in the way  
 “ of its establishment; to force the way to the liberation of Africa by trampling on the  
 “ independence of other states in Europe; in short, to procure an eminent moral good by  
 “ means that are unlawful, is as little consonant to private morality as to public justice.  
 “ Obtain the concurrence of other nations, if you can by application, by remonstrance,  
 “ by example, by every peaceable instrument which man can employ to attract the consent  
 “ of man. But a nation is not justified in assuming rights that do not belong to her  
 “ merely because she means to employ them to a laudable purpose; nor in setting out  
 “ upon a moral crusade of converting other nations by acts of unlawful force.”

In *Madrazo v. Willes* (3 B. and C., p. 353) an action had been brought by the plaintiff, a Spanish subject, against the defendant, the captain of an English man-of-war, for having seized, off Cape St. Paul, on the coast of Africa, a vessel of the plaintiff's, fitted out for the slave trade, and having 300 slaves on board, and for having detained the vessel, and set free the slaves. There being no treaty between this country and Spain, authorising the seizure of Spanish vessels engaged in the slave trade, and that trade being permitted by the law of Spain, it was admitted on the trial that the proceedings of the defendant could not be justified, and the case resolved itself into an assessment of damages. But the Lord Chief Justice Abbot entertaining some doubt whether, the trading in slaves being prohibited by the existing statutes, the plaintiff could recover, in an English court, in respect of the seizure of the slaves, directed the jury to assess the damages separately, who accordingly returned a verdict for 3,000*l.* in respect of the vessel and stores, and 18,180*l.* in respect of the slaves. But on the case coming before the Court in banc, the Chief Justice expressed himself satisfied that his doubt had been unfounded. “I am now satisfied,” he says, “that the words used by the legislature, though large and extensive, can only be taken to be applicable to British subjects.” And Mr. Justice Bayley uses language which it will be well hereafter to bear in mind, “I do not think there is sufficient doubt in this case to induce us to grant a rule. A British court of justice is always open to the subjects of all countries in amity with us, and they are entitled to compensation for any wrongful act done by a British subject to them. It is no answer to the present action to say that it would not be maintainable by a British subject; for the only questions are whether the act of the defendant be wrongful, and what injury the plaintiff has sustained from it? Although the language used by the legislature in the statute referred to is undoubtedly very strong, yet it can only apply to British subjects, and can only render the slave trade unlawful if carried on by them; it cannot apply, in any way, to a foreigner. It is true that if this were a trade contrary to the law of nations a foreigner could not maintain this action. But it is not; and as a Spaniard cannot be considered as bound by the acts of the British legislature prohibiting this trade, it would be unjust to deprive him

“ of a remedy for the wrong which he has sustained. He had a legal property in the slaves of which he has by the defendant’s act been deprived.”

Mr. Justice Holroyd agreed, saying, “ However much I may regret that any damages can be recoverable for such a subject as this, yet I think we are bound to say that this plaintiff is entitled to them.”

Mr. Justice Best said, “ The statutes which have been referred to speak in just terms of indignation of the horrible traffic in human beings ; but they speak only in the name of the British nation. The declaration of the British legislature that the slave trade is contrary to justice and humanity cannot affect the subjects of other countries, or prevent them from carrying on this trade out of the limits of the British dominions. The assertion of a right to control the subjects of other states in this respect would be inconsistent with that independence which we acknowledge that every foreign Government possesses. If a ship be acting contrary to the general law of nations she is thereby subject to confiscation ; but it is impossible to say that the slave trade is contrary to what may be called the common law of nations. It was, until lately, carried on by all the nations of Europe. A practice so sanctioned can only be rendered illegal by the consent of all the powers. Most of the states of Christendom have now consented to the abolition of the slave trade, and concurred with us in declaring it to be unjust and inhuman. The subjects of any of these states could not, I think, maintain an action in the courts of this country for any injury happening to them in the prosecution of this trade ; but Spain has reserved to herself a right of carrying it on in that part of the world where this transaction occurred. Her subjects could not legally be interrupted in buying slaves in that part of the globe, and have a right to appeal to the justice of this country for any injury sustained by them from such an interruption. These principles are confirmed by the decisions of the Court of Admiralty, and also by a judgment of Sir William Grant, pronounced at the Cockpit. The cases to which I allude are the “ *Fortuna*,” the “ *Donna Marianna*,” and the “ *Diana*,” in the Admiralty Court, and the “ *Amediê*” before the Privy Council.\* These cases establish this rule—that ships which belong to countries that have prohibited the slave trade are liable to capture and condemnation if found employed in such trade ; but that the subjects of countries which permit the prosecution of this trade cannot be interrupted while carrying it on. It is clear from these authorities that the slave trade is not condemned by the general law of nations. The subjects of Spain have only to look to the municipal laws of their own country, and cannot be affected by any laws made by our Government.”

The case of *Buron v. Denman*† is a still more striking instance of the application of the principle that an unauthorised interference by a British subject with the slave property of a foreigner will constitute a ground of action by the law of England. Commander Denman, being in command of Her Majesty’s ship “ *Wanderer*,” off the coast of Africa, for the suppression of the slave trade, was applied to by the governor of Sierra Leone to take measures for the liberation of a negro woman and her child, British subjects belonging to Sierra Leone, who were detained as slaves at Gallinas by the son of King Sciacca, the negro sovereign of the country, and he was required, if necessary, to use force for that purpose. Commander Denman, having succeeded in obtaining the liberation of the woman and her child, took upon him to enter into a treaty with King Sciacca for the abolition of slavery within his dominions, according to which the factories and barracoons of the slave dealers were to be destroyed without delay, and the slaves in them delivered up to Captain Denman, the slave dealers sent out of the country, and not permitted to return. Among the persons who carried on the slave trade at the Gallinas was the plaintiff, who had an establishment and barracoons there in which slaves were kept.

Acting upon the authority of the treaty referred to, Captain Denman destroyed the plaintiff’s barracoons, took possession of the slaves, and conveyed them to Sierra Leone, where they were set at liberty. An action having been brought in the Court of Exchequer, the cause was tried at bar in that Court before Barons Parke, Alderson, Rolfe, and Platt. Baron Parke summed up the case to the jury, and directed them in express terms that the proceedings of Captain Denman at the time of their execution had been wrongful, and would have entitled the plaintiff to recover for the loss of his goods and slaves, were it not that the defendant had acted under the authority of a political treaty, which (as the fact was) had been subsequently ratified by the Government at home, whereby, according to the opinion of the majority of the court,—Baron Parke himself seems to have thought differently,—

\* *Dodson, Ad. Rep.*, 81, 91, 95.

† 3 *Exch. Rep.*, 167.

the acts of Captain Denman had become acts of state, for which the Government, and not its officer, was responsible. On the prior question the language of Baron Parke is very well worthy of attention.

“ With respect to the issue, whether the plaintiff was possessed of these slaves, your verdict must be for the plaintiff. The law on the subject of slaves has been settled by the case of “ *Le Louis*,”\* which has been referred to. That case was decided, in the year 1817, by Sir William Scott, who went fully into the question of the legality of the slave trade, and laid down certain positions, which have since been acquiesced in, both in this country and abroad. Those positions are, first, that dealers in slaves are not pirates by the law of nations, and can only be made so by and according to the terms of a treaty with the country to which they belong, prohibiting the slave trade; secondly, that trading in slaves is not a crime by the law of nations; thirdly, that the right of stopping and searching ships in time of peace is not a right which can belong to any nation except by contract with the nation to which such ships belong; and, fourthly, that if there be a law in a particular country prohibiting the slave trade, it is not open to every one to punish the offender against that law, but proceedings must be taken in the tribunals of his own country. Those propositions being clear, a question arises, whether the plaintiff can maintain this action for taking away his slaves. It is not necessary to decide whether, if he had been simply in the actual possession of slaves, using them as slaves, he could have recovered against any person who took them away; on that point it is not necessary to give an opinion, because, according to the evidence on both sides, he was living at Gallinas, where it was lawful to possess slaves. It is contended that, by the law of Spain, the plaintiff cannot possess a property in slaves for the purpose of exporting them, *as slaves*, to the West Indies. However, there is no evidence of such law, and we are all, therefore, of opinion, that the issues, both as to the slaves and the goods, must be found for the plaintiff.”

These cases establish beyond controversy that the tribunals of this country recognise the right of property of the owner in the slave, so long as the slave is in the country by the law of which the owner's right is upheld, or is in the possession of the owner in a ship of a nation in which slavery is lawful; and that if the property in the slave is interfered with by a British subject, to the injury of the owner, an action for damages will lie to the extent of the loss sustained. Nor could it be otherwise while slavery existed in parts of the British dominions, as an institution established by law. While that state of things continued, the withdrawal of slaves from their owners, the harbouring them so as to enable them to avoid their service, the bringing them into British territory where they would be practically free, if done by one British subject to the damage to another, would necessarily be wrongful, and give a cause of action. So, upon the principle that where anything is wrongfully done to the injury of the right of a foreigner by the law of his country, an action can be maintained in an English court, the taking away the slaves of a foreign owner, from the country in which his property in them was upheld by the law, or assisting them to escape, would, as the cases just referred to show, in like manner have been actionable. The possibility of the former case has been removed by the extinction of slavery in our colonies. The possibility of the latter remains. For, provided the cases of *Madrazo v. Willes*, and *Buron v. Denham*, should be upheld as rightly decided,—and I see no reason for questioning their authority,—the principle on which they were decided would, as it seems to me, be applicable to the case of a slave carried away from his owner in a slaveholding country. An oriental slave owner is not likely, it is true, to raise such a question by bringing an action in our courts to recover the value of a runaway slave. But a Brazilian owner might, and the question would be an awkward one.

Moreover, it is not only by our courts of law that the status of slavery has been recognized as affording rights to the owner of the slave, the invasion of which would amount to a wrong and entitle him to redress. The nation itself, by a great and solemn act of state, has fully acknowledged the right of property of the slave owner in the slave. When the British legislature abolished slavery in the West Indian colonies, however impressed with a sense of the evils and wickedness of slavery, it did not deprive the planters of their rights without compensating them by a payment of no less than 20 millions. Can we, after such an example, authorize our officers to treat the rights of the foreign slave owner as of no effect whatever? Every one would doubtless desire to see the last trace of this odious institution swept away from the face of the earth. But we must be careful not to allow this desire, however praiseworthy, to lead us to set at naught the fundamental principles of international law by breaking the laws of other states with which we are at peace. To use

the language of Lord Stowell, "we must not press forward to a great principle by breaking through every other great principle that stands in the way of its establishment;" but should remember that "to procure an eminent moral good by means that are unlawful is as little consonant to private morality as to public justice." It has not been by violating great principles of international law, or by the breach of the municipal law of other states, or by compromising their independence, but by the moral weight and influence arising from its example in abandoning a highly lucrative trade, and abolishing slavery in all our dominions at a vast pecuniary sacrifice, and by its unceasing diplomatic efforts with foreign states, that this country has succeeded in reducing the slave trade to its present limits, and effecting the abolition of slavery to so great an extent. It is from the continuing in this peaceable and unimpeachable course that the final triumph of the great cause of humanity and civilization may best be insured.

I have dwelt thus long on the legal bearings of this question, because the notion that the law of England will not recognize the status of slavery as capable of existence anywhere, and that by once getting on board a British ship of war, though in the waters of a state in which slavery exists, a slave becomes for ever free, and acquires rights which it is the positive duty of the commander of the ship to protect, is not only an erroneous one, and one which may lead to a disregard of international law, but one which is also likely, if it once becomes generally known in the waters of slave-holding states, to occasion much embarrassment to our officers, and to involve us in difficulties with the local authorities. But I am very far from saying that there are not exceptional cases in which the strict rules of law and of abstract right should be made to yield to the more immediate and urgent considerations of humanity. For there are cases in which the maxim "*necessitas non habet legem*" properly applies, and the necessity of protecting life or limb from inhuman violence is one of them. Besides, we are warranted in assuming that such violence towards the slave is prohibited by the local law, and that in protecting him from it we are doing no more than the local authority would sanction.

All I am anxious to guard against is the supposition that there is a right on the part of the slave to the protection of a British ship of war because he contrives to get on board, or that, under such circumstances, the commander is bound to suffer him to remain. I agree that there may be special and exceptional circumstances under which the commander may be allowed to exercise a discretion. I agree that where there is immediate danger to life or limb, or where the slave bears evident marks of ill-treatment, let the consequences be what they may, the slave should be protected. Not so where the only purpose of the slave in getting on board is to escape from service, and he has no complaint to make against his owner; and certainly not so where the slave has been sent or brought on board by the owner for the service of the ship, or has come on board in attendance on his owner, or where the slave is merely seeking to avoid punishment for some offence which he has committed. I cannot but think that, while a discretion should be left to the officers of British ships, as has been done heretofore, to afford protection to slaves against actual ill-treatment, they should be instructed to discourage slaves from coming on board in order to escape from slavery, rather than encourage them so to do; and to send out of the ship slaves who have come on board either surreptitiously, or in defiance of an order refusing them admission, and who have no special claim to protection on the exceptional grounds before adverted to, as also slaves who have been brought or sent on board by their masters for the service of the ship.

If other instructions are to be given, and the Queen's ships are to be made asylums for fugitive slaves, it seems to me that it will be only consistent with the dignity and honour of the British nation that Her Majesty's Government shall declare openly, in the face of the world, its determination to receive fugitive slaves on board the Queen's ships, and to protect them as free when there. What effect such a declaration might have on our relations with slave-holding states, or how far it might tend to improve their disposition to assist us in putting down the slave trade, or the reverse, is another and a different matter. At all events, if such is to be the rule, good faith seems to require that, before slaves are allowed to come on board for the service of the ship, due notice should be given to their owners that if, when on board, they insist on remaining as free, their claim will be admitted. I will only add that there appears to me to be a very simple solution of the whole difficulty. If this country, in its most laudable desire to put an end to slavery, is willing that slaves desirous of escaping from slavery shall be received on board our ships against the will of their owners, let the Government be authorized to compensate the foreign owner, as it did our own, by paying the value of the slave, and the nation will then have the satisfaction of seeing its purpose accomplished without any violation of the rights of others. In conclusion, I beg



to say that I concur substantially in the report prepared by our Chairman, as to the instructions which we should recommend to be given to officers commanding Her Majesty's ships, as the recommendations therein contained appear to me to combine sound principles of policy and wisdom with a due regard to considerations of humanity.

A. E. COCKBURN,  
2nd May 1876.

I concur in the statement of the law as set forth in the foregoing paper.

T. D. ARCHIBALD.

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## IV.

### Mr. Stephen's Reasons for adopting the Views stated on page xxiii.

WE are directed to report, amongst other things, upon the nature and extent of such international obligations as are applicable to questions as to the reception of fugitive slaves by Her Majesty's ships in the territorial waters of foreign states.

Three distinct sets of rights and duties appear to be included under this description:—

1. The rights and duties of the commanding officer acting in his public capacity on the one hand, and those of the local authorities in whose territorial waters the ship is lying, acting in their public capacity on the other.

2. The rights and duties of the commanding officer, acting either in his public or in his private capacity, on the one hand, and those of the slave supposed to be on board his ship on the other.

3. The rights and duties of the commanding officer, acting either in his public or in his private capacity on the one hand, and those of the owner of the slave on the other.

Each of these sets of rights and duties may in a certain sense be called international obligations, as each may affect the relations between nations, but as they differ in their origin, their nature and extent must be determined by reference to different laws.

The nature and extent of the first set of rights and duties depend upon international law. If the commanding officer being called upon by the local authorities to perform any act which he was bound to perform by international law, were to refuse to do so, the authorities would have to seek their remedy by diplomatic means, by reprisals, or, in the last resort, by war.

The nature and extent of the second and third sets of rights and duties depend both upon the law of England, and upon the law of the country in the territorial waters of which the British ship is supposed to be lying.

If the commanding officer of a British ship, being under an obligation by the laws of England to afford protection to a slave who had got on board his ship, was nevertheless to deliver him up to his master, and if the slave were afterwards to escape to England, the slave could sue the commanding officer in England for damages for the injury which he had sustained. If, on the other hand, the commanding officer, being under an obligation, either by the law of England, or by the law (for instance) of Brazil, not to harbour a slave who has escaped from his master, does so harbour such a slave, the master of the slave might sue him for damages in England, or (I suppose) in Brazil. Whether a judgment recovered in a Brazilian or Cuban court on such a cause of action could be enforced in England is a question too special and technical to be considered here. For the present purpose it will be sufficient to consider the second and third sets of rights and duties in relation to the law of England only.

In order to give a full answer to the questions proposed in the Commission, it is necessary to consider each of the three sets of obligations above mentioned. In order to make the answers clear they must be considered separately.

First, then, as to the question of international law. To raise this question we must suppose that the local authorities have in accordance with the local law called upon the commanding officer to deliver up a fugitive slave who has taken refuge on

board his ship, and that he has refused to do so. Has he or has he not committed an international wrong by such refusal ?

I think he has, on the ground that when lawfully required to do so he has prevented the local law from having its due course over a person subject to it.

The only answer which can be given to this is, that it is a principle of international law that a ship of war entering the territorial waters of a foreign State is so completely invested with the character of a part of the country to which it belongs, that every person who comes on board of it must be regarded for every purpose as being in that country ; so that a slave on the deck of an English or French ship in Rio Harbour is for all purposes in precisely the same position as if he were in London or Paris.

I know of no authority whatever for this assertion. I think that the authorities upon the subject of the privileges of ships of war prove that in all that concerns the discipline and internal government of the ship, her officers and crew are exempt from the local law. They also prove, perhaps not so decisively, that the ship itself is free from legal process in nearly every case. They may be held to show that neither criminal nor civil process could be executed on board of her, but as far as I know they are silent as to the exoneration of natives of the country who happen to be on board from laws to which they would otherwise be subject. Any privilege short of this which may be accorded by international law to ships of war can have only a slight and incidental connexion with the question under consideration, because any such privilege put at the highest would affect not the right of the foreign country, but its remedy. It would go only to show that if the commanding officer of a ship of war refuses to deliver up a fugitive slave the foreign power cannot, according to international law, take him by force, but must treat the question as an international one, and proceed to obtain redress by diplomatic complaints, by reprisals, or in the last resort by war. The inference from such a state of things would not be that a commanding officer is at liberty to do as he pleases. The captain of a man-of-war could not wish to say, "I will violate the laws of the country in which I am received, because my official character enables me to do so without running any personal risk." On the contrary his immunities, whatever may be their extent, would impose upon an honourable man a special obligation to observe the laws of the country in which he finds himself, as far as the laws of his own country will permit him to do so. Language is sometimes used implying that as a commanding officer's obligation to observe foreign laws is only moral, he may disregard them if they are condemned by the moral feelings of his own country. I think that there are cases in which the nation itself may fairly look beyond international law, and direct its officers to disregard it in the interests of persons subjected to cruelty, but such an act is like a declaration of war. It should be done, if at all, by the express order of the sovereign power itself, and by no inferior authority. As a general rule, naval officers ought to observe international obligations with special exactness, not although, but because they undoubtedly do, to a certain extent, resemble debts of honour.

These considerations are only applications of the fundamental principle of all international law, which is the absolute and exclusive sovereignty of every nation within its own limits, including its ports and harbours. This principle is stated in the strongest language by Chief Justice Marshall in the case of the *Exchange* (7 Cranch, p. 136).

"The jurisdiction of the nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. Any restriction upon it deriving validity from an external source would imply a diminution of its sovereignty to the extent of the restriction, and an investment of that sovereignty to the same extent in the power which could impose such restriction.

"All restrictions, therefore, to the full and complete power of a nation within its own territories must be traced up to the consent of the nation itself. They can flow from no other legitimate source."

No State can be supposed, by permitting a foreign ship of war to enter its harbour, to have consented that its own subjects should be able to free themselves from its own laws by going on board that ship. It may perhaps be inferred from such a permission that the State which gave it meant in certain cases to rely for the due observance of its laws upon the assistance and good offices of the officers of the ship, but this is quite a different matter from giving up the laws themselves. An illustration will make this plain. Two Italians, resident in Portsmouth, go on board a French ship of war in Portsmouth harbour, and one stabs the other. Conceding for the sake of argument that if the French captain chose to carry off the offender to France, the Mayor of Portsmouth could not prevent him by force from so doing, and that the local police

could not enter the ship in order to execute a warrant for the offender's apprehension, it by no means follows that if the offender were given up by the French captain we should hesitate to try him at Winchester, upon the ground that the murdered man and the murderer both owed a local allegiance to our laws whilst they were on board the French ship, although the intervention of the French captain accidentally happened to be necessary to enable us to try the offender.

It may be asked whether these principles would extend to the case of a fugitive slave taken on board a ship of war on the high seas, and brought into the territorial waters of the State from which he had escaped. I think that they would not. The privilege of a ship of war in foreign territorial waters, whatever may be its precise extent, would seem to extend to all persons on board the ship and under the control of the commanding officer at the time when the ship enters the territorial waters. Fugitive slaves taken on board the ship on the high seas or elsewhere and brought into the territorial waters of the State from which they have escaped, would seem to be included under this rule.

The rule rests upon the following grounds:—

The essence of the privilege of ships of war in foreign territorial waters is, that the commanding officer is permitted to exercise freely, and without interference on board his ship, the authority which by the law of his own country he has over the ship's company.

This permission is tacitly given by the very fact that the ship of war is allowed to enter foreign territorial waters.

It implies an undertaking on the part of the local sovereign to abstain from all interference between the commanding officer and the ship's company brought by him into the territorial waters, for if there were no such undertaking the privilege itself might be rendered illusory by the institution of inquiries on the result of which the commanding officer's authority over the ship's company would depend.

It might be argued that this rule would not extend to a fugitive slave in the circumstances supposed, because the slave does not cease to be his owner's property by being received on board a ship of war on the high seas, and because property brought by a foreign ship of war into the country where the owner is should be restored to him.

The answer to this argument is that property in slaves is essentially local, that as soon as the slave reaches the high seas he becomes free as regards every one, except his owners and countrymen if they can catch him, that as soon as he is taken on board a British ship on the high seas he comes under the protection of the law of England, and that the privilege of the ship prevents his title to that protection from being examined into by the local authority so long, at all events, as he remains on board the ship.

Whether this rule may be subject to an exception in the case of natives of the country detained against their will on a foreign ship of war is a moot point which it is unnecessary to discuss, and with reference to such cases as that of the slave Brown, it is enough to say that neither the rule nor the suggested exception can apply to ships of war in the territorial waters of their own nation or of its colonies.

I now pass to the consideration of the second set of obligations referred to above.

In considering them it is necessary to premise that if international law and the law of England are opposed to each other in this matter, if by international law it is the duty of the commanding officer to deliver up a slave to the local authorities, demanding, in accordance with the law of the country, that he should be delivered up, and if by the law of England the slave acquires by the mere fact of his presence on board the ship, a legal right to the captain's protection, it would clearly be the captain's duty to obey the law of England, and to leave the local authorities to take their remedy by diplomatic means, by reprisals, or by war as they might think proper against the British nation for the international wrong inflicted upon them.

In order, therefore, to test the question as to the nature and extent of the second set of obligations above mentioned, those, namely, of the commanding officer on the one hand, and of the slave on the other, the following question must be answered:—

If a slave got on board a British ship of war in foreign territorial waters, and if, in compliance with a demand made in accordance with the local law by the local authorities, the commanding officer delivered up the slave and compelled him to return to slavery, would the slave (if he afterwards reached England) have a right to recover damages from the commanding officer in an action for assault and false imprisonment?

I am disposed to think, though not without some hesitation, that the answer must depend on the question whether the deck of a ship of war in foreign territorial waters is or is not regarded by the law of England as being to all intents and purposes part the soil of England? that if that question is answered in the affirmative, the slave would have such a right of action; and that if it is answered in the negative he would not.

My hesitation arises from a doubt whether the commanding officer might not at all events justify the expulsion of the slave from his ship on the ground that as a mere stranger and trespasser he had no right to be there, and that the captain could not be responsible for the consequences of his removal.

Upon this two observations occur. First, to take this ground, is to evade the real question. There is no substantial difference between delivering a man up to slavery and compelling him to leave a ship under such circumstances, that the inevitable consequence of such expulsion must be his return to slavery.

Secondly, it seems very doubtful, to say the least, whether the right of a commanding officer or even of the owner of a house or land to remove a trespasser by force from his property extends to cases in which serious personal injury would be caused to the trespasser by such removal, and in which no personal injury or danger would be caused to the proprietor by the trespasser's presence.

The captain of a steamship plying between England and America would have no right to throw overboard a person who had secreted himself on board in order to steal a passage, and it would be to say the least very doubtful whether it would not be the captain's duty to supply him with the bare necessaries of life, of course at a reasonable price and if a sufficient supply for the purpose were available. If a furious mob chased a man whom they wished to ill use or murder into a barrack square which they were afraid to enter, the right of the officer in command to turn him out as a trespasser would be to say the least exceedingly doubtful. If in a flood a trespasser took refuge in another man's house the owner would surely have no right to put him by force into the water, and in the same way if a slave on the deck of a British man of war has by the law of England all the rights what he would possess in the streets of London, I should doubt the commanding officer's right to deprive him of them by forcing him to leave the ship, unless, indeed, his presence there was dangerous to the crew, as might be the case if the ship were short of provisions or the slave had the plague.

Hence the question as to the slave's right to remain on board the ship, and to sue the commanding officer for damages for compelling him to return to slavery appears, if not absolutely to depend upon, at all events to be closely connected with the question, Whether by the law of England the deck of a British ship of war in foreign territorial waters is to every intent part of the soil of England?

I am of opinion that this question must be answered in the negative, first because no authority can be found for an answer in the affirmative, and next because it can be shown that such an answer would involve monstrous consequences.

The best illustration of this will be found by reference to the case of crimes. If the proposition in question were law it would follow that in the case of the Italian murdering an Italian on board a French ship in Portsmouth harbour the Court at Winchester would have no jurisdiction, for an English court cannot try a foreigner for a crime committed in France. Again, suppose that whilst a British ship was in a French harbour two French workmen employed on board were to quarrel, and one was to kill the other. What would be the duty of the captain? Clearly his first duty would be to place the offender in arrest, but having done so, would it be incumbent on him to carry him to England to be tried, or might he deliver him up to the French authorities? There can be no doubt that the latter would be the only rational course. It might, indeed, be the only one which would not cause a failure of justice, for if the witnesses were Frenchmen (which might easily happen) the captain could not carry them as well as the accused person to England, nor could he take their evidence to be used at the English trial. If, however, an English ship of war is English ground to every intent, a crime committed on board such a ship is a crime committed in England, and must be tried by English law in an English court. The man must accordingly be kept in custody till he can be brought before such a court, and this might be attended with the greatest possible inconvenience.

Take again the case of an ordinary criminal who takes refuge on board a ship of war. How is he to be dealt with? To say that he is not to be delivered up to the local authorities at all is an intolerable conclusion. But if he is to be delivered up, and if a British ship of war is strictly and for all purposes British territory, he can be delivered up only according to the procedure prescribed in the Extradition Acts and under the provisions of an extradition treaty. The Extradition Acts (33 & 34 Vict.

c. 52, and 36 & 37 Vict. c. 60) not only do not make any provision for such a case, but they prescribe a course of procedure which could not possibly be observed by the commanding officer of a ship of war. For instance, the prisoner is to be taken before a magistrate, and an opportunity is to be afforded him of applying for a writ of habeas corpus. Besides there are many countries with which we have no extradition treaties, and in such cases, if the doctrine that a British ship is British ground is carried out strictly no extradition at all could take place, and Her Majesty's ships would be degraded to the position of asylums for criminals.

These consequences appear to me to reduce the supposed principle *ad absurdum*. But if it fails what is there to interfere with the operation of the ordinary law of the place upon the natives of the country, except the practical difficulty of enforcing it? The inference is that a slave delivered up by a British commanding officer to the local authorities on a demand made by them in accordance with the local law would, if he afterwards reached England, have no right to recover damages against the commanding officer for assault and false imprisonment.

The case of *R. v. Lesley* (Bell's C. C., 220) appears to support this view of the subject. In this case the captain of an English merchant vessel was indicted for assault and false imprisonment in having received certain prisoners on board his ship in Chilian waters and carried them against their will to Liverpool. It was held that the defendant's conduct in Chilian waters constituted no offence, but that as soon as the prisoners were detained against their will on the high seas an offence was committed. The principle upon which the former part of the decision proceeded was thus stated by Lord Chief Justice Erle. "We assume that the Government could justify all that it did within its own territory, and we think it follows that the defendant can justify all that he did there as agent for the Government and under its authority."

The ship concerned in this instance was a merchant vessel, but if the commanding officer of one of Her Majesty's ships chose to act as the agent of the government of the country, why should he not be entitled to the same protection as the master of the merchant vessel? The only ground on which the two cases could be distinguished would be the principle that a man-of-war is for all purposes part of the soil of England, and I have shown that this principle would lead to consequences which refute it.

If this view is correct the law of England would seem to correspond with the law of France, if M. Theodore Ortolan is accepted as an authority on that subject. No one rates so high as M. Ortolan the ex-territorial character of ships of war, yet in the 14th chapter of his work he deals with the subject just discussed as follows:—

"Lorsque le navire de guerre est dans un port ou dans les eaux territoriales d'un état étranger il est véritablement dans un espace soumis à la propriété ou à la souveraineté de cet état, que si en considération de son caractère de navire de guerre y jouit d'une franchise illimitée cette franchise ne peut pas être invoquée comme un droit personnel par les étrangers réfugiés à son bord; que s'il est vrai que ces étrangers sont à bord, il est vrai aussi qu'ils sont encore dans le port ou dans les eaux territoriales de l'état dont ils ont encouru la justice repressive; ou conclura de toutes ces observations tout en maintenant l'inviolabilité du navire de guerre sur lequel les autorités locales n'ont aucune prise, que l'étranger qui y est réfugié n'est pas absolument dans la même situation que s'il était réfugié sur le territoire de l'état auquel appartient ce navire, qu'il ne peut réclamer en sa faveur l'emploi des mêmes règles et des mêmes formes que s'il était sur ce territoire; qu'il faut distinguer ce cas de celui de la véritable expulsion du territoire ou de l'extradition proprement dite. En un mot qu'il est de toute nécessité que le commandant ait une certaine latitude d'appréciation, et un pouvoir de se décider et d'ordonner lui-même immédiatement."\*

Upon the whole, the conclusion at which I arrive is that whatever may be the precise extent of the privilege accorded by international law or usage to ships of war in foreign territorial waters, it is generally speaking the duty of the commanding officers of such ships to deliver up to the local authorities persons who have broken the local law and taken refuge on board, and that the law of England does not forbid the discharge of this duty. This is the general rule. I do not know that any one disputes it in cases of ordinary laws. The real question is, whether a special exception is to be made in the case of persons who break the laws relating to slavery in countries where slavery is established by law. I do not say that this should not be done, but if it is done it should be done openly and avowedly as an act of power, as an invasion on moral grounds of the sovereignty of independent nations. I do not see how it can be justified as an exercise of a legal or quasi-legal right.

\* Dipl. de la Mer., I. 298-9.

The last set of obligations to be considered are the respective rights and duties of the slave owners and the commanding officers of ships of war in the territorial waters of the state of which the slave owners are subjects. The question here is Whether a slave owner could sue the commanding officer of a ship of war for harbouring his slave if he refused to deliver him up to the owner? On this point it is unnecessary to enter at length. The case of *Forbes v. Cochrane* (2 B. & C. 448) seems to imply that such an action would lie as the judgment in favour of the defendant in that case proceeded, on the ground that the ship in which the slaves were received was not in Spanish waters at the time when they were received; but questions of great difficulty and delicacy might arise as to the degree of assistance which a commanding officer is bound to give to a slave owner seeking to enforce such a right. I am disposed to doubt whether the commanding officer might not lawfully refuse to discuss the subject with anyone except the local authorities, and refuse to permit the slave owner to enter his ship on such an occasion. I cannot see that the officers or men would be under any obligation either to assist the owner if he did come on board in the hateful task of removing the slave or to prevent the slave from defending himself. The commission of scenes of actual violence on the deck of a man of war by private persons seeking to establish private rights, would not only be most unseemly in itself, but would be altogether opposed to the objects for which privileges (whatever their extent may be) are granted to such ships.

The most important observation which arises upon this part of the subject is that if instructions based upon the recommendations made in the Report should be issued to commanding officers, an officer who acted upon them in good faith would be liable to no proceedings by any slave owner, as his conduct would fall expressly within the principle of *Buron v. Denman*, and the other cases which decide that no action lies against a public officer by a foreigner for acts done by the public officer as acts of state and under the orders of his own Government.

To sum up the conclusions at which I have arrived I think—

- (1.) That commanding officers of British ships of war in territorial waters are under an obligation, imposed by international law, to deliver up fugitive slaves who have taken refuge on board their ships when required to do so by the local authorities, in accordance with the local law.
- (2.) That the law of England does not forbid them to discharge this obligation.
- (3.) That it is doubtful whether by refusing to discharge it they might not incur a personal responsibility to the owner of the slave.
- (4.) That the privilege of extritoriality (whatever may be its exact nature and extent) is really irrelevant to the subject.

I am conscious that this view of the matter must, in some cases, lead to consequences from which every humane person must revolt. When we reflect upon the atrocious cruelties which have at different times and in different countries been sanctioned by law, and which in some countries are still so sanctioned, it must be admitted that if naval officers are directed to respect and give effect to the local law in every part of the world in which they may be, they will at times have to facilitate the commission of cruel and wicked acts.

To deliver up a slave bearing on his or even on her body the marks of the chain and the lash, and to do so with a full conviction that the consequence will be his or her torture, violation, or death, is an act of which it is difficult indeed to think with calmness, especially when by the supposition the agent bears the Queen's commission, and the scene is the deck of a British man-of-war.

However it is by no means true that an act cannot be sanctioned by international law because it is wicked and cruel, for international law, though invaluable, is imperfect, and is concerned with imperfect institutions. It is impossible to exaggerate the wickedness and cruelty inseparable from war, yet war is the ultimate sanction on which international law depends. In the great case of *Campbell v. Hall* (20 S. T. 323) Lord Mansfield said, that upon conquering a country the King "has power to refuse a capitulation. If he refuses and puts to the sword or extirpates the inhabitants of a country the lands are his." International law, therefore, may sanction acts more cruel than slavery itself. With every respect for the opinion of those who are able to arrive at a more agreeable conclusion, it seems to me that the fundamental principles of international law when consistently applied require the commanding officers of ships of war in foreign territorial waters to refuse protection in all cases whatever to those who break the local law, and to deliver up, on a lawful demand, political refugees, the victims of religious persecution, and slaves who have received or expect

from their owners the treatment which a vicious brute would experience from a cruel master. I prefer the explicit admission of these consequences, revolting as they are, to what presents itself to my mind as an attempt to evade them by applying the legal fiction of extritoriality to a purpose for which it was not designed, and I join in the recommendations of the Report, because I regard them as a proposal that the British nation should deliberately take in this matter the course which it regards as just and expedient, although it is opposed to international law as it stands, and aims at its alteration and improvement. It is impossible to foresee the results which might follow from adopting the legal fiction of extritoriality in its full extent, but it is easy to imagine cases in which it might be in the highest degree injurious to the interests of this country.

I must, in conclusion, point out that the difference of opinion which exists in the Commission is purely theoretical. Some of us think that international law is what it ought to be. Others think that it requires amendment in order to make it what it ought to be, but there is a close approximation to unanimity as to the state of the law which would on general grounds be desirable.

J. F. STEPHEN.

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## V.

### **An Examination of the Authorities cited by Historicus, as to the Exemption of a Ship of War from the Local Jurisdiction when she is in Foreign Territorial Waters; with an Inquiry into the Nature and Extent of that Exemption.—By Mr. H. C. Rothery, &c. &c.**

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#### I.

Historicus.

Historicus, in his letter of the 4th of November 1875, states that he has seen "with much surprise that the doctrine of the absolute immunity of a public ship, and all persons and things on board of it, from local jurisdiction and the operation of local law, when lying in the territorial waters of a foreign State, has been treated as a doubtful proposition." "I had certainly supposed," he says, "that in the whole range of public law there was no position more firmly established by authority, more universally admitted by Governments, or one which had been more completely accepted in the intercourse of States, as unquestioned and unquestionable." "That a public ship of war is just as much exempt from the operation of foreign law, within the ports of another State by whom it is received, as it is on the high seas, is, I believe, a thing which no statesman now questions, and no jurist doubts." "The precedents, the practice, the authorities, the reasoning, are all one way."

Let us understand clearly to what extent the writer would wish to carry the immunity of a ship of war. He contends that not only is the ship itself, its officers, and crew, and all belonging to it, exempt from the local jurisdiction, but that "*all persons and things on board of it*" are equally exempt, and this, too, whether the ship be upon the high seas, or within the territorial waters of a foreign State. It is contended that a ship of war is a portion of the State to which she belongs, even when she is in foreign territorial waters, so much so that if a subject of the foreign State itself should come on board her, he would, whilst he remained on board, be exempt from the jurisdiction of his own country, and not amenable to its laws. Let us see whether the authorities which are cited support this position.

Casaregis.

1. The first authority cited by Historicus is that of Casaregis, who, in his book entitled "*Discursus legales de Commercio*," speaking of an army or a fleet on foreign soil or in foreign waters, says, "*Tunc tota jurisdictio super exercitum vel classem residet penes principem aut ejus ducem, quamvis,*" &c.; and from this passage Historicus argues the total and absolute immunity, not only of the ship of war, her officers, and crew, but of all persons who may be on board her, whether they belong to the ship or not. If however I read the passage correctly, as well as a somewhat similar passage to be found in the same Discourses, 136, all that Casaregis says is, that the commander shall have the entire jurisdiction over the army or over the fleet, that is to say, over all that belongs to or constitutes the army

or the fleet; but he nowhere says, so far as I am aware, that he is to have jurisdiction over every person who may happen to be within the lines of the army, or on board the fleet. Take the case of an army on its march through a foreign country, with the consent of course of the sovereign of the foreign State, which is the case supposed by Casaregis, is it contended that the ground which that army covers has for the time become so completely a portion of the State to which the army belongs, that all the persons within the lines, whether they belong to or form part of the army or not, are subject to the jurisdiction of the commander of the army, and are to be governed by the laws of the State to which that army belongs? And, in the same way, is a ship of war so much a portion of the territory of the State to which she belongs, that even when she is in foreign waters, not only her crew and all who belong to her, but also every person who may be on board her, is to be regarded as being in the country to which the ship belongs, and, as such, subject to its laws? I am not now saying that such an immunity may not belong to a ship of war, but Casaregis does not say so; all that he says is that the commander shall have complete jurisdiction over the army and over the fleet, but he does not say that he shall have the same jurisdiction over all persons and things which may happen to be within the lines of the camp or on board the fleet.

Casaregis, then, when examined, is no authority for the position for which Historicus contends, namely, the entire immunity not only of the ship of war, but of *all persons on board her*, whether belonging to her or not, from the local jurisdiction of the State within whose waters she may happen to be.

2. The next authority to which Historicus refers, and on which he seems mainly to have relied, is the case of the schooner "Exchange;"\* but after the most careful and attentive perusal of that case, it appears to me that, so far from supporting the proposition for which Historicus contends, it is an authority the other way. The schooner  
"Exchange."

The case of the schooner "Exchange" was that of an American merchant vessel, which had been seized by the French in the port of St. Sebastian, in Spain, under the Rambouillet Decree, and confiscated. She was then converted by the Emperor Napoleon into a ship of war, and sent on a cruise. Whilst still a ship of war belonging to the Imperial French navy, she had occasion to enter the harbour of Philadelphia, and was there seized at the instance of her former owners, on the ground that the original seizure and confiscation of the vessel by the French was illegal.

Now it will at once be seen that this case of the "Exchange," has nothing whatever to do with the question which we are considering. Chief Justice Marshall in his judgment states very clearly what the issue was; it was,† "whether an American citizen can assert, in an American court, a title to an armed national vessel found within the waters of the United States." The District Court, too, from which the case was originally appealed, by its decree showed what the question at issue really was, holding‡ "that a public armed vessel of a foreign sovereign, in amity with our Government, is not subject to the ordinary judicial tribunals of the country, so far as regards the question of title by which such sovereign claims to hold the vessel." That was the only question in the case, and any general expressions which might be found in the judgment, seeming to imply the total exemption of ships of war from the local jurisdiction under all circumstances, may be regarded as mere obiter dicta, and as having no legal validity. But as everything falling from so eminent a judge as Chief Justice Marshall is entitled to the greatest consideration, I propose to examine the case more closely to see whether there is anything in the case to warrant the conclusions which Historicus has drawn from it.

It seems that an appearance was entered to the action on behalf of the French Government, but under protest, by the Attorney General of the United States; and one of the principal grounds on which he contended that the court could not entertain the case was, that the confiscation having been the act of the sovereign in his sovereign character, the civil courts had no right to question it; and that, although the United States Government did not pretend to justify the Rambouillet Decree, they held that the judicial condemnation of the property had covered any irregularity in that respect, and that any question as to the legality of the condemnation must be "a matter of negotiations, or of reprisals, or of war, according to its importance."

Another argument used by the Attorney General was that the ship had entered the port on an "implied assent" that, as an armed vessel of a friendly power, she was entitled to do so without being molested. In the course, however, of his argument, he was careful to show that during the time she had been in the waters of the United States, she had conformed "to the law of nations and the laws of the United States," and that "she had committed no offence while there;" not "denying the obligation of a foreign sovereign to conform to pre-existing laws," and admitting that the "implied assent," under which she had

\* 7 Cranch, p. 116.

† Idem, p. 135.

‡ Idem, p. 120.



entered the port, would not justify "offences against existing laws, such as entering when prohibited, or breaking the peace when in port."

In giving judgment, Chief Justice Marshall, after stating, as I have already said, that the case was simply, "whether an American citizen can assert, in an American court, a title to an armed national vessel found within the waters of the United States," proceeded to lay it down as a proposition which could admit of no possible dispute, that\* "the jurisdiction of the nation within its own territory is necessarily exclusive and absolute;" and that "it is susceptible of no limitation not imposed by itself." He then went on to say,† "that all exemptions from territorial jurisdiction must be derived from the consent of the sovereign of the territory; that this consent may be implied, and that when implied, its extent must be regulated by the nature of the case, and the views under which the parties requiring and conceding it must be supposed to act." He accordingly held that "the 'Exchange,' being a public armed ship in the service of a foreign sovereign, with whom the Government of the United States is at peace, and having entered an American port open for her reception on the terms on which ships of war are generally permitted to enter the port of a friendly territory, must be considered as having come into the American territory under an implied promise that, while necessarily within it, *and demeaning herself in a friendly manner*, she should be exempt from the jurisdiction of the country."

What then does the case of the "Exchange" prove?

First of all, that the Civil Court will not entertain a suit relating to the title to or ownership of a public armed ship in the service of a foreign and friendly State.

Secondly, that the jurisdiction of a nation within its own territory is absolute and exclusive; that all exemptions from that jurisdiction must be derived from the consent of the sovereign of the territory; and that, if the consent is not express but implied, "its extent must be regulated by the nature of the case, and the views under which the parties requiring and conceding it must be supposed to act."

And thirdly, that the ship of war to be entitled to the exemption must demean herself in a friendly manner, must conform to the law of nations and the laws of the State, and must commit no offence while there, nor break the peace of the port.

These being then the propositions to be deduced from the case of the "Exchange," let us see how far the case supports Historicus' views.

In the first place, there is no question here as to the title or ownership of the vessel, which was the main point at issue in the case of the "Exchange."

Secondly, as to the doctrine of "*implied assent*." Is it contended that when a State, in which slavery exists, allows a foreign ship of war to enter her ports, there is an "implied assent" on her part that the ship of war shall be at liberty, if she thinks fit, to carry away her slaves out of the port? Is it supposed that this was in the contemplation of the parties when the permission to enter the port was given? Such a proposition would be too absurd to be maintained for an instant.

Lastly, would it be contended that a ship of war was demeaning herself in a friendly manner, if when she is in the waters of a State where slavery exists, her commander, in violation of the laws of that State, receives on board fugitive slaves, and refuses, when they are demanded, to restore them? Might not the injured State justly say that the ship of war had violated the implied conditions on which she had been allowed to enter the port, and that she had therefore in this respect forfeited her right to the exemption? There can, I think, be little doubt that this would be so.

The case, then, of the "Exchange," when it comes to be carefully examined, is no authority whatever for the position taken up by Historicus, that the immunity of a ship of war, even when she is lying in foreign territorial waters, is such that the local authorities have no right to demand the surrender of one of its own subjects who may take refuge on board her. On the contrary, it appears to me that the case, so far as it goes, proves the very reverse.

"*Santissima Trinidad*."

3. That this is the conclusion fairly to be drawn from the judgment in the case of the schooner "Exchange" is clear from some remarks which fell from Mr. Justice Story in the case of the "*Santissima Trinidad*." § In that case the total exemption of ships of war from the local jurisdiction was very strongly urged upon the court, and the case of the "Exchange" was cited in proof of that position. But that most learned judge, Mr. Justice Story, in giving judgment, took occasion to point out that the case of the "Exchange" did not warrant the conclusion which had been attempted to be drawn from it. After stating that in the cases of violation || "of neutral jurisdiction no distinction had ever been made between the capture of

\* *Idem*, p. 136.  
§ 7 Wheaton, p. 283.

† *Idem*, p. 143.

‡ *Idem*, p. 147.  
|| *Idem*, p. 352.

“ public and private armed ships,” and that the court was “ satisfied of the correctness of that doctrine, and had no disposition to shake it,” he thus proceeds: “ An objection of a more important and comprehensive nature has been urged at the bar, and that is, that public ships of war are exempted from the local jurisdiction by the universal assent of nations, and that as all property captured by such ships is captured for the sovereign, it is by parity of reasoning entitled to the like exemption, for no sovereign is answerable for his acts to the tribunal of any foreign sovereign. In the case of the ‘ Exchange,’ the grounds of the exemption of public ships were fully discussed and expounded. It was there shown that it was not founded upon any notion that a foreign sovereign had an absolute right, in virtue of his sovereignty, to an exemption of his property from the local jurisdiction of another sovereign, when it came within his territory; for that would be to give him sovereign power beyond the limits of his own empire. But it stands upon principles of public comity and convenience, and arises from the presumed consent or licence of nations, that foreign public ships coming into their ports, and *demeaning themselves according to law, and in a friendly manner*, shall be exempted from the local jurisdiction.” And then, after adverting to certain cases, in which ships of war coming into our ports, would, as he says, become “ amenable to our laws in the same manner as other vessels;” he thus proceeds: “ To be sure a foreign sovereign cannot be compelled to appear in our courts, or be made liable to their judgment so long as he remains in his own dominions, for the sovereignty of each is bounded by territorial limits. If, however, he comes personally within our limits, although he generally enjoys a personal immunity, he may become liable to judicial process in the same way and under the same circumstances as the public ships of the nation.” He then goes on as follows: \* “ It may, therefore, be justly laid down as a general proposition that all persons and property within the territorial jurisdiction of a sovereign are amenable to the jurisdiction of himself or his courts; and that the exceptions to this rule are such only as by common usage, and public policy, have been allowed, in order to preserve the peace and harmony of nations, and to regulate their intercourse in a manner best suited to their dignity and rights. It would indeed be strange if a license implied by law from the general practice of nations, for the purposes of peace, *should be construed as a license to do wrong to the nation itself, and justify the breach of all those obligations which good faith and friendship, by the same implication, impose upon those who seek an asylum in our ports.* We are of opinion that the objection cannot be sustained; and that whatever may be the exemption of the public ship herself, and of her armament and munitions of war, the prize property which she brings into our ports is liable to the jurisdiction of our courts, for the purpose of examination and inquiry, and, if a proper case be made out, for restitution to those whose possession has been devested by a violation of our neutrality; and if the goods are landed from the public ship in our ports by the express permission of our own Government, that does not vary the case, since it involves no pledge that, if illegally captured, they shall be exempted from the ordinary operation of our laws.”

It is clear from this case that in the opinion of that great lawyer, Mr. Justice Story, “ Whatever might be the exemption of the public ship herself, and of her armaments and munitions of war,” such exemption would not cover, as Historicus contends, “ all persons and things on board of her.”

4. The next case to which Historicus refers is that of the “ Prins Frederik,” † but if I read that case rightly, it also is an authority not for him, but against him. The “ Prins Frederik.”

It was the case of a foreign ship of war, to which salvage services had been rendered, and on a suit being instituted by the salvors in the Court of Admiralty, the vessel was arrested. The foreign Government appeared under protest to the jurisdiction, alleging that the vessel being a ship of war was not subject to the local jurisdiction. And although Lord Stowell had not long before declined to entertain a suit of the same kind by a British subject against a British ship of war, ‡ he allowed the question to be formally argued before him whether such a suit could not be instituted against a foreign ship of war. Ultimately on the suggestion of Lord Stowell the foreign Government consented that the case should be referred to him as arbitrator, and thus a formal decision on the point was avoided; but it is clear that Lord Stowell entertained very considerable doubts whether he ought not to entertain the suit for salvage. I am fortified in the view that I have taken of the case of the “ Prins Frederik ” by some observations which fell from the present learned Judge of the Admiralty, Sir Robert Phillimore, in the case of the “ Charkieh,” § where he says, “ I am disposed to hold that within the ebb and flow of the sea, in the case of salvage, the obligatio ex quasi contractu attaches jure gentium upon the ship to which the service has been rendered, and

\* 7 Wheaton, p. 353.

† 2 Dodson, p. 451.

‡ The “ Comus,” referred to, 2 Dodson, p. 464.

§ 4 Law Reports, Admiralty and Ecclesiastical, p. 96.

\* in the case of collision the obligatio ex quasi delicto attaches jure gentium upon the ships " which is the wrong-doer, whatever be her character, *public or private*. And such, I think, " was the inclination of Lord Stowell's mind in the case of the ' Prins Frederik '."

It appears to me that to entertain a suit for salvage against a foreign ship of war, involving, as it necessarily must do, the possible enforcement of the decree by the sale of the property, is a much stronger act of authority than for the State to claim to exercise jurisdiction, not over the ship of war, or over any persons or things belonging to her, but over one of its own subjects who may have taken refuge on board the ship. There is, in my opinion, nothing in the case of the " Prins Frederik " to support Historicus' position.

Wheaton.

5. The next authority to which Historicus refers is that of Mr. Wheaton; but after carefully perusing all that Mr. Wheaton says on the subject, I do not see that he carries the case any further. In his Elements \* he says: " A foreign army or fleet, marching through, " sailing over, or stationed in the territory of another State, with whom the foreign sovereign " to whom they belong is in amity, are exempt from the civil and criminal jurisdiction of " the place;" and he quotes Casaregis as his authority for this position. If indeed the claim is confined, as the words would seem to imply, to the army and fleet itself, there would, I apprehend, be no objection; but that is not the question which we have to consider. As I have already said, it is not whether the army and the fleet, and all belonging thereto, are exempt from the local jurisdiction, but whether every one, even a subject of the State within whose territories they are, and who may be within the lines of the camp or on board a vessel of the fleet, is to be considered as exempt from the jurisdiction of the State of which he is a citizen or a subject. Mr. Wheaton does not say so, any more than Casaregis, Chief Justice Marshall, or Mr. Justice Story.

In a subsequent part of his work, after referring to the case of the schooner " Exchange," and the exemption from the local jurisdiction which on the authority of that case may be claimed for the ship of war herself, Mr. Wheaton thus proceeds: † " Whatever may be the " nature and extent of the exemption of the public or private vessels of one State from the " local jurisdiction in the ports of another, it is evident that the exemption, whether express " or implied, can never be construed to justify acts of hostility committed by such vessel, her " officers, and crew, in violation of the law of nations, against the security of the State in " whose port she is received, or to exclude the local tribunals and authorities from resorting " to such measures of self-defence as the security of the State may require." And in proof of this position he refers to the case of the Sardinian vessel, " Carlo Alberto," which had landed the Duchesse de Berry and some of her adherents on the coast of France, with a view of exciting civil war in the country, and which, on afterwards putting into a French port in distress, was seized; and to the case of the " Santissima Trinidad," to which I have already referred. Mr. Wheaton, therefore, seems to me to carry the question no further than do Casaregis or the case of the schooner " Exchange."

Kent.

6. The next authority quoted by Historicus is that of Mr. Kent in his Commentaries on the American Law. The passage, however, to which reference is made, hardly seems to support the proposition for which Historicus contends. It occurs in the middle of a discussion on the right of visitation and search in time of war. And after observing that " the doctrine of " the English Admiralty on the right of visitation and search, and on the limitation of " the right has been recognised in its fullest extent by the Courts of Justice in this country," that is in the United States, he proceeds as follows: ‡ " This right of search is confined to " private merchant vessels, and does not apply to public ships of war. Their immunity from " the exercise of any civil or criminal jurisdiction, but that of the sovereign power to which " they belong, is uniformly asserted, claimed, and conceded." The passage, therefore, which Historicus has quoted, although no doubt expressed in very general terms, must be taken in connexion with the question which is under discussion, namely, the right of visitation and search on the high seas.

That the learned author, too, never intended the passage to bear the meaning which is attempted to be put upon it, is obvious from the fact that, in a note thereto, after referring to Casaregis and the schooner " Exchange " as authorities, he speaks, apparently with approval, of two opinions of Attorneys General of the United States, in one of which it was held " that " a writ of habeas corpus may be lawfully awarded to bring up a subject illegally detained on " board a foreign ship in our waters;" and in the other, " that it was lawful to serve civil or " criminal process upon a person on board a foreign ship of war lying within a harbour of the " United States;" but adds, " These opinions do not apply of course to any process against

\* Wheaton's Elements by Lawrence, sixth edition, p. 144.

† Idem, p. 156.

‡ Kent's Commentaries, seventh edition, p. 157.

“ the ship itself ; ” thus drawing a marked distinction between the ship and any person not belonging to her, who might chance to be on board.

I hold it, therefore, to be clear that neither Mr. Wheaton, nor Mr. Kent can be cited to show that the exemption of a ship of war from the local jurisdiction when lying in a foreign port goes beyond the ship herself and those belonging to her, or that it extends, as is pretended, to all persons and things on board her.

7. The next authority cited by Historicus is an opinion given by Mr. Caleb Cushing in the year 1856 ; \* but that opinion also has really nothing, so far as I see, to do with the present question ; and if it were not for a passage in it which is quoted from the Spanish writer Riquelme, one would be at a loss to understand why the opinion was referred to at all.

Mr. Caleb  
Cushing.

The case was that of the American merchant ship “ Atalanta,” which was bound on a voyage from Marseilles to New York. When the ship was on the high seas, and outside the municipal jurisdiction of any Government, certain acts of insubordination and violence were committed by some of the crew, who compelled the ship to put back to Marseilles. On her arrival in port the criminal parties were, on the application of the American consul, received and imprisoned on shore by the local authorities. Six of the prisoners were afterwards, also on the application of the American consul, retransferred to the “ Atalanta ” for conveyance to the United States to be there tried. Before, however, the vessel left port, the French authorities went on board and forcibly removed them again, holding that they ought to be tried at Marseilles ; the American consul, on the other hand, contended that they were amenable to the laws of the United States, and ought to be remitted to that country for trial.

The case has absolutely nothing whatever to do with the question under consideration ; the “ Atalanta ” was not a ship of war, but a merchant ship, and the offence had been committed, not in the territorial waters of France, but on the high seas. Moreover it turned mainly upon the stipulation contained in the Consular Convention between the United States and France of February 23rd, 1853, the 8th article of which was in these words : †—“ The respective consuls-general, consuls, vice-consuls, and consular agents, shall have exclusive charge of the internal order of the merchant vessels of their nations, and shall alone take cognisance of differences which may arise either at sea or in port between the captain, officers, and crew without exception, particularly in reference to the adjustment of wages and the execution of contracts. The local authorities shall not on any pretext interfere in these differences, but shall lend forcible aid to the consuls when they ask it, to arrest and imprison all persons composing the crew whom they deem it necessary to confine.” And it adds that the arrest and release shall be made at the sole request of the consul.

In commenting on this article of the Convention, Mr. Caleb Cushing thus expresses himself. He says: ‡—“ I think when the Convention says that the respective consuls shall have exclusive charge of the internal order of the merchant vessels of their nation, the word ‘ internal ’ imparts perfect precision to the proposition.

“ What is ‘ internal ’ in this context ? Plainly, it seems to me, everything which does not appertain, either by the law of nations or the municipal law, to the local jurisdiction. If the acts of disorder, if the ‘ differences ’ be matters of local jurisdiction, then, as questions, they are jurisdiction external to the ship.

“ Apply the test to this or any other case of the same principle, and it reconciles all controversy. Where there is, in what occurs on board the ship, *no infringement of the laws of France or of the United States*, then the local authority has no concern in the matter, save in the terms of the article to support the consul in maintaining the authority and executing the laws of his own government.”

“ I do not mean to say that the local authority may not in either case, inquire into the legality of any alleged act of detention on board the foreign ships ; but on ascertaining such legality, there the local authority is bound to stop, and surely no detention could be more thoroughly lawful than that of a mutineer on his way to the place of examination and judgment.”

What, then, has this case to do with the question, whether the local authorities of a State are entitled to demand, from the commander of a foreign ship of war, the restitution of one of its own subjects, who may take refuge on board that ship, whilst she is lying within the territorial waters of that State ? Literally nothing. The only use of quoting it seems to have been, as I have already said, in order to introduce a passage from the work of the Spanish writer Riquelme, entitled, *Derecho Internacional*, where, speaking of ships of war, he says, that “ the principle of extritoriality covers the ship from all foreign intervention or

\* Opinions of Attorney-General of United States, Vol. VIII., p. 73.

† Idem, p. 82.

‡ Idem, p. 73.

“ investigation.” But in this passage Riquelme is speaking only of crimes and offences committed by one member of the crew against another, and not of offences against the laws of the State within whose waters the ship of war may happen to be. Neither the opinion of Mr. Caleb Cushing nor the passages quoted from Riquelme touch the point at issue.

Ortolan.

8. We come next to Monsieur Théodore Ortolan, author of *Règles Internationales et Diplomatie de la Mer*, and no doubt some expressions, which are to be found in Chapter X. and XIII. of Book II., would go far to support the position taken up by *Historicus*.

The ground upon which Monsieur Ortolan claims exemption from the local jurisdiction for ships of war is thus stated by him. He says: \*—“ Par cela seul que les bâtiments de guerre sont armés par le Gouvernement d’un État indépendant auquel ils appartiennent, que leurs commandants et leurs officiers sont des fonctionnaires publics de cet État et exercent la puissance exécutive, en certains points même la puissance judiciaire, enfin que tout individu faisant partie de leur équipage, sans distinction de grade, est un agent de la force publique, ces bâtiments, personnifiés, sont une portion de ce gouvernement, et doivent être indépendants et respectés à son égal.” In this passage he appears to limit the exemption to the ships, “ leurs commandants et leurs officiers,” and to “ tout individu faisant partie de leur équipage ;” and if it stopped here it is a proposition, which it is probable that no one would be disposed to contest. But further on he observes: †—“ que tout bâtiment de guerre est une partie du territoire de la nation à laquelle il appartient, d’où la conséquence que, même lorsqu’il est dans un port étranger, les officiers, l’équipage, et toute personne quelconque qui se trouve à son bord, est censée être et que tout fait passé à bord est censé passé sur ce territoire.”

Having thus upon the theory that a ship of war is to be regarded, even when in foreign territorial waters, as a portion of the country to which she belongs, arrived at the conclusion that everybody on board that ship is exempt from the local jurisdiction, he finds himself soon afterwards obliged to abandon his theory; for he says: ‡—“ Sans doute, il n’est pas vrai qu’un navire quelconque soit une portion du territoire de la nation à laquelle ce navire appartient, il n’est pas vrai que ceux qui sont sur ce navire se trouvent sur ce territoire, ni que les faits passés à bord de ce navire se soient passés sur ce territoire. Tout cela n’est pas vrai; si on le dit, ce n’est que par métaphore, par figure de langage; et cette figure, loin de pouvoir servir de raison justificative à la règle, a besoin d’être justifiée elle-même.” Further on he says: §—“ Cette inviolabilité ne diminue en rien, du reste, le droit qu’a toute nation, si le navire de guerre vient commettre contre elle des actes d’agression, d’hostilité, ou de violence quelconques, de prendre immédiatement toutes les mesures, et d’employer tous les moyens nécessaires à une légitime défense. Elle n’empêche pas non plus que les navires de guerre soient soumis à l’observation des règlements sanitaires du pays, où ils veulent aborder.”

But even assuming that Monsieur Ortolan is disposed to go to the full length contended for by *Historicus*, it is merely his own unsupported opinion. He refers to no authorities, and, indeed, he seems to admit that almost all writers Lampredi, Azuni, Schwartz and Pinheiro-Ferreira are against him; and he endeavours to base his opinion upon the expediency of conferring this exemption upon ships of war. I do not, however, think that even Monsieur Ortolan’s opinion is sufficient to outweigh the series of authorities which I shall presently bring forward.

Fœlix.

9. *Historicus* next quotes a passage from Mons. Fœlix, but which is far from going the length of supporting his position. All that it says is, that acts done on board ships of war, whilst in foreign territorial waters, are within the jurisdiction of the country to which the ship belongs. No doubt this is so; as a general rule, all acts done on board the ship, and between parties belonging to the ship, are within the exclusive competence of the courts of the State, to which that ship belongs. But the question, I repeat, is whether a subject, who may have violated the laws of his country, and has then taken refuge on board a foreign ship of war, whilst in the waters of that country, may lawfully be demanded by the local authorities from the commander of the ship. On this point the passage quoted from Monsieur Fœlix gives us no information.

Calvo.

10. Lastly we have Señor Calvo, formerly Minister at Paris of the Argentine Republic, who has written a work on International Law, in which he has devoted a chapter expressly to the question of “ Exterritoriality,” and although he has carried the doctrine of exterritoriality to great lengths, I do not find that even he claims exemption from local jurisdiction, as Monsieur Ortolan does, for “ toute personne quelconque qui se trouve à son bord.”

\* Ortolan, *Diplomatie de la Mer*, Liv. II., c. X., p. 211.† *Idem*, p. 212.‡ *Idem*, p. 213.§ *Idem*, p. 217.

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I have now examined all the authorities referred to by Historicus, and it will be seen that, except Monsieur Ortolan, there is not a single writer, who carries the principle of exterritoriality to the length contended for by Historicus. All more or less claim it for the ship itself, its officers and crew, and all belonging to it, but no one except Monsieur Ortolan claims it for "toute personne quelconque qui se trouve à son bord," a proposition which I venture to think can be shown on the authority of all the greatest writers on the subject to have no foundation whatever.

## II.

Before, however, I proceed to consider what are the "authorities" on the subject, it may be well to dispose of two cases, which have been frequently introduced into the discussion of the question.

The first is *Somerset's case*, which occurred in the year 1771.\* *Somerset*, it seems, was a slave, who had been brought by his master from Virginia to this country. On the slave refusing to return, the master sent him on board a ship for conveyance to Jamaica, to be there sold. Upon a writ of habeas corpus being taken out, the Court of Queen's Bench, presided over by Lord Mansfield, ordered *Somerset* to be set at liberty. But all that was decided by that case was, that slavery had no existence in this country, and that consequently force could not be employed here to compel a person to return into a state of servitude. But this is very different from saying that we will not recognise slavery in other countries, and that our ships of war, even when in the waters of a State where slavery exists, are to be regarded so entirely as a part of the British territory, that a slave getting on board is free.

*Somerset's case.*

The other case to which I would refer is that of *Forbes v. Cochrane and Cockburn*.†

The facts are as follow. Some slaves, belonging to a planter residing in East Florida, which was then a Spanish colony, escaped from their master's plantation, and presented themselves on board Her Majesty's ship "Terror," then commanded by Sir George Cockburn. Mr. Forbes, the owner, went on board and claimed to have them delivered up to him; Sir George Cockburn refused to employ force to compel them to return with their master, but allowed him to endeavour to persuade them to go back with him, if they felt disposed to do so. The slaves refused to accompany their master, and were ultimately taken away in the "Terror;" and Mr. Forbes brought an action against Sir George Cockburn and Admiral Cochrane, the commander-in-chief, for their value. In the course of the trial it came out that at the time when the slaves came on board, the "Terror" was lying within a mile of the shore of Cumberland Island, which was at the mouth of the River St. Mary. The island, however, which had formed a part of the State of Georgia, had been captured by the British forces from the United States, with whom we were at the time at war. When, therefore, the slaves presented themselves on board the ship of war, she was neither in the waters of the Spanish colony of East Florida, nor in those of the American State of Georgia, but in the waters of Cumberland Island, which had been conquered by, and was in the possession of, the British forces.

*Forbes v. Cochrane and Cockburn.*

Sir Travers Twiss, in his article in the February number of the Law Magazine, seems to have mis-apprehended this case. He proceeds to argue it on the assumption that the ship of war, when the slave came on board, was within the territorial waters "of either Georgia or East Florida, each being a slave-holding State;" that "they were, in fact, the slaves of a domiciled Spaniard at the moment before they set foot on the deck of the 'Terror,'" and that "they became free at once on the deck of the 'Terror' as much as if they had come to England." But this is hardly correct, for there is nothing clearer in the case than that the judgment proceeded on the assumption that the ship, when the slaves came on board, was outside the territorial waters not only of East Florida and of Georgia, but of any slave-holding State.

Thus, Mr. Justice Holroyd says, "I do not mean to say that, if the Plaintiff, having the right to possess these persons as his slaves there, had taken them to another place where slavery also prevailed, his right would not have continued in such a place, the laws of both countries allowing a property in slaves. They had got beyond the control of their master, and beyond the territory where the law recognising them as slaves prevailed. The Defendants (that is the British officers) were not subject to the Spanish law, for they had never entered the Spanish territories either as friends or as enemies. When they (the slaves) got out of the territory where they became slaves to the Plaintiff, and out of his power and control, they were, by the general law of nature, made free, unless they were slaves by the particular law of the place where the Defendants received them."

\* Lofft's Reports, p. 1., and XX. State Trials, p. 82.

† 3 Dowl. & Ryl., 679, and 2 Barn. and Cress., p. 448.

Again, Mr. Justice Best, afterwards Lord Wynford, and Chief Justice, in a very strong anti-slavery judgment observed, "The moment they put their feet on board of a British ship of war, *not lying within the waters of East Florida (there undoubtedly the laws of that country would prevail)*, these persons, who before had been slaves, were free." And answering an observation of Mr. Comyn, who was counsel for the plaintiff, in which he took exception to the observation "that the moment a slave treads the deck of a British vessel he is free," Mr. Justice Best remarked, "I did not quite go that length, nor is it necessary to do so. *Suppose the ship in this case to have been in the waters of Florida, then a slave on board her would have been in the same situation as if on the land, and all the laws of Florida would attach to both the ship,*" (that is the ship of war), "and the slave; but when the ship is on the high seas or off Cumberland Island, she is in effect in England, at least she is not in Florida, and all the laws of England attach to her, and to all that are on board of her."

So far, therefore, from this case being an authority in favour of the entire extritoriality of a ship of war when in foreign waters, it is, so far as it goes, directly opposed to it.

And now, let me state clearly what I believe the law to be on the subject. I admit that, when a ship of war is in foreign territorial waters, the ship itself, its officers and crew and all belonging to her, are, by comity of nations, exempt from the local jurisdiction so far as relates to the internal discipline of the ship; but I hold that in all other respects they are subject to the laws of the foreign State; and that if a subject or citizen of the foreign State were to present himself on board, the commander of the ship of war would be bound, on the demand of the local authorities, to give him up; and that if the demand were refused, the local authorities might employ force to compel a compliance therewith. I do not say that there are not cases, where the commander of a ship of war might not, (as in the case of political refugees,) properly refuse to comply with the demand, but these are exceptional cases, for which the commander or the country he serves must take the responsibility; I am only speaking of the general rule. And I should regard it as a matter of the greatest danger to the security and independence of States, if it were laid down that a ship of war was exempt from the local jurisdiction of the country, within whose waters she was, in any matter other than that relating to the internal discipline of the ship. I will proceed to state my authorities for this position.

Lampredi.

The first authority to which I will refer is Lampredi, and I do so, because not only is his work, entitled "*Tratato del Commercio del Popoli Neutrali in tempo di Guerra,*" which was published in 1788, one of the most valuable contributions to international law, but it is at the same time written in a spirit of fairness and impartiality, which is not to be found in many of the writers of that period. Lampredi, who was the Professor of Public Law in the University of Pisa, was, from his position, free from any strong national bias in favour either of this country, which at that time strongly supported the rights of belligerents, or of the Northern Powers, who strongly contended for the rights of neutrals. He was not employed, as other writers were, to plead the cause either of the belligerents or neutrals, nor does he appear to have had any selfish or narrow-minded interests to serve, which would have warped his judgments on the points at issue.

Some years before, Hübner, the Danish jurist, had published his work entitled "*De la Saisie des Batiments Neutres,*" in which, as has been truly said, he conceived the bold plan of showing that some of the principal rules of international law which had been recognised and adopted in practice for the four or five preceding centuries, with occasional deviations in favour of or against particular nations by special treaties between them, were so many deviations from the true law of nations; and that the occasional stipulations, which different nations had made with each other, were not deviations from that law, but that law itself. But Hübner's work, although it shows great learning, great acuteness, and great powers of reasoning, is rather that of an advocate than a jurist; and there can be little doubt that he was employed by the Danish Government, the strong supporter of neutral as opposed to belligerent rights, to publish his work. Valin, in his *Traité des Prises*, speaking of him, says\* :—"Il pose d'abord les principes, qu'il donne pour constants; puis il en tire les conséquences, qui lui conviennent. Cette méthode est fort commode."

Amongst other theories put forward by Hübner was the doctrine of the extritoriality of all ships, merchant ships as well as ships of war. He lays down the principle in the broadest possible terms, thus: "Or les vaisseaux neutres sont sans contredit des lieux neutres: d'où il s'ensuit que quand ils seraient incontestablement chargés pour le compte de l'ennemi, les belligérans n'ont aucun droit de les inquiéter au sujet de leurs cargaisons, puisqu'il revient au même d'enlever des effets d'un navire neutre, ou de les enlever sur un territoire neutre."

\* Valin, *Traité des Prises*, c. V., sect. V., No. 5.

At the same time it is important to observe that Hübner only claims the privilege for ships when they are on the high seas ; he never claims it, even for ships of war, when they are in the waters of a foreign state, for at page 155 he says,—

“ Ces Vaisseaux (Vaisseaux de guerre) s’y trouvent eux mêmes sous la juridiction passagère du souverain des lieux ; au moins autant que la sûreté des citoyens, la tranquillité de l’état, et les lois générales de la société, l’exigent.”

Be this, however, as it may, Lampredi, in his 10th chapter, proceeds to contest this doctrine of exterritoriality, and his remarks are so full of good sense and sound law that I propose to quote them at some length. I am quoting from the French edition of the work published by Peuchet, in 1802. At page 140 of that edition we find the following words:—“ Malgré ces principes incontestables, grand nombre de personnes ont soutenu et soutiennent encore cette opinion, que les navires de guerre doivent être réputés territoire de la nation à laquelle ils appartiennent et dont ils portent le pavillon, non-seulement en haute mer et dans les parages qui ne sont ni ne peuvent être occupés, mais même dans les endroits occupés, tels que les ports, rades, havres, côtes, etc.

“ Mais cette opinion est fautive, puisqu’il n’y a personne dans l’étendue d’un État, sur qui le prince n’ait autorité, et que ce droit n’est altéré ni par la nature de la voiture sur laquelle se trouvent les étrangers qui entrent sur le territoire, ni par le nombre de ces mêmes étrangers.\*

“ Une nation à qui appartient l’équipage du navire qui porte son pavillon, peut déclarer que le vaisseau sera regardé comme territoire national, pour tous les actes qui peuvent avoir du rapport aux lois de la patrie, et y être reconnus pour légitimes ; par exemple, que les enfans qui y naîtront, seront réputés nés dans le pays même ; que les donations, testamens, transport de biens auront la même force que s’ils y avaient également été faits ; mais rien ne peut soustraire le navire à la juridiction du prince dans l’étendue de la juridiction duquel il se trouve, aux lois de police et à l’autorité qu’il y a établies.

“ Ainsi, quand on voit que dans un vaisseau français, par exemple, on observe les lois civiles de France, qu’on y obéit aux ordonnances de la marine de France, on est porté à croire que l’on est sur le territoire français, et l’on ne se trompe pas si l’on n’a égard qu’aux actes qui doivent ensuite être reconnus pour légitimes en France, et si l’on ne fait attention qu’à la police intérieure du navire, établie par les lois françaises, et à laquelle les marins sont obligés d’obéir. Mais l’on se tromperait beaucoup si l’on étendait cette manière de voir à tous les actes extérieurs des marins et aux actes de commandement dans le pays, qui ne peuvent appartenir qu’au prince dans le territoire duquel ils se trouvent, et à la juridiction de qui l’équipage et le navire sont soumis aussi long-tems qu’ils y restent, sans qu’ils cessent pour cela d’être dans la dépendance de leur souverain naturel.”

He then proceeds as follows†:—“ La seconde cause qui a pu faire regarder comme territoire national les navires de guerre partout où ils se trouvent, c’est de voir qu’en quelque endroit qu’ils soient, les commandans y exercent les droits qui n’appartiennent qu’au souverain, et même jusqu’à pouvoir condamner à morte et faire exécuter un ou plusieurs hommes de ceux qui se trouvent à bord : d’où l’on a conclu qu’il faut bien que le vaisseau soit territoire appartenant au souverain dont il porte le pavillon, puisque celui dans le port duquel il se trouve, ne pourrait point permettre, dans ses propres États, l’exercice d’une pareille juridiction de la part d’un étranger.

“ Mais cette difficulté disparaîtra bientôt, si l’on fait attention que cet acte de pouvoir n’est point fondé sur la juridiction territoriale, mais sur la nature du commandement militaire, qui est censé devoir rester intact et dans toute sa force pour le maintien de la subordination, lorsqu’un prince consent à ce qu’un ou plusieurs navires de guerre entrent dans ses ports.

\* Grotius, *De Jure Belli et Pacis*, lib. 2, cap. 3, et dans sa *Dissertation De Mare libero*, pense de même. Wolfe, *De Jure Nat. et Gent.* dit : “ Le droit qu’un souverain a sur les parties de la mer territoriale adjacente à ses côtes, est absolument le même que celui qu’il exerce sur le pays qu’il gouverne ; conséquemment ceux qui se trouvent dans ces endroits de la mer, sont soumis aux mêmes lois que ceux qui habitent et demeurent dans les terres, quoiqu’ils y soient reçus comme étrangers.”

On peut voir encore le même Wolfe, cap. 3, s. 300. Peck. *De Jure Syst.*, cap. 2. Henr. Cocc. *Ad Grotium*,

*De Jure Belli et Pacis*. Voici ce que dit Cocceius :—

“ La juridiction du prince s’étend même sur les étrangers qui n’ont point de domicile fixe, mais qui sont dans l’État seulement pour quelque tems, ou ne font qu’y passer, parce que pendant tout le tems qu’ils y restent, ils sont sous son autorité, et obligés de lui obéir ; par conséquent tout ce qu’ils font pendant qu’ils restent sur le territoire du prince, comme de vendre, acheter, est de même soumis aux lois et réglemens de la police de l’État.”

Voyez Réal, *Science du Gouvern.*, tom. 4, chap. 7 ; Wattel, *Droit des Gens*, liv. 2, chap. 8 ; Grotius, lib. 2, cap. 11 ; Puffendorf, *Jure Nat. et Gent.*, lib. 3, cap. 3.

† p. 143.



“ En effet, un vaisseau de guerre ne peut se passer de cette plénitude de pouvoirs, dont le commandant est revêtu ; elle est nécessaire à son existence, comme tout ce qui entre dans son organisation matérielle. Ainsi, du moment qu’un prince l’admet dans son port, il reconnaît, et autorise, autant que besoin est, cette même juridiction militaire et souveraine. On pourrait donc dire qu’elle est autant un effet du consentement tacite du prince, maître de l’État où le vaisseau arrive, qu’un droit propre au capitaine qui le commande, mais surtout elle ne peut être la conséquence du droit territorial attaché au vaisseau : d’où l’on doit conclure qu’excepté ce qui concerne le commandement militaire et les actes civils ou de police intérieure, qui par leur nature et leur objet restent attachés au vaisseau de guerre, sous tous les autres rapports le navire est censé territoire du souverain du port où il se trouve, et les hommes de l’équipage sont soumis à sa juridiction.”\*

Lastly, he deals with the case of an army on foreign soil, and shows that it also, except in any matter of discipline, is subject to the laws of the State, within whose territory it may be. He says† :—“ Ceci est confirmé par ce qui arrive à une armée qui passe sur un territoire étranger. Elle y est soumise à la juridiction du lieu, excepté en ce qui concerne le commandement militaire, qui reste en entier au général ou commandant par le consentement tacite du souverain du territoire, qui, ayant donné passage à l’armée, a dû le faire avec cette condition, sans laquelle la discipline militaire serait impossible ; car lorsqu’on accorde un droit, il est entendu qu’il est accompagné de ce qui peut en assurer la jouissance à celui qui doit en faire usage.”‡

Further on, in chapter XIV., Lampredi thus expresses himself§ :—“ Un navire, armé en guerre ou en course, et comme tel reçu dans un port, rade, baie ou autre lieu soumis à la souveraineté d’un prince neutre, conserve son caractère, et le commandant du bâtiment, quoique sur un territoire étranger, garde sur tout ce qui tient au navire, l’autorité et la juridiction que lui donnent le droit des gens et les lois du souverain dont il porte le pavillon ; l’usage qu’il en fait, ne peut offenser ni léser aucunement les droits du prince qui a consenti à le recevoir comme tel sur ses côtes ou dans ses ports.”

Case of the  
“ Nautilus.”

I now proceed to call attention to a very remarkable case, which occurred in the State of Rhode Island, in the year 1794, the full particulars of which will be found in the American State Papers.¶ It seems that on the 8th of May 1794, Her Britannic Majesty’s ship of war “ Nautilus,” Commander Baynton, put into the harbour of Newport, Rhode Island, and applied for permission to purchase provisions. Whilst she was in the port, a rumour got abroad that she had on board 13 American citizens, who were being detained against their will, and that three of them had been pressed in the West Indies. The General Assembly of Rhode Island immediately took the matter into consideration, and having sent a message to Captain Baynton, who was on shore, requesting his attendance, the commander immediately came, accompanied by his first lieutenant. The Assembly also requested all the judges of the Superior Court to be present to confer with the officers. A conference accordingly took place between the judges and Captain Baynton, his lieutenant, and the British Vice-Consul, when the two British officers declared that there were not any American citizens on board the “ Nautilus.” It was proposed that a deputation should go with the officers on board to make inquiry into the circumstances ; but this Captain Baynton refused. He was told that it was “ highly reasonable that the authority should be satisfied ; it was presumed that the British Government would, under a like occasion, show the same solicitude for the relief of their subjects, and were possessed of sufficient spirit to obtain entire satisfaction ; that he must expect it would be exerted here, if the necessity required it ; but it was still wished he

\* Un criminel réfugié à bord d’un navire de guerre peut en être retiré par force, lorsqu’après s’être adressé par politesse au commandant, l’on n’a pu obtenir qu’il le livre. La juridiction du lieu s’exerce sur tous les individus d’un navire de guerre comme sur les autres sujets ; et si le commandant veut y mettre quel qu’obstacle, l’on peut le réduire par la force, et son usage serait légitime.

L’on pense bien que l’on met de côté ici les égards et la circonspection dictés par l’intérêt et la prudence, et que l’on ne fait point entrer en ligne de compte les prétentions de certaines puisances toujours disposées à abuser de leur influence ou de leurs forces pour effrayer les faibles et envahir leurs droits. L’on cherche seulement à établir ceux qu’une nation qui veut se faire respecter, doit conserver chez elle. Si une pareille nation veut agir avec fermeté, elle ne fera point de distinction sous le rapport de l’autorité politique entre un navire de guerre et un navire marchand, à moins qu’une longue habitude et des privilèges particuliers accordés à quelque pavillon, n’aient établi le contraire, et mis ainsi des bornes à l’exercice de la souveraineté.

† p. 145.

‡ La juridiction souveraine s’étend aux armées étrangères qui traversent le territoire, ainsi qu’à leurs commandans, dit Cocceius (*Disp. de fund. terr. pol.*) ; mais il excepte de cette soumission aux lois du souverain du territoire, l’exercice du commandement militaire sur la troupe, qui, suivant tous les auteurs, est affranchie de la juridiction territoriale aux termes et de la manière énoncés dans le texte.

§ p. 192.

¶ American State Papers, Foreign Relations, vol. I. p. 446-8.

“ would obviate that necessity by a ready compliance with the proposition, or by proposing something equally satisfactory.” Upon this Captain Baynton asked if he was a prisoner, and on being informed he was not, he and his lieutenant rose and left the room, but almost immediately afterwards returned, saying that they had been met by a crowd in the lobby, and that they were under apprehensions of danger. The captain, however, declared that he would not comply with the proposal, or give further satisfaction than he had, as to the Americans said to be on board.

On this the Lower House of Assembly passed a resolution appointing five gentlemen as a deputation to go on board the “*Nautilus*,” to ascertain the facts; and on Captain Baynton being informed thereof, he at length consented to give a letter, addressed to the officer in command, requiring him to afford them every assistance in their inquiries. The deputation accordingly went on board accompanied by the British Vice-Consul, and the books and lists having been produced, the men were asked to say whether there were any Americans on board, who were unwilling to remain. Six immediately came forward, the entry of whose names on the ship’s articles showed them to be Americans. Upon this being reported, Captain Baynton gave an order for the six seamen to be sent on shore, which was immediately done; when they were paid the balance of their wages, and received their discharges. The ship was thereupon allowed to take in a supply of provisions, and left the port.

It may be well imagined that such a proceeding did not pass without some remonstrance from the British Minister; and in the “*Collection of State Papers relating to the war against France*,” published by Debrett in 1795, I find a letter from Mr. Hammond the British Minister at Washington dated the 7th of June 1794, in which the following passage occurs\* :—

“ 8th. I consider the insult offered at Newport to His Majesty’s sloop of war ‘*Nautilus*,’ to have been unparalleled, since the measures pursued there were directly contrary to the principles, which in all civilised States regulate cases of this nature; for if on the arrival of a ship of war in a European port, information be given that the ship of war has on board subjects of the sovereign of that port, application is made to the officer commanding her, who himself conducts the investigation, and if he discovers that any such subjects be on board of his vessel, *he immediately releases them*; but if he be not satisfied that there be any such, his declaration to that effect, on his word of honour, is universally credited. But the Legislature and judges of the State of Rhode Island refused to accept the assurances of the commander of the ‘*Nautilus*,’ or to allow him to originate or prosecute the inquiry himself, and forcibly detained him and his lieutenant prisoners, by virtue of the Act of Assembly, until the vessel was searched, and the American or pretended American seamen were liberated. I am certainly not inclined to dispute the merit which the governor of Rhode Island ascribes to himself for limiting the supplies granted to the ‘*Nautilus*’ to such an amount as was merely necessary to carry her to her destined port, though this limitation in the stipulations of the treaty with France is confined to privateers only, and does not extend to royal or national ships of war. But I must contend that those individuals of the legislative or judiciary departments of Rhode Island, who were concerned in this transaction, conducted themselves neither with moderation, with decency, nor with that respect which was due to the commander of a vessel belonging to a sovereign with whom their country was at peace.”

It will be seen that throughout this letter, Mr. Hammond nowhere complains of the *illegal* character of these proceedings, or that the local authorities had no right to demand the delivery up of American subjects held on board against their will; there is here no claim of extraterritoriality; no pretence that a ship of war is exempt from interference by the local authorities. What he complains of is the want of “moderation,” of “decency,” and of “respect,” with which “the legislative and judiciary departments of Rhode Island had conducted themselves.”

It would seem that on the facts being brought to the notice of the United States authorities, the opinion of the then Attorney General, Mr. William Bradford, was taken on the point, whether a *habeas corpus* would go to bring up a subject illegally detained on board a foreign ship of war. The opinion is as follows† :—

“ June 24, 1794.

“ The Attorney General has the honour to report to the Secretary of State that he has not been able to meet with any case in the English reports, from which it appears that a *habeas corpus* has been actually awarded to bring up an English subject illegally detained on board a foreign ship of war. Whether this be owing to no such detention having taken place, or to any modern courtesy of applying to the minister of the proper nation, before redress is sought

\* Debrett’s State Papers, vol. II. p. 433. † Opinions of Attorney General of United States, vol. I. p. 25-6.

in the usual course of law, the Attorney General cannot determine; but he is satisfied that a British subject, detained on board such foreign vessel in the ports of that kingdom, is entitled to this writ, and that the commander may be legally compelled to obey it. It is a writ extensively remedial; and, in Bourn's case,\* even before the *habeas corpus* Act, it was declared to be 'a prerogative writ, and that it concerns the King's justice to be administered to his subjects; for the King ought to have an account why any of his subjects are imprisoned, and it is agreeable to all persons and places.' Hence it has been awarded to every part of the King's dominions—to places usually privileged, and where, in ordinary cases, the King's writ does not run.

"The ports and harbours of England are a part of the kingdom. The jurisdiction of the nation is as complete over them, as over the land itself; and the laws of nations invest the commander of a foreign ship of war with no exemption from the jurisdiction of the country into which he comes. *Indeed, it cannot be conceived that any sovereign power would permit its subjects to be imprisoned in its own territory, by foreign authority or violence, without using the most effectual means in its power to procure their enlargement.* Even the house of a foreign minister cannot be made an asylum for a guilty citizen, nor (it is apprehended) a prison for an innocent one. And, though it be exempt from the ordinary jurisdiction of the country, yet, in such cases, recourse would be had to the interposition of the extraordinary powers of the State.† The commander of a foreign ship of war, however, cannot claim that extraterritoriality, which is annexed to a foreign minister and to his domicile; but is conceived to be fully within the reach of, and amenable to, the usual jurisdiction of the State where he happens to be.

"The Attorney General, therefore, conceives that a writ of *habeas corpus* might be legally awarded in such case, although the respect due to the foreign sovereign may require that a clear case be made out before the writ be directed to issue.

"WM. BRADFORD."

Case of Capt.  
Cochrane.

Nearly about the same time an action was brought in the State of New York against Captain Cochrane of the British Navy by a Mr. Rose, a citizen of South Carolina, on account of a negro who had been "received on board His Britannic Majesty's Ship 'Carolina,' when she was under the command of Captain Cochrane at Charleston, during the war and at the period of the evacuation of that place." The British Minister applied to the United States Government to stop the proceedings, but the opinion of the same Attorney General was to the following effect‡:—"The Attorney General is of opinion that it does not appear from this state of facts that the defendant has any legal claim to be privileged from arrest; or the Government any authority to interfere, so as to stay the proceedings against him, without the consent of plaintiff. He is, with respect to his suability, on a footing with every other foreigner (not a public minister) who comes within the jurisdiction of our courts, and he must answer or demur to the allegations against him. If he has (as the minister contends) a good defence under the treaty of peace, he must nevertheless appear and plead it in the usual course of judicial proceedings. The court will not determine the merits of the cause on motion; but when all the facts are before them, there is no doubt but they will faithfully declare the law which arises upon them, and afford to the defendant every protection to which he is entitled under the treaty of peace. Until the contrary appears—until injustice is done to him,—there can be, it is apprehended, no just ground of complaint from the British minister."

Case of the  
"Chester-  
field."

A few years afterwards the question again arose in connexion with His Majesty's packet ship "Chesterfield," under the command of Captain Jones, whether "judicial process could be lawfully served on board a public ship of war belonging to his Britannic Majesty, lying alongside a wharf in the city of New York, and within the territorial jurisdiction of the State of New York." And the opinion of the then Attorney General, Charles Lee, was taken on the subject. After quoting passages from Vattel and Martens, he thus proceeds,§ "According to the general rule established by these citations every ship, even a public ship of war of a foreign nation, at anchor in the harbour of New York, is within the territory of the State of New York, and subject to the service of judicial process. If an exemption from this rule is claimed by a foreign ship of war, it is incumbent on such ship to set forth and maintain clearly and satisfactorily its right to the exemption, or it must be deemed within the general rule. The officers and crew of a public ship of war, being admitted into the United States, are entitled to be treated with hospitality and kindness; but this does not, in reason, require that the ship should be exempt from judicial process; and more especially when they are bound by every kind of obligation to act in conformity to the laws

\* Croke, James, 543.

† See Vattel, b. 4, § 118.

‡ Opinions of Attorneys Generals of United States, vol. I., p. 27.

§ Idem, p. 54.

“ of the country which affords them and their ship its sovereign protection while within its jurisdiction.

“ It is expressly provided by the twenty-third article of the treaty of London, that ‘ the ships of war of each of the contracting parties shall at all times be hospitably received in the ports of the other, *their officers and crews paying due respect to the laws and Government of the country.*’ This is conceived to be declaratory of the usage of nations; and here it may be observed, that hospitality, which includes protection, is to be enjoyed upon condition that the laws and Government of the country are respected. To disobey judicial process authorised by law, or to resist it, on board of the ship, is inconsistent with a due respect to the laws and Government of the country. The article further stipulates that ‘ the officers shall be treated with that respect which is due to the commission which they bear; and, if any insult should be offered to them by any of the inhabitants, all offenders in this respect shall be punished as disturbers of the peace and amity of the two countries.’”

And further on he says\* :—“ But whatever doubts might be otherwise entertained on the present question, they are dispelled by the sense of Congress as expressed in the 7th section of the Act passed 5th June 1794, entitled ‘ An Act in addition to the Act for the Punishment of certain Crimes against the United States.’ It enacts, ‘ that, in every case in which any process, issuing out of any court of the United States, shall be disobeyed or resisted by any person or persons having the custody of any vessel of war, cruiser, or other armed vessel of *any foreign prince or State*, or of the subjects or citizens of such prince or State, it shall be lawful for the President of the United States to employ such part of the land and naval force of the United States, or of the militia thereof, as shall be judged necessary,’ &c.—Laws of the United States, vol. 3, p. 92.

“ Here the lawfulness of serving judicial process upon a person on board a foreign ship of war within the United States, is undeniably acknowledged by necessary and unavoidable implication. With this view of the subject, the Attorney General is humbly of opinion that it is lawful to serve civil or criminal process upon a person on board a British ship of war lying in the harbour of New York, adjacent to a wharf, and within the territory of the State of New York.”

The next authority to which I would refer is that of Azuni, whose work entitled “*Droit Maritime de l’Europe*” was published in 1805. Historicus speaks of Azuni as an author of “no account,” nor indeed should I be disposed to defend all the opinions which he has enunciated; in his declared hostility to this country he no doubt faithfully spoke the sentiments of his master, Napoleon, just as Hübner represented the views of the Danish Government. But in the chapter “*De la juridiction intérieure sur la mer territoriale,*” his views on the question of extritoriality are so clearly and so well expressed, that I am disposed to quote them at length. He thus expresses himself†: “ s. 2. En voyant exercer les droits de souveraineté jusqu’à la peine de mort par les commandans des vaisseaux armés en guerre dans les ports et les baies appartenans à une autre puissance, quelques auteurs, du nombre desquels est Hübner, ont prétendu qu’on devait regarder ces vaisseaux comme territoire étranger, par la raison spécieuse que si l’endroit où se trouve le vaisseau de guerre continuait d’être le territoire du souverain du port, on ne pourrait pas exercer, en sa présence et dans son domaine, des actes aussi complets de pleine juridiction.

“ s. 3. Il est facile de résoudre cette difficulté, en réfléchissant que l’action de cette juridiction, de quelle manière qu’on la suppose exercée sur un vaisseau de guerre, n’est pas fondée sur le droit de territoire, mais sur la nature du commandement militaire qui s’exerce à bord, et y conserve l’intégrité et l’usage de sa force, toutes les fois que le souverain du port consent à recevoir un vaisseau de guerre comme tel. Sans cette continuation de pouvoir militaire, il serait impossible de gouverner l’équipage de ce bâtiment et de maintenir la discipline dans sa garnison. L’exercice de ce pouvoir, selon toute son étendue, dans l’intérieur du navire, est donc une conséquence nécessaire de l’asile qui lui a été accordé, sans être un droit propre au commandant du vaisseau, et encore moins un droit de territoire.

“ s. 4. Il suit de-là que le commandement militaire reste intact par la qualité et la nature du vaisseau de guerre, mais que sous tout autre rapport, ce même navire et son équipage sont soumis à la juridiction du souverain du port. Mon opinion, à cet égard, est fondée sur le principe généralement adopté, qu’une armée étrangère qui passe ou qui séjourne sur le territoire d’un autre souverain est toujours soumise à la juridiction du souverain du pays, quoique le commandement militaire reste intact entre les mains de son chef, en vertu du consentement tacite de ce même souverain, par le principe de raison

\* Opinions of Attorney Generals of United States, vol. L, p. 56.

† Azuni, *Droit Maritime*, p. 302.

“ universelle, qui veut qu'un droit accordé le soit avec toutes les dépendances et les facultés sans lesquelles on ne pourrait pas l'exercer et en faire usage.”

Case of  
Mr. John  
Brown.

I now come to a case in which we shall have the authority of Lord Stowell, the greatest Jurist of modern times, and one whose name will, in this country at all events, always command the highest respect. The case to which I refer is that of Mr. John Brown, the particulars of which are very fully detailed in the Admiralty papers laid before the Commission.

It seems that in the revolt of the Spanish Colonies in 1819–20, John Brown, an Englishman, commanded one of the insurgent vessels, but having been taken prisoner by the Spaniards, he was put into prison at Lima. He subsequently escaped and took refuge on board Her Majesty's ship “Tyne,” which was at the time lying in the harbour. The Spanish authorities demanded his surrender, but Captain Falcon holding apparently the same views on the subject as Historicus, refused to give him up, stating that “the power of complying with such a demand did not rest with the commander of any national ship;” and that if he did so, he should be “compromising those rights which all civilised nations admit to belong to the national ships of friendly powers.” Captain Falcon afterwards brought the prisoner to England, and on the case coming under the notice of the Admiralty, a minute was drawn up by Lord Melville, then the First Lord, which is in the following terms\* :—

#### MINUTE OF LORD MELVILLE.

25th October 1820.

Send copies of this letter and enclosures and the case and opinion of the King's Advocate to Sir William Scott, and acquaint him that as there did not appear to their Lordships or to the King's Advocate, to whom they referred the question, to exist any legal and sufficient grounds on which Mr. John Brown, the individual alluded to in those papers, who had arrived in H.M.S. “Tyne,” and was actually within the realm, could be detained in custody; their Lordships have accordingly given orders for withdrawing any restraint over him, and for allowing him to come on shore.

But it appears to their Lordships that another and more important question of a general nature is involved in the discussion between the Viceroy of Lima and Captain Falcon; and as their Lordships must be prepared either to disavow or to maintain and defend on this and all other similar occasions the principle for which Captain Falcon contends, viz., that any British subject coming on board one of Her Majesty's ships in a foreign port, though escaping from a civil or criminal process in such port, and from the jurisdiction or supposed jurisdiction of the State within whose territories such port may be situated, is entitled to the protection of the British flag, and to be deemed as within the Kingdom of Great Britain and Ireland. Their Lordships are desirous of ascertaining from Sir William Scott to what extent they will be warranted in asserting and maintaining such a principle. Their Lordships are the more anxious to have this question considered, as they have reason to believe that an opinion prevails very generally among the officers of the British navy that they are not at liberty to withhold the protection above described; and if it should appear that such opinion is erroneous, and is not founded on any sound principle of the Law of Nations, the present opportunity may afford conveniently the means of promulgating a more correct doctrine.

Their Lordships, however, do not desire or expect from Sir William Scott a statement of all possible cases in which it might be proper or justifiable in the Commander of H.M. ships to afford protection to a British subject repairing on board such ship in a foreign port; they merely wish to ascertain whether there exists any such distinct rule in the Law of Nations as is contended for by Captain Falcon, and supposing any such rule or principle to be recognised, how far it applies to the case which forms the subject of the enclosed correspondence.

M.

In reply, Lord Stowell, then Sir William Scott, wrote the following letter, which is so admirably expressed, and so directly to the point that I set it out at length\* :—

SIR WILLIAM SCOTT to the SECRETARY of the ADMIRALTY.

OPINION.

Grafton Street,  
18th November 1820.

SIR,

I HAVE to acknowledge the receipt of your letter dated 25th ultimo, enclosing copies of a letter and its enclosures from Captain Falcon of His Majesty's ship “Tyne,” and of the case and opinion of the King's Advocate relative to Mr. John Brown, a native of Ireland, who, being a prisoner in the hands of the Spaniards, effected his escape, and came on board the “Tyne” at Callao, and has since arrived on board the same within the realm of England (having claimed the protection of the flag), and acquainting me that their Lordships conceiving that they had no authority to detain him, and being supported in that opinion by the concurrence of the King's Advocate, had allowed him to depart without restraint. Upon his statement I have no observation to make, not being desired by their Lordships to make any; but if my opinion had been required, I would have coincided with what has been advised and done. A more extensive and important question is proposed to me, viz., whether any British subject coming on board His Majesty's ships of war in a foreign port, escaping from civil or criminal process in such port, and from the jurisdiction of the State within whose territory such port may be situated, is entitled to the protection of the British flag, and to be deemed as within the Kingdom of Great Britain and Ireland. Upon this question, proposed generally, I feel no hesitation in declaring that I know of no such right of protection belonging to the British flag, and that I think such a pretension is unfounded in point of principle, is injurious to the rights of other countries, and is inconsistent with those of our own.

\* Admiralty Correspondence, &c., p. 226.

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The rights of territory are local, and are fixed by known and determinate limits; ships are mere moveables, and are treated as such in the general practice of nations. It is true that armed neutralities have attempted to give them a territorial character, but the attempt when made has always been most perseveringly and at all hazards resisted and defeated by the arms of our own country, as inconsistent with the rights of hostility and capture. No such character is allowed to protect ships of war when offending against the laws of neutrality upon the high seas, where no local authority whatever exists; still less can it be claimed when there is a visible and acknowledged authority belonging to an independent state in amity with the nation to which the ship of war belongs. Such a claim can lead to nothing but to the confusion and hostility which wait upon conflicting rights.

The common convenience of nations has for certain reasons and to a certain extent established in favour of foreign ships of war, that they themselves shall not be liable to the civil process of the country in whose ports they are lying; though even this immunity has been occasionally questioned. But that individuals merely belonging to the same country with the ship of war are exempted from the civil and criminal process of the country in its ordinary administration of justice by getting on board such ship, and claiming what is called the protection of its flag, is a pretension which, however heard of in practice occasionally, has no existence whatever in principle.

If the British flag converts a ship of war into British territory, the flags of other nations must be allowed to possess the same property in favour of their marine; for there is no principle whatever that can appropriate it exclusively to the British flag. It therefore must be allowed reciprocally, that a Spaniard getting on board a Spanish ship of war lying in Portsmouth or Plymouth harbour shall be protected from British justice. I believe that the administrators of that justice would return a very speedy and decisive negative to any such protection urged on behalf of a Spaniard charged with being amenable to British law. But the inconvenient effects of considering such a ship as Spanish territory would go much further—to the extent of protecting even a British criminal who found his way into her; for no process of British justice can be executed upon a British subject in a foreign territory.

When I give this as my decided persuasion upon this subject generally, I do not mean to say that in the infinite possibility of events cases may not arise in which such a protection might be indulged. But such cases are justified only by their own peculiar and extraordinary circumstances, which extend no further than to those immediate cases themselves, and furnish no rule of general practice in such as are ordinary.

How far the case of Mr. Brown comes within such a description I am not enabled to state confidently by any exact knowledge of the facts, and particularly of the nature and validity of that authority under which the acts charged upon him by the Spaniards are said to have been committed. It would be improper in me to define that which the British Government has not thought proper to define. Holding the opinion that before any Act of Parliament or Proclamation issued it was unlawful for a British subject to accept a hostile commission from any persons, either in war or in rebellion against a State in amity with the Crown of Great Britain, I am led to think that the Spaniards would not have been chargeable with illegal violence, if they had thought proper to employ force in taking this person out of the British vessel, and I add that it is certainly very undesirable to furnish occasions for the lawful use of force in the intercourse of friendly nations.

Taking the authority under which Brown acted to be clearly invalid (which I do not mean to assert), I think it might possibly appear that Captain Falcon's act was more to be commended for its humanity and spirit than for its strict legality.

WILLIAM SCOTT.

On the receipt of this opinion a copy thereof was forwarded to the Foreign Office, and Lord Castlereagh, in a letter dated the 29th of December 1820, addressed to the British Minister at the Court of Spain, thus expressed himself\* :—

\* Your Excellency will find it easy, from these papers, to give such an explanation of the circumstances which attended the liberation in England of this individual, as will be satisfactory to the Spanish Minister. You will at the same time, on the part of your Court, disavow Captain Falcon's conduct in rescuing Brown on board his ship within a Spanish port, and not delivering him up, upon the requisition of the Local Authorities. The officer, no doubt, acted upon a good motive, but in assuming that the British flag could protect him against the legal process of the Territorial Jurisdiction within which the parties then were, was to maintain a principle, which the British Government desire distinctly to disclaim as not consistent with their uniform practice, or with the Law of Nations.

CASTLEREAGH.

“It is idle,” to use Historicus' words, “to gild refined gold, or to overlay such authorities with the opinions of the smaller fry, who only take their opinions from their masters of public law. Otherwise I could multiply similar statements from the works of, I think, every writer of any consideration, who has treated these subjects in the present century. I doubt if there is any question upon which it would be possible to find so complete and absolute a consensus.”

I will, however, refer to three more authorities, a French, a German, and an English one, to show that the principles so ably contended for by Lampredi, Azuni, the Attorneys General of the United States, and Lord Stowell in past time are still upheld by the best modern writers on international law.

The first, to which I will refer is the Baron de Cussy, who in his work entitled, “Phases et Causes Célèbres de Droit Maritime des Nations,” published in 1856, thus expresses himself† :—“Bien que l'exercice de la justice appartienne, en principe (*voir* Livre I., Titre II., s. 33 et Livre II., chap. XXX., s. 10), et, par suite de son indépendance au souverain possesseur de la mer territoriale, les commandants des forces navales des divers souverains admis dans les ports étrangers, ne perdent pas leurs droits de justice et de pénalité sur les

\* Admiralty Correspondence, p. 227.

† De Cussy, Livre I., Titre II., s. 60, p. 147.

*“ équipages qui sont placés sous eurs ordres ; ces droits tiennent à la nature même du commandement dont-ils sont investis et qui reste intact et dans la plénitude de sa force.”*

Bluntschli.

The next is Bluntschli, who wrote a work of considerable authority, entitled “*Le Droit International Codifié*,” and in the French translation, published in 1870, I find in a note to section 321, where he speaks of the extent to which ships of war are entitled to exemption from the local courts when in foreign territorial waters, the following\* :—“*Les immunités, dont les navires de guerre jouissent vis-à-vis de la justice locale ne s’appliquent qu’au navire lui-même ; elles cessent si l’équipage du navire de guerre tout en restant à bord, vient à commettre contre les autres navires ou contre les habitants du port des actes de nature à troubler l’ordre public.*”

Phillimore.

Lastly, we have Sir Robert Phillimore, who, in his work on International Law, thus expresses himself :—“*It has been asserted on high authority that according to the law of the United States of North America, a writ of habeas corpus may be lawfully awarded to bring up a subject illegally detained on board a foreign ship in American waters. The same doctrine would probably be held by the courts of Great Britain.*” It is clear that in this passage Sir Robert Phillimore is speaking of a ship of war and not of a merchant ship, for in a note to it he refers to the opinions of the Attorneys General of the United States, Vol. I., p. 25-6, and to the note on page 158 of Kent’s Commentaries, to both of which I have already called attention. I will only add that, if the courts have power to issue a writ of habeas corpus to bring up a subject detained on board a foreign ship of war, they ought also to have power to enforce that writ, if it is not obeyed.

I may, I think, fairly add to these authorities that of Casaregis, of Story, of Kent, of Wheaton, and of Lawrence, none of whom, as I have shown in my remarks on *Historicus’* letter, have ever sought to carry the doctrine of extritoriality to the length which is now contended for. They have no doubt maintained, and rightly so in my opinion, that the ship of war itself, its crew, and all belonging to her, are by general agreement, in all matters relating to the internal discipline of the ship, exempt from the local jurisdiction in a foreign country, but none have ever laid it down that such exemption extends to every person and thing, which might be on board the ship, although not belonging to it, even to a subject of the State within whose waters the ship at the time is.

For so startling a proposition the only authority that can be cited is Hübner, the Danish advocate, who, in the interests of his employers, the Danish Government, first started the doctrine of the extritoriality of ships, contending that a ship must be regarded as a portion of the territory of the country to which she belongs. Ortolan, more Gallico, carried the doctrine to its logical conclusion, holding that if the ship was a portion of the territory of the country to which she belongs, any person getting on board her must be regarded as having set foot in that country ; and that consequently a subject of a State, by taking refuge on board a foreign ship of war, might claim to be exempt from the jurisdiction of his own country, even though that ship were within its territorial waters, as much so as if he had succeeded in reaching the foreign soil. It seems only necessary to state the case clearly in order to demonstrate its impracticability.

### III.

But *Historicus* says that, besides the “*authorities and the reasoning,*” the “*precedents and the practice*” also are “*all one way.*” Let us see how this is.

Practice in former times.

In ascertaining what the practice has been, I do not care to inquire what may have been our action in the case† of two slaves escaping to a boat of Her Majesty’s ship “*Alarm*,” whilst lying off the Mole at Genoa in 1769,§ or of a slave escaping from an Algerine xebeque to a boat of Her Majesty’s ship “*Montreal*,” in Gibraltar Bay in 1770,|| or of slaves taking refuge on board Her Majesty’s ships of war at Malta in 1798. In dealing at that period with such Powers as the “*Doge and Senate of Genoa*,” or “*the captain of an Algerine xebeque*,” or “*the Sovereign Order of Malta*,” we no doubt showed the same spirit which animated us when in the exercise of our assumed sovereignty of the seas, we compelled all ships to lower their topsails to us on this side of Cape Finisterre. I should no more go to such cases to ascertain what are the rights and duties of public armed ships in neutral waters, than I should look to the way in which our envoys were formerly treated in China, as evidence of the manner in which envoys should now be received at a European court. I will confine myself for precedents and practice to the present century, when the growth of the maritime powers had induced us somewhat to abate, I was almost going to say, the arrogance with which we have sometimes treated more feeble States.

\* Bluntschli, *Droit International*, Ed. 1870, s. 321, p. 184 ; note.

† Phillimore, *International Law*, Vol. I., p. 372.

‡ Admiralty Papers, p. 222.

§ Do. do. p. 223.

|| Do. do. p. 224.

I confess, on carefully examining the precedents that have been furnished to us, whether in the official papers from the different Government offices, or in the evidence of the witnesses, that I am somewhat surprised to find such general agreement, even on the part of the naval officers, as to the course which it is proper to adopt in the event of slaves or other persons seeking refuge on board our ships of war when lying in foreign territorial waters; and as to the obligation under which we are, except in very special cases, to restore them to their owners. I should have thought with Lord Melville, "that an opinion very generally prevailed among the officers of the British navy that they are not at liberty to withhold protection," when it is demanded. But it appears that this is not so.

Practice generally uniform.

But here I should observe that it is very important, in examining the cases, to note the difference between slaves, who, according to the laws of the State, are rightfully held in slavery, and those recently imported Africans, who are held in slavery not only contrary to the laws of the country, but contrary to treaty obligations with ourselves. In the case of the latter a claim for restitution has been uniformly refused, on the ground that by our treaties we are entitled to retain the slaves, and to give them their freedom; but in the case of slaves legally held in servitude, and who may come on board our ships of war whilst they are in the territorial waters of a State in which slavery exists, our practice has, I believe, been almost invariably to restore them to their owners.

Distinction between lawful and unlawful slavery.

I proceed to examine the several cases, in which slaves have been either restored, or their restitution refused, so far as appears from the documents and evidence, which have been laid before us.

Taking first the parliamentary papers entitled "Correspondence respecting the Reception of Fugitive Slaves on Board Her Majesty's Ships. Slave Trade, No. 1 (1876)."

Parliamentary Papers.

The first case,\* mentioned in the Appendix thereto, is one which occurred in the year 1837. It is that of a slave who had secreted himself on board Her Majesty's ship "Romney," whilst she was lying at Havana. On his being discovered, Lieutenant Jenkins, the commanding officer, immediately ordered him to be delivered over to the authorities at the Havana; and Lord Palmerston, in his letter of the 5th January 1838, stated that in his opinion, "the course pursued by Lieutenant Jenkins in this case" was "right and proper."

Lieut. Jenkins' case, 1837.

The next† case is that of a slave named Tom Pepper, who had found his way on board Her Majesty's ship "Conflict" whilst she was at Bahia; but Lord Palmerston, in a letter dated the 20th August 1851, directed that the slave should be sent to some British settlement, it appearing that he was "a recently imported negro," having been taken from Africa, and landed in Brazil only seven months before his escape, contrary to the treaties between that country and ourselves.

Case of Tom Pepper, 1851.

The next‡ case occurred in the year 1869, and relates to the carrying off of certain domestic slaves from Majunga in Madagascar by the "Nymph," and from Mozambique by the "Daphne." The conduct of the naval officers was disapproved of in both these cases by the authorities at home. And Lord Clarendon, in his letter to Mr. Consul Pakenham, dated 16th May 1870, thus expresses himself:—

Cases of the Nymph and Daphne, 1869.

"I am of opinion that the commanders of Her Majesty's cruisers are not justified, where slavery is legal, in receiving fugitive domestic slaves on board their vessels, or in carrying them away in spite of the local authorities; and in cases where naval officers are made aware that an escaped slave has been imported in violation of the treaty, it would be better that they should communicate the facts to you, with a view to a proper inquiry being made into the case, than that they should carry off the slave on their own responsibility."

Lastly, we have the East Indies Station Order, 1871, which is in these words:—

East India Station Order, 1871.

"Art. 147. Her Majesty's Minister for Foreign Affairs has decided that slaves coming on board ships of war within the territorial jurisdiction of the country from which they escape, that is to say, within three miles of the shore, should be returned to the owners; but when it appears that slaves coming on board Her Majesty's ships have been recently imported in violation of treaties, the commanders of Her Majesty's ships should communicate the facts to the consul, with a view to proper inquiry being made, rather than carry off the slaves on their own responsibility."

Turning now to the correspondence furnished by the Foreign Office for the use of the Commission, we shall find several cases which have a direct bearing on the question at issue.

Foreign Office Papers.

The first case§ is that of the slave André, who had been received on board Her Majesty's ship "Crescent," which was then lying at Rio Janeiro, and for whom a demand was made by his master. The case occurred in the year 1840, and the negotiations appear to have lasted for a very considerable time. At length, however, a letter was written by Lord Aberdeen, bearing date the 27th February 1844, and in which his Lordship thus expresses himself:—"It appears from the report of the Queen's Advocate, that if the negro

Case of Slave André, 1840.

\* Slave Trade, No. 1 (1876), p. 170.

† Do. do. p. 175, et seq.

‡ Slave Trade, No. 1 (1876), p. 171.

§ Foreign Office Papers, p. 149.



" André proved to be, according to the law of Brazil, the property of Senhor Moreira, the latter has a right to demand possession of him wherever he can find him, within the jurisdiction of Brazilian courts of law ; and, consequently, that if André were to land at Rio de Janeiro, or elsewhere within the Empire of Brazil, the claim of Senhor Moreira could not properly be resisted." In the meantime, however, the slave, who had been all that time kept on board the "Crescent," had made himself extremely useful. And it was accordingly agreed that, instead of his being restored to his master, the full value should be paid for the slave, which was tantamount to an admission that we had no right to detain him.

Slaves at Rio,  
1842-3.

The same course seems to have been adopted in the case\* of some other slaves, who were received on board the same vessel, the "Crescent," in the years 1842-3. In other words, it was admitted that we had no right to retain them, the ship of war being in Brazilian waters. Had the ship of war been British soil, or had the ship been upon the high seas, we should have had no right to give them up. Compensation was accordingly given as in the preceding case to their owners for their loss.

Piratinim,  
1851.

The next† case is that of the "Piratinim," captured by Her Majesty's ship "Sharpshooter," and on board of which besides some newly-imported slaves were found other slaves (domestic slaves), the property of the owners of the vessel. Lord Palmerston, in a letter dated the 17th of October 1851,† thus expresses himself :—" With regard to the demand made by the Brazilian Government for the surrender of the negroes taken in the 'Piratinim' in order that they may be delivered over to their alleged owners, I have to observe that, as it is perfectly clear and certain that a portion of the negroes who were found on board the 'Piratinim' were newly-imported negroes, and it is to be presumed that the presence of such newly-imported negroes on board will have rendered the vessel liable to condemnation as a vessel engaged in the slave trade, and that the Creole slaves who formed part of the cargo of this vessel will in such case have become forfeit to the British Crown, and in consequence thereof will be entitled to freedom, and therefore must be sent to a British colony where they may be able to enjoy that freedom in security.

" It is also to be observed that all the slaves found on board this vessel, excepting the 27 Creole slaves born in Brazil, and one slave said to have been imported 30 years ago, and who may therefore be held to have been legally imported, were introduced into Brazil since the passing of the law of the 7th November 1831, by the provisions of which all negroes brought into Brazil after that date were declared to be *ipso facto* free, and it would be impossible for Her Majesty's Government to order that persons who are legally entitled to freedom, and who have by any means whatever come within the power of officers of the British Crown, shall be delivered up in order to be consigned to slavery."

Cases at  
Zanzibar,  
1874-5.

Lastly, we have six cases,‡ one occurring in 1874, and five in 1875, in which slaves have been restored to their masters by order of the Consular Court at Zanzibar, after having been received on board Her Majesty's ships of war. But there is one of these cases, which appears to have an especial bearing on the question under consideration ; it is the case of four domestic slaves, who had escaped from their master, and had taken refuge on board a boat belonging to Her Majesty's ship "London." They were taken to Zanzibar, and on its being proved that they were fugitive slaves, and had not been recently imported, they were delivered up to their master. The circumstances of the case are fully detailed in the Acting Consul General's letter of the 14th August 1875,§ where he says :—" With regard, however, to the four slaves picked up by Lieutenant Hockin, they were claimed by the Regent for their Arab masters, from whom it was stated they had run away some time previously. This they also admitted, stating that they had gone to Pangani and re-embarked there on the dhow in question to come to Pemba. I, therefore, ordered their restitution to their lawful owners."

Admiralty  
Papers.

In the printed correspondence, &c. furnished by the Admiralty, the only cases mentioned are, (1) those of the "Nymph" and the "Daphne," already referred to, in which the conduct of the commanding officers in carrying off some domestic slaves from Majunga and Mozambique was disapproved of ; (2) the cases of the two slaves at Genoa in 1769, of the slave from the Algerine xebeque, in Gibraltar Bay in 1770, and of the slaves at Malta in 1798, to which I have already referred ; and (3) the remarkable case of Mr. John Brown in 1820, which has been already treated at considerable length, and in which it has been shown, what was Lord Stowell's opinion on the pretensions put forward by Captain Falcon ; and where Lord Castlereagh observed, "The officer, no doubt, acted from a good motive, but in assuming that the British flag could protect him against the legal process of the territorial jurisdiction within which the parties then were, was to maintain a principle,

\* Foreign Office Papers, p. 150.  
† Do. do. p. 150.

‡ Foreign Office Papers, p. 156.  
§ Do. do. p. 158.

" which the British Government desire distinctly to disclaim as not consonant with their uniform practice, or with the law of nations."

In the correspondence, &c., furnished by the India Office there are two or three cases to which it may be well to call attention. India Office Papers.

The first \* is that of a slave coming on board the sloop of war "Clive" whilst lying in Bahrein harbour. The case was referred to the Advocate General at Bombay who, in an opinion dated the 3rd of December 1858, thus expressed himself; † "I am of opinion that, inasmuch as at the time the African slave made his escape to the 'Clive' he was within the waters of the Arab chief's country, he (the slave) was subject to the laws of that chief's country, and the commander of the 'Clive' was bound to respect those laws, and to recognise the rights which those laws gave to the master over his slave; in other words, that he was bound to deliver up the slave if called upon by the master to do so." Case of the "Clive," 1858.

The next case ‡ is that of a slave of Aboothabee, which occurred in 1869; the slave had smuggled himself on board Her Majesty's ship "Dalhousie," while the chief was paying a visit of ceremony, and refused to return. The Assistant Resident, who was on board at the time, thought that the protection claimed by the slave could not be refused, and he was accordingly retained on board. But Sir Lewis Pelly, the Political Resident, thought that this was wrong, and caused the chief to be informed that the slave would be returned on a promise that he should not be ill-treated. Sir Lewis Pelly's conduct was approved by the Bombay Government. Case of a slave of Aboothabee in 1869.

In the correspondence, &c., furnished by the Colonial Office, I do not find anything directly bearing upon the question which I am now discussing. Colonial Office Papers.

I turn now to the evidence which has been given before the Commission, and here also I find an almost unanimous opinion that slaves taking refuge on board a ship of war, when in the territorial waters of a Foreign State, should be returned to their owners, except indeed when they have been newly imported in violation of treaties with this country, and when, consequently, we are entitled to retain them and to give them their freedom. Evidence before the Commission.

The first witness produced was Rear-Admiral Cumming, who had been in command upon the East Coast of Africa from March 1872 to June 1875. Speaking of two slaves who had sought refuge on board his ship, but whom he had ordered to be restored, he thus replied:— Rear-Adml. Cumming.

" 109. Will you state again what your real reason was for restoring the two slaves, you have stated it with sufficient clearness to my mind, but I should like you to state again the reason on which you acted in restoring them?—I did so, because I was at anchor in a roadstead belonging to a friendly power, and I should not have been doing my duty, if I had not restored them to their owner; I did not give them up to their owners, I communicated with the Sultan.

" 112. Were you acting under any instructions in restoring the slaves?—I endeavoured to follow the orders which were issued for my guidance, but this case was so simple a case that there was no difficulty about it; the men had left their masters, and they took refuge on board a man-of-war.

" 113. If I understand you rightly, you would have done it without any order?—I would.

" 145. Am I to understand that not only was it your own practice, but that your distinct orders to your officers were, that they should restore domestic slaves who came on board their ships?—Yes. My instructions to my commanders were, 'You must use your judgment.' Unless a man's life was in danger, or anything of that kind, he was to be restored. As a rule, with respect to domestic slaves, my instructions to my commanders were to restore them, but on no account ever to restore a slave recently captured.

" 150. Then you would not consider the fact of their coming on board a British man-of-war in the high seas as giving them their freedom?—Unquestionably not. At Zanzibar all the fishing boats are manned entirely by domestic slaves, and all the pilots are domestic slaves. I never employed those pilots, but our ships do employ them."

The next witness was Captain Sullivan, whose conduct on the occasion of his carrying off some slaves who had sought refuge on board his ship, whilst she was at Mozambique, had been disapproved of by the Admiralty. Captain Sullivan, as I understood him, tried to justify his conduct on the ground that there were no slaves at Mozambique, the Portuguese Government having issued a proclamation emancipating them. And in answer to question 274 he thus observes:—"I do not wish it to be understood for a moment that if I had been in a Portuguese port, where the Arab slave trade was not being carried on to the extent that it was, and without slavery being an institution in the Portuguese territory, I should not at once have given those men up." Capt. Sullivan.

\* India Office Papers, p. 211.

† India Office Papers, p. 212.

‡ India Office Papers, p. 213.

Further on he says :—

“ 280. Were there any other cases of fugitive slaves getting on board your vessel?—I remember a case the year before, but I do not recollect the particulars of it ; it was within three miles of the coast, but it was on the Portuguese coast again, it was, however, on a coast where the Portuguese had no power, and where a great slave trade was carried on. There was another case in the ‘ London ; ’ a slave came off at Zanzibar, I sent him on shore again ; he was a domestic slave, and he did not deny the fact that he was a domestic slave.

“ 281. You restored him to his owner?—I restored him to his owner. Had he said to me that he had been imported in the Island of Zanzibar that week or a month before, I should then have sent him to the consul.

“ 332. It, however, often happened that domestic slaves did take refuge in ships, or swam off to them?—Yes.

“ 333. What was the practice in those cases?—My impression has always been that which is conveyed in the very last sentence of Lord Clarendon’s, in the ‘ Danube ’ case, where he says that had it been a man-of-war to which the slave escaped he would not have been given up ; but then I have never lost sight of the fact that I am receiving the hospitality of a country, that is to say, that I am actually in the harbour of it, where domestic slavery is an institution. I have never lost sight of that, and I do not think that any officer ever has done so.

“ 334. Then what would you do?—In that case I should at once send the man on shore again, unless we had a treaty, as we had with the Sultan of Zanzibar which prohibited the importation of raw slaves, and if he said that he was a raw slave, I should hand him over to the consul.

“ 335. But if he was a domestic slave would you restore him to his owner?—Yes, at once.”

Adml. Sir F. W. Grey. The next witness is Admiral the Honourable Sir F. W. Grey, and his evidence is clear on the point. He says in answer to question :—

“ 443. When you were in a neutral port, if a slave had come on board your ship while you were in command, what would you have done?—My opinion upon that point is this : if I went into the harbour of Rio de Janeiro commanding a ship where all the work was done by slaves, if a boat with supplies, or with coal, came along side, I should give positive orders to the officers not to allow any of those persons to come on board, and if any did come on board surreptitiously I should order them to be sent back into their boat directly.”

Mr. Consul Gen. Dunlop. The next witness, to which I will refer, is Mr. Dunlop, the Consul General at Havana, who, in answer to question 590, stated that there had never been an instance during his time of a slave “ getting on board a ship and claiming his freedom.”

Capt. Wilson. The next witness was Captain Wilson, who had served on the coast of Brazil, from the middle of 1864 to the middle of 1869, and on the East Coast of Africa from the early part of 1847 until the end of 1863, with an interval of about three years.

Speaking first of the Brazil, he thus expresses himself :—

“ 635. While you were on the coast of Brazil had you any cases of fugitive slaves?—No, we had none in either of the ships that I was in there, and I was out there in another ship two years before, nor did I ever hear of any cases while I was there.

“ 640. Was any particular care taken that they should not get on board, or did you believe that the slaves did not want to get on board?—They were very often on board, but we would not have allowed them to remain on board if they had wished it. There was no reason why they should be accepted on board, and they would not have been allowed to remain on board under any circumstances.

“ 655. As a general rule you would not receive them on board?—As a general rule I should not do so.

“ 656. Neither at sea nor within the harbour?—In no place at all. I would look upon them in the same way as upon any other persons.

“ 657. With the view which you have just stated, namely, so as not to complicate our relations with foreign countries?—Decidedly with that view. Under most circumstances, I do not think that I receive a slave ; there are, however, many occasions when I should do it, but not with a civilized power like Rio.”

Turning then to the East Coast of Africa, he said that three cases had occurred whilst he was there. The first was when the ship was lying at Mozambique. The slave had swum off to the ship at night, and upon a demand being afterwards made for him by the Governor, Captain Wilson, rather than raise any question about it at home, paid the value of the slave out of his own pocket. The next case occurred also at Mozambique, when another slave, who proved to be a brother of the previous slave, came on board out of the pilot’s boat, got down below the decks, and although every effort was made to remove him, and put him again into the pilot’s boat, it was found impossible to do so, and the ship sailed away

with him, but on the return of the vessel to Mozambique the slave voluntarily went ashore. The third case was that of a slave boy, who had escaped from a regular slaver, and took refuge on board the ship. He was of course retained, and no demand was ever made for him.

The next witness was Commander Gillson. He was in command in the Persian Gulf from October 1873 to March 1874, and speaks of fugitive slaves having on several occasions come on board the ship, but then they were all recent importations. In answer to the question; "No. 707. Then you were right, according to the treaty, in all those cases?—In all those cases I was right according to the treaty, that is to say, they were all slaves that had been imported contrary to the treaty." Com. Gillson.

The next witness is Captain Foot, who was the senior officer in the Persian Gulf from May 1875 to February 1876. Speaking of cases in which fugitive slaves had come on board his ship, he said, in answer to questions put to him, "These slaves were sent to the consulate, and if they were claimed they were given back to their master, and the master was cautioned by the Political Agent that if there was any ill-treatment, or any complaint, the Sultan would be appealed to. I gave them up when they were claimed by their masters;" and further on, "If a slave ran away it was immediately said, 'He is on board a man-of-war,' and if it could be proved that the slave did belong to the man who claimed him he was given up." Again, "Had any of these men been what I call raw slaves, namely, freshly imported, I should never have given them up. All these men could speak Arabic, they were either domestic slaves, or had been in dhows; they were evidently not freshly imported from Africa." Capt. Foot.

The same officer mentioned the case of another slave coming off to his ship whilst she lay on the Madagascar coast, but he thought that he should not be justified in retaining him, and accordingly sent him on shore.

The next witness is Mr. Hunt, H.M.'s Consul at Rio. In answer to a question put to him he says, "I think that if the captain of a man-of-war had attempted to receive and remove one of these slaves from the harbour, and if a complaint had been made to me, it would have been my duty, and I should have felt constrained to have requested him to restore that slave to the shore." Mr. Consul Hunt.

Further on he says, in answer to Question—

"860. I take it that a very small number of slaves would come on board those ships?—The moment it was known to the slaves in Brazil that if they could *per fas aut nefas*, once place their foot on board a British man-of-war they would be free, I am afraid that the cases of slaves doing so would be very numerous. In the first place, the first band of slaves who coaled a vessel of war would refuse to go on shore.

"861. They never have done so yet?—They never have done so, but that is in the belief that it would be quite useless. But if they acquired the knowledge that once on board a man-of-war, and claiming the hospitality of England, they could not be returned to the shore, I think that they would certainly do so."

The next witness is Captain Doughty, who was in the Persian Gulf from March to September 1871. Speaking of the only case of a slave taking refuge on board his ship, he said in answer to question 999 :— Capt. Doughty.

"During the next two days we picked up information about the man; we got his master, and heard the whole story. The slave had robbed him, and this was certified to by the Sheik of Bahrein as well. I told the Sheik that if he liked to demand the slave he might have him; that I considered him a domestic slave.

"1000. Was he sent on shore?—Yes; the Sheik sent his boat for him, and I gave him up.

"1001. That was the only case?—Yes."

Commander Keats, the next witness, told us that he never had any case of a fugitive slave presenting himself on board his ship. Capt. Keats

The next witness examined was Commander Hope. He had been in command of a ship on the East Coast of Africa for three months in 1873, and he was three or four months in another ship, the "Glasgow," at another period. And the first case, to which he referred, was that of a slave who came on board from a canoe, with marks of ill-treatment upon him; but this was a newly imported slave, and no claim was ever made for him. In answer to questions put to him, he said :— Com. Hope.

"1068. Could you make out whether he was a slave who had recently been brought from the interior?—I am under the impression that he was.

"1069. Had you anybody on board to test him by his language?—Yes, we had interpreters. He was working with a man on shore, but he spoke a peculiar language. I think that they said he had come from some distance in the interior.

"1070. Do you mean recently?—Yes. I fancy that he had not been there more than a month or two."

The other case was that of a slave girl, who had got on board the ship during the night. She also had marks of ill-treatment about her; but he considered that he was bound to give her up, and he did so.

There were also, it seems, two cases when he was serving in the flagship the "Glasgow." In one case the slave was returned to his master through Dr. Kirk. In the other no demand was ever made for the slave, and he was accordingly kept on board as a Seedee boy.

Mr. Green,  
Political  
Agent at  
Muscat.

Then we have Mr. Green, who was Political Agent at Muscat for nine months in 1862. He said in answer to the question:—

"1101. When a slave ran into your own house to seek protection, what did you do?—  
"I used to act exactly in the same way. I used then to try the case myself on its own merits. If there was good and sufficient evidence brought forward to show that the man was a servant, I used most decidedly to let him go. I turned him out of my house and let him go back to his own master."

And again further on:—

"1141. In the case of the three slaves going on board men-of-war what happened; were they given up or not?—They were given up, principally at my own request after inquiry.

"1142. All three?—I think all three; it is now a long time since, but I think that there were three cases."

Captain  
Felix Jones,  
Political  
Resident in  
the Persian  
Gulf.

The next witness is Captain Felix Jones, who was for eight years Political Resident in the Persian Gulf, from 1855 to 1864. The witness replied thus:—

"1209. At that time you had some business in connexion with fugitive slaves?—Constant.

"1210. There is one case which has been brought to our notice, namely, a case of Lieutenant Disbrowe, in which he brought forward a correspondence with Commodore Jenkins?—Yes, I remember the case very well. You allude to the date of the 21st September 1858.

"1211. September 1858?—In that case Commodore Jenkins held the favourite position, I may say of the navy, that a ship of war was to be treated like British territory?—Quite so.

"1212. And that a slave who once got on board a ship of war was as free as if he had landed in England?—Quite so.

"1213. You pointed out, I think, the inconveniences which would result in the Gulf from such a doctrine being carried to the full extent?—I did in some respects.

"1214. You said that it would disincline the people there to aid us in preventing the slave trade?—I did.

"1215. And that therefore you thought it not advisable to insist upon those strict terms?—I thought it not advisable to insist upon the retention of slaves who had been for a long time in the country as domestic slaves, and absolutely appertaining to the soil. I did not allude to fresh imports from the coast of Africa.

"1250. I think you said that some of the slaves in the pearl fisheries you have known to come on board the ships?—Occasionally.

"1251. On the high seas?—I cannot exactly call it the high seas, because the pearl banks are well known to be part of the soil, or are considered to be part of the possessions of the tribes located in their vicinity; they are a sort of property.

"1252. Then it has been when the pearl boats have been in the neighbourhood of the pearl fisheries?—Certainly, when the pearl boats have been engaged on these banks in the pearl fisheries.

"1253. Then you have considered, in those cases, that the slaves coming on board your ship have come on board your ship in their territorial waters?—Certainly.

"1254. And on that ground, therefore, if a demand had been made would you have given them up?—No, I think not; if they had been freshly imported slaves they certainly would not have been given up.

"1255. I do not mean slaves freshly imported, but domestic slaves employed in the pearl fisheries?—Certainly those domestic slaves employed in the pearl fisheries and proved to be domestic slaves would have been surrendered."

The above are all the cases, which have been brought under the notice of the Commission up to this date, bearing more immediately on the point under consideration. They show a uniformity of practice, which I confess that I should hardly have expected. They show, with only two or three exceptions, that when slaves (other than newly imported slaves, whom we are entitled by treaty to liberate,) have come on board our ships-of-war, whilst those ships have been within the territorial waters of a State where slavery by law exists, the commanding officers have, on demand, almost invariably delivered them up, as they were bound to do, either to the local authorities or to the owners; and that in those few cases in which this course has not been pursued, and the slaves have been taken away, the officer has been

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reprimanded by the authorities in this country. And the very important evidence given a day or two since by Mr. Aitchison, the Secretary for Foreign Relations in India, but which has not yet been printed, shows that in that gentleman's opinion this is the only proper course to follow, and that it will be more likely to lead to the final extinction not only of the slave trade, but of slavery itself, than any arbitrary interference with the local laws, which we should never dare to apply to other than the most feeble States.

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Let me now, in conclusion, briefly resume what I set out with endeavouring to prove, and what I venture to think that I have succeeded in doing.

It appears to me, first, that, whether "by comity of nations," or on the principle of "implied assent," or by whatever other name we are pleased to call it, a ship of war, its officers, crew, and all belonging to it, are, when they are within foreign territorial waters, exempt from the local jurisdiction in all matters relating to the management and discipline of the ship, and the relation of the officers and crew to one another; but that this exemption goes no further, and most certainly would not avail to protect a subject of the State in whose waters the ship was, or indeed anyone, from having to answer for any offence committed against the laws of that State. It has, I venture to think, been shown that, whilst all writers on international law maintain the exemption of the ship of war and all belonging to her to the extent which I have stated, no one except Ortolan and Historicus have ever maintained that that exemption extends to every person who may get on board her, whether belonging to her or not, and whether that person may have violated the laws of the country or not. I have shown, by quotations from the writings of Lampredi and Azuni, from opinions of the Attorneys General of the United States, from Lord Stowell, Kent, and Phillimore, that, if a person who has offended against the laws of a State takes refuge on board a foreign ship of war lying in its territorial waters, the local authorities of that State may, in the event of a demand for his surrender being refused, either remove him forcibly from the ship, or take out a writ of habeas corpus against the commanding officer, to compel him to comply with the demand. I have shown also that it has been the uniform practice of naval officers on demand to surrender slaves (other than newly imported ones), and that in the few cases in which this course has not been followed, the officer has been reprimanded. Lastly, I venture to think that such a course of proceeding is more consonant with our own dignity, and more likely to conduce to the final extinction of slavery and the slave trade, than any arbitrary interference with the laws of other countries.

April 6th, 1876.

H. C. ROTHERY.

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# MINUTES OF EVIDENCE

TAKEN BEFORE

## THE ROYAL COMMISSION ON FUGITIVE SLAVES.

Saturday, 11th March 1876.

PRESENT :

HIS GRACE THE DUKE OF SOMERSET, K.G., IN THE CHAIR.

THE RIGHT HON. SIR ROBERT J. PHILLIMORE, D.C.L.  
THE RIGHT HON. MOUNTAGUE BERNARD, D.C.L.  
THE HON. MR. JUSTICE ARCHIBALD.  
SIR HENRY T. HOLLAND, BART., C.M.G., M.P.

REAR-ADMIRAL SIR LEOPOLD HEATH, K.C.B.  
SIR GEORGE CAMPBELL, K.C.S.I., M.P.  
J. FITZJAMES STEPHEN, ESQ., Q.C.  
HENRY C. ROTHERY, ESQ.

HENRY HOWARD, ESQ., C.B., *Secretary.*

REAR-ADMIRAL ARTHUR CUMMING, C.B., R.N., examined.

*Rear-Admiral  
A. Cumming,  
C.B.*

11 Mar. 1876.

1. (*Chairman.*) You were on the East Coast of Africa?—Yes.

2. At what date?—I have been there several times. I took the command of the East India Station in March 1872.

3. Had you been there before?—No, not on that coast.

4. In March 1872 you took command?—Yes, and I remained in command until June 1875.

5. The command of the East Coast includes the Persian Gulf and runs down to the Cape, does it not?—No, it extends as far as the Mozambique, opposite Madagascar.

6. Not further than the Mozambique?—No.

7. And it goes up to Aden?—Yes, and in the Gulf of Persia as well.

8. It includes the Persian Gulf, and the Red Sea as far as Aden?—Yes.

9. What number of vessels had you under your command?—Nine.

10. (*Sir George Campbell.*) Was not your command the Indian command?—It was the command of the East Indies and the Southern Division; they call it the Southern Division; it embraced the coast of Zanzibar and Madagascar.

11. And the whole of the Indian Sea?—The whole of the Indian Sea, and the Persian Gulf.

12. (*Chairman.*) You did not go further than Bombay, did you? You did not go further round the Indian Seas?—To Calcutta, and Madras, and Ceylon.

13. Were the vessels chiefly employed in the neighbourhood of the slave trading countries?—No, not exactly so, because we were required to keep six ships, including the flag ship, in Indian waters; and the ships that could be spared were sent for the suppression of the slave trade in the Mozambique Channel and on the coast of Zanzibar, the East Coast of Africa.

14. Practically, how many vessels could be spared for the suppression of the slave trade?—Not more than three or four, with one exception, when there was a question of making a new treaty, that was in 1873. Then the whole of the ships with the exception of the three small vessels in the Persian Gulf, went south as a kind of demonstration.

15. During the time that you were in command from 1872 to 1875, do you believe that there was much slave trade carried on?—There was a good deal, but latterly it was entirely suppressed.

16. After the treaty was it suppressed?—Owing to the vigilance of the cruisers it was suppressed at sea;

but it was transferred to the land, and with great success, so that in fact there was as much slave traffic going on after the treaty as before. Of course the Sultan of Zanzibar had nothing to do with it.

17. When you say that it was carried on by land, you do not mean that the slaves got to Arabia by land?—No; they went up as far north as they could to the northern ports, or they sailed direct from one of the ports in the territory of the Sultan of Zanzibar, and they went direct to the north to Arabia, say to Muscat, the entrance of the Gulf of Oman.

18. I understood you to say that the traffic by sea was very much prevented, but that the traffic by land continued?—It was transferred. The caravans used to go north along the beach, along the caravan tracks, and many slaves were embarked. Great quantities escaped in that way.

19. But still they had equally to cross the sea at last?—Undoubtedly.

20. Therefore it transferred the slave trading vessels from the southern portion of your command to the northern portion?—Yes, but the slaves came from the same territories; they were made captives in the same territories, but they ceased to be transmitted to their destinations by water except for their time on the journey to the Persian Gulf.

21. (*Sir Robert Phillimore.*) At what point did the final journey by water begin?—They went up as far north as they possibly could, and then the dhows put in and embarked them.

22. From what point or place would that be?—From the islands; from the Island of Pemba which is to the northward of Zanzibar, and several ports to the northward of Zanzibar; they used to go almost up to the entrance of the Gulf of Aden.

23. (*Chairman.*) I understand that at one time the slave trade was allowed within a certain distance, I believe 500 miles, of the coast?—At one time we could not capture slave vessels at sea excepting in certain months within the territorial waters of the Sultan.

24. At one time there was a limitation as to capturing the slave dhows, except in certain months?—Yes.

25. That was a sort of compromise which allowed the slave trade to go on during a part of the year?—Yes, formerly.

26. Up to when?—We had the worst of it; we could not capture them during the south-west monsoon.



Hear-Admiral  
A. Cumming,  
C.B.

11 Mar. 1876.

27. That was just the time when they wanted to take their slaves?—Of course; we were prohibited from doing so.

28. Therefore there was a sort of compromise, and at a part of the year the slave trade might go on?—Yes. Practically.

29. Do you mean that it might go on to the Persian Gulf, or that it might go on only locally to the coast?—What you call the coast, opposite Zanzibar. In short the dominions of the Sultan, I think, extended 600 or 700 miles north, and south, opposite, say to Zanzibar, and as far inland as he could make his authority felt.

30. What we have to do with is rather what was going on upon the sea. The slave trade went on upon the sea for a certain distance from the land during a part of the year?—Yes.

31. After the Treaty of 1873 it was abandoned?—It was; you could take those vessels in territorial waters whenever you could get them, and release the slaves.

32. Had your officers much difficulty in distinguishing between the domestic slaves, and the slaves that were taken for sale?—None whatever.

33. How did they distinguish the character of the two descriptions of slaves?—A slave recently made a captive looks like a wild animal, and a domestic slave is quite composed; you cannot make a mistake.

34. (*Mr. Rothery.*) By the third Article of the Treaty with Zanzibar of October the 20th, 1845, it was provided in the following terms, the Sultan gave "permission to seize and confiscate any vessels the property of His Highness, or of his subjects, carrying on slave trade, excepting only such as are engaged in the transport of slaves from one port to another of his own dominions in Africa, between the port of Lamoo to the north, and its dependencies, the northern limit of which is the north point of Kayhoo Island, in 1° 57' south latitude, and the port of Keelwa to the south, and its dependencies, the southern limit of which is Songa, Manara, or Pagoda Point, in 9° 2' south latitude, including the Islands of Zanzibar, Pemba, and Monfea." You of course know that provision?—Yes.

35. And that lasted up to the year 1873, when the new Treaty was made?—Yes.

36. It was during a certain season that they were allowed to carry on the slave trade?—Yes.

37. It was in consequence of an agreement, which was not in the nature of a Treaty, but by proclamation of the Sultan, that it was limited to about four months?—Yes; it must have formed a part of a Treaty or an agreement with Her Majesty's Government.

38. (*Chairman.*) An engagement of some sort allowed him during a part of the year to move the slaves by sea?—Yes, what he called moving them from one part of his territory to another, but of course he had no power with these slave traders. The slaves used to be moved from one part of the dominions of the Sultan to another,—that was the excuse, and therefore, virtually, you could not touch them, but they were being moved for sale.

39. (*Sir George Campbell.*) Were they carried across to Arabia at that season?—It is impossible to say.

40. Did the monsoon admit of it?—Yes; they cannot move excepting with the wind.

41. (*Mr. Rothery.*) They chiefly went from Kilwa?—Yes.

42. Kilwa was the great port of export from the coast of Africa, was it not?—That varied; when it was too vigilantly watched, they moved to some other place.

43. But was not that the general port?—Yes, you may say so.

44. And thence probably they went to Zanzibar, but sometimes they avoided Zanzibar, and went quite out to sea beyond it?—Yes, but they might go where they liked in the Sultan's territory, whether to his islands or to the mainland.

45. (*Chairman.*) After 1873, that was all put an end to?—Yes; we used to take them within three miles anywhere, even in the roadstead, when we were at anchor at Zanzibar.

46. But you had to distinguish between the slave who was for sale and the domestic slave?—Yes.

47. And if the dhow contained only domestic slaves, you had to leave it alone?—Exactly so.

48. During the time that you were there were any mistakes committed; did officers sometimes take and destroy dhows for which they had to pay compensation?—Yes; no doubt of it, but they did it on their own responsibility. The government was liberal enough not to make them pay if it was a disputed case; it came before the court, and the vessel was released, and some of the owners claimed damages.

49. (*Sir Robert Phillimore.*) The vessel was released on the ground that the slaves she carried were domestic slaves?—Yes.

50. (*Sir Henry Holland.*) That proves that they had some difficulty at all events in certain cases in distinguishing between domestic and other slaves?—Yes; but I never saw that difficulty myself.

51. (*Chairman.*) The officers have an inducement to take the dhow and burn it, because they get the money for a proportion of the tonnage, and they get money for the slaves?—Yes.

52. Therefore an officer has that inducement to take slaves, at any rate?—Yes; but he places his commission in peril if he disobeys my instructions. I act according to the wishes of the Admiralty, and am guided by the slave instructions, and those orders are issued by the commander-in-chief to his commanders, for their guidance.

53. The officer also had an inducement when he had taken a dhow to say that it was not seaworthy, and to destroy it?—Yes.

54. Was any alteration made as to the payment of officers for the destruction of dhows?—There were certain alterations. In former years the commander-in-chief got a great deal more than his proper share, and a more equal distribution was made amongst the officers and the ship's company.

55. (*Mr. Rothery.*) His grace refers to the amount of bounties, I think, which were payable. Formerly, the bounties were payable only upon the slaves, and the proceeds of the vessel?—Yes.

56. But afterwards when vessels were captured without any slaves on board, the officers got a bounty of 4*l.* a ton in lieu of the slave bounty in addition to the proceeds?—Yes.

57. Then when vessels began to be destroyed, they got an additional bounty of 1*l.* 10*s.* per ton, in lieu of the proceeds of the vessel if sold whole?—Yes. If the vessel has a certain amount of slaves on board, it is optional with the commander of the ship capturing that dhow to take a bounty for the slaves, or for the tonnage, according to his own interest.

58. (*Chairman.*) I suppose that you very often anchored in Zanzibar?—Very often.

59. Could you form any opinion, from your experience at Zanzibar, and upon the coast, of the number of slaves that were carried across to the Persian Gulf?—No; that is a very difficult thing to do. One heard reports, and one communicated a great deal with Doctor Kirk, the Consul-General there, but he was only guided by reports.

60. You could not tell whether 10,000 or 20,000 slaves were taken over in the year?—It was impossible to do so. Some of the political agents in the Gulf of Persia (and at Muscat there is generally one) would be better able to answer those questions than a naval officer. The political agent is resident there; he moves round the coast.

61. Did slaves often, or ever, beg to be received on board your ships,—did they ever swim off, or get into small boats and come alongside?—During my command, that occurred only three times.

62. (*Sir Robert Phillimore.*) Do you mean the coming of slaves in a boat, or swimming?—One

swam on board, and the other two came off, one on a raft, and one in a canoe.

63. (*Chairman.*) Were they, or not, domestic slaves?—Two out of the three were domestic slaves.

64. Did they come, stating that they had been ill-treated, or not?—No; they came for refuge,—they were afraid of their masters,—probably they had offended them, and would have been punished, or something of that kind,—it might have been a trivial offence, or not, I could not judge.

65. What was done with them when they came on board; will you state those three cases?—I will note the first. I always drew a marked distinction between a fugitive domestic slave, and a fugitive slave who had been recently made a captive. For instance, a domestic slave came on board, by swimming, or from a canoe, on two occasions, and I communicated with the Sultan of Zanzibar (those three cases occurred there) stating the circumstances of their coming on board, and with a request that he would give directions that they might be treated with leniency; on those conditions I landed them again, always sending an officer to the consulate, and the slave was claimed, not by his owner, but by one of the officers of the Sultan; but he was always ready to do anything that I suggested, and on each of those two occasions he gave me his word that he would attend to my wishes, that the man, in short, should not be punished. Both those men came in canoes; they were received on board and fed and clothed; they did not require much, but they were made very comfortable; they were not however landed without an assurance from the Sultan that he would give directions in the matter; he is his own lawyer, and acts just as he thinks proper.

66. (*Sir Robert Phillimore.*) Did you ever ascertain whether those instructions were obeyed?—I have not the slightest doubt about it; he was a man whose word you could trust.

67. (*Sir Henry Holland.*) Did the slaves understand the arrangement with the Sultan; did they remonstrate against being landed?—No.

68. (*Mr. Fitzjames Stephen.*) I suppose that they understood that they should not be punished for having run away?—I suppose that would be impressed upon them if they acted rightly.

69. But at the same time the condition of the slave would not be improved in consequence of your recommendation?—No.

70. (*Sir George Campbell.*) Did you hand those slaves over to the Sultan's officer direct or to the consul?—I used to communicate through the consul, and my message to the Sultan was conveyed by an officer at the consulate.

71. Was the act of giving over those slaves your own, or the consul's; had the consul any discretion?—It was my own act.

72. (*Chairman.*) Did you report those cases to the Admiralty?—No.

73. (*Mr. Justice Archibald.*) Those persons were virtually restored to slavery?—Yes, because they were domestic slaves. The third case was that of a slave who swam off from the shore at Zanzibar and came along side the flag-ship; he was received on board, and was on board the ship for two years; he was entered as one of what they call Kroomen, or Seedie boys; in fact they are black fellows who are employed to do the heavy work; they work in the sun if there are any particular duties on shore. When I left Bombay that man was discharged with the other black people; he received his wages and he was as free as anybody else. Those men on board the ship are just as free as any of the other sailors.

74. (*Chairman.*) Did anybody come to claim that man?—No; I kept him and restored him to his freedom, because he had recently been made a captive; he was put on board a dhow on the coast, and was stolen from that dhow by another boat, and directly he arrived at Zanzibar he swam off, but I did not look upon him as a domestic slave. On no consideration would I have surrendered him if he had

been demanded. I always drew a great distinction between domestic fugitive slaves, and fugitive slaves who perhaps had escaped from a caravan, or something of that kind, on their way to a market.

75. You having had much experience on the coast, did it appear to you that the domestic slaves were well treated?—I may say that they were invariably treated with great kindness by their masters; they were well fed, and they kept a portion of their wages, although, I suppose, it was small.

76. They had no great inducement to run away?—If your policy had been to entice them, I do not think that you would have got many of them.

77. (*Mr. Rothery.*) You mean of the domestic slaves?—Yes; they were so well treated.

78. (*Sir George Campbell.*) Are you speaking of the African Coast, or of the Arabian Coast also?—I am speaking of the African Coast.

79. (*Mr. Fitzjames Stephen.*) Were they sold, or liable to be sold?—Yes, until the treaty which was signed, I think, in February 1873, but which was not ratified till June. By that treaty the slave markets in the territories of the Sultan of Zanzibar were suppressed.

80. (*Mr. Rothery.*) It is by the second article of the treaty of June 1873. "His Highness the Sultan engages that all public markets in his dominions for buying and selling imported slaves shall be entirely closed." Up to that time they were regularly open?—Yes, I have seen them.

81. (*Chairman.*) After that time it was said that the public markets should be closed, but of course it did not prohibit persons from privately selling their slaves?—No.

82. (*Sir Robert Phillimore.*) You have said that you could always tell whether a slave was a domestic slave, or whether he was one recently captured?—Yes.

83. In the case of the third slave to whom you have referred, was there anything in his appearance which led you to suspect that he was not a domestic slave?—Yes, he looked like a newly captured slave.

84. (*Mr. Mountague Bernard.*) Like what they call a raw slave?—Exactly so.

85. (*Sir Robert Phillimore.*) So that on seeing him you could distinguish him from the other two?—Yes, immediately; and I was in the way of seeing a great deal of it, because I put a stop effectually to the method of procedure adopted, namely, to send a single slave over in each trading canoe to one of the islands, say from the main coast to either the Island of Zanzibar or Monfia, or the Island of Pemba to the north; it is only about ten miles to the main land from those islands. I suppose that on a rough calculation 30 of these boats would cross over every day bringing fruit and stock and one thing and another; that would be 90 slaves a day, and that multiplied by 30 makes nearly 3,000 monthly. I mean a slave perhaps in a boat with six others. I call the latter domestic slaves, but the slave had been newly captured and sent over to Zanzibar to be sold.

86. (*Mr. Rothery.*) You could have no difficulty in distinguishing between a domestic slave as a sailor, and what used to be called a raw slave?—No difficulty at all. I call a farm labourer, a fisherman, or a boatman, a domestic slave.

87. (*Sir Robert Phillimore.*) You would have had no difficulty in saying "these are domestic slaves, and these are newly captured slaves"?—I should not have had the slightest difficulty.

88. (*Sir George Campbell.*) The distinction was that one was a wild man, and the other was a tame man?—Yes.

89. (*Sir Leopold Heath.*) Are you not aware that it was a very common practice for slave owners at Kilwa to keep their slaves for a year or two by way of teaching them domestic habits, and making them thereby of greater value before sending them across to Zanzibar?—That would not signify much they would then be almost domestic slaves. If they kept the slaves for a year or two they taught them a trade.

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90. It is like the difference between a farmer selling his lean stock, and a farmer selling his fat stock?—Yes.

91. I believe that they educate slaves on the coast of Africa, in order to give them a greater value as saleable articles, not only in Zanzibar, but in the northern parts; are you at all aware of that fact?—In some instances slaves are valueless, because they have suffered so much in their passage to the coast from the interior that they are worthless; and sometimes the owners of these slave dhows would throw them overboard in a living state, sooner than pay a certain tax which the Sultan used to receive for every slave that left the mainland; it used to be  $2\frac{1}{2}$  dollars, say a tax of 10s. on leaving the mainland; and then there was another tax of 10s. levied, making five dollars for every living slave landed.

92. But in the case of those slaves who had been kept for any time at Kilwa, would there not be a difficulty in distinguishing between what was a purely domestic slave and a domestic slave carried across for sale?—There would be a difficulty, because they had lost that wild and timid appearance.

93. With respect to the three cases which you have mentioned, were they different cases, did two of those men come on board one ship, and did one come on board a second ship?—They were separate cases.

94. Will you name the three ships to which they came?—They came to my flag-ship.

95. All three?—Yes; one swam on board, and the two came off, one on a raft and one in a canoe.

96. (Chairman.) What was the name of your flag-ship?—The "Glasgow."

97. (Sir Leopold Heath.) You restored to their owners the two domestic slaves who ran from servitude, but you retained the other who you thought was for sale?—Certainly.

98. Did you restore those two slaves at a date subsequent to that of the instructions which you received from the Admiralty, enclosing a letter from Lord Clarendon, stating that where slavery was legal, you were not justified in receiving domestic slaves on board?—No, I was guided by my own judgment. I knew that I should be acting wrongly if I encouraged domestic slaves to come on board, and liberated them, and sent them, perhaps, to Natal or Seychelles. It would have been, I think, an unworthy act to do against so weak a power as the Sultan of Zanzibar; he had not strength to resist any act of that kind.

99. Can you give me the date when those two slaves were sent back?—No.

100. You cannot say whether it was before the Order of 1871?—It was not; I was not then on the station.

101. Then it must have been afterwards?—Yes.

102. Therefore you restored those slaves, not only on account of the feelings which, as you have just stated, actuated you under a sense of the rightness of the instructions, but also in accordance with a distinct Order to do so; an Order existed which was dated in 1871, and you restored those slaves in 1873?—There has been a distinction made between domestic slaves and fugitive slaves.

103. (Mr. Rothery.) As I understand the matter it is this, that if you had retained the slave you would have been bound to send him to Seychelles, or to some other place for the reception of liberated Africans?—Yes.

104. And you thought that it would have been more cruel to the slave to do that than to return him to his owner, by whom you considered that he was ordinarily well treated?—No, the question of cruelty had nothing to do with it. If I had sent him to Seychelles or to Natal, or to any of our Colonies, he would have been apprenticed out to one of the planters for three or four years, and after that time a man in those circumstances is at liberty to do what he likes; he is free from the moment of his capture, of course.

105. (Sir Leopold Heath.) But you would have had in that case to take him before the Vice-Admiralty

Court, would you not. You could not send slaves to the Seychelles without having them first condemned as slaves?—Of course.

106. (Mr. Justice Archibald.) But I understand that you acted on your own judgment in the matter?—Yes, in certain cases.

107. (Mr. Mountague Bernard.) Did the third slave go before a Vice-Admiralty Court?—No; in that case we sailed the next day; but you will observe that that was not a capture by one of our boats, it was a man who came on board; he had been stolen, and I used my own judgment; he was an intelligent person, and he finished by remaining on board, and was a well conducted man.

108. You would not have been obliged to send the two domestic slaves to the Vice-Admiralty Court?—No, because they were domestic slaves.

109. Will you state again what your reason was for restoring the two slaves—you have stated it with sufficient clearness to my mind, but I should like you to state again the reason on which you acted in restoring them?—I did so because I was at anchor in a roadstead belonging to a friendly power, a slaveholding state, and I should not have been doing my duty if I had not restored them to their owners; I did not give them up to their owners, I communicated with the Sultan.

110. (Sir Robert Phillimore.) You communicated through the consul?—Of course, I could not communicate direct with the Sultan; but I used to communicate a good deal with him.

111. (Sir Leopold Heath.) In fact you agreed in the policy of Lord Clarendon's instructions?—I obeyed orders. But an officer is allowed to use his own judgment in many ways, or he is not fit to command.

112. (Mr. Justice Archibald.) Were you acting under any instructions in restoring the slaves?—I endeavoured to follow the orders which were issued for my guidance, but this case was so simple that there was no difficulty about it; the men had left their masters, and they took refuge on board a man-of-war.

113. (Mr. Mountague Bernard.) If I understand you rightly, you would have done it without any order?—I would.

114. (Chairman.) Without reference to the order which has been cited to you, you would have done it from the habit which you had acquired generally in the Navy?—Yes, in the interests of this country. Such a thing as receiving fugitive slaves on board and not landing them again, might bring on a great many complications. For instance, Madagascar supplies the Island of Mauritius entirely with all its provisions, and the instant that such a thing was done by the commander of a man-of-war as to entice a slave on board, a stoppage would be placed entirely on those supplies, and there would be no trade at all.

115. You mean that it would put an end to the trade between Madagascar and the Mauritius?—Yes; because the Queen of Madagascar would prohibit any exports from her territory, namely, the Island of Madagascar.

116. (Mr. Justice Archibald.) I do not understand that these slaves were enticed in any way by you?—No; I did not entice them.

117. They came of their own free will?—Yes.

118. And you thought in accordance with your judgment that it was right and proper that you should restore them?—Precisely so.

119. (Sir Leopold Heath.) Will you state your opinion as to whether it is likely that a surreptitious slave trade will be carried on, under the plea of domestic slaves being allowed in unlimited numbers on board dhows at sea. Do you think that the Arabs are cunning enough eventually to turn it into a means of supplying Arabia with slaves?—No; I do not think so.

120. You are aware that in the treaty with Portugal the number of domestic slaves which each

owner of those slaves might carry to sea with him was fixed and limited?—Yes.

12. Do you think it wise when making a treaty with a far less civilized country, and at a far later date in the history of the world, to allow the natives of that country to carry these domestic slaves in unlimited numbers?—Yes, as long as we admit the right of these people to hold domestic slaves. What I call a domestic slave is a slave, for instance, who very probably has been born upon the Island of Zanzibar, or on the Island of Pemba.

122. (*Mr. Rothery.*) Have you any reason to think that they are in the habit of selling their domestic slaves?—Yes; if they get a certain price, if it is remunerative. The slave trade is conducted by these Arabs just like smuggling, or any other contraband traffic, and it flourishes or decays by similar circumstances, these merchants abandon the slave trade directly it ceases to be remunerative. If they pay five dollars for a slave, and can sell him, because he has been broken in a little, for 500 dollars, they do so.

123. Do you think that it is at all the practice to carry domestic slaves to Arabia, or elsewhere, for the purposes of sale?—I do not think so; I should say certainly not; there may be cases of the kind. The domestic slaves are frequently captured by dhows going up a creek to a village; they will burn the village, and take anybody they like.

124. (*Mr. Fitzjames Stephen.*) I presume that you do not allow a crowd of domestic slaves who go on board to be carried to any other place, to be sold. If you had reason to believe that that was the intention, you would at once liberate them?—Yes.

125. (*Mr. Mountague Bernard.*) Is not the number of slaves important as evidence that they are being carried for purposes of trade?—The officers must be the best judges of that.

126. But is it not regarded as evidence that the slaves are being carried for purposes of trade if you find a very large number of them?—Yes.

127. (*Sir Leopold Heath.*) I suppose that the chances of a domestic slave, who leaves Zanzibar in a northern dhow, returning to his port, depend to a great extent upon the price which may be offered for him at the intermediate ports?—If the owner can get a good price he will sell him. As a rule, the sailors navigating these dhows to the Persian Gulf, or along the northern part of Africa, come back.

128. Turning from that point, I think you said that it was difficult to ascertain the number of slaves who had gone across to Zanzibar?—It is impossible.

129. You are aware that Custom House duties are levied both at Kilwa and at Zanzibar, and is it not from the amount of those duties that the numbers, said to have been taken away, are calculated?—No, you cannot tell the precise number. I should say that one-third of the slaves who come over from the mainland are smuggled in order to avoid that duty, so that you cannot tell.

130. Reference has been made to the inducements held out by bounty and prize money to officers to make wrongful captures. From your experience of your brother officers do you think that those inducements would in any way overpower their sense of honour?—I never heard the question mooted. I never heard a single person make that statement. I am sure that naval officers are ready to do their duty without being paid. Certainly these poor fellows who are in boats for three weeks or a month at a time, deserve what you may call extra pay, but they would do their duty apart from any bounty.

131. (*Chairman.*) From your knowledge of the treaty of 1873, and from the mode of treating domestic slaves, do you think that the treatment under which domestic slaves are returned, and are differently treated from what you may call a wild slave, is a favourable mode of action with the view eventually to put an end to slavery?—I do.

132. If for instance we had no such treaty, and no such understanding as to domestic slaves, but said

that wherever we could we should take any slave on board, do you think that such conduct on the part of the British vessels would be unfavourable to doing away with the slave trade?—That is a difficult question to answer. If the Government were to give instructions to the officers, or rather were to notify to the Sultan, that for the future any slaves taking refuge under the British flag should be restored to freedom, and not to their masters, I suppose that the only effect would be to make them look sharper after their slaves and prevent their going off; they would lock them up at night.

133. You would then have to go to the anchorage at Zanzibar and use force, to which the Sultan would naturally object?—Yes, because it would be a violation of international law.

134. With regard to Madagascar, have you been much upon the coast of Madagascar?—No; the flagship was so large a vessel that the navigation was too dangerous for her to go there; but my cruisers, which were small vessels, were constantly there.

135. Had they many cases which they reported to you of slaves coming on board?—No, but they had my instructions how to dispose of them; to treat them with great kindness and consideration, and on no account ever to restore a fugitive slave recently captured; but as to domestic slaves, my instructions to my officers were clear—that they were to be restored.

136. And other slaves were to be liberated?—Yes, to be liberated at once; they were to be kept on board until an opportunity showed itself of sending them away.

137. When you had taken a number of such slaves on board, had you much difficulty in knowing what to do with them?—There were so few of Her Majesty's ships on the coast that you could not afford to send them away to Seychelles; it was 900 miles; it was a journey of three weeks more or less.

138. It was an inconvenience to send as far as Seychelles?—Yes, but other arrangements have been made recently before I left my command. For instance, in the colony of Natal they agree to pay the expenses of liberated slaves. There is a monthly communication from Aden which touches at Zanzibar, and from there it goes down south to Natal; so that the liberated slaves can be sent there at the expense of the colony.

139. Had you not first to take the slaves somewhere to have them condemned?—Yes, to Zanzibar.

140. You first had to go with the slave to Zanzibar, and then to employ some vessels to take the liberated slaves to Natal?—Yes. For instance, a captain in the Mozambique Channel, if he had 300 slaves on board his small vessel, would run up to Seychelles.

141. Would he have them condemned at Seychelles?—No, he would leave them there, and obtain the condemnation at the first port to which he went; special documents are taken.

142. It would take him some three weeks to dispose of these slaves at Seychelles?—It would not take him more than 10 or 12 days, but the ship would be off her station, and would have to return.

143. Therefore there would be a great risk of other dhows escaping while the vessel was off her station?—Yes, it would weaken the strength of the station.

144. (*Sir Robert Phillimore.*) In your experience, do you know any case of the Admiralty Court deciding upon the question whether of fugitive or of domestic slaves?—No, not to my knowledge.

145. (*Sir George Campbell.*) Am I to understand that not only was it your own practice, but that your distinct orders to your officers were, that they should restore domestic slaves who came on board their ships?—Yes. My instructions to my commanders were "You must use your judgment." Unless a man's life was in danger, or anything of that kind, he was to be restored. As a rule, with respect to domestic slaves, my instructions to my commanders were to restore them, but on no account ever to restore a slave recently captured.

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146. Have you any of those instructions?—No; I have not come prepared with data; in fact during the last six months I have been very ill.

147. Did those instructions apply only to ships lying in the ports of the slave powers, or to a ship beyond the three miles limit to which a domestic slave came?—I have not made my meaning clear. I wish to state that all the slaves would be taken, whether they were thirty miles, or three miles, or one mile away from the shore, whenever you could catch them along the high seas.

148. (*Sir Henry Holland.*) Sir George Campbell is putting the case of a fugitive domestic slave, who seeks refuge and comes out in a canoe beyond three miles?—Yes.

149. (*Sir George Campbell.*) Suppose that you run down a dhow, and that the men in the dhow come on board your ship, and that they turn out to be domestic slaves?—I should feel it my duty to return them, on clear evidence of ownership.

150. Then you would not consider the fact of their coming on board a British man-of-war in the high seas as giving them their freedom?—Unquestionably not. At Zanzibar all the fishing boats are manned entirely by domestic slaves, and all the pilots are domestic slaves. I never employed those pilots, but our ships do employ them.

151. (*Sir Leopold Heath.*) Sir George Campbell has asked what you would do with a slave who got on board your vessel by accident. For instance, if you ran down a dhow, supposing that a slave swam from the dhow voluntarily to your ship, which was hove to on the high seas, and got on board, what would you do with that slave?—I should restore him to liberty. I would not ask any questions about it. If I am at anchor, say at Zanzibar, and if domestic slaves come on board my ship, I give them up.

152. (*Sir Henry Holland.*) The question is, supposing that a domestic slave came on board your ship on the high seas, what would you do?—I should give him his liberty.

153. (*Chairman.*) Had you any such cases?—No.

154. Therefore that is a hypothetical case, which you never had?—Yes.

155. (*Sir George Campbell.*) You have told us that the Colony of Natal have agreed to pay the expense of the liberated Africans sent to them?—Yes.

156. Are not those liberated Africans, on reaching Natal, subject for a period of years to a modified slavery called apprenticeship?—No, because our Government interfere there. Immediately on the arrival of a liberated African, say at Natal, he is taken care of, if he is ill; if he is in good health, he is made over to some merchant or some planter, and there is a regulated annual payment made to that man for his labour.

157. (*Mr. Rothery.*) The farmer pays him the ordinary wages, does he not?—Yes.

158. (*Sir George Campbell.*) But he is bound to serve the farmer?—Yes. The master cannot even flog him; he is protected by the Government; he is obliged to be treated as you would treat a labourer in this country. If the man misbehaves himself, the farmer cannot put him in prison, but he reports him to the police officer or the magistrate.

159. (*Chairman.*) Where did you get your coals when you were on the station?—The coals were sent to Zanzibar.

160. You got them from Zanzibar?—Yes.

161. Were they brought on board by slaves?—Always.

162. And were not your provisions, for instance fresh provisions from the shore, brought on board by slaves?—They were all brought on board by slaves.

163. None of those slaves, as I understand you, were among those who endeavoured to remain on board?—No. In the three cases which I have mentioned, they came on board.

164. (*Mr. Fitzjames Stephen.*) If domestic slaves brought provisions, or coals, or anything of that kind

on board, none of them ever made any objection to leave the ship?—No.

165. (*Sir Robert Phillimore.*) The case never arose; they never asked to stay?—No.

166. (*Chairman.*) You have also been at Muscat in the Persian Gulf?—I went to the Gulf of Oman.

167. Oman is under certain chiefs, is it not?—Yes, under the Sultan of Muscat.

168. They are also bound by treaty to relinquish the slave trade?—It is worded precisely as in the similar treaty signed by the Sultan of Zanzibar in 1873.

169. Is it your impression that they acted faithfully according to the treaty?—The Sultan of Zanzibar did so, but I do not think that the Sultan of Muscat did; he was a poor creature, he took no interest in anything, and had not the power, or the means. He signed the treaty because he received a certain amount, but he took no steps whatever; he would sign any number of English treaties, or do anything he was asked to do.

170. Had he any vessels?—No, except one little brig, which could not put out to sea.

171. While you were there did it seem to you as if many slaves were imported into Oman?—I could not judge.

172. Did you see anything of slaves being imported?—I was assured by the second Resident there, that none had arrived at Muscat, or he would have been acquainted with it. I have no doubt that now and then a vessel escapes the vigilance of the cruisers, and gets into the Persian Gulf.

173. Did you see anything of the slaves who we are told were employed in the pearl fishery in the Persian Gulf?—No.

174. Did you see anything of them in the Red Sea?—No.

175. You did not go to the Persian Gulf?—No.

176. But you had vessels there?—There were always three vessels in the Persian Gulf.

177. I suppose that your officers made their usual reports to you?—Yes, of their proceedings.

178. Did they report any cases of having to deal with slaves employed in the pearl fishery?—No, but I think that a case arose immediately after I left the station. I am not certain about the date.

179. While you were there no case arose?—I think not.

180. Not as far as you remember?—Not as far as I remember. There is one vessel permanently in the Persian Gulf belonging to the Bombay Presidency. The Indian navy is abolished; yet she is still called one of Her Majesty's ships. She was not under my authority.

181. What vessels reported their proceedings to you?—I used to relieve them when I could. There were the "Nimble" and the "Magpie" when I left, and another similar class of vessel.

182. Those three are vessels of the Royal Navy?—Yes.

183. And they were in the Persian Gulf?—Yes.

184. (*Sir George Campbell.*) Did they remain there constantly?—I used to relieve them, and send one at a time to Kurrachee, and now and then to Bombay, for repairs. There were three of Her Majesty's gun boats told off for the Persian Gulf duty; it does not follow that they were all in the Persian Gulf at the time.

185. (*Mr. Fitzjames Stephen.*) Is it not an extremely trying station?—Very.

186. Therefore it would of course be an object not to keep vessels there, unless their presence was required?—Yes. There are always two vessels in the Persian Gulf.

187. (*Sir Robert Phillimore.*) Independently of the Indian Government vessels?—Yes.

188. (*Sir Leopold Heath.*) Since when has that been the practice?—It was so during my command.

189. (*Chairman.*) There was a vessel called the "Hugh Rose;" was that one of your vessels?—No.

190. That was a vessel of the Bombay Government?—Yes.

191. You considered that you had nothing to do with the vessels of the Bombay Government?—Nothing whatever, though they flew pennants.

192-3. (*Mr. Fitzjames Stephen.*) The "Hugh Rose" and the "May Frere" were the two, were they not?—Yes. She has a gun on board, and that is all, she is entirely manned by Indians.

194. (*Sir Robert Phillimore.*) Under whose authority are those gun boats?—Under the authority of the Governor of Bombay.

195. (*Chairman.*) Did you usually employ a certain number of blacks in your ship?—Yes, about thirty generally.

196. Where did you obtain them, at Zanzibar?—Generally speaking at Bombay, and some at Zanzibar.

197. Were they Africans?—That does not follow, sometimes they were natives of India.

198. They were men who could bear the heat?—Yes, that was the object.

199. (*Mr. Fitzjames Stephen.*) They were what you call Seedie boys?—Yes; we have some Kroomen. They return to their country, and when they cannot get employment some of them find employment on board the ships of war.

200. (*Sir George Campbell.*) I think that you have told us that the slave trade direct from Zanzibar was put a stop to by the treaty?—Not by the treaty, but by the increased vigilance of the cruisers, and the discouragement given to the trade by the Sultan.

201. At all events the trade direct to Zanzibar has been almost put a stop to?—Yes.

202. But it has been diverted to ports further north?—You cannot anchor on that coast.

203. Then where do they go to, because you have said that as far as your inquiries go, there is not any considerable importation into the Muscat country?—They go now very much to the Somali country, and in that direction.

204. Do the Somalis keep them as slaves for their own purposes?—For the cultivation of their soil; they grow an enormous quantity of wheat; there is a good market for slaves who are required in that country.

205. Do the Somalis import them for their own purposes, and keep them?—Yes, and I suppose that they occasionally sell them.

206. Do they sell them, or export them to Arabia?—That is only conjecture.

207. Have you any reason to suppose that there is now any considerable trade by sea in slaves, from Africa to Asia?—I am sure that there is not in the territories of the Sultan of Zanzibar.

208. Beyond the territories of the Sultan of Zanzibar, from any part of Africa to Asia, have you any reason to suppose that at this moment there is any considerable traffic in slaves by sea?—Yes, I should say that there is a considerable traffic from a port on the North-east of Africa; it is a very good shipping port.

209. Where to?—I believe that a good many go into the Red Sea. The Government do not wish us to interfere with Egyptian slavery.

210. Do you believe that there is a traffic by sea with which the Government do not wish you to interfere?—I believe that there is in the dhows.

211. With which the Government do not wish you to interfere?—I think so; I think that the Government have no desire to interfere with the slavery of the Khedive.

212. Do you believe that the slaves are largely imported into Egypt by sea?—No, but considerable quantities are.

213. To the Somali country do they go by sea or by land?—By land.

214. Do you think that they are largely imported to any part of Arabia?—Not largely.

215. You have said that you believe that our Government do not wish to interfere with the

Viceroy's slavery. Am I to understand that our cruisers do not make any attempt to stop the slave trade in the Red Sea?—I know that there was a court of inquiry. One of Her Majesty's ships passing through the Red Sea destroyed about five of these large junks, and the government had to pay a very large indemnity.

216. Were they slavers?—They were unquestionably slavers, but they were engaged at that season in legitimate traffic. I think that they were carrying on the pearl fishery; but when it ceases, they go into the slave trade; they pick up a cargo wherever they can get one. These men are taken up the Red Sea. I know that we have no cruisers in the Red Sea.

217. Have we any cruisers in the Gulf of Aden?—Yes; there is one in fact now constantly. The Viceroy of Egypt has extended his territories as far as he possibly could. As far as Guardafui.

218. Have we any right to search Egyptian ships?—No, we do not interfere with them at all.

219. We do not practically interfere with the slave traffic to the north of Cape Guardafui?—Not to the west of that cape.

220. (*Mr. Rothery.*) Are you acquainted with the facts of the case in the Red Sea to which Sir George Campbell has called your attention, namely, the case of the "Thetis"?—Yes.

221. Do you know that the "Thetis" had no authority whatever to seize?—She had no slave papers.

222. And also that these men were actually engaged in the pearl fishery at the time?—Yes.

223. And that they burnt all the dhows and turned the men on shore, and that three men were killed?—Yes; one was burnt, and two or three were drowned.

224. (*Sir Henry Holland.*) That was an error of judgment?—Yes, it was over zeal.

225. There is nothing in that case to show that the Government are not desirous of dealing with the question of stopping slavery?—It is a question of opinion.

226. (*Chairman.*) Do you know at all what was the price of a domestic slave?—They formerly sold for 10 or 15 dollars; but now, I suppose, they would fetch 100 dollars.

227. That of itself is a great temptation to increase slavery, is it not?—Of course it is.

228. Is there not a large free black population at Zanzibar?—I should say that out of every 100 there are 80 slaves, as compared with the native population.

229. (*Mr. Rothery.*) Do you know that in the course of the last year there were no less than 41 cases of capture which were taken to Zanzibar for condemnation?—Yes, these were chiefly boats.

230. Dhows?—Yes, three or four dhows. If there was a slave or two on board, the vessel was condemned, in order to put a stop to what is called smuggling.

231. (*Mr. Justice Archibald.*) You answered his Grace just now that you thought that your mode of dealing with domestic slaves was favourable to the suppression of the slave trade?—I think that it was keeping faith with the Sultan.

232. How do you think that it favours the suppression of the slave trade?—Because it would naturally induce the Sultan, or the ruler of that state, to put a stop to it. We have no treaty as to the domestic slaves, that matter has never been questioned at all, and if Her Majesty's ships were to receive on board domestic slaves, I do not think that the commander would be justified in doing so.

233. In point of fact what you did seems to have been justified by the extract which I have here from the Order of 1871—the East Indian Station Order—your judgment goes along with it?—I was guided by instructions when I was out there, but if you ask me the dates of the circulars, unless they are of great importance, I do not remember them. I was on the spot, and was guided by my instructions.

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A. Cumming,  
C.B.

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The witness withdrew.

Captain GEORGE L. SULLIVAN, R.N., examined.

Capt. G. L.  
Sullivan.

11 Mar. 1876.

234. (*Chairman.*) You were for some time serving upon the east coast of Africa?—Yes, in several ships.

235. Will you state from what date?—I was there as a midshipman in 1850, 1851, and 1852. I was there in command of the "Pantaloons" in 1866 and 1867; again in the "Daphne" in a part of 1867, and in 1868 and 1869; and since then I have been captain of the "London" for the last 18 months.

236. Then you have seen something of the slave trade for more than 20 years?—Yes, with an interval of 15 years.

237. As you have had an opportunity of seeing it at such different times, will you state what is your impression as to the increase or decline of slavery?—I do not think that there is any decline of slavery, although it is not carried on in the same way as formerly.

238. Since the Treaty of 1873, you think that there is still a great deal of slavery?—I think that it is just as great, if not greater, and certainly with greater suffering; but it is not so extensively carried on at sea as it was formerly; that is to say, there are not such large cargoes in dhows taken, but there is an equal number of dhows carrying on slavery, though they have a less number of slaves, the risk being so much greater they do not run large cargoes.

239. They make up for that by running a number of dhows, and the chance is that if one dhow out of three escapes, it will pay for the other two; is that so?—I do not think that is the view which they take of it. They have a certain number of slaves to convey, say from the mainland to the islands of Pemba, Zanzibar, and Monfia.

240. Those islands require a great many slaves?—Yes, at certain seasons of the year, in the clove season,—I think that it is from October to December,—they then buy up as many slaves as they possibly can for the clove harvest, and invariably raw slaves. When that season is over they cannot afford to keep them; they are domestic slaves in every sense of the word while they are there, and it is impossible to prove that they are not so; but as soon as the clove season is over they will sell them to the highest bidder, and convey them to some other place further north.

241. But we have increased our force upon the coast very considerably of late years, have we not?—We perhaps have had more ships at one time, but I do not think that the force has been very much increased of late. We have had the "Thetis," the "Flying Fish," and the "Rifleman" there, but the "Rifleman" is now in the Persian Gulf,—she has left for about a year,—she has been in the Persian Gulf ever since April last; but another vessel, the "Lynx," has recently taken her place.

242. Your impression is that the slave trade has not really diminished?—Not in the least.

243. Do you think that the pretext of domestic slavery facilitates collusion, and the carrying on of a slave trade?—Certainly it does; in fact it is as impossible to separate the condition of a domestic slave from that of a raw slave, as it would be to separate milk from water when mixed.

244. (*Sir Robert Phillimore.*) Then is it your opinion that if a ship was taken with domestic slaves and raw slaves on board, there would be a difficulty in distinguishing which were which?—There is one very decisive proof of a raw slave, and that is that he cannot speak the language of the coast; he speaks some language of the interior; you cannot understand him. That at once condemns him as a raw slave, excepting in reference to one tribe, namely, the ivory traders; they come to and fro, and although there are some bought and sold occasionally, yet as a rule they are tolerably free from it, they are too valuable in the country to be taken out of it.

245. (*Chairman.*) When you cannot understand a man whom you may find in a dhow, it is a sign that you may keep him as a raw slave?—It is a proof at

once that he is a raw slave, and is a recent importation. If you capture a dhow with one man in it of either of these tribes, who has no smattering of the Suaheli language, it condemns the dhow of course.

246. (*Sir Robert Phillimore.*) That is the general language of the coast?—That is the general language of the coast, which is very much mixed with Arabic from the long occupation of the country by the Arabs.

247. (*Chairman.*) You have spoken of the slaves being so much employed in the islands to cultivate them; were they severely treated?—They were not at all severely treated, I think. There may be solitary instances of severe treatment, but as a rule they are very well treated, and it is remarkable how happy they always appear, they laugh at everything, they are always laughing, and you never see them unhappy.

248. If we take them on board and liberate them, and then send them to Natal, where they are bound to work, they are not much better off?—No, you never send any to Natal.

249. (*Mr. Rothery.*) I think so, I know as a matter of fact that they have been sent there?—I think not recently.

250. (*Chairman.*) We send them to the Seychelles?—Sending them to Seychelles is equal to banishing them entirely.

251. Is the slave better off when taken and liberated and sent to Seychelles?—I should say that he is very much worse off.

252. Then what ought we to do with them?—We ought to form a sort of colony on the mainland for them, which would to a great extent even cut off the land traffic.

253. As, if we liberate the slaves it is necessary to do something with them, we must take them somewhere; you say that we cannot take them to Seychelles; they do not want them at Bombay, I suppose?—I think that Sir Bartle Frere's evidence before the last Commission on that subject will show what became of those who were taken to Bombay; they could not trace any, I believe, that they had ever landed; they did not know what had become of them; the women were lost sight of, a few of the children went into the schools at Bombay, and the men they know nothing of; it was a question what to do with them.

254. Then that is the great difficulty with regard to liberating these slaves, namely, how to treat them when we have got them?—Yes. There is an objection to Seychelles for this reason, that although they are very welcome there, they fall into the hands of the French creoles or half castes; and at one time the miserable pittance which they received from their employers made their condition worse than slavery, but afterwards they increased the allowance.

255. (*Sir Henry Holland.*) Do you speak from your personal knowledge of the treatment of slaves at Seychelles?—From my personal knowledge, so far as respects the information gained at Seychelles.

256. Of what date are you speaking?—I am speaking of as late as 1870. We have landed no slaves, I think, at Seychelles, or very few, since that date.

257. (*Sir Robert Phillimore.*) What are they employed to do at Seychelles?—To cultivate the land for the creole farmers.

258. What crops?—The ordinary crops produced on the island; to work on the cocoa-nut plantations, and in the manufactory of cocoa-nut oil, of which there is much produced on these islands.

259. (*Mr. Mountague Bernard.*) Are they apprenticed or bound to serve?—Nominally they are bound to serve for two or three years, and then they are set free, but by that time their condition has become a second nature, and although they are free I do not suppose that they look much above it; they can never get back to the mainland again.

260. Have they any other means of supporting themselves at Seychelles if they are not in service?—They can fish, and that I think is about all they can do.

261. (*Chairman.*) In taking these dhows, do you take many women as well as men?—Yes, just as great a number, and children also.

262. They are being taken over to Muscat, or somewhere?—The Persian Gulf is the ocean in which the stream is absorbed, there is no doubt about that, although they very often go into Persia over the Arabian country from Cape Guardafui across the Gulf of Aden, to the south-coast of Arabia, which is a very short distance.

263. The only mode which you can suggest of dealing with this trade would be to establish on the coast some Liberia, in which we could employ liberated persons, and gradually accustom them to freedom?—Yes; a place on the mainland, that is the only way of ever reducing the slave trade at all, or of fairly treating the slaves when you liberate them. At present, we are not even taking them to Seychelles or the Mauritius, or an English port. Consequently, I think we are not acting in accordance with the only Act of Parliament on the subject, which says, that they are to be carried to an English place. In George the Fourth's reign, I think there was an Act to that effect.

264. (*Mr. Rothery.*) Did not the missionary fathers take a great many children?—The mission established at Zanzibar and Mombaza have taken a great many recently, but they can only take sufficient to cultivate the land. Recently, 40 acres more were taken by the mission, and they took all the slaves, I think, for about six months that we liberated. Then the "Thetis" came in last October or November with a cargo of 240 slaves on board, and they could not take them. We had already landed a great number of freed negroes at Zanzibar, so that they were sent at the request of the mission of the Church Missionary Society to Mombaza; there they were landed, and came under the protection of the missionaries there. I do not know whether they could possibly take any more. I should think that these were more than they could very well receive.

265. (*Mr. Justice Archibald.*) What do they themselves think of being sent to the Seychelles?—They do not say anything about it, because they are taken from their own homes. It is of very little consequence to them; they know nothing of any probable future condition, and have got into such an apathetic state that they say nothing; they do not care whether an Arab takes possession of them, or whether the English liberate them. They do not at first understand what liberation means at all.

266. (*Sir Leopold Heath.*) On the whole, do you think that, generally speaking, a slave in Zanzibar is much happier than a liberated slave in the Seychelles?—I think that a genuine domestic slave in Zanzibar, with an Arab master, especially if he has been for any length of time with him, is a much happier man than he is at Seychelles.

267. As to hoisting the English flag on the mainland of Africa, as a means of forming a depôt for liberated slaves, do you think that if such a settlement were well chosen, if there were a good harbour, and if it were made a free port, and were made a coaling station for the mail steamers, it would, apart from its being a depôt for slaves, soon become an emporium for all the inland trade of that part of Africa?—I think that it would, and that would be the very best way of opening up a road to the interior; we should advance our liberated Africans, and should employ them for three or four years in cultivating the land, improving the place, and opening up the country, and do the best that we could with the adults; but we should educate the children, and let them know what position they really were in as liberated Africans, under the protection of the English, and we should not only teach them trades, but be enabled to open up a road, slowly perhaps at first, but effectually at

last, towards the interior, and, finally, as we advanced, locating them on land of their own, granted to them under any necessary conditions.

268. (*Sir Robert Phillimore.*) Have you ever been at Liberia?—No.

269. (*Sir Leopold Heath.*) What I have suggested would be, I suppose, a sort of centre from which civilization would radiate into the interior?—Yes, but a great guard must be put against the Arabs, and the Indian population, bringing their habits and their customs, their religion, their vices, and their influences into such a place.

270. It would be different from Liberia in that it would be under English rule, whereas Liberia, I think, is under the rule of these uneducated blacks, is it not?—It would be entirely under the rule of an English staff.

271. That is the difference between what you are suggesting, and the state of things at Liberia. Liberia is ruled by the free blacks themselves?—Yes.

272. (*Chairman.*) Did any liberated slaves ever come on board your vessel at different times?—Yes. There is the case of the "Daphne," which was recently alluded to in the House of Commons, and as to which it has been stated both in the House of Commons and in the House of Lords that I was tried and censured for detaining slaves, but I was never tried at all, and was never censured for detaining slaves. I was remonstrated against. I will give an outline of what took place, and the condition of the whole affair, which may explain the circumstances. The Portuguese claim territory from Inhambane South, which is the limit of our Cape possession, to Cape Delgado; it is from about 10° 39' to about 23° 54' S. latitude, but they held no actual possession on any part of the coast, excepting at certain points, and with one exception those points are all islands, Mozambique being an island. We had boat engagements on that very coast with the Arabs, and the Portuguese could give us no redress in the matter, nor help us. A year before the circumstance occurred which is alluded to in these papers, we had a portion of a boat's crew murdered, and the remainder taken prisoners by the Arabs close to the coast of Mozambique, and when the Portuguese were referred to on the subject, they said, "We cannot help you, they are rebels." The commander of the ship then negotiated with the Arab chief; he said, "Yes, I will restore them." He is a chief over 35,000 men, and he recovered the remnant of the boat's crew from the petty chief, and punished him, and restored them to us. This was between 20 and 30 miles south of the Port of Mozambique.

273. When was that?—In 1864. You will find the whole account in the Blue Book of 1865. The harbour of Mozambique is formed by the Island of Mozambique and the mainland. On the mainland the Portuguese have no authority. When I arrived at Mozambique, 16 slaves came off, some by swimming, others in canoes; it was night time; we were three days there; one had a large iron round his leg, and the others were very much marked by the lash; there had been a panic among the slaves in consequence of the cruelty of the slave owners resulting from the abolition of slavery in the Portuguese dominions. On the evening of sailing a man came off and demanded the slaves to be given up; he said, "You have negroes on board;" I said, "Yes." He said, "They are free." I said, "They are not free, they are slaves." I did not let him see them, or he would have said that the man in irons was a criminal, and that the others were criminals also; he never stated that they were so; if he had I should have been placed in another dilemma, and must have given them up. He was in plain clothes, and he said that it was in the papers that I had got these men. I said that they were not free, but were slaves, and that I should not give them up, and he went away. A month after that I went back to the port, and then this correspondence took place between the governor

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and myself, in which I pointed out to him expressly that he was unable to give us redress when our crews were murdered, and that if he could not restore our men when thus treated, or give any security to our boat's crews, he could hardly insist upon our returning fugitive slaves to him. I wrote to that effect, and I refused to give them up again. Then we went away again for a month, and when we came back, some of the slaves were tired of being on board so long, instead of being landed where they would be free, and some left the ship of their own accord. I said to the remainder, "You came on board of your own will for protection, and if you want to go on shore, you can go on shore." Some then went on shore, and some remained. At the inquiry I believe that I was never blamed for having detained these slaves; there was no statement or allusion to the fact of my having detained them. The points which are mentioned in these papers were points that were never raised at the Court of Inquiry, and I was never questioned upon them; they cannot be said to have been the result of the Court of Inquiry, because those points were never alluded to. Had they been alluded to at the Court, I could have explained them, or shown what a mistake there was. It is stated here, "Their Lordships disapprove of this conduct in not having communicated to the nearest consular agent;" but it was not within the jurisdiction of any consul. I was the Queen's representative myself, and had entire responsibility and equal powers with any consul; but had the question been raised at the Court of Inquiry, and if I had been asked about it, I should have said that I did verbally communicate with Dr. Kirk, but not officially, because it was beyond the limits of his authority.

274. (*Sir Robert Phillimore.*) It is possible that if those things had been known they would have modified their opinion?—I did remonstrate, but they declined to withdraw their reproof. I see that the Portuguese stated that I said that there were no slaves on board. I never could have said that there were no slaves on board, and the fact of the man saying that they were free and that they required passports, is a proof that they did not understand it so. I do not wish it to be understood for a moment that if I had been in a Portuguese port where the Arab slave trade was not being carried on to the extent that it was, and without slavery being an institution in the Portuguese territory, I should not at once have given those men up; but there was the fact of our own crews not being safe, and therefore the political condition of things was very different.

275. (*Chairman.*) Is there any other case?—Another case was that of a man who swam to our ship anchored two miles off Brava, a place claimed by the Sultan of Zanzibar, but he has never been able to establish a force there; he attempted it once, and they were beaten out by the Somalis, a very warlike tribe; that was just before this circumstance occurred. Three slave vessels were driven on shore at Brava at the time of our being off the place.

276. (*Sir Robert Phillimore.*) Is not that one of the cases which you mentioned to the Admiralty?—Yes. The man to whom I have referred swam about two miles to the ship, but we were within the three miles of coast which is the limit of territorial waters.

277. (*Chairman.*) What did you do with him?—I kept him on board. We knew that the slaves landed from the wrecks had all been taken to that town. We could see them marching along the coast, which is very barren and open. I detained that man on board, and no question was raised.

278. In what year was this?—1869, I think. In the same year, a vessel came in laden with ivory, she belonged to the chief of Brava. There was a man on board in very bad health, and that may have been the cause of his emaciated condition, and his slave-like appearance; he had bad sores on his legs, but there was some doubt of his being a slave; but I sent to the chief to say that if he did not give me up one hundred of these slaves that had been landed by the Arabs (many had been drowned in the

attempt to get from the dhows which they had run ashore) I should detain the ivory dhow. I knew the dhow laden with ivory to be valuable. He fought against it for several days, but at last he said that he had some slaves, and he gave me some; he sent on board 10 at first, but I would not take them, and I eventually got 35 slaves from him, and then I gave him up his dhow.

279. That was just after this man had swam on board?—It was about the same time.

280. Were there any other cases of fugitive slaves getting on board your vessel?—I remember a case the year before, but I do not recollect the particulars of it; it was within three miles of the coast, but it was on the Portuguese coast again; it was, however, on a coast where the Portuguese had no power, and where a great slave trade was carried on. There was another case in the "London;" a slave came off at Zanzibar, I sent him on shore again; he was a domestic slave; and he did not deny the fact that he was a domestic slave.

281. (*Mr. Rothery.*) You restored him to his owner?—I did not trouble about the owner, I merely sent him on shore again. Had he said to me that he had been imported into the Island of Zanzibar that week or a month before I should then have sent him to the consul.

282. (*Chairman.*) On what grounds do you say that you think that slavery has not diminished in Africa?—I know it as a fact, and while the price can always be obtained the supply will be found to meet it.

283. You think that the traffic is going on?—The traffic is going on to an equal extent, that is to say, as many slaves now, I believe, are brought from the interior to the coast at any part of the mainland as ever there were.

284. (*Sir Robert Phillimore.*) On what evidence do you found that opinion?—We had information last year of between two and three thousand slaves being marched from Kilwa up the coast by land, and they were located in scattered groups at the various harbours as they advanced north; they said that all or most of them were going to be transhipped to Pemba.

285. Do you think that their report was credible?—We had every reason to know afterwards that it was true.

286. (*Mr. Rothery.*) Were not that body of three thousand people of whom you spoke, the accumulation of slaves at Kilwa, who could not get away from there because the dhows were captured, and they marched them along the coast because they were selling for nothing?—They took the coast line because of the difficulty that they had in transferring them by sea. That is the route which is now taken.

287. That of course is a very expensive process, and attended with great loss of life?—I do not know that the loss of life is so great when once they are on the coast line, because they go from town to town, and they sell them where they can obtain a good price; they diminish the numbers by selling them.

288. (*Sir Robert Phillimore.*) As I understand you, the transport of slaves by sea has greatly diminished?—Yes; greatly.

289. But you think that it has thereby increased by land?—Yes.

290. That to a certain extent is conjectural, is it not?—No, we know it by the information which we have received from time to time up the rivers. For instance, in the Pangani river we knew that a number of slaves were on one side ready to be transferred to the other; they only waited to avoid us. We took three dhows, one having 48 slaves; they were on their way to Pemba as we had been informed.

291. (*Sir Leopold Heath.*) Are there not a number of small ports towards the Juba river, where dhows could embark slaves, which it is difficult to watch?—Very many.

292. When you say that the sea traffic has diminished, you mean from Kilwa to Zanzibar, but that the same amount of traffic goes on between the

small and unknown ports?—Yes, and the slaves are conveyed to the three main islands in small numbers at a time, and there they are sold; they change hands repeatedly, very likely, while they are in the island, and they are retained in the island so long as there is anything for them to do, and then they get rid of them. A dozen at a time will be sent from the north end of Zanzibar to the south end of Pemba, thence to the north of Pemba; they then watch their opportunity, for they learn where our boats are, and if they think that they are out of the way, they send the slaves further north again in dhows.

293. (*Sir George Campbell.*) You say that there is a large importation of slaves into the islands?—Extremely large.

294. Are the slaves who are retained picking cloves, and who have been for some time in the island, exported for sale as a matter of fact, or not?—Yes. I believe that they are, and nothing can prevent it. Domestic slavery is another name for general slavery.

295. When they are kept for a time to pick cloves can you distinguish them from the slaves who have been recently imported?—Only from their want of knowing the language. It is a very good thing to keep them on these islands as their general condition of health, &c. improves, and consequently they increase in value.

296. You say that generally speaking there is as much slave trade as ever. Where do the slaves go now?—They are absorbed north.

297. Do they go to Asia?—Yes, they must go to Asia. They gradually go up the Somali coast, which only wants a certain number of them; they can only absorb a certain number of them, and they must go on. It is a very fertile country, with a large population, and Somali must have slaves; but it is a very warlike tribe, and they make slaves of the conquered people, often of the Galla tribe.

298. Do they import slaves largely?—Yes, but chiefly for export again.

299. The Somali trade in slaves is large?—Very large. I liberated 320 off Brava, which is on the Somali coast.

300. Do the Somalis themselves carry on the same trade by sea?—Yes. There is the case of a dhow which I took, bound from the Somali country to Makullah, with 60 negroes on board, out of whom there were 11 Somalis who declared that all the other negroes were their *domestic* slaves.

301. Were there no Arabs on board that vessel?—There was one Arab, the captain; but the dhow was subsequently restored at the instigation of the Indian government on the strength of the Somali's story.

302. Do the Somalis as a rule navigate their own vessels?—Yes; it is only coast navigation in those dhows.

303. Can the slaves reach the Somali country by land, without going by water at all?—Yes; there is a slave route along the whole coast and across the rivers.

304. Is the route by which they reach the Somali country entirely along the coast?—Yes. They may go inland a little to cross the shallower parts of the rivers, then out again.

305. If we had a point of the coast in our occupation, would that traffic be necessarily interrupted?—Yes, and the more we spread inland, the more it would be interrupted, and in fact if we possessed territory in the neighbourhood of "Tanga" it would be impossible for them to pass north of that, as the route lies between that and the Zamballa mountains, about from 30 to 40 miles only from it.

306. But the present route is along the coast, and not inland?—Yes; they may strike inland at different points along the coast, not, however, to any great extent, but they eventually run up the coast, because as soon as they get to the coast there are markets.

307. Comparing the present time with the former days of which you have experience, do you believe that as many slaves now reach Asia as formerly did?—Equally as many.

308. To what part of Asia do they go?—Persia is the great place.

309. The Persian Gulf?—Persia, and the Arabian coast; that country is full of them.

310. Do you believe that a very large number of slaves go into Persia Proper?—Yes, I have always understood so; of course I have no evidence of it.

311. Have you any knowledge of the Persian Gulf yourself?—No. Formerly Muscat was the great depôt; all vessels which escaped made for Muscat, and I suppose that 99 slaves out of 100 that survived were landed there, or in the neighbourhood. But another route is across the mouth of the Gulf of Aden from Cape Guardafui to Makullah in Arabia and thence through, or round the coast of, Arabia.

312. It is not so now, is it?—I do not know. I have not been there lately.

313. Do you believe that many of them go up the Gulf of Aden into the Red Sea?—My impression is that there is a large slave trade in the Red Sea which we have no power to touch.

314. Do you think that there is a slave trade from the south to the Red Sea?—I think that the slaves who find their way to Egypt are generally brought to the *coast of the Red Sea*.

315. Do you think that there is any considerable traffic from the south by sea up the Gulf of Aden?—Not to any large extent; not to anything like so large an extent as in the Persian Gulf.

316. Do they go to Jeddah?—I fancy that they do; but my impression is that the slaves who go to Jeddah are brought to the south-west of the Red Sea.

317. We have no means of preventing it?—We have no means of preventing it. There is an impression that we have no right to search a dhow in the Red Sea, but I think that it is a wrong impression.

318. Does the same remark apply to the Gulf of Aden?—We have a right to search there.

319. (*Chairman.*) Have you been much in the Red Sea?—Yes, I was for six months in the Red Sea.

320. (*Sir Robert Phillimore.*) You speak from information, and not from your own personal knowledge?—Yes.

321. (*Chairman.*) Had you any instructions not to take a dhow in the Red Sea?—I never had instructions not to take a dhow in the Red Sea, but I had no papers to do so. I believe that if we took a dhow within a certain latitude in the Red Sea, and if the Turks said that we had no right to do it, the answer would be, "Your territory only extends a certain way down the Red Sea."

322. (*Mr. Mountague Bernard.*) We have no arrangement with Egypt to authorise search?—None whatever. There are no Egyptian dhows unless they are in the Red Sea.

323. (*Mr. Fitzjames Stephen.*) You do not consider that the Red Sea is not a part of the high sea, do you? When you are in the Red Sea you are out of sight of land to any extent?—I believe that you are so in very many parts of the African coast; for instance, for a part of the way between Pemba and the mainland, I think that the distance across is about 60 miles. Yet domestic slavery is safe anywhere there, and hitherto dhows carrying domestic slaves have not been condemned, though 20 miles from these coasts.

324. (*Mr. Rothery.*) If you found a Zanzibar vessel, or a vessel unknown, in the Red Sea, would you not seize her, and if she had any slaves on board would she not be condemned?—Yes.

325. (*Sir Henry Holland.*) As far as I can make out, you have made clear to my mind one thing, namely, that the treaty with the Sultan of Zanzibar has not aided us much in suppressing the slave trade?—I think that there is a mistaken idea of the power which the Sultan possesses; he may sign these treaties, but there are places on the mainland, and in his territory, the chiefs of which carry on the slave trade, and he has no power over them. It was almost the same at Kilwa, when Sir Bartle Frere went there; it was only by the force which the Sultan threatened to use, in which he would

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have been assisted by England, that it was checked; the chief probably knew that, and it brought him to book.

326. (*Mr. Mountague Bernard.*) You have stated in your letter to the Admiralty that it was a constant practice all along the coast for slaves to escape to the ships or boats; was that so within your knowledge?—Yes; I think that there were two minor cases in connexion with my own ship. I think that they were at no long interval.

327. There were many cases which were not reported, and of which we have no account in these papers?—Yes.

328. In those cases which you know, or have heard of, were the slaves who came off in this way domestic slaves, or newly imported slaves?—In the case of Mozambique they could not be domestic slaves, because slavery had been entirely abolished, and it had been abolished two months before in Portugal; practically, it was two days before, that is to say, the paper was signed two days before.

329. But as far as you know, is it the case, or not, that the expedient of escaping to a ship or boat would be resorted to by a newly imported slave rather than by a domestic slave?—No, because the newly imported slave would not have sufficient acquaintance with his real position to take advantage of what he might do, or of the protection which he might seek; the domestic slave thoroughly understands it. And this is another difficulty with which you have to deal. A slave may say, "I am not a domestic slave, I was bought by this man, and sold to that, and I was going to be shipped by such and such a vessel." We cannot prove that he is going to be shipped by such and such a vessel. Against his statement is brought the statement of two Arabs, who are capable of telling any falsehood in the world, and of a dozen other slaves who are told to say that he is a domestic slave, and has not been sold.

330. I ask you that question, partly because you have described the condition of a slave under an Arab master as on the whole comfortable?—Yes.

331. And as one from which he would not desire to escape?—I will not say that he would not desire to escape from it, but he is much more comfortable perhaps under a master with whom he has been for some time, or where his habits are not interfered with, and he gets plenty to eat, and so on, and more than he knows for certain he is likely to get anywhere else, especially if he has ever gone a long voyage in a ship. So that he would rather remain where he is than risk an uncertainty; and at present there is no city of refuge for him, so that by running away he could not escape slavery unless the English would free him.

332. It, however, often happened that domestic slaves did take refuge in ship, or swim off to them?—Yes.

333. What was the practice in those cases?—My impression has always been that which is conveyed in the very last sentence of Lord Clarendon's letter in the "Danube" case (June 19, 1856), where he says, that, had it been a man-of-war to which the slave escaped he would not have been given up; but then I have never lost sight of the fact that if I am receiving the hospitality of a country, that is to say, that I am actually in the harbour of it, where domestic slavery is an institution, I must respect its laws and customs, and have no right to retain a runaway domestic slave. I have never lost sight of that, and I do not think that any officer ever has done so.

334. Then what would you do?—In that case I should at once send the man on shore again, unless we had a treaty, as we had with the Sultan of Zanzibar, which prohibited the importation of raw slaves, and if he said that he was a raw slave, I should hand him over to the consul.

335. (*Mr. Rothery.*) But if he was a domestic slave would you restore him to his owner?—Yes, at once. I should send him on shore. I should not bother about the owner.

336. (*Mr. Mountague Bernard.*) If it were understood that domestic slaves would not be restored, should you apprehend from what you know of the coast, that cases of slaves seeking refuge would be frequent?—I think that they would; I am certain of it. If two or three slaves were sent on shore again, and were told that they could not obtain the refuge which they wanted, they would tell that to the rest of the slaves, and if they did not come on shore again the other slaves would very soon learn that they had received refuge, and many would come off.

337. Supposing your instructions were that you were not to give up the slave, but were not to encourage him to escape, are there any precautions to which you would resort?—Any instructions must fail to embrace all points, and those I see included in the circular are so very vague, and capable of being so differently read, that I feel that greater responsibility is thrown upon me, and greater risk probably, especially if I am liable to be censured by a court of inquiry.

338. (*Sir Henry Holland.*) Still what steps would you take?—I would say that a naval officer should be informed of all the precedents which have taken place. I have learnt of these precedents for the first time in these papers. Had precedents from time to time been published of the various cases, for instance, "A" under such and such circumstances was right, and "B" under such and such circumstances was wrong, &c., this would be a definite guide, and far better than any circular, &c.; then C and D would know what to do.

339. (*Mr. Mountague Bernard.*) I wished to know whether it has occurred to you that any practical precautions could be taken by a naval officer whose instructions were that he was not to encourage domestic slaves to come on board his vessel, but that if they came he was not to give them up?—I only know of one method, which perhaps may appear rather ridiculous; but I know that it was adopted by an officer, and I know the officer who acted in that way, as I had the circumstance from him. He told me that a negro slave came on board, and sought protection on board his ship, and that very soon afterwards the Arab master came and said, "You have my slave, who has run away." The officer said, "My good man, do not talk to me about slaves being on board a British man-of-war; if you talk to me about a nigger that stole your pig, I shall understand you." The man said, "Sir, this nigger has stolen my pig." That is the only way of acting to discourage their coming on board.

340. (*Sir Henry Holland.*) That is hardly a precaution against his coming on board; what you have been asked is whether there is any precaution which you can take practically with the view of preventing such persons coming on board?—I do not know that we could do; but such a method would certainly "discourage" it.

341. (*Sir Leopold Heath.*) Previously to 1870, when Lord Clarendon's instructions came out censuring Commander Colomb and Commander Mearns for having taken off slaves in the territories of Madagascar, was it the general opinion of naval officers that if once a slave came on board a man-of-war he was free?—That was my opinion, and I believe that it was the impression of all those whom I ever heard speak on the subject; but I have never lost sight of the fact that when actually in the harbour of a friendly power where slavery is an institution, we could not receive a domestic slave.

342. You know the cases to which I refer?—Yes.

343. Those cases took place in the territorial waters of Madagascar; the slaves were carried away, and eventually compensation was given for them, and Lord Clarendon stated his opinion that the officers who had so carried them away had done wrong. Previously to that apparent statement of what officers were to do, was not it the general opinion amongst all naval officers, yourself included, that a slave once getting on board a man-of-war, wherever it was, whether in

harbour or at sea, was a free man?—At sea, certainly, but not in harbour.

344. You, I think, commanded the "London" for 18 months?—Yes.

345. During the whole of that period she was in the territorial waters of Zanzibar?—Yes.

346. She never left?—She never left.

347. During that time did any fugitive slaves come on board?—Only the one that I have mentioned, who was a domestic slave.

348. I think that you have been asked your opinion as to whether, supposing that these orders and instructions had not come out, you think that many of the domestic slaves of Zanzibar would have taken advantage of your presence, and would have come on board, and I think that your answer was, "No"?—Yes; I do not think that the instructions assisted me there in any way. I do not recollect my attention being drawn to them.

349. Previously to these instructions, do you know that a great many of our ships were constantly at anchor in Zanzibar harbour, your ship, and my own ship, and others?—Yes.

350. There would, therefore, have been plenty of opportunities for domestic slaves to come on board if they had thought proper to do so; but so far as you know none came?—I recollect the case in the "Pantaloons" of one coming on board, but we got out of it in this way: that the Arab master represented to the Consul that the man had stolen something from him, so we delivered him to the Consul.

351. As to allowing domestic slaves to be taken to sea, do you think that a slave trade will spring up under the shelter of that law. The law now says that people may take their domestic slaves to sea for the duties of domestic slaves, or for navigating the dhows, and no vessel can be condemned solely for having those domestic slaves on board. Do you think that a slave trade will spring up under cover

of that law?—It has sprung up under the cover of that law, and to a very great extent. I took a vessel with 50 women in it six months ago. There was a very extraordinary decision on the part of the lawyers. I believe that it was confidentially communicated to the consuls out there. To Dr. Kirk it did not matter so much, but they were more inexperienced than he was. It involved an obligation on the officer, or captor, to prove that the slave was on board for the purpose of being sold. The naval officers found this out, and pointed it out to Dr. Kirk, and I think that I wrote on the subject to the commander-in-chief, and that rule was altered. I believe that the lawyers were divided, and that a casting opinion was given by Dr. Kirk on the subject; however, the rule was altered afterwards. I captured a dhow with 50 women in it and two children; the children said that they had been taken on board, and did not know where they were to be taken to. One woman said that she had been brought on board against her will, but did not know where she was going. The other women who had been slaves for a considerable time, and probably had been sold and transferred to some other place, said, "Oh, yes, we are domestic slaves," and they declared that they were domestic slaves, but it was plain that these women were not domestic slaves, and that they were about to be sold. We could not prove that they were about to be sold, and the dhow was not condemned.

352. (*Chairman.*) What did you do with them?—We had to let them go.

353. The whole 50?—Yes; the dhow was liberated. This was at Zanzibar.

354. (*Sir Leopold Heath.*) Is Captain Elton still the political agent out there?—Yes, he is at Mosambique.

355. Did he not make official reports of the number of slaves that were being carried coastwise directly Sir Bartle Frere's treaty was signed?—Yes, there is a blue book account of it.

The witness withdrew.

Major-General CHRISTOPHER P. RIGBY examined.

356. (*Chairman.*) You were, I believe, for some time employed in Persia by the Government?—I was for nearly two years in the Persian Gulf, and nearly four years consul at Zanzibar, and afterwards on my return to India I was employed in Kutch, and Kattywar in Western India.

357. When were you in the Persian Gulf?—I was sent up the Persian Gulf on secret service before the declaration of war with Persia in 1856.

358. You remained there?—I remained there for nearly two years. I was magistrate and assistant civil commissioner of Bushire, and the Island of Karrack during the whole time of our occupation of Persian territory.

359. From your position there did you see anything of the slave trade?—I myself saw the operation of it, and I heard a great deal from the officers of the Indian Navy, who were then employed in the Persian Gulf for the suppression of the slave trade.

360. Were these slaves chiefly brought from Africa?—Chiefly.

361. How were they employed, were they sent inland?—They are sold all along both shores of the Gulf in large numbers. From the opinion of the political officers in the Persian Gulf at that time, and from my own experience, I estimate that about 4,000 slaves are taken from the east coast of Africa to the Arabian coast and the Persian Gulf.

362. Are they sold and taken inland afterwards?—They are chiefly, I think, on the coast. They are employed on both coasts.

363. Are they made domestic slaves?—Yes; there is no other species of slavery there but this domestic slavery, and they are employed in navigating vessels.

364. Did you see anything of their treatment?—I may say that during the whole time that I was magistrate at Bushire and Karrack, I scarcely remember an instance of any slave coming to claim his freedom. We proclaimed that all slaves brought there were entitled to claim their freedom. The harbour of Bushire was filled with native vessels from other ports of the Gulf, but there was not one single instance of any slave coming before me as magistrate to ask that he might have his liberty.

365. Were they employed at all in the pearl fishery, of which we have heard a good deal?—No, I do not think that at that time there was any such thing as the negroes being employed in the pearl fishery. The boats employed in the pearl fishery belong to the Island of Bahrein, where it is an entirely maritime population. There was always a ship of war of the Indian Navy on the pearl banks during the whole period of the pearl fishery, to prevent disputes between the different boats; and I have never heard of any slaves coming from these pearl fishing boats to claim the protection of the English ship.

366. Then it would seem from your information that on the shore of the Persian Gulf the slaves were not ill-treated generally, as they did not fly to you for refuge?—The only instance which I had personally of a slave coming to me, claiming the protection of a British officer, was on the Island of Bassidore in the Persian Gulf. I was there with only two other officers; there was no English ship in the neighbourhood, and a slave one day ran into my tent and fell down and clasped my knee. Both his arms were quite raw to the bone; the flesh had been cut away where he had been bound. I gave him protection, and a few days afterwards the chief of the tribe to which the man belonged sent one of his chief officers

*Capt. G. L. Sullivan.*

11 Mar. 1876.

*Major-Gen. C. P. Rigby*

Major-Gen.  
C. P. Rigby.  
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to demand that this man should be given up. I took up a rhinoceros hide whip which happened to be on the table, and I gave him a very severe thrashing, and told him to go to his master and tell him that he would have the same treatment if he came with an impertinent message, and nobody claimed the man after that.

367-8. What did you do with the slave?—A ship bearing the British flag came in soon afterwards, and they shipped him as a seaman, and kept him on board as a sailor.

369. That is the only instance which you have had?—That is the only instance; but I should like to add, that I do not think that there can be any legal status of slavery in any part of the Persian Gulf, because all the chiefs, without exception, of the maritime states of the Gulf, and the coast of Arabia, have had treaties with the British Government since the year 1822, by which they all declare the slave trade to be piracy, and give authority to our ships of war to seize and treat as pirates, any of their vessels found with negro slaves on board.

370. Quite so, but still that does not affect the slaves on shore?—The slaves on shore can only have become slaves through evading our men-of-war by an act of piracy. These parties never harbour and breed their own slaves, if they bore children they would not be born slaves. The negro slaves must have been introduced into those countries in violation of our treaties.

371. (*Sir Henry Holland.*) The children would be born slaves if domestic slavery is not illegal, and that is the effect of the treaties?—There is no legal status of slavery in Persia in particular, the only slave there is merely a servant.

372. (*Sir George Campbell.*) Are slaves not bought and sold in Persia?—I think not. I have never heard of any being bought and sold unless they are newly imported ones; those newly imported of course are bought and sold; but that is not the case where they have been adopted by a family and form a part of the family, as they always do.

373. (*Mr. Iothery.*) Is not the child of a slave girl free?—Yes, in Persia.

374. And in Arabia?—And in Arabia too. These Mahomedan States of the Gulf only recognise the mild domestic slavery which we read of in the Old Testament. The actual making a human being a slave in the market is entirely illegal, and has always been carried on in spite of the treaties.

375. (*Chairman.*) Do you think that there was much sale of slaves along the shore of the Persian Gulf?—Very considerable; they were then taken chiefly to Muscat, and the ports in the neighbourhood of Muscat, and from there they were sent to the coast of Persia up to Bassorah, and the Turkish territories, and also to the coast of India, a good many were sent to Kutch and Kattywar.

376. Both men and women?—Yes. The men were employed as domestic slaves, and the women as concubines. In dhows captured at Zanzibar I found piles of letters from the various chiefs in the Gulf with minute descriptions of the sort of women who were to be bought for their harems.

377. If we liberated these women what could we do with them in our ships?—A great many were liberated at Zanzibar by the ships of war, and a great many were captured in native dhows. At first they were all landed at Zanzibar, under the protection of the consul; that was the only means of disposing of them, and I think that it was a very good means; they were in their own native country and among their friends, and they understood the language.

378. What did they do with the women in the Persian Gulf?—I do not think that any numbers were ever taken by our men-of-war in the Persian Gulf; if they were, they were sent to Bombay; there was no Admiralty Court nearer at that time.

379. If they were taken anywhere else they were sent to Zanzibar?—Yes, if taken anywhere on the coast of Africa.

380. What was done with them at Zanzibar?—At Zanzibar they were landed, and had certificates of freedom given them, and they were under the protection of the British consul as British subjects; they all settled down and found plenty of occupation directly.

381. You were for some time resident at Zanzibar?—For nearly four years.

382. What did you think of the state of slavery at Zanzibar?—When I first went there in 1858 I could learn nothing of it at first; my predecessor had died there, and the consulate had been shut for about 18 months. Gradually I found that very extensive slavery was going on amongst the British subjects, and I insisted on their emancipating every slave they possessed; and I think that the number amounted to between 7,000 and 8,000.

383. There were 7,000 who were in the possession of British subjects?—Yes.

384. That is to say, people coming from India?—Yes.

385. Did they employ them in cultivation?—Yes, very largely; one man would perhaps be the owner of 400 slaves employed in plantations.

386. You insisted upon their liberating them?—They were all liberated and registered at the consulate, and received certificates of emancipation, and they immediately found occupation. A great many of them remained with their old masters; those who had got huts and settled on plantations did so, and they made arrangements with their masters to remain as free labourers.

387. Instead of being slaves and fed, they were free and supplied with food in that way, I suppose, what was the difference?—The arrangement which they made with the former master was to work for him three days in the week, and to have the remaining four days for themselves. In return for the three days labour, the master gave them enough land to cultivate food sufficient for themselves.

388. (*Sir George Campbell.*) Is there nothing of this kind in the Persian Gulf?—I think not there; there is no cultivation going on of importance in the Persian Gulf.

389. (*Chairman.*) Have you any notion of what quantity of slaves were taken from Africa and carried across to Arabia or Persia?—When I was at Zanzibar those who paid duty to the Custom House were about 19,000 annually.

390. That was up to what time?—1862. Besides that number the Sultan's family imported about 5,000, they did not pay any duty, and those were not included in the number that passed the Custom House.

391. (*Sir George Campbell.*) Where did the 19,000 go to?—All up the North and Arabian coast. A great many went opposite to the ports in the Gulf of Aden, a great many to the Red Sea, and a great many to Egypt. The slave trade up the Red Sea has been very much increasing. When I came home from Zanzibar in 1862, I reported that I had found many recently imported African slaves at Suez who could speak nothing but the Suaheli language.

392. (*Sir Henry Holland.*) We have heard that the Sultan of Zanzibar cannot carry out his treaty. Do you know whether the same observation applies to the Makullah treaty—can that be kept?—I think that none of these Arab chiefs will attend to the treaties unless they know that they are sharply watched by a British man-of-war.

393. In fact when we have made a treaty we have to keep them up to it?—Yes.

394. (*Chairman.*) When were you at Zanzibar?—In 1862.

395. You have not been there since?—No.

396. You have not seen the effect of the late treaty?—No. After that time I was employed in Kutch. The port of Bhooj is the chief emporium for all the trade of India from the East coast of Africa, so that at a certain season the men come there from Zanzibar; and a great many men that I had emancipated recognized me and showed me

their certificates of emancipation which I had given them. I used to proclaim to all the slaves: "You are free and can claim your freedom," but not a single man did so. I am speaking now of the crews of the vessels employed in the trade of East Africa.

397. (*Sir George Campbell.*) What becomes of those men who are sold in India?—They are sold in all the towns, Kattywar and Kutch are full of these African slaves.

398. What do they use them for?—As domestic slaves; the women are used as concubines.

399. (*Chairman.*) But as I understand you they did not wish to go away?—Not those employed in vessels. I mention this because I do not see that any difficulty can arise from any number of slaves coming on board Her Majesty's ships to claim their freedom—it would only be in a case of atrocious cruelty, or where a woman has been subject to gross cruelty—otherwise I do not think that any difficulty could arise. The few instances which will ever happen of a slave coming on board a man-of-war to claim his freedom, I believe, will always be where his life is in danger.

400. (*Sir Henry Holland.*) Supposing that before an English man-of-war went to Zanzibar it was proclaimed that the officers would not entice fugitive slaves on board, but that it must be understood that if a slave did escape and come on board he could not be returned, do you think that if that was known in Zanzibar there would be a great number of fugitive slaves?—I think that there would be very few. There would be a few who had been recently imported in violation of the treaty, but a slave who had once settled down in an Arab family, unless his life was in danger, would not seek to escape.

401. You do not anticipate that there would be any rush of fugitive slaves if such a proclamation were made?—No.

402. (*Sir George Campbell.*) In Zanzibar do they make them all Mahommedans?—No, not always; when they are taken young they do.

403. In the Gulf do they do so?—I do not know. When they are once landed there I do not know that they care what they are.

404. A slave would be much better treated as a Mahommedan?—Yes.

405. (*Mr. Mountague Bernard.*) A slave on board a fishing boat would be very unlikely to go on board a man-of-war?—Very. I have never found an instance of it in Bombay.

406. (*Sir Henry Holland.*) Are they all slaves?—Yes.

407. They are used for the purpose of coaling and bringing provisions on board, and they never claim their freedom?—Just so.

408. (*Sir Leopold Heath.*) Do you remember that eight years ago official communications were made to the Governor of Bombay, stating that there were a great many dhows in the harbour with slaves, and that an official investigation took place which resulted in reporting (I will not say proving) that that was not the case?—I quite remember that, and I also know positively that a great number of slaves are so taken to Bombay and sold in Bombay, and taken into the interior. After seeing that, I asked Colonel Hodgson, who is now at home, and who was the superintendent of police of a district close to the city of Bombay, about it; he said that his men constantly reported the same thing to him. I had a small boy emancipated whom I brought home and put to school, and I took him back to Bombay, and he constantly said to me that he saw recently imported slaves there.

409. (*Chairman.*) Those slaves could claim their freedom if they liked?—Not the women, because they are veiled and cannot speak to anybody, and the boys are carried off to the Mahommedan cities in the interior before they have sufficient knowledge to become aware that they would be free. Another difficulty is that you never meet with anyone in India who can speak the Suaheli language.

410. (*Sir Leopold Heath.*) Do you think that if the carrying of domestic slaves as a part of the crew were forbidden, the trade would be hampered for want of seamen, or are there sufficient freemen to man all the dhows which frequent Zanzibar?—I should like to explain that this term of "domestic slaves" has only arisen since the new treaty, and the new regulations have come into force. I do not quite know what the effect of it will be in any treaties that we can make. There was no such provision under the old treaty of 1845, that domestic slaves were distinguished from any other slaves. If a vessel had slaves on board, whether they were domestic slaves or freshly imported slaves, the vessel was liable to seizure for it; it is a new term.

411. (*Sir George Campbell.*) That was under the treaty of 1845?—Yes.

412. (*Sir Leopold Heath.*) And also under the Admiralty Instructions?—Yes.

413. (*Chairman.*) Then you think that making any marked distinction between slaves is a mistake?—Yes. Admiral Cumming seems to be under the impression that what are called domestic slaves are not sold or taken away. One vessel which I boarded with Captain Oldfield, who commanded the "Lyra" at Zanzibar, had 102 girls on board, she was just going to sail; the women had all been selected for their youth and good looks, to be sold at high prices in Arabia; they had most of them a certain amount of education, and what the Arabs would call accomplishments; they had been taught singing and dancing.

414. (*Sir George Campbell.*) Were they Arabs or Negresses?—Negresses. Those 102 females were in Zanzibar Harbour. When they were taken out of the vessel sailors were sent in to take out their provisions, and every man who went into the hold fainted immediately. The doctor said that it would cause some epidemic, and the vessel was towed out to sea and scuttled. There is no doubt that if that vessel had sailed from the harbour of Zanzibar with those 102 females on board, not one woman would have been alive. She was going up to the coast of Arabia. That is a case where they sell concubines to Arabs; they keep them for two, three, or four years, and when they get tired of them they sell them to other Arabs. A common thing in Zanzibar is for a man to go into the market and buy a number of girls and keep them as concubines for 10 or 12 months, and then he resells them.

415. (*Chairman.*) What happened to these 100 girls?—They all went to the Seychelles? I afterwards saw them nicely dressed, some were going to church, and they were looking as happy as possible. They were all handed over, and attended to under the superintendence of the Commissioner of Police.

416. (*Sir Henry Holland.*) In what year was that?—In 1861.

417. From what you saw there, do you think that the slaves who were brought there were badly treated?—Quite the reverse.

418. (*Sir George Campbell.*) You mean in the Seychelles?—In the Seychelles. Another thing is, that it is a climate which exactly suits them, and they get the food to which they have been accustomed, namely, cassava.

The witness withdrew.

Major-Gen.  
C. P. Rigby,  
11 Mar. 1876.

Tuesday, 14th March 1876.

PRESENT :

HIS GRACE THE DUKE OF SOMERSET, K.G., IN THE CHAIR.

THE RIGHT HON. SIR ROBERT J. PHILLIMORE,  
D.C.L.

THE RIGHT HON. MOUNTAGUE BERNARD, D.C.L.  
SIR HENRY T. HOLLAND, BART., C.M.G., M.P.

REAR-ADMIRAL SIR LEOPOLD HEATH, K.C.B.  
SIR HENRY J. S. MAINE, K.C.S.I., D.C.L.

SIR GEORGE CAMPBELL, K.C.S.I., M.P.  
HENRY C. ROTHERY, ESQ.

HENRY HOWARD, ESQ., C.B., *Secretary.*

ADMIRAL THE HON. SIR FREDERICK W. GREY, G.C.B., R.N., examined.

*Admiral The  
Hon. Sir F. W.  
Grey, G.C.B.*

14 Mar. 1876.

419. (*Chairman.*) Will you state at what period you were in command at the Cape?—I was in command at the Cape from May 1857 to July 1860.

420. Your command at that time extended to the east coast of Africa as well as the west?—Yes.

421. How far did it extend over the east coast?—It took in all the Portuguese possessions on the east coast to Cape Delgado.

422. Which is nearly opposite the northern point of Madagascar?—Yes; and Madagascar was in my station, and Mauritius, and the Island of Johanna.

423. (*Sir Robert Phillimore.*) Madagascar was the furthest point north?—Yes.

424. (*Chairman.*) During that time had you, or the captains under you, any experience of fugitive slaves coming on board any of the vessels of the Royal Navy?—None; I have looked back to the records of the station during the whole time, and I cannot find a single official letter upon that subject.

425. You had several vessels employed in preventing the slave trade?—Yes, very actively employed on both sides. The slave trade was at that time very active; there was one officer in particular on the east coast, namely, Captain Oldfield, who was most zealous and most active in cruising against the slavers, and he captured a good many slave vessels.

426. You went, I suppose, into different ports in Madagascar, and on the opposite side, Mozambique?—I went to Tamatave and to Johanna and to Mozambique; those were the three ports which I visited in that particular locality.

427. On those occasions did you see anything of the slave trade?—No; I saw a great many slaves at Mozambique, but they were chiefly domestic slaves. I saw slaves upon the plantations there in large numbers, and a more degraded or miserable set I never saw in my life anywhere.

428. But none of them attempted to escape to the ships?—None. Besides having looked back to official records, I cannot recall to recollection any instance.

429. Did you on any occasion go up further north, to Aden or near there?—When I commanded the "Endymion" I was senior officer at Bombay, and I went to the Persian Gulf. One of the instructions which I had at that time was to go to a place called Shargah, and reclaim from the Sheik of that port some slaves who had been carried off into captivity from Berbera, a place on the coast opposite Aden. I did so. I had with me as an interpreter a very intelligent officer of the Indian Navy; and when I got to Shargah I claimed those slaves, and got back four women.

430. Were they negro women?—Not negroes, they were Somalis; they are not the black negroes—they are rather a good-looking race of people. After they were on board I asked this lieutenant of the Indian Navy, who spoke their language, to get their histories from them, and it appeared upon inquiry that every one of them had been sent away with her own consent; they had been sold by their relations with their own consent, and they were very sorry to go back again.

431. However, you took them back?—I took them back to Berbera, and when I got there the first thing that I found was that the place was full of slaves

waiting for shipment to the Persian Gulf. I landed the women there in obedience to my instructions; what became of them afterwards of course I have no means of knowing. The Somalis are a very fine race of people, but I was forced to be very cautious in what I said to the Somali chief in delivering these people to him; I did not allude to the question of slavery, but I said we had heard that they had been carried off, and that we were anxious to show our goodwill by restoring them to their country.

432. (*Mr. Mountague Bernard.*) These were women of his own race?—Yes; that is the only instance in which I have had anything to do with slaves.

433. (*Chairman.*) Did you see much of the slavers, and slave trading vessels, when you were in the Persian Gulf?—I do not remember seeing any slavery in the Persian Gulf.

434. (*Sir Henry Holland.*) A good many slavers were captured during the time of your command?—A great many.

435. What was generally done with the slaves who were captured; were they taken to the Seychelles?—All on the west coast were taken to Sierra Leone or St. Helena, and those on the east coast were taken to the Seychelles; but it very seldom happened that the dhows that were captured were seaworthy, and generally the slaves had to be taken on board. In a great many cases they were run on shore, and a great many of the slaves were drowned.

436. (*Sir Robert Phillimore.*) Have you formed any opinion as to what could be done with slaves if they were captured in great quantities; where they could be sent to?—I do not know of any other way of disposing of them but sending them to one of the stations where you have liberated Africans, and trying to provide for them in the best way that you can.

437. Have you ever been at Liberia yourself?—I have. I passed two days there. The president and vice-president were absent at the time; I was very much struck with the schools in Liberia, and the pains that were taken to teach the children. I did not, however, form a very favourable opinion of the character of the grown-up liberated Africans, they seemed to be very idle and very listless.

438. (*Chairman.*) When they are taken to the Seychelles they are put under a sort of limited slavery; they are put under apprenticeship, are they not?—Yes. Formerly at Sierra Leone the West Indian regiments used to be recruited from them.

439. I was rather adverting to the east coast, and to the Seychelles?—I was never there; there was an establishment there for them, and I hardly know what was done with them afterwards.

440. (*Sir Leopold Heath.*) From what you have seen do you suppose that, in the event of England determining to carry out the doctrine that slaves are freed on coming on board a man-of-war, if captains gave out that they would not entice people, but would do their best to keep them away and so on, there would be any great rush of slaves on board a man-of-war at any of the places with which you are acquainted; would there be any large number taking advantage of this free spot in the harbour?—That is so entirely a matter of opinion that I hardly know how to answer the question. My own opinion is that it would be

very injudicious to hold out the expectation that slaves would be received on board our ships. I think that it would lead to very difficult questions and complications which formerly did not arise.

441. I wish to know what you think the slaves would do supposing that that were the rule?—I really have no means of judging.

442. (*Mr. Rothery.*) I understand you to say that you would think it very injudicious to hold out any such inducements?—Certainly.

443. When you were in a neutral port, if a slave had come on board your ship while you were in command, what would you have done?—My opinion upon that point is this: if, as captain of a ship, I went into the harbour of Rio de Janeiro, where all the work was done by slaves, if a boat with supplies, or with coal, came alongside, I should give positive orders to the officers not to allow any of the men from the boats to come on board, and if any did come on board surreptitiously I should order them to be sent back into their boat directly.

444. (*Mr. Mountague Bernard.*) With respect to the plantations at Mozambique, to whom do they belong, to the Portuguese, or the Arabs?—The plantations that I particularly went to were on the mainland opposite, and belonged to a Mr. Suarez, a Portuguese, who is well known to all the captains upon that coast, and who owns rather extensive plantations, and is, I

The witness withdrew.

FRANCIS FLEMING, Esq., examined.

452. (*Chairman.*) You were, I think, at one time Acting Magistrate in the Seychelles?—I was the Acting District Judge for four months in the year before last. I had a permanent appointment in Mauritius, and I went over to replace the judge at Seychelles for four months; as the judge wanted leave of absence.

453. During the time that you were at the Seychelles, you had an opportunity of seeing something of the slaves who were landed there?—I saw slaves landed three or four times during the time I was there; slaves brought in by the men-of-war and landed there.

454. How were they dealt with when they came?—When they first arrived they were taken charge of by the Government, fed, clothed, and taken care of for a certain number of days, according to the condition they were in, and they were then allotted to the planters or the proprietors in the island.

455. What are the terms of their allotment; are they allotted for a particular period?—So far as I remember they entered into a contract of service for a period of five years, much in the same manner as the immigrants who arrive in Mauritius from India.

456. Like the Coolies?—Like the Coolies. The contracts between them and the masters are passed before the district judge, and the conditions of the contract are explained to them by means of an interpreter.

457. Have they room in the Seychelles to take any number of slaves?—Yes; they are in want of labour in the Seychelles and when a cargo of slaves arrives the applications are very numerous for them.

458. Both for the men and the women?—More for the men than for the women; but I think that all the cargoes which arrived whilst I was there were very soon allotted. There was no difficulty in getting rid of either the men or the women, but, of course, the planters prefer having the men to the women.

459. (*Sir Robert Phillimore.*) Was that in any particular season?—It was from the end of June until the middle of October.

460. Do they grow cloves in the Seychelles?—The chief product of the island is cocoanut, and they now grow vanilla to a small extent.

461. (*Chairman.*) Did the slaves seem contented with their position?—They appeared to be so whilst they were under the charge of the government. They were well fed, and seemed very happy, and the nature of the contract was explained to them. I cannot

suppose, as good a specimen of a Portuguese slave owner as you would find.

445. Are there a great many of those Portuguese plantations round that coast?—I do not know to what extent Portuguese planters are settled in the country; the coast is very unhealthy, and I do not think that there are any great number of them.

446. Slaves in the hands of the natives, or of the Arabs, would not be employed upon the plantations?—Not at all; all that I saw were negroes.

447. (*Mr. Rothery.*) I think that some of the native tribes about Mozambique have slaves, have they not; the independent tribes?—I imagine that slavery is the rule of the country.

448. All along there, both north and south of Mozambique?—Yes.

449. Not only Portuguese but also the natives themselves?—Undoubtedly; I think that on the whole of that coast of Africa domestic slavery is an institution.

450. (*Chairman.*) Had you any opportunity of seeing how the native chiefs treated their domestic slaves. We have heard that they treat them with much more kindness than the Christian masters?—I had no opportunity of judging of that.

451. (*Sir Robert Phillimore.*) In what year were you in the "Endymion"?—In 1841.

exactly say how they felt after they had entered into the contracts with their employers, but I know that they were perfectly well aware of their rights, because when they had any complaint to make against their employers they knew how to find their way to the court house, and I know that some of them came within a week or a fortnight of their allotment to make complaints against their employers for not being properly treated, or properly fed; I had to examine into the complaints which they made, and to decide upon them. The complaints, I may say, were not numerous, but there were instances in which a very short time elapsed after their allotment before the Africans came down to complain.

462. Before that time you were in Mauritius?—I was magistrate in Mauritius.

463. (*Sir Robert Phillimore.*) At what date were you in the Seychelles?—I went in June 1874, and returned to Mauritius in the following October.

464. (*Chairman.*) Did you see anything of slavery in Mauritius, did any slaves come from Madagascar?—No, I never saw a slave land in Mauritius; I never saw what might be termed a liberated African landed whilst I was there, and I believe that, for several years previous to that time, no liberated African had been landed in Mauritius.

465. (*Sir Robert Phillimore.*) Is it your opinion that the Seychelles could employ a greater number of slaves than have yet been imported there?—I think that work could be found for more than I saw landed there.

466. What sort of number do you think could be taken?—I can form no opinion as to the number which might be required.

467. (*Sir Henry Holland.*) Is not the condition of the island improving?—Yes.

468. More land is now put under culture than there used to be?—Yes. What are now required are more hands to work.

469. (*Mr. Rothery.*) Are you aware that at one time they asked not to have any more sent to them—that was before your time?—I am not aware of that. I heard no complaints of too many landing whilst I was there.

470. (*Sir Henry Holland.*) Had you opportunities of observing the general state of the slaves after they had been allotted to the masters in the Seychelles?—

*Admiral The Hon. Sir F. W. Grey, G.C.B.*

14 Mar. 1876.

*F. Fleming, Esq.*



F. Fleming,  
Esq.

14 Mar. 1876.

So far as I was able to judge, they certainly improved in condition after they were allotted.

471. When the term of five years was over, do you know whether many of those men engaged themselves, or what became of them?—I cannot speak on that subject, as I was so short a time in the Seychelles.

472. I did not know whether you had made inquiries as to the condition of the slaves, and what became of them?—No.

473. (*Sir Robert Phillimore.*) Did you ever know an instance of the slaves in the Seychelles becoming proprietors themselves?—No.

474. (*Sir George Campbell.*) You have told us that the slaves entered into a contract for five years, do you mean that there was anything voluntary in that contract, that the slaves had any option in it?—The master and the liberated African both went before the District Judge, and the contract was explained to both parties, and then they entered into it.

475. Was the liberated African asked whether he wished to enter into this contract for five years, or not?—He was asked whether he would enter into the contract.

476. Did he always say that he wished to enter into it?—I do not know that he ever said that he wished to enter into it, but I do not know any instance of his refusing to do so.

477. As a matter of fact, do you think that there was anything whatever voluntary in that contract; had the slaves any option, or were they simply made over to the masters?—The liberated African, as soon as he is in a condition to enter into a contract of service, is brought before the District Judge, and the proposed master is brought with him, and then they enter into the contract; but I do not know that the question was put to the liberated African as to whether he wished to enter into the contract or not.

478. (*Sir Leopold Heath.*) What would have become of him if he had refused to enter into this contract?—That I really do not know.

479. (*Sir George Campbell.*) Are you aware that the Coolies who are imported into the Mauritius have no option?—Most of them enter into the contracts in India.

480. A Coolie has no option when he arrives?—No, because he has entered into his contract before he arrives.

481. Do you consider that the African has any greater option?—I cannot say what option the Coolie has in India.

482. I mean when he arrives in the island?—I do not know what could be done with him if he did not work.

483. (*Mr. Mountague Bernard.*) As far as you know the question never arose?—The question never arose. I never knew an African say "I will not enter into the contract." If that question had arisen, I do not know what would have become of him, because there is no provision for a liberated African if he does not choose to work.

484. (*Sir George Campbell.*) Are there interpreters who understand the language of these Africans?—Yes, I generally found persons who could act as interpreters, and who understood the language of the Africans.

485. Do they understand the language of the Africans from the interior?—Yes, they understood their language immediately after they were landed.

486. (*Sir Leopold Heath.*) You have spoken of the number of slaves for whom there is still room at the Seychelles. The cultivable land is very limited, is it not?—The size of the several islands is not very large.

487. The great mass of the land is uncultivable hill side?—Yes, I think that a great portion of it cannot be cultivated.

488. Have you any idea of the number of acres which are cultivable?—No, the only thing from which I can judge is the number of applications which were sent in for liberated Africans when any were landed.

489. When you were there did you form any idea of the moral condition of the female liberated Africans?—I did not see sufficient of the population to judge of that, but I rather think that their moral condition was not good.

490. Do you suppose that it was worse than in any place that you have ever been in?—I should think so.

491. (*Sir George Campbell.*) Do the laws prevailing in Mauritius prevail in the Seychelles also?—To a great extent. They have now power in the Seychelles to pass certain regulations affecting the Dependency—which is to a certain extent separated. Sir Arthur Gordon took a great interest in the Seychelles, and he had a Protector of liberated Africans appointed, whose duty it is to go from island to island and to look after the liberated Africans. They have a board of Civil Commissioners who pass local regulations. One of the Civil Commissioners at Seychelles is a merchant. The Board of Civil Commissioners is composed of the Chief Commissioner, the District Judge, the Government Medical Officer, and two or three unofficial members.

492. Are the unofficial members always planters?—Either planters or merchants. The best officers who can be found in the Dependency, are members of the board; but the board is quite new. It was instituted in Sir Arthur Gordon's time, only two or three years ago.

493. In your time were there any freed Africans in the Seychelles?—Yes, when once the five years contract is over they are free.

494. Are not those freed Africans subjected to the rules to which the freed Coolies are subjected in Mauritius?—They are not subjected to the same rules. I cannot speak with certainty upon the question, as I saw very little of the Africans in the Seychelles who had completed their five years, those that I had most to deal with were Africans still under the contract of service.

495. But there are free Africans there?—I believe there are.

496. You do not know however?—I cannot say with certainty whether there are any restrictions imposed upon the Africans after the expiration of the five years, but I know that they enter into the contract of service for five years, and when their five years are up I presume that they are free.

497. Are they really free, or are they subjected to the same pressure as the Mauritius Coolies, who are supposed to be free, are subjected to?—I am unable to speak for certain upon that point, as there may be regulations in force of which I have no knowledge.

498. (*Chairman.*) Had you ever a complaint brought before you from a free African?—I do not remember one.

499. (*Sir Leopold Heath.*) Supposing that a liberated African wished to return to his own home, or at all events to some town on the main land of Africa, practically would he have any chance of ever doing so?—Do you mean so long as he is under contract of service?

500. Is there any means of his getting out of this isolated condition after the termination of the contract?—I suppose that it would depend upon the amount of money which he had.

501. (*Sir George Campbell.*) What are the terms of the contract of service?—I do not exactly remember the items now, but the master is obliged to pay the man so much, and is obliged to feed him. The articles of food are mentioned in the contract.

502. (*Mr. Mountague Bernard.*) Does it limit the hours of labour?—The hours of labour are limited.

503. (*Sir Henry Holland.*) And the master is obliged to give the man hospital treatment?—Yes. The contract of service is very similar to the contract of service which is passed with the immigrants in Mauritius.

504. (*Sir George Campbell.*) Have you any idea what the rate of pay is?—I really do not remember, but I think that the rate of pay would begin probably

at three to four or five rupees a month besides food. I do not remember the exact amount of pay.

505. (*Mr. Mountague Bernard.*) How do they live? Have they separate huts?—I do not know; I never noticed the manner in which they lived.

506. (*Sir George Campbell.*) Can you tell us whether they do save money?—I cannot say, I had no time to go round the country, nor to see their condition, it was not of course my duty to do so. I merely had to decide the cases which came before me.

507. Are all the labourers in the Seychelles Africans, or are there Coolies also?—There are very few Indians.

508. (*Sir Leopold Heath.*) Is the French missionary school still flourishing?—Yes.

509. Do you know how many liberated children there are there?—I cannot say how many there are, but I know that there are a great number, because I very often saw them going to church.

510. Are there any now in our own clergyman's school?—Yes, but a much smaller number.

The witness withdrew.

*F. Flaming,*  
*Esq.*

14 Mar. 1876.

Friday, 17th March 1876.

PRESENT :

HIS GRACE THE DUKE OF SOMERSET, K.G., IN THE CHAIR.

THE RIGHT HON. MOUNTAGUE BERNARD, D.C.L.  
THE HON. ALFRED H. THESIGER, Q.C.  
SIR HENRY T. HOLLAND, BART., C.M.G., M.P.  
REAR-ADMIRAL SIR LEOPOLD HEATH, K.C.B.

SIR HENRY J. S. MAINE, K.C.S.I., D.C.L.

SIR GEORGE CAMPBELL, K.C.S.I., M.P.

J. FITZJAMES STEPHEN, ESQ., Q.C.

HENRY C. ROTHENY, ESQ.

HENRY HOWARD, ESQ., C.B., *Secretary.*

EDWARD NEWTON, ESQ., C.M.G., examined.

511. (*Chairman.*) You are Colonial Secretary in Mauritius?—I am.

512. From what date have you been so?—Since May 1869.

513. Can you tell us whether, when you were there, there was much trade from Madagascar to Mauritius?—Yes, there was a considerable trade from Madagascar to Mauritius.

514. In Madagascar vessels?—In British vessels.

515. Chiefly in British vessels?—Entirely in British and French vessels.

516. Not in native vessels?—No.

517. That trade was carried on in no way by the slave population?—Not in the least.

518. Then any alteration which was made with regard to slavery in Madagascar would not for a moment interfere with the trade from Madagascar to Mauritius?—It would not, so far as concerned the persons who were employed in carrying on the trade, but how far it would interfere politically of course I cannot say.

519. It would not interfere commercially?—Commercially, I should say not. When I say, "commercially," I mean that the persons who were employed in the trade would not be reduced in number in consequence of any interference with slavery, for the persons who are employed are not slaves.

520. Is that trade very considerable?—It is very considerable, and it is increasing.

521. What is the nature of the trade?—The principal trade is in bullocks, which are used in Mauritius for beef. So far as I can tell you at present (I have not lately had before me many documents on the subject), I believe that the number of cattle is about 10,000 annually, and that the value is about 60,000*l.* There is also rice to the value of about 10,000*l.*, and there are Indian-rubber and other articles to the value of about 70,000*l.*, making in all a total of about 140,000*l.* per annum. That is the trade from Madagascar to Mauritius. On the other hand, I presume that if there was any interruption in trade it would act both ways, and that the trade also from Mauritius to Madagascar would be equally interrupted. From Mauritius to Madagascar there are imported every year cotton goods (chiefly what are called Manchester goods) to the amount of 60,000*l.*, and other goods to the amount of 50,000*l.*, and the balance of trade between the two places, amounting to about 30,000*l.*, is made up in specie.

522. (*Sir George Campbell.*) Is there no importation of coolies?—None whatever.

523. Never?—Never.

524. Have you been in Madagascar?—I was in Madagascar 14 years ago. Of course I am not prepared to say whether, in the event of any interference with domestic slavery, the Madagascar Government would not close their ports; I cannot give any opinion upon that point.

525. Do you know anything of the nature of the institution of slavery in Madagascar?—I was there 14 years ago.

526. What was the character of the slavery in Madagascar then?—That was the first time that I had seen slavery, and it appeared to me to be of a very mild form.

527. Is it a universal institution; are a large proportion of the inhabitants slaves?—I cannot say what proportion, but it is quite a universal institution.

528. Are the indigenous inhabitants of Madagascar slaves to the upper classes?—The slaves are mostly indigenous. I do not think that I have ever seen one slave who was imported, but my experience has only been on the east coast, where I believe there have never been any slaves imported; it is on the west coast that slaves have been imported into Madagascar. Perhaps I may be allowed to mention to the Commission, that if they desire to have the best information upon the subject of domestic slavery in Madagascar, I believe that they cannot do better than apply to the Reverend Dr. Mullens, who is Secretary to the London Missionary Society. Since I was there, a great improvement has been made in the civilization of the country, and that is entirely owing to the efforts of that particular society.

529. Are there any liberated slaves in Mauritius?—I do not mean the old slaves of Mauritius—but are there any liberated Africans who have been captured in modern days?—Yes, a few.

530. In Mauritius itself as distinguished from the Seychelles?—Yes.

531. What is their position?—Their position is now like that of any other men in the country.

532. Are they free men?—Perfectly free.

533. They are not apprenticed or bound?—No; the last were brought there in the year 1869, and their term of five years would now be up.

534. Are they not subject to the laws which affect the coolies?—No.

*E. Newton,*  
*Esq., C.M.G.*

*E. Newton,  
Esq., C.M.G.*  
17 Mar. 1876.

535. Not at all?—Not at all.  
536. They are treated entirely as free men?—Yes; when once their term of five years is over.

537. They are apprenticed for five years?—They are.

538. That, I suppose, is a compulsory apprenticeship?—That is a compulsory apprenticeship.

539. There was a very considerable reform in the Seychelles in the condition of these people in Sir Arthur Gordon's time, was there not?—I am not aware that any great reforms were made, it is not within my knowledge.

540. (*Sir Henry Holland.*) You have been Colonial Secretary for several years at Mauritius, and have also temporarily administered the government at Mauritius?—I have.

541. During that time have you had any complaints made of the treatment of these liberated Africans at the Seychelles?—I have not had any.

542. Probably if any complaints had been made they would have come under your notice either as Colonial Secretary or as administering the government?—They would certainly have done so.

543. Have not the governors, who have been from time to time in Mauritius, visited Seychelles?—Yes.

544. Did they make regular visits there?—Yes. Sir Arthur Gordon was three years Governor of Mauritius, and he spent a considerable time each year in the Seychelles, and Sir Arthur Phayre, the present Governor, was there in the months of September and October for, I believe, six weeks.

545. And any complaints made of the treatment of these people in the Seychelles would have been sure to have been brought to the notice of the Governor?—Yes.

546. (*Sir George Campbell.*) Then am I to understand that Sir Arthur Gordon did not receive any complaints, and did not see anything to find fault with?—I cannot say that. I have reason to believe

that he did find fault, for instance, he thought it necessary to appoint an inspector, and he did appoint an inspector.

547. Can you state what faults he found?—The faults were chiefly, I believe, that the people were not well looked after, that the wages were not paid as they should be, and that the rations had not been properly served out. I think that those were the chief faults which he found, and he therefore thought it necessary to appoint an inspector. I would refer the Commission to a despatch of Sir Arthur Gordon's which has been already laid before Parliament. I think that it is dated the 16th of January 1873. It was called for in consequence of a charge made by Mr. Stanley, the African traveller, against the inhabitants of the Seychelles, and Sir Arthur Gordon was at the Seychelles, I believe, when he got the despatch upon the subject. He went fully into the charge, and his answer is to the effect that the statements made by Mr. Stanley were altogether erroneous and unfounded.

548. (*Sir Leopold Heath.*) I take it that liberated Africans once in the Seychelles practically remain there for their lives?—They do.

549. Have you any knowledge of your own, as to the moral condition of these liberated Africans after their apprenticeship has been served in the Seychelles?—No, I have no knowledge of my own upon that point.

550. Have you ever heard any opinion expressed, either favourable or unfavourable, to their moral condition in the Seychelles?—I have heard an opinion unfavourable to their condition.

551. (*Sir George Campbell.*) You can give us a positive assurance that after their apprenticeship is out they are really and truly free?—They are as free as I am.

552. They are not subjected to any of the restrictions to which the coolies are subjected?—Not in the least.

The witness withdrew.

CHARLES FORJETT, Esq., examined.

*C. Forjett,  
Esq.*

553. (*Chairman.*) You were in command of the police at Bombay?—Yes.

554. From what date?—From July 1855 up to the 11th of April 1864.

555. Not since then?—No, I retired from the service in 1864.

556. During the time that you were connected with the police at Bombay, had you any reason to think that there was any smuggling of slaves into India?—Certainly not through Bombay, because the checks that we kept up, I think, were very effective. Any boat that happened to come from Zanzibar or from the Persian Gulf used to be boarded by one European and half a dozen or more native constables, and a thorough search used to be made, and in the event of there being any persons on board whose presence led to any suspicion with regard to their being slaves, they used to be taken into custody and brought at once, with those in whose possession they were found, to the police office. An inquiry used to be gone through, and in the event of there being any reason to think that the case was at all doubtful, or if the men themselves said that they had been taken into custody and illegally detained, they used to be set at liberty at once.

557. Had you ever any cases where you did find persons who had been so captured, and did give them their liberty?—I think that I have had several cases of that kind.

558. Then there was some attempt to import slaves?—There were one or two attempts, as far as I can remember; but slaves used to be brought there at different times who had been captured on the high seas; some of the government boats used to bring in slaves that they had captured, and those slaves were set at liberty at once.

559. You have said that there was no smuggling of slaves into Bombay, but had you reason to think that there was smuggling of slaves into other ports of the Indian territory?—Not that I know of. I had no reason to think so.

560. We have been told that boats would arrive at Bombay and that a number of women in veils were landed and taken through the town and carried off into the country. You saw nothing of that kind?—I think that the police supervision which was maintained during the time that I was in charge of the police, was of a character to have prevented anything of that kind; or in the event of anything of that kind having been attempted, I think that it was sure to have fallen under the notice of the police, and to have been officially reported.

561. Then your belief is that nothing of the kind was attempted?—Certainly my belief is that nothing of the kind could have taken place. I think that I might state that previously to my time, it was usual to make over these slaves to Mahomedans, to anybody who chose to have them, and there was at all times rather a large requisition for them.

562. (*Sir George Campbell.*) You refer to captured slaves?—Captured slaves; there was always a large requisition for them from the Mahomedan population. My predecessors, I know, used to make them over to the Mahomedans. After I had been in Bombay for a few months, I thought that it would be more advantageous to them if something else could be done by way of enabling these captured slaves to earn their own livelihood. The Reverend Mr. Price, who had then established a school in order to teach the Christian boys in connexion with the mission different trades, was residing with me. I happened to mention the circumstance of these slaves to him, and he very kindly

C. Forjett,  
Esq.  
17 Mar. 1876.

immediately offered to take charge of them, and ever after that those slaves who were brought to Bombay I sent off to him.

563. (*Sir Henry Maine.*) That, I suppose, was the school at Nasik?—That was the school at Nasik; and it was from that school that Dr. Livingstone, when he went to Africa, took 15 or 20 lads with him; and Wainwright, who brought the remains of Livingstone here, was one of the boys whom I had sent to Nasik.

564. What test did you apply to distinguish whether a man was a slave or not; did you take it upon his own assurance?—I could only question him upon the subject.

565. (*Mr. Fitzjames Stephen.*) Is it not a very serious crime according to the Indian Penal Code to import slaves?—Certainly.

566. It would be kidnapping?—Yes.

567. And it would subject any person who was found guilty of it to a severe punishment?—In the event of there being clear evidence upon the subject, the party would be taken before the magistrate and very severely punished.

568. (*Sir George Campbell.*) Apart from the slave trade, did not many dhows come into Bombay with slave crews?—In the event of a dhow coming into Bombay with a crew who were entirely slaves, they were sent for at the police office, and were questioned as to whether it was their wish to remain on board or not. They used to declare that they were not slaves, and that they received their pay; and in the event of their expressing a strong desire to remain as they were, they were of course allowed to do so.

569. Suppose they had said that they were slaves?—I do not remember a single instance in which they said that they were slaves. If they said that they were slaves, they would immediately be told that they were at liberty to go.

570. They would be told that, although they did not come on shore?—Yes, in the event of there being the least suspicion, a European constable and half-a-dozen native policemen went on board. This, in fact, was the practice in respect to every dhow. Those on board used to be very strictly questioned, and in the event of the European constable or any of the native policemen having reason to think that there was anything at all suspicious, they used to be brought on shore, and a rigid inquiry instituted, and the matter was decided according to the circumstances.

571. Had you any cases of that kind where the men turned out to be slaves and claimed their freedom?—I do not mean men imported for slave purposes, but sailors on board these dhows?—There may have been one or two cases where a man has said, "I have been employed here, but do not wish to remain any longer," and he has been told, "Very well, you can give it up, you are at liberty to go."

572. (*Sir Henry Maine.*) Do you know anything of a Colonel Hodgson, who has been stated to be Superintendent of a district close to Bombay?—No.

The witness withdrew.

Monday, 20th March 1876.

PRESENT:

HIS GRACE THE DUKE OF SOMERSET, K.G., IN THE CHAIR.

THE RIGHT HON. MOUNTAGUE BERNARD, D.C.L.  
SIR HENRY T. HOLLAND, BART., C.M.G., M.P.  
REAR-ADMIRAL SIR LEOPOLD HEATH, K.C.B.

SIR HENRY J. S. MAINE, K.C.S.I., D.C.L.  
SIR GEORGE CAMPBELL, K.C.S.I., M.P.  
HENRY C. ROTHERY, ESQ.  
HENRY HOWARD, ESQ., C.B., *Secretary.*

ALEXANDER GRAHAM DUNLOP, Esq., examined.

584. (*Chairman.*) I think that you have been Consul-General at Havana?—Yes.

585. From what date?—November 1868.

586. Until the present time?—Yes; seven years.

587. While you were in Cuba I think that the law respecting slavery was altered?—It was nominally

A. G. Dunlop,  
Esq.  
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altered twice; once I think in 1869 and once in 1871. I am not quite sure of the dates.

588. The latter alteration was, I think, in 1870?—I am not quite sure of the dates. I say nominally altered.

589. What was the real effect?—There was a law promulgated whereby children born after a particular time were to be considered free; and all aged negroes after the age of 60 were to be considered free. As regards the children, the effect of that law can scarcely be said to have come into operation yet; how it will be carried out I do not know. With regard to the aged negroes, the difficulty will be to oblige the owners to give the true age; and the fear that I have is, that negroes of really 60 years of age, if they are at all valuable slaves, will be reported as 56 or 58.

590. While you have been at Havana have you seen anything of fugitive slaves getting on board ships?—There has been no instance of any fugitive slave, during the time that I have been at Havana, getting on board a ship and claiming his freedom.

591. There have been British vessels in Havana?—Constantly. During the winter we have generally one, or perhaps two, English ships of war there, and occasionally the Admiral calls with his fleet, and during the whole year Havana is one of the stations where they call. During the winter English ships of war are more permanently there.

592. But there have been no instances of slaves taking advantage of that circumstance in any way to escape to them?—I have never heard of any instance in Havana, nor any instance in the other ports, of a fugitive slave really claiming his freedom, and I think that I am right in saying that it does not happen.

593. Do the slaves there seem to be well treated upon the whole?—That is a very wide question. Gross cases of cruelty have never come before me, but during the time of the crop in Cuba all the slaves are overworked. May I make an explanation?

594. Certainly?—Unlike our own West India Islands, where the crops are taken off with great care, the crop in Cuba is never altogether taken off. Therefore, during January, February, and March, before the rains come on, the great point with all the planters is to get as much as possible of the crop off, the consequence of which is, that during January, February, and March I should say the slaves are worked too long; they often work 18 hours a day. I do not mean to say that they accomplish during those 18 hours very hard work, such as would be accomplished by a relay of slaves, but it is overwork.

595. You have been, I think you say, for seven years at Havana?—A little more than seven years. I was appointed in November 1868; was promoted from Spain, where I had been serving before.

596. While you have been at Havana have you seen indications of there being any slave trade; any slaves imported?—I have seen none; but two or three times since then reports have reached me of slave cargoes having been landed. In Cuba it is exceedingly difficult to get trustworthy or reliable evidence upon such subjects. I do not think that many cargoes have come in since 1868; and during the last five years I think I am right in saying that not more than one or two have come in. During the last three years I think there have been none. The consequence of that is, that there is a very great demand for slave labour in Cuba. Slaves have increased in value.

597. Are slaves publicly sold there?—Yes.

598. What is the price of a slave?—When I left, last year, a good field hand would bring 300*l*.

599. A slave?—Yes, perhaps more; but I ought to explain, if I may be permitted, that those persons in Cuba who possess slaves who have no field labour for them, hire them out, and last August there was currently paid in Cuba from the planters 30 dollars and even 40 dollars a month in gold for the hire of a slave; that included his food and raiment, such as they give, and doctor's expenses; 30 dollars is 6*l*., that is to say, that the proprietor of a slave could get 72*l*. a year for

the services of the man, he having nothing to do with him, the man being provided for by the hirer.

600. So that the proprietor got a clear profit of 72*l*?—Yes.

601. Slavery having so long continued there, are the slaves not prolific, or how is it that there is not a more abundant supply of labour?—That is a difficult question to answer. On the estates in Cuba, a negro is not only a slave but he is a prisoner. Every night at a particular hour, 8 o'clock I think, he is shut up in the barracoon, which is locked and guarded by dogs and armed men, therefore he has little opportunity of knowing more than what he learns under the eye of the administrator of the driver. Sometimes there is a great scarcity of women amongst them. It is a very sad and a very revolting question, but the negro slaves in Cuba are certainly diminishing.

602. (*Sir Henry Holland*.) Are they allowed to marry?—Certainly.

603. Is any objection made to their marrying?—None.

604. Are the married slaves shut up in this way too?—Yes.

605. (*Sir Henry Maine*.) These seem to be precautions against escape. Then do the slaves occasionally escape?—Very rarely.

606. Not even to the hills?—No. These men are not like our slaves formerly in the West Indies. Our slaves in the West Indies years ago all inhabited a negro village near the estate. In the negro village they also had provision grounds allotted to them, to which they could go on one day in the week, and they also had the Sunday to attend to their provision grounds. I speak particularly of Jamaica. They were therefore farmers, poulterers, and gardeners as well as slaves. That is not so in Cuba. There is little temptation for a slave to run away in Cuba, he would starve if he ran away.

607. (*Chairman*.) He would have no means of living?—If he were not interfered with he might work in a garden and grow his plantains, or something of that kind, and therefore not die of starvation, but it would be very difficult for him to do so.

608. (*Mr. Rothery*.) There are not any negroes in Cuba similar to those whom I remember in Cayenne called the Nemaya who ran away into the interior?—I think not.

609. In Cayenne where there were large forests behind the colony they used frequently to run away?—Yes; they had there a large back ground.

610. It is not so in Cuba?—To a certain extent there are wild grounds to which they might run away, but I think that there are very few runaway slaves in Cuba.

611. (*Sir Henry Maine*.) Have you heard of the escape of slaves to ships of any other nationality except the British?—I have not.

612. (*Sir Leopold Heath*.) You have said that the law as to children being emancipated after 1870 has not been carried out. Do you mean that the effect of that law has not yet shown itself?—Yes; I am not quite certain of the date.

613. It was in 1870?—The law was, that until they were 18 years of age they were to be what is called under a patron.

614. Apprenticed?—As it were apprenticed, and that then they were to be free.

615. You have no reason to suppose that when these children reach the age of 18 they will not be made free?—I have no reason to doubt that they ought to be made free.

616. But do you not think that they will be made free?—It depends entirely upon affairs in Spain. Just now Cuba is in a very peculiar state; there is an insurrection, and the insurrection has been scarcely dealt with at all by the Spaniards; they have been fighting for many years and have made very little way. The possession of the Island of Cuba has been preserved for Spain by what are called the *Casinos Españoles*, who are principally composed of planters and slave-owners. Therefore Cuba has been saved to

Spain since 1868 by the efforts of those volunteer soldiers who are under the care and conduct of the *Casinos Españoles*, who are all slave-owners.

617. And do you think that the Spanish Government, out of gratitude to them, may eventually abolish or put off this law?—I think that they will endeavour as much as possible to deal leniently with the planters.

618. If that law and the emancipation of slaves who are 60 years old should be carried out, slavery in Cuba in fact has a final term, which might even now be measured?—Yes. I ought to explain that I have served also in Turkey and Egypt, and have seen a good deal of slavery in the east; there it is quite different.

619. (*Chairman.*) I should wish to hear what you have to say of slavery in the east?—I served for some time at Constantinople.

620. When was that?—I served there for a part of two years, namely, in 1861 and 1862. After the rebellion in Greece, Sir Henry Bulwer sent me to act in the island of Crete, which is a Turkish island under Turkish rule. After that I was sent to Egypt, where I was for a part of two years in Cairo.

621. What was the condition of the slaves in Constantinople?—The condition of the slaves in Constantinople is this, that they are mostly household slaves, and after they have fairly got into their household service they are not at all badly treated. Of course your Grace is aware that women are introduced into their harems, and so on, as slaves. It was the same in Crete, and the same in Egypt; but all over the east the slave and the freeman work together, and there is not much difference between them if they are fairly at their work. In Cuba, on the other hand, the negro slaves, of whom there are 360,000 in Cuba at this moment, are considered like oxen or mules. Besides the 360,000 slaves in Cuba, there are about 80,000 or 90,000 Chinese,—contracted Chinese as we call them there,—and during the time that their contracts last, they are exactly in the same position as the negro slaves.

622. Are they locked up at night in the same way?—Yes.

623. In fact they are treated as slaves?—Yes, they are treated exactly the same. On many estates the

The witness withdrew.

Captain JOHN CRAWFORD WILSON, R.N., examined.

632. (*Chairman.*) I think that you were on the coast of Brazil?—I was on the coast of Brazil; and I was also on the coast of Africa for a great many years. I was on the coast of Brazil from the middle of 1864 to the middle of 1869, and I was on the east coast of Africa, with the exception of about six years, from the early part of 1847 until the very end of 1863.

633. I should first like to ask you about Brazil. You were for some time on the coast of Brazil?—I was there between four and five years.

634. Of what vessel were you in command?—I was flag captain in the "*Narcissus*" to the present Lord Dalhousie, and I was commander of the "*Bombay*" for a year out there before.

635. While you were on the coast of Brazil had you any cases of fugitive slaves?—No, we had none in either of the ships that I was in there, and I was out there in another ship before, nor did I ever hear of any cases while I was on the station.

636. You never saw or heard of any?—None. I entered a man who had been a slave, but he had gained his freedom before he came on board; he entered as an officer's servant.

637. Was that in Brazil?—Yes, at Rio; he came from an English gentleman; he was a liberated slave.

638. Then we may put aside the coast of Brazil so far as fugitive slaves are concerned; none came on board?—None came on board.

639. I suppose that slaves very often came alongside, bringing you provisions and such things?—Yes, constantly, and coaling the ship.

weak Chinese are rather bullied by the strong, healthy, active negro.

624. In Egypt you say that you found the slave and the free man working together?—Yes; the negro slave in Egypt and the common villager work together where there is any work to do; but all over the east (I speak particularly of Turkey and Egypt) the slave is more like a household servant than anything else. I think that it is a dreadful business getting he slaves there,—the slave trade is very dreadful.

625. When they are there they work them in the fields, do they not, although they are what you call domestic slaves?—I think so, occasionally, but not very much.

626. Then how is the field work done?—Mostly by free villagers. The Pasha has a right in Egypt of *corvée*, that is to say, to demand so much work from so many villages, and then the headmen provide the workmen.

627. But they do not provide slaves?—No, the slaves belong to wealthy individuals there.

628. The Suez Canal, for instance, was made in that manner by *corvée*?—It was made, up to nearly the end, entirely by *corvée*. I was twice over the Suez Canal when it was being made.

629. It was what you may call compulsory village labour?—Yes. I think that it has been perfectly well explained in many publications.

630. (*Mr. Rothery.*) It is the same system as existed in France before the French Revolution?—Yes, I presume so.

631. (*Sir Leopold Heath.*) Did not the Chinese send a mandarin over to Havana to investigate the condition of their coolies?—Yes, and a most intelligent man he was; he visited me once or twice, and he was accompanied by a French Commissioner and an English Commissioner. I have not seen the evidence,—it is now, I believe, in this country,—but they made a most excellent examination in Cuba into the state of the Chinese contracted labourers, which examination was very much wanted, and the question with them was whether the Chinese Government should not prevent the emigration from China of those men.

640. Was any particular care taken that they should not get on board, or did you believe that the slaves did not want to get on board?—They were very often on board, but we would not have allowed them to remain on board if they had wished it. There was no reason why they should be accepted on board, and they would not have been allowed to remain on board under any circumstances.

641. Did they seem to be in a very pitiable state of slavery?—Not in the Brazils at all; they seemed to be very well treated, and perfectly contented; they were working in shore boats, and that kind of thing, quite on their own responsibility; they had no one to look after them.

642. So that, I suppose, they might have escaped very often if they had wished to do so?—Very easily. At the northern part of the Brazils at Bahia, they have a peculiar institution; they have a sort of trades union amongst the slaves there, and every year they bought the freedom of so many slaves, who went across to the coast at Lagos. The Minas slaves are a peculiar race, and very fine slaves; about 150 or 200 purchase their freedom every year, and go over and settle in that colony.

643. Then they had some wages by which they purchased their freedom?—Yes; all the slaves with whom we came in contact on the coast, except the field hands, received some remuneration from their owners. They are very much like our cab drivers in London; they have to give a certain sum in return for their days work, and they can keep the difference.

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644. (*Sir Leopold Heath.*) Under that system, I suppose, the chances are that slaves would be more inclined to remain and work out their liberty for themselves, except in extraordinary cases, than to take refuge on board a man-of-war if they thought that they could get their freedom there?—I do not think that they have any desire whatever to go on board an English ship. In the first place, they cannot speak the language, and I think that they are very well contented with their lot; they have been so long in the country that they identify themselves with it, and slavery sits very lightly on their shoulders; I do not think that they have any wish to desert. I never heard of any case.

645. So that you think that the notion that a man-of-war would be overrun by domestic slaves seeking their liberty, if the old doctrine is held that a man-of-war was English territory, is rather a bugbear?—That doctrine has always been held by all officers with whom I have come in contact, namely, that a slave once on board a man-of-war, and having been granted an asylum there, is free; but still I have never found that that operated in causing slaves to desert to a ship of war.

646. (*Chairman.*) You have spoken of their having a sort of trades union by which they purchase their liberty and return to Lagos?—Yes.

647. They have kept their own native language?—Yes; that is to say, that particular class of slaves, what are called the Minas; they are, I believe, Mahomedans. I do not know much of the West Coast of Africa, but I believe that they come from a part well to the northward of the line.

648. (*Sir Henry Holland.*) They certainly do not come from Lagos?—No.

649. (*Sir Henry Maine.*) You have said slaves coming on board ship in shore boats would not be allowed to remain there. Were any measures taken to inform them that they would not be allowed to remain?—I never knew of a case where they wished to remain. I certainly should not have allowed a slave to remain if he had wished it, without he had a very good reason to give.

650. But no case of a slave appealing to you to remain occurred?—Not there, but at other places.

651. (*Sir Leopold Heath.*) You mean that it was just the same as the case of a boatman in Portsmouth Harbour?—Yes.

652. (*Mr. Rothery.*) That is to say that when you were lying in harbour within territorial waters you would send your boat?—Yes, or use shore boats as most convenient.

653. That does not apply to the case of a slave coming on board when you are on the high seas?—Circumstances so completely alter cases that it is very difficult to say what one would do under certain circumstances, but I would just as soon receive a slave in Rio harbour as on the high seas; if I granted him sanctuary it would be for a good reason in either case.

654. You would make no distinction between whether it was on the high seas or whether it was in harbour?—Not at all. I think that a part of our duty as captains of men-of-war is to use our sense. To a certain extent we have diplomatic functions to perform, and we are not to embroil the country by doing injudicious things; but there are certain circumstances, and certain occasions, when you cannot help receiving slaves on board; those are, however, the exception, not the rule; they very rarely occur.

655. As a general rule you would not receive them on board?—As a general rule I should not do so.

656. Neither at sea nor within the harbour?—In no place at all. I would look upon them in the same way as upon any other persons.

657. With the view which you have just stated, namely, so as not to complicate our relations with foreign countries?—Decidedly with that view. Under most circumstances, I do not think that I ought to receive a slave; there are, however, many occasions when I should do so, but not as a rule with a civilized power like Brazil.

658. In an exceptional case you might do it?—Yes.

659. (*Chairman.*) You have been also on the East Coast of Africa?—Yes; I was there for a long time.

660. In what part? from Madagascar up to Aden?—On all parts of it. I spent 10 years on the coast.

661. Were you in the Persian Gulf also?—No. Perhaps I am wrong in saying what I did just now. I was on the Cape Station when your Grace was at the Admiralty, and the station then extended up to the Line from the Cape of Good Hope, and my general ground lay from the Cape up to about two degrees northward of the line. I know all that coast.

662. While you were there had you any cases of fugitive slaves?—Yes; three cases.

663. Will you be kind enough to state the nature of those cases?—The first case was in Mozambique Harbour. I was lying in Mozambique Harbour in the "Gorgon" in, I think, 1862—it may have been 1861; I am not certain of the year—one night a young slave swam off to the ship. It is one of the very worst places in the world for ground sharks, and the wonder is that he got on board, but he did get on board. I saw him and examined into his case; he explained to me through an interpreter that he had not been long down from the interior, from which he had come with a caravan; that he had been very much ill-used in the town by his Arab master, and that he had long heard that if he could only get on board an English man-of-war he would be free; he therefore determined to risk everything in swimming off to the ship. He was a very fine specimen of a young negro; he was about 19 or 20 years of age. I believed his story; I could not help sympathizing with him, and I told him that he was free, and I freed him, and I believe he is a blue-jacket in the Navy to this day. The second case occurred the next day. I was proceeding to sea the next morning at four o'clock; an Arab pilot was taking us out, and on that occasion the pilot had a boat with about 14 blacks in her. When we got well outside, the boat hauled up alongside to take the pilot on shore, and one of the men in the boat, before he could be stopped, got up and rushed forward and dived down below, and it appeared that he was a brother of the other man; this was the elder brother. I said, "This will not do," and I ordered him to be passed down into the boat again, for it would not do to take the pilot's blacks away. I sent a corporal with four marines to bring him up; he was a very powerful man, and it was all that these men could do, he having no clothes on, to drag him up. It was a terrible scene, he was dragged along the deck howling and yelling, and by the time that he got to the gangway all the ship's company were up, and the men were looking anything but pleased at the pilot. The marines were thoroughly tired out; they let go their hold of the man for an instant, and he made a run at one of the guns, and so entwined himself with the tackles that we could not, without doing him bodily injury, get him clear. I then said to the pilot, "There is your man" (he was just at the side of the gangway) "Take him away." The pilot tried to persuade him to go in the boat, but he would not do so, and he stripped off the remains of the cloth round his waist, and showed where he had been very unmercifully beaten. The pilot tried to persuade him to come, but he could not succeed. I suppose that he did not like the look of the men (they were all round him), so he said that he would not have anything more to do with his slave, and went off without him. These two men were put upon the books, and they became seamen in the ship. About eight months afterwards the ship went back there, and on the way she got into the tail of a hurricane—it was blowing very hard, and the ship made a good deal of water, about seven feet of water were in the ship's hold, which so frightened the second man that when we got into Mozambique he deserted, and went back into slavery, but the other

man remained, and I believe him to be a sailor in service until the present day. But the Governor of Mozambique, when I got back, wrote and said that I ought not to have taken slaves out of the harbour. I did not wish to have any official correspondence about it, and so I compromised the matter by paying 60 dollars for the slave that I kept. I told him that the pilot ought to have taken the other man out of the ship, and that therefore I would have nothing to do with him. The matter was so settled, and it never came to England. Those are two of the cases.

664. Was there any other case?—Yes, there was another case when I was lying off Lamoo in the dominions of the Sultan of Zanzibar up to the north. One Sunday a canoe came alongside, and a slave boy jumped on board; the canoe left him. The officer of the watch reported the circumstance to me. I saw the boy; he had just come on board as a matter of course. He said that he had heard that all he had to do was to get on board an English man-of-war, and that then he would be free. He said that he and another boy had escaped from a dhow going up the Persian Gulf.

665. Did he come in a dhow?—No, he came in a canoe; he had escaped from a slave dhow.

666. He got somebody to bring him off in a canoe?—Yes, one of the fishermen. I kept him without any hesitation, because I thought his case quite clear. I took him down to the Cape, and he became a gentleman's servant there.

667. (*Mr. Rothery.*) There was no demand for him?—None.

668. (*Sir Leopold Heath.*) Then there is a tradition in those countries that the deck of an English man-of-war is a free spot?—It is so understood all over Africa; at least all over the east coast of Africa. It is held to be perfectly clear, and to prevent that idea bearing fruit, as it were, the Arabs persuade their slaves that we only want them on board our ships to eat them, and that is the only thing which prevents their escaping to us more frequently.

669. (*Sir Henry Maine.*) With regard to the second case, how far were you from the shore when it occurred?—I was outside the limit; I was on the high seas.

670. (*Chairman.*) But still in a pilot boat the men were what you would call domestic slaves?—Yes, I would not have kept that man if I could have helped it.

671. (*Sir Henry Holland.*) Excepting these three cases you had no attempts on the part of slaves to take refuge in your vessel during ten years?—No, it is of very rare occurrence.

672. (*Chairman.*) You have spoken of the good treatment of the slaves generally in Brazil. Should you say that there is a great contrast in that respect between their treatment there and their treatment by their Arab masters on the coast?—There are no two places where you can treat the question alike. For instance, if I went to Johanna, and if a slave came off there and asked for sanctuary, I would refuse it, because I think that he would be better off where he was. I know that he is kindly treated, and I know that if he returned there again, even after having attempted his freedom, a word would prevent any punishment, that he would be received back, and that nothing more would be said about it. But there are other places, and other cases, where if you returned a man who had tried to effect his escape (say that man in Mozambique Harbour) he probably would, at that time, have been so severely flogged as to have died, or he would have been murdered outright so as to prevent a repetition of the same sort of thing. Therefore a captain in the service could not be expected to treat all cases alike. At Johanna I would have returned such a man at once, but at Mozambique I would not have done so. In evidence of that I may say a case came under my cognizance at the mouth of the Congoni, a little to the southward of Mozambique. A slave attempted to desert; he belonged to a man of the name of Mosquito, who was half English and half Portuguese, and who was placed there to look after the customs while Dr. Livingstone

was going up the river. One of his slaves attempted to escape, and he tied up that slave to the thatched side of his house, and he was flogged with cowhide taws to such an extent that the imprint of the man was distinctly seen some distance off. I saw it myself a mile and a half away from the place against the thatch exactly in the same way as if you put a leaf on a book and spatter it with ink. The man was then thrown out into the sand, he could not have lived; in fact he was flogged to such an extent that he must have died. That would be what you might expect in most cases if you returned a man into slavery who tried to escape on certain parts of the coast, so that you cannot treat all cases alike; you cannot treat slaves who attempt to escape at Mozambique or at Brava, or at Lamoo, or even at Madagascar, in the same way as you would treat those who tried to escape from the Comoro Islands, or even from Zanzibar.

673. The man to whom you have last referred was so treated by a person who was put in some official post?—He was a Portuguese official who took charge of the customs while Dr. Livingstone was going up and down the river; he was observing Dr. Livingstone's movements.

674. Did you see anything of the Seychelles?—Yes.

675. That was where the slaves were taken when they were liberated?—Yes, I took some there myself.

676. Were they pretty well off when they got there?—It is a very poor place, they are all French Creoles there, I doubt whether they were very well cared for.

677. (*Sir Henry Holland.*) In what year was that?—1863. I was there in 1861, 1862, and 1863; it was so when I was last there.

678. (*Chairman.*) Therefore in taking them anywhere you would have to consider what you could do with them in comparison with the place from which you took them. For instance, if you took them from Johanna to the Seychelles they will be much worse off?—I think so.

679. Do you know anything of slavery in Madagascar?—Yes, I have been at several ports of Madagascar.

680. No slave there tried to get away?—None in my time.

681. How were the slaves treated there? did you see anything of their treatment?—Yes, I never saw them ill-treated there, but I should think that if you returned a slave on the west coast of Madagascar who had once attempted to get off, the probability is that he would get his throat cut.

682. (*Sir Henry Holland.*) You put that in the same category as Mozambique?—Yes, but I do not say so of the whole of Madagascar; Madagascar is divided into several nationalities; for instance, the Hovas are a very superior people to the Sakalavas who occupy the west coast of Madagascar.

683. (*Chairman.*) Do the Hovas treat the slaves better?—They are more civilized, and I take it for granted that they do. The Sakalavas are nothing but Madagascar Africans, if one can use the term; they have become nationalized there.

684. Is there any other point respecting fugitive slaves which you can bring to our notice that we have neglected to ask you about?—The only thing is with reference to the question of the Circular, which I suppose is the main point. I think, as I said just now, that if a Circular exists tying down the captain of a cruiser to a hard and fast line, it will be very difficult for him to act with common humanity, and at the same time always be in keeping with the Circular. Then again there might arise instances where it would be impossible for him to act in keeping with the Circular, for instance, as Sir Leopold knows, better than I can tell you, some of our countrymen are supposed to be now held in slavery amongst the Smoolies. In my day I was twice sent up during your Grace's administration to the coast of Brava to look after these people, who belonged to the "St. Abbs," and who were supposed to be in slavery about there. If a Slave Circular directing us to receive no slave on

*Capt. J. C.  
Wilson.*

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Capt. J. C.  
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board within territorial waters existed, would you receive your own countrymen on board if they escaped, or would you regard the institutions of the country there which allows slavery?

685. You think that considerable discretion should be left to the naval officer?—I think so; and in my day it was so. The opinion held was, that we were not to embroil the country in difficulties, or to do injudicious acts, and that if we did injudicious acts we should be held by the Admiralty responsible for our actions; but that if we once granted an asylum to a slave, and told him that he was free, no power on earth could make that negro a slave again; that our actions bound the country as it were.

686. Having that understanding which you had at that time, you did not feel much inconvenienced or embarrassed by having that discretion entrusted to you?—No; I should have felt very much embarrassed if I had not had that discretion. I should have found it impossible to act on many occasions.

687. (*Mr. Rothery.*) You have said, instancing Mozambique, that if you had returned a fugitive slave there he most probably would have had his throat cut?—Yes, in those days, or flogged very severely.

The witness withdrew.

Commander  
R. M. Gillson.

Commander ROBERT MOORE GILLSON, R.N., examined.

694. (*Chairman.*) You were, I think, in command of a vessel in the Persian Gulf?—Yes.

695. That was a vessel of the Royal Navy?—Yes.

696. At what date?—I was in the Persian Gulf from October 1873 to March 1874.

697. You were entirely in the Gulf at that time?—Entirely in the Gulf.

698. During that time had you any cases of fugitive slaves coming on board?—I should think that about nine came on board, whom I released, they coming to claim their liberty as fugitive slaves; and on another occasion I released perhaps three or four, or even more, that was on the occasion of hostilities with one of the Arab chiefs. After demolishing a fort, I allowed any slaves to come on board, but on that occasion we were actually engaged in hostilities. On other occasions I released about nine slaves that came to claim their liberty as fugitive slaves.

699. They came on board the vessel?—Yes.

700. Were they newly imported slaves, or were they domestic slaves, or did you know nothing more than that they were slaves?—They were all domestic slaves, and they were all young, some were quite boys; none of them were as much as 20; one, I think, was 10, and another was 11 years of age.

701. Did you think that they had been newly imported?—I gathered their histories from them through an interpreter, and they all said that they had been imported during existing treaties; at all events latterly.

702. (*Sir Henry Holland.*) In what part of the Persian Gulf was this?—At Linjah, on the coast of Persia, and Bahrein, an island off the Arab coast.

703. These were different cases?—Yes.

704. The nine slaves did not come on board at once?—No.

705. (*Chairman.*) In these cases was any claim afterwards made for the slaves?—Only on one occasion. I was at anchor off the Persian coast at Linjah, when, during the night, two slave boys came on board, and, as they usually do, immediately upon getting on the gangway, they pushed the canoe away, and therefore left themselves without a boat to return in, and they then claimed protection as fugitive slaves.

706. Could they speak any language that was understood on board?—They can all speak the Zanzibar language, and I had some of my crew on board who could speak that language. The next day the owner came on board and requested the release of one of those slaves. I received him on the quarter-deck, and I inquired into his case. I found out that

688. Therefore at Mozambique you would not have returned him?—No. I speak of the district of Mozambique—the whole province of Mozambique.

689. But as I understood you, in the case of the slave who escaped from the pilot's boat, you did at first attempt to return him?—I intended to return him because he was one of the pilot boat's crew; the pilot was on board, and I think that it was a particular circumstance. It would be most impolitic to encourage a pilot boat's crew to desert.

690. No demand was ever made upon you for the first slave, was it?—Yes; a demand was made.

691. By whom—by the Governor?—By the Governor.

692. Did you refuse it?—No; I paid for the man.

693. But I mean at first, before you left?—No; I sailed early the following morning. In reply I told him that the man never could be returned to slavery, and he quite understood that. There was no question about it. I only paid the money because I did not wish the question to be raised at home, as a disapproval of my action might have delayed my promotion.

the slave was a recent importation; and I told him of the existence of a treaty between the Queen of England and the Shah of Persia, and asked him whether he was aware of it; and I told him that he was acting in contravention of that treaty by receiving slaves. Then I said that I would read the treaty to him. I looked down into my cabin for two or three minutes, directing my servant where to find the Book of Treaties, and when I looked up again the man was gone; he seemed to be afraid of the result. I had not threatened him, neither had I refused to give up the slave, but I had just explained to him that he had been acting against the treaty which existed.

707. Then you were right, according to the treaty, in all those cases?—In all those cases I was right according to the treaty, that is to say, they were all slaves that had been imported contrary to the treaty.

708. You told us of some case where you attacked a fort?—That was a fort belonging to the Sultan of Muscat; a chief had rebelled against him.

709. You were in favour of the chief authority?—We were in favour of the chief authority of Muscat as against this rebel chief. After the fort was demolished, I pulled in shore, and some slaves swam off to my boat through the surf; I received all that came, and I never heard anything more about it.

710. I suppose that they were the slaves of that rebel chief?—They were not his slaves as far as I know. I did not inquire. It was simply that we were engaged in hostilities against this man, and I therefore felt myself perfectly at liberty to receive any slaves that came. The Political Resident was with me, and he agreed to it. That is how I acted on that occasion.

711. So that you were quite justified in what you did?—I think that I was quite justified in it.

712. Do you think that those slaves were newly imported, or were they slaves that had been there before?—As the diplomatic agent was with me on that occasion, and he also had a ship of the Bombay Marine, I simply turned them over to him, and I considered it his affair rather than mine.

713. On board your own ship had you many negro sailors?—Twelve.

714. What was your crew in number?—Ninety with the blacks.

715. Were many of them fugitive slaves?—I think that they had all been slaves liberated by our cruisers,—liberated in Bombay probably,—and that they then had joined the Navy.

716. Had they been slaves in that country where you were? do you think that they had been slaves in the Persian Gulf?—I never inquired into their particular histories, and, therefore, I cannot tell you. I have in my pocket five papers which I wrote, in which I took the histories of five slave boys that I released. I took them down from their mouths at the time, and they are just in rough as I took them down from their mouths at the moment.

717. Will you read one of those papers so as to show the character of it?—He was a lad of "eleven years of age—17 months since he was sold at Zanzibar to an Arab, who brought him to Burka on the Batna coast, and sold him to a Bahrein man called Abraham, who kept him at Linjah till he came on board here. There were about 100 slaves in the dhow which brought him from Zanzibar, and they called at Muscat on their way to "Burka."

718. The dhow with those slaves on board had escaped the vigilance of our cruisers?—It had.

719. (*Sir George Campbell.*) Have you had many occasions on which Her Majesty's ships have been employed to enforce the authority of the Chief of Muscat, or of any other of the superior chiefs, against inferior chiefs or rebels in the Persian Gulf?—The case which I have mentioned was the only case in which hostilities actually occurred, but I have been prepared and ready to assist the Sultan of Muscat in case rebels threatened his capital.

720. Then Her Majesty's ships have orders to assist and protect the Chief of Muscat?—On this occasion the directions came from the Viceroy of India.

721. (*Sir Henry Maine.*) You do not mean general orders?—There are general treaties existing in the Persian Gulf whereby we will not allow any sea-fighting. If one chief attacks another we assist the chief who is attacked by the other chief.

722. You mean enforcing the maritime peace of the gulf?—Yes; and preventing piracy.

723. (*Sir George Campbell.*) Have you seen anything of the character of the slavery in existence on land upon the shores of the Persian Gulf?—Yes. In some cases, for instance when we attacked the fort which I have mentioned, the slaves seemed to have been very badly treated; there were wounds upon them where they had been thrashed. But at another place, Bahrein, at which I was a good deal, one of the domestic slaves of our beef contractor married two of his daughters, and he was located in the house, so that he was very well treated and was very comfortable. I think that the slaves who did escape were young boys who were not used to slavery.

724. Do you think that as a rule the older slaves in the Persian Gulf become so domesticated with their masters that they do not wish to escape?—I think that they have lost all idea of their freedom and do not know how to go about it; that they have lost their status. For instance, one of our political residents told me that he had had frequent applications in the case of native vessels sailing from one part of the coast to another for safe conduct, to prevent their being taken by an English man-of-war. Those I take to be old people who were under the impression that we seized them and made slaves of them, and the dhows applied for safe conduct.

725. Do you think that the slaves of mature age are bought and sold, or are they kept permanently to

the houses of their masters?—I can hardly answer that question. I have very little knowledge of it. The new importations are moved about both inland and in *small* numbers in boats until disposed of, but I do not think that as a rule other inland slaving exists. Some of the ports to which the slaves coming from Africa are taken are Hodeidah near Aden, Burka on the Batna coast, and then in small numbers to Linjah in Persia.

726. (*Sir Leopold Heath.*) With respect to the sea-faring population of Bahrein, are there not nearly 2,000 boats engaged in the pearl fishery?—There are a great many. I have no idea how many.

727. Are they manned by free men?—No, they are almost entirely manned by domestic slaves.

728. Do the slaves do the diving?—Yes.

729. Then does not that imply a sort of paid service rather than compulsory service? Why should a slave take the trouble to learn to dive?—Probably he would be punished if he did not. I fancy that it is more in that way than payment. I do not know that they are paid in any way.

730. You think that there are no free seamen in the Bahrein boats?—I am rather under the impression not, but I am not quite sure. I refer to the pearl fishing boats.

731. Have you been on the pearl fishery banks during the season?—No. I was only in the Persian Gulf from October to March, and the pearl fishery season is in the other part of the year, from April to September inclusive.

732. Is a man-of-war generally stationed at those banks during the fishery season?—No.

733. So far as you know, there would be no necessity for one being there?—As far as I know there would be no necessity for it. I am not aware of any cruelty which has happened there unless the actual working under water for a long time is a cruelty. I suppose that it affects their health after a time. I may mention that when I was there an English agent for a merchant firm came out endeavouring to establish a fishery of their own; they intended to do it by steam machinery and diving bells, but what was the result I do not know.

734. (*Mr. Mountague Bernard.*) Where are the pearl fishery banks; are they near the shore?—Some of them are a long way from the shore; they are at various places. At Bahrein I dare say it is 10 or 20 miles from the shore.

735. Are they in various parts of the gulf?—Yes.

736. (*Chairman.*) Did you go to the pearl banks in order to prevent the pearl boats crews quarrelling with each other?—No. The pearl fishery was not going on during the time that I was in the Persian Gulf; it goes on during our summer, and I was there during our winter.

737. Therefore you do not know about the pearl fishery?—No, excepting from hearsay.

738. (*Sir George Campbell.*) Do you think that there are many slaves on board native ships in the Persian Gulf who would escape if they could?—I think that the young ones were very much inclined to escape, and I think that if I had remained there more would have come, hearing of these being received. I was under that impression.

739. Have you had no case in which you have restored a slave on the ground that he was held within the limit of treaties?—No, not any case.

The witness withdrew.

Captain CHARLES EDWARD FOOT, R.N., examined.

740. (*Chairman.*) I think that you were the senior officer in the Persian Gulf?—Yes, I was the senior officer from the 7th of June 1875 till the 17th of February 1876, and had been in command of H.M.S. "Daphne" on the East Indian station since 1873.

741. During the time that you were in the Persian Gulf had you any cases of fugitive slaves?—I had.

742. Will you state the nature of those cases?—The circumstances were peculiar. I arrived in the Persian Gulf, and by the station orders I was permitted to enter an extra number of Seedie-boys. My men suffered very severely from the heat, and I determined to make my number up to about 22, and in consequence it was known on shore that the "Daphne"

*Commander  
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*Capt.  
C. E. Foot,*

Capt.  
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wanted Seedie-boys. Several men came off and presented themselves, and were examined by the doctor, and entered on the ship's books. Cases occurred where a note came from the political authority saying that a Seedie-boy was on board who had run away from his master, and asking me to send him on shore, which I of course did, acting under the Circular, and not having known at the time of entry that they were fugitive slaves. They did not claim protection; they came to enter. These slaves were sent to the consulate, and if they were claimed they were given back to their master, and the master was cautioned by the political agent that if there was any ill treatment, or any complaint, the Sultan would be appealed to.

743. That was by the advice of the Political Agent? —Yes. On another occasion the Political Agent stated that a man kept coming to him saying that I had a slave on board belonging to him, and mentioning the name. I had the only man of that name sent on shore. He was a Seedie-boy who had been on board with me in the Mozambique; I knew that he could not be the one—the Arab came and looked at him and said, "That is not the man." A similar instance occurred in the "Rifleman" while I was at Muscat. If a slave ran away, it was immediately said, "He is on board a man-of-war," and if it could be proved that the slave did belong to the man who claimed him he was given up.

744. That was under the instructions which you had?—Yes, acting in accordance with station orders, and the first slave trade Circular.

745. (*Mr. Rothery.*) I should suppose that it was in accordance with the station orders, and not the first Circular because the first Circular was not then issued?—We were in territorial waters. I had the Circular confidentially.\*

746. When?—These cases occurred from June last to October last—there was a station order, I forget whether it was confidential or not—this order was issued fresh at Aden; the station order would have been sufficient.

747. Is this the station order to which you refer. (*Showing to the witness the East Indies Station Orders of 1871*)?—Yes; it would have been sufficient, but at the same time I was in possession of other instructions of the same tenor.

748. (*Chairman.*) You acted under that extract from the East Indian Station Order given here at this page?—I acted under that, but I acted under the other also, because I was aware of the new Circular; I acted under that, it being the latest order, and as usual in the Navy, one obeys the latest order.

749. (*Mr. Rothery.*) The first Circular was not issued until July the 31st?—I was aware of a Confidential Order of which I was in possession; it was a Confidential Station Order in all probability.

750. (*Chairman.*) You had a Confidential Order which you considered more immediately bearing upon your command than this extract from the East Indian Station Order?—Quite so, and these slaves, as I have before stated, were released when it was found that their master was right in claiming them. Had any of these men been what I call raw slaves, namely, freshly imported, I should never have given them up. All could speak Arabic, and were either domestic slaves, or had been in dhows—they were evidently not freshly imported from Africa.

751. You wanted to supply your ship with men of this kind?—Yes.

752. Having to give up these men did you get other men there?—Plenty of other men; there are a great number, the Seedie-boys round Muscat come from Bombay and from Zanzibar. Some have been and are slaves, and others are men who have not been in slavery. I had an instance of having a Beloochi on board as a Seedie-boy. It is not necessary to have Africans. I would take Arabs if they came, but Arabs would not come; there are occasionally some half-breeds, half Arab and half Suaheli.

753. Have you seen anything of the pearl fishery? —Yes, at Bahrein; I saw the boats when they were about going to sea in the latter part of June, and I went there again in July.

754. So far as you saw, was that pearl fishery carried on by slaves?—I consider that the pearl fishery is carried on by slaves, most of whom are domesticated. I had made particular inquiries as to whether slaves were freshly imported for the purpose of being engaged in the pearl fishery, and I took precautions to have the coast guarded to intercept dhows coming from Zanzibar.

755. We have been told that the profits of every boat which is employed in the pearl fishery are divided into shares between the owners, the divers, the rope-holders, and so on, in each vessel?—That I believe is perfectly correct.

756. Then the slaves who dive do get some personal profit out of it?—That is my opinion. I remained on shore for some few days at Bahrein, and I had an opportunity of seeing the natives there; and if they are in slavery it is a very mild form of slavery. The natives of Bahrein look upon us as their protectors, and during the time that the pearl-boats are away they are always in fear of a tribe of Bedouins (who it is generally supposed are egged on by the Turks) coming down and plundering the bazaar. So much so, that the Sultan of Bahrein comes and lives over at the Island of Bahrein, and not at the other island of Manamah in the island of Muharag where he resides when the men are in. Bahrein during the pearl-fishery season is comparatively deserted by men; there are none but the women left behind, and a few agriculturalists.

757. The Sultan of Bahrein comes there for safety, does he?—He comes there for safety; and he has an old fort in which are inclosures and huts for his harem and for protection. We have a British agent at Bahrein who communicates with the Resident at Bushire periodically, and who of course waited on me when I went there, and introduced the Sultan. He acts as political authority; he is a native of Persia, I believe.

758. Had you ever to interfere to prevent disputes and quarrels between the pearl-fishers?—I had not, but the "Hugh Rose," a gun-boat, belonging to the Indian Marine, went down occasionally during last season to prevent disputes. I purposely went back to Bahrein in July before I went to Muscat, in order to show the flag, and to let it be known that a man-of-war was on the coast, and also that the pearl-fishery boats should know that I was about; but there is very little fear of disturbances round Bahrein; the disturbances amongst the pearl-fishers generally occur about Shargah and Ras-ell-Khyma, and generally on the pirate coast.

759. Were there any sharks which interfered with the divers?—I think not.

760. (*Sir Leopold Heath.*) Will you read this letter from the Secretary to the Admiralty, dated the 19th of May 1870, bearing Lord Clarendon's instructions as to how fugitive slaves should be treated, and will you say whether that is not the Secret Order to which you referred, when you stated just now that you acted under the first Slave Trade Circular?—I may have been wrong in my first statement, but I was aware of the Slave Trade Circular before I left. These cases of the fugitive slaves claiming to enter as Seedie-boys occurred over the period, as I before stated, from June to October.

761. And before October you were cognizant of what is called the first Slave Circular?—I was.

762. (*Mr. Rothery.*) But at the same time you acted before you saw that Circular in the same way as after you saw that Circular?—Yes, in these particular cases, because I was at Muscat, and there was a political authority to apply to; it was in territorial waters.

763. Did the Slave Trade Circular make any difference whatever in your action with respect to these

\* It appears that Captain Foot was correct in stating that he had the Circular in question confidentially.—H. HOWARD, Secretary.

fugitive slaves?—Not with respect to these, because they did not claim protection.

764. (*Sir Leopold Heath.*) Do you suppose that those slaves who came on board her except that they knew that a good field was open to them, and that you were especially in want of Seedie-boys?—That question I cannot answer exactly. They may have been ill-treated by their masters. One man stated as his reason for coming that his master would not give him money, or a woman.

765. Did any fugitive slaves come and simply claim their freedom, or did they all ask for employment on board your ship?—None came and asked for freedom.

766. (*Sir George Campbell.*) Is it your impression that among the maritime population of the Persian Gulf there are many slaves who are subjected to a severe form of slavery, and who would run away if they could?—I think that amongst the maritime population of the Gulf the slavery is not so severe as it is on the Batna coast.

767. Where is the Batna coast?—The Batna coast is that which has been referred to by Captain Gillson, which extends above Masanah, where the bombardment was; it is not in the Persian Gulf, but on the Coast of Oman. The maritime population, I think, are generally fairly treated, and are well-to-do.

768. Do you think that many of the sailors on board Arab ships are really slaves, in the sense in which we use the word?—The youngsters are, but they grow out of it. It must be borne in mind that during 1874 and 1875 there was hardly any slave trade to the Persian Gulf. The coast was blockaded in 1874 near Zanzibar, in which blockade I took part; I came up north, and blockaded the Arabian coast, and the "Philomel" and other vessels watched the entrance of the Persian Gulf. Very few slaves were run in 1874, and as far as I can make out only 30 to the Persian Gulf last year; and those slaves under the French flag.

769. With regard to the old slaves, and the people called slaves in the Arab ships, do you think that the Arabs take any special precautions when they go to Bombay respecting slaves, and that they substitute persons who are not slaves?—I should think that if they thought that a slave would run away they would very soon leave him behind.

770. Do you think that the people who navigate the ships at Bombay are generally what are called slaves?—Some may be so in the general acceptation of the term, but they are domesticated, and they have thrown in their lot with their masters.

771. And they have no wish to run away?—No.

772. (*Mr. Mountague Bernard.*) Is any considerable proportion of these slaves born in the country?—A very considerable proportion on the shores of the Persian Gulf.

773. Would the youngsters that you spoke of just now be slaves born on the shores of the Persian Gulf, or would they be newly imported boys?—A great many would be newly imported, because small children are much in demand.

774. (*Sir George Campbell.*) Are all the people who are popularly called slaves, Africans, or are there any others who are called slaves?—There are Galla slaves and Abyssinians.

775. They are all Africans?—Yes, I have not known an instance of a half-bred Arab being a slave.

776. Are the Somalis ever slaves?—Very rarely; the Somalis steal slaves, but I have never seen a Somali slave, there may, however, be rare instances.

777. (*Mr. Rothery.*) Are not all the slaves imported slaves?—A great many are born in a state of slavery.

778. Are not those who are so born free?—I am not aware of it.

779. Is not the child of a slave free?—I think not; in fact I am sure that their status is not such. Along the coast, north of Muscat, there are extensive date plantations. During the date season great quantities of persons are brought from the entrance at Ras-el-Had; there is a town there of about 8,000 in-

habitants; a great many are brought up in small boats from Sur, and I believe they are very badly treated.

780. (*Chairman.*) Did you see anything of it?—No.

781. You only heard of it?—I only heard of it, but I heard of it from very good authority. In October last I captured the ex-Sultan of Muscat, Syeed Salim Bin Thowaynee; he had been attempting to land and to raise the standard of revolt against his uncle, the Sultan of Muscat; he was a prisoner on board my ship for about 20 days, in my cabin, and he informed me, believing that all slaves who came on board a man-of-war were free, that if I went to the Batna coast, in three or four days I could fill my ship with runaway slaves.

782. But you did not go there?—No.

783. (*Mr. Mountague Bernard.*) I suppose that you would not often have occasion to go near that coast?—Occasionally. In the first place the "Daphne" could not anchor very close in on account of the depth of water; it is a long swim, and we have not much to do there; they are petty chiefs, and it is not very often that there is communication. Domestic slaves (so called) are taken up by dhows; they are slaves, but you cannot capture a dhow for being engaged in this trade, for the simple reason that you cannot prove the traffic; you cannot prove the buying and selling; great numbers of them change hands.

784. (*Chairman.*) If you ask them whether they are there of their own accord, what do they say?—They say yes, that they are passengers, and are free.

785. Then there is nothing more to be done?—No. Great numbers of them change hands at each of the small ports on the Batna coast. May I be permitted to speak a little of the slave trade which is carried on in the Gulf. My interpreters were openly jeered at at Sur by the natives, who said, "The French can bring slaves here; you are afraid of the French flag, and the Turkish flag, and the Egyptian flag." "You have no right of search." They know it well; we have no authority to search dhows flying those flags. If you suspect slaves to be stowed away you have no authority to open the hatches and rummage the cargo.

786. You mean if they are bona fide French, Turkish, or Egyptian vessels?—Yes, and they sometimes called at Muscat. A dhow came in under my stern with a brand new Turkish flag. I thought it odd. I had my interpreter on the poop, and told him to hail the dhow, and ask whether they had Turkish papers; they said no, that they came from Makullah, and I found out subsequently that this flag was made by them on their passage up, no doubt with the view of hoisting when they saw the cruiser's boats, and of exempting them from search. I reported the circumstance, and I believe that it is frequently done with the view of preventing detention, and search.

787. There is no French man-of-war there?—No.

788. (*Mr. Mountague Bernard.*) I think that they can get French papers at Réunion?—I do not know as to Réunion, but they can at Mayotta and Nossi Be. I do not think that dhows go to Réunion. May I be permitted to speak about the case of a fugitive slave at Madagascar who came to me?

789. (*Chairman.*) Yes?—Another case occurred when I did not consider myself justified in taking the man off. I was in command of the "Daphne" during the period of service at Madagascar.

790. Did a slave come on board?—A boat went on shore on the ship's first arrival, and on her return, it being dark at the time, a slave was discovered in the boat; he was permitted to remain on board the ship until the next day.

791. You permitted him to do so?—Yes. I examined him; his statement was not clear, but he wanted to get on board the ship; he told so many lies that I could hardly make out anything about him. Shortly afterwards one of the Hova authorities (with whom we have a treaty) came off, and represented that he was a soldier who had run away, and

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as I was aware that there had been cases of fugitive slaves in connection with the "Nymph" and the "Dryad" which had not been approved of at the Admiralty and the Foreign Office, and this man appearing not to have been ill-treated, and to have been for some time in the island, I landed him. This was at Majunga.

792. Did he remonstrate on being landed?—No, he did not say anything. I allowed him to stay for a night because there was no means of landing him, and no one claimed him. The Governor afterwards thanked me, and said that he was a soldier, and had run away.

793. (*Sir Leopold Heath.*) You say that there was no slave trade in the Persian Gulf in 1874 and 1875. With the exception of a large capture by the "Lyra" some eight or nine years ago, have not captures in the Persian Gulf been of very rare occurrence?—In

November 1873, the "Vulture," captured a dhow off Ras-el-Had with 193 slaves on board.

794. I am speaking not of Ras-el-Had, but of the Persian Gulf itself?—It is of very rare occurrence.

795. So that your evidence is only negative; your evidence is that you only know of 30 slaves having been landed in the Persian Gulf, but you say that in former years the captures were very rare also. Then why do you infer that the slave trade has stopped. The circumstances seem to be the same now as they have been for many years?—Excuse me, when I spoke of the Persian Gulf I also included the Gulf of Oman, which is on the station. There may have been few captures in the years previous, but there may have been a great deal more slave trade. I go by what I have gathered from the authorities in the Gulf and elsewhere that the trade has very much diminished in the last two years.

The witness withdrew.

The REVEREND JOSEPH MULLENS, D.D., examined.

Rev.  
J. Mullens.

796. (*Chairman.*) You were in the Island of Madagascar, were you not?—I lately visited the Island of Madagascar, and between August 1873 and August 1874 I spent twelve months in the island.

797. Having been in the island for twelve months, do you think that they carry out the treaty fairly with us, respecting slavery and the slave trade?—It is difficult for a mere visitor to say how far the Hova authorities do carry out the treaty; but I have heard that they are anxious to do so: and one of the first things that happened after I had left the island was that the Queen issued a proclamation dated 2nd October 1874, which enfranchised at once all slaves that might have been clandestinely imported from Africa since the date of the last treaty, namely, the 7th of June 1865.

798. (*Sir George Campbell.*) Is she Queen of all Madagascar?—No, she is called Queen of Madagascar; but her authority does not extend over all portions of Madagascar. There are large portions of the island inhabited by the Sakalavas and other tribes, who do not recognise the Queen's authority, and which extend all along the western coast as far as Majunga Bay.

799. (*Chairman.*) In the portion of the island in which the Queen's authority does not run, is there much slavery?—We know almost nothing about that portion of the island. It is inhabited by a very rude set of tribes called the Sakalavas.

800. (*Sir George Campbell.*) To whom does Majunga belong?—To the Hova Government.

801. That is to say to the Queen?—Yes, it is under the Queen of Madagascar, and the Governor is appointed from Tananarivo, the capital. I may say that in the neighbourhood of Majunga there is a large district of country called by the native name of Iboina, which contains twelve native garrisons. All the towns round there are held by garrisons of Hova soldiers under a governor, because this is in a conquered territory; a territory conquered from these very Sakalava tribes.

802. (*Chairman.*) Then are the Sakalava tribes an inferior race?—Yes; and they are the chief population of the west country. The Sakalava tribes extend all up the coast, and even bend round to the north.

803. (*Sir George Campbell.*) Are the Sakalavas slaves?—No, they are independent tribes. They hold slaves, and they have the reputation of holding a large portion of the slaves imported from the African coast. That is why I mention the fact.

804. (*Chairman.*) What did you see of slavery while you were there?—I saw a great deal of slavery both in the interior of the island, and on the coast. On the north-west coast I visited seven out of these 12 garrisons; and in three or four of them it was plain that there were a great number of African slaves who were fresh imports: especially in two of these towns Majunga being one of them, there were

large numbers of pure Africans. It was clear, therefore, that although there is a treaty between the Hova Government and the English, that they will not import Africans, that treaty has been tampered with.

805. And the proclamation of the Queen is tampered with?—The proclamation came immediately after my visit. After what I had seen I wrote to the Prime Minister at the capital on the subject. He was aware of my being on a visit to the coast, and he had given me letters of commendation to the authorities. After having seen these things, being deeply interested in the slave question, I told His Excellency all about it; and wrote him a long letter.

806. You were not aware, I suppose, of any instances where slaves escaped to vessels?—No; and I do not think it likely that there will be such cases. Because within the bounds of Madagascar itself there are abundant opportunities for slaves to escape, if they wish to escape from slavery; there are immense tracts of country with woods and forests, in which they can hide. Beside, there is a standing objection on the part of the Malagasy people to go across the sea; they are thoroughly a land people.

807. They can escape into the interior, and they can find land which they can cultivate, so that they can live?—Yes; or they can go down among the Sakalavas; they can find many opportunities of living without the necessity of passing the sea. In the old days before the great Treaty was made with Radama in 1816, one of the things dreaded by the slaves who were then exported from Madagascar was, that they had to go across the sea; they viewed it with such horror.

808. (*Sir George Campbell.*) They were exported from Madagascar?—Yes. Before 1816 there was a very considerable export trade in native slaves taken in war from the Hova tribes, the Sakalava, the Betsileos, and other tribes.

809. (*Chairman.*) Then they seem to have such a terror of the sea, that we can well understand that they would not often escape to ships?—Not as a rule, considering the sources of escape which they have within the bounds of the island.

810. (*Sir George Campbell.*) Are you now speaking of the native slaves, or of imported Africans?—I am now speaking of the native slaves. Under the Queen's proclamation every African slave imported into the island was ipso facto free.

811. Do you mean imported at any date?—From the date of the last treaty.

812. Were not many Africans previously imported?—Yes, and from the date of the treaty, namely, the 7th of June 1865, the Queen says that everyone imported after that is free; she does not deal with the cases of those who may have been imported before that treaty was made.

813. How are you to distinguish them?—The Malagasy would know; the owners would distinguish

them; they would know whether they had received African slaves before that date, or not.

814. Is the importation of African slaves into Madagascar a very old institution?—It is a very old institution; it is of the same date as the Zanzibar and Bombay trade. Majunga is one of the old Phœnician and Arab ports, evidently connected with Zanzibar and Bombay. In many cases you see the effect of that importation; the Hova blood even in the interior of the island is affected by it; you see it in the thick lips, low forehead, and curly hair. The Hovas are themselves a Malay race.

815. (*Mr. Mountague Bernard.*) Is the Hova race the ruling race?—Yes.

816. (*Chairman.*) You say that they are a Malay race?—Yes.

817. What language have they?—They speak a language distinctively called Malagasy; it is akin to all the Malay languages spoken in the Straits of Malacca, and even in the South Sea Islands. Your Grace asked me about the state of slavery in the interior of the island; that also is a most interesting question which bears upon the whole matter. There is a great deal of slavery in the interior of Madagascar; thousands upon thousands of people are held in slavery. All over the centre of the island, in the province of Imerina, and in the Betsileo country to the south, these slaves are very numerous. They are almost all of native origin, and not of African origin; they are evidently of Malagasy blood belonging to the different tribes. They became slaves in war; the persecuted Christians many years ago were reduced to slavery; and criminals are so punished. Towards the north-west coast even domestic slaves from their appearance show themselves to be of African origin. The domestic slavery of Madagascar is not of a very hard type, and it is closely akin to the feudal system which has prevailed among the Malagasy tribes in relation to one another for almost countless generations. Christianity is now softening all the rigours of slavery in a very marked way.

818. Are the Christians still made slaves there?—Not now, that was in the days of persecution; now all the people in the central part of Madagascar are Christians; the Queen is a Christian, the Prime Minister, who is her husband, is also a Christian, and all the higher officers are Christians.

819. (*Sir George Campbell.*) Does she still keep these persecuted Christians as slaves?—All those who belonged to Christian families, and were known to have been enslaved during the persecution, were set

The witness withdrew.

free by her predecessors. I do not say that there are any persecuted Christians who are now slaves, but that is how they were made slaves.

820. (*Chairman.*) As I understand you, the Queen being a Christian, and her Prime Minister being Christian, they are endeavouring to act upon Christian principles amongst their people?—Certainly.

821. And therefore slavery will diminish?—One hopes that the system after being considerably softened will eventually be entirely given up. But there are many conservative objections to its abandonment on the part of those who have the rights which slavery has given them over hundreds and even thousands of slaves. The Malagasy people, of course, move slowly in improvements and it is there that difficulty is found. One great help towards putting the slave question on a sound footing has arisen from the fact that the missionaries who have now been employing the people in building, in carpentering, in iron work and the like for many years, invariably pay every workman the full wages of a freeman. They treat every man as a freeman, although a large number of the people who serve them are really slaves belonging to different masters. And the slaves have now got so strong a position there and understand that position so well (for many of them are Christians) that the masters of slaves, even in doing their own work, are obliged to pay them wages to a greater or less degree, so that freedom is progressing and public opinion is rising. Some 300,000 people in the centre of the island are Christians, and more than 1,200 congregations meet there every Sabbath day.

822. (*Sir George Campbell.*) On the north-west side of the island is there a large population of imported African slaves?—I cannot say how large it is, but it must be considerable. Sir Bartle Frere had it acknowledged to himself that the importation amounted to about 6,000 slaves a year.

823. Did you yourself see many imported African slaves?—I judged from the look of the people that a large number of those whom I saw in two or three of the towns were Africans.

824. Were they held in a severe form of slavery?—I think not; I do not think that the slavery is at all severe as a rule.

825. Is there any disposition to run away on the part of the imported Africans?—I could not say—they would have few opportunities of getting away; and if imported during the last eleven years, they can claim their freedom under the Queen's proclamation.

*Rev.*  
*J. Mullens.*

20 Mar. 1876.

Tuesday, 21st March 1876.

PRESENT :

HIS GRACE THE DUKE OF SOMERSET, K.G., IN THE CHAIR.

THE RIGHT HON. MOUNTAGUE BERNARD, D.C.L.  
SIR HENRY T. HOLLAND, BART., C.M.G., M.P.  
REAR-ADMIRAL SIR LEOPOLD HEATH, K.C.B.

SIR GEORGE CAMPBELL, K.C.S.J., M.P.  
J. FITZJAMES STEPHEN, ESQ., Q.C.  
HENRY C. ROTHERY, ESQ.

HENRY HOWARD, ESQ., C.B., *Secretary.*

GEORGE LENNON HUNT, ESQ., examined.

826. (*Chairman.*) You are Her Majesty's consul at Rio?—Yes.

827. From what time have you been so?—From 1862; at Pernambuco first, where I remained for two years, and I have ever since been at Rio de Janeiro.

828. You have therefore seen a good deal of the state of the slaves in Brazil?—Yes, because from time to time I have been sent on special services into the interior, and I have seen a good deal of the working of the slave system there.

829. Should you say that upon the whole the slaves

were well treated in Brazil?—I think that the Brazilian character on the whole is benevolent, and that the slaves are well treated. I think that the treatment of the slaves in Brazil, in relation to the manner in which the planters themselves live, is certainly as good as that of the agricultural labourers in Europe, with reference to the manner in which the farmers and the landowners live.

830. Did you see any reason to think that there had been newly imported slaves in Brazil?—No; the slave trade in Brazil absolutely ceased in 1851, and

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*Esq.*

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that cessation was mainly due to the constant endeavours in England of every British Cabinet that took the reins of office, and to the unremitting exertions of Her Majesty's agents in Brazil.

831. By a later Act, I think the children born since 1872 are free?—Yes. In, I think, the year 1869, I made a report to Her Majesty's Government partially on that subject, and I submitted certain propositions which I believed that the planters would accept as a means of compromising with the great question of manumission which had been for a long time under consideration and which was pressing for a solution. I do not know whether it was *post hoc propter hoc*, but in 1871 a law was submitted to the Chambers of Brazil in which all the proposals that I had made were embodied. The principal proposition was, that all persons born after a particular date from the passing of the Act should be *ipso facto* free, and should be regarded as possessing all the rights of Brazilian citizenship. I think that the manner in which the Brazilians brought about the manumission of their slaves was a very wise one, because, first, it got rid of the great difficulty of compensation to the planters, and in the second place, it was even benevolent to a large number of the slaves, inasmuch as when a slave had arrived at 50 or 60 years of age, it is an act of cruelty then to cast him upon his own resources and to turn him out naked into the world after his best exertions had been given for the benefit of a master; and thirdly, it did not bring immediate ruin on the planters. I think that the Brazilians are entitled to great credit for the manner in which they proceeded. One of the articles of the law was, that a tax should be imposed upon all slaves within the empire, and that the produce of this tax raised in the province should be applied to the manumission of the existing slaves. I had a file of the "South American Mail" from Rio de Janeiro the other day, and by it I see that one president apportioned the sum of 14,000*l.* towards the manumission of the slaves in his province, (I believe it was the province of Para,) and there is a sum of half a million milreis, about 50,000*l.*, which has accumulated in the provinces, but which has not yet been applied.

832. Can you state at all how many slaves there are in Brazil?—There were two returns which appeared in my report presented to Parliament in 1874; they were both official. The first was a return which made the number of slaves in the empire a small number over a million; and the second return, which professed to have been rendered in a more exact manner, with the object of estimating the number of slaves possessed by each landowner, in order that they might become subject to the tax to be carried to the manumission fund, made the total number of slaves in Brazil 1,400,000. Now I cannot say which return is the more correct, but probably the latter, as it was done for fiscal purposes. I think that the first was, probably, rather an estimate than an exact return.

833. Are the slaves kept in villages or are they locked up, as we hear they are in Cuba?—They are not locked up; there is no necessity in Brazil for anything of the sort. The planter's house is usually placed on a small elevation, if there be one, and there are the offices and stables, and the stores for the provisions upon which the slaves are fed, and then, at some distance from the planter's house, there are either separate cottages or rows of cottages, in which the slaves live. Although I have resided on several estates for short times when travelling on duty in Brazil, I never remember seeing any of the slaves locked up. There is, I dare say, a lock-up, but it is only used for violent and refractory slaves. Generally the slaves are as free to go about as any other labourers that might be employed upon the estate, but they are expected to be in their quarters after a certain hour at night.

834. Did you see anything of fugitive slaves, or had you any cases brought to your notice by any of the captains of ships respecting fugitive slaves while you were there?—In my time no case occurred, although

our vessels of war are usually coaled by slaves and the lower class of Portuguese. I never heard of an instance in which one of those slaves refused to go on shore with his fellows whenever his work was ended. The household slaves in Brazil are, as a rule, treated with kindness, and I think that altogether the position of a female slave in a planter's house is better than that of a white woman servant-of-all-work in a London lodging house.

835. (*Sir Henry Holland.*) Have there been any cases of fugitive slaves coming to the consulate?—Never. Cases such as those pictured by Mr. Tenniel have never occurred in Brazil to my knowledge.

836. (*Chairman.*) Then you do not think that if there was an instruction, for instance, to Her Majesty's ships that they were at liberty to receive slaves, and that the slaves would be at once free, it would make much difference in Brazil?—I think that it would make this difference, that it would lead to a very great difficulty between the two governments. In the first place, if the government of Brazil were not able to obtain satisfaction from the British government, I think that it might lead to the downfall of whatever government existed at Rio at the time. That is all that I see in it. These slaves are now becoming extremely valuable, they are worth, when in the prime of life, from 100*l.* to probably 200*l.* each, and setting aside the benevolence of the Brazilian character, it is a matter of the clearest interest on the part of the owners to treat these men in the best manner, in a way which will keep them in the soundest condition for the performance of their work. I think that if the captain of a man-of-war had attempted to receive and remove one of these slaves from the harbour, and if a complaint had been made to me, it would have been my duty, and I should have felt constrained to have requested him to restore that slave to the shore.

837. Then you saw no cases of inhumanity towards slaves?—I saw none during my 12 years residence, I never saw any punishment inflicted upon a slave, and I never saw a slave suffering from the marks of recent punishment.

838. As there are a million or more of slaves, a great number of children are being gradually brought up to freedom?—Yes. In 1871 the law of which I have spoken was passed by the Brazilian legislature; in 1872 it came into force, and the principal section in that Act rendered all persons born in Brazil, no matter in whatsoever condition or of whatsoever colour, free from the passing of the Act. The Act was appointed to come into force on a particular day, and after that time all persons were to be free, no matter whether born of slave mothers or otherwise; so that in 20 or 30 years I think you may look forward to almost a total extinction of slavery in Brazil.

839. Are the slaves employed much on board ships?—Very frequently. Almost all the coaling of British and foreign vessels of war and of merchant vessels is done by slaves.

840. Are they at all used as sailors in coasting vessels?—Very frequently.

841. Are those men paid during their service?—Slaves who perform any special duty usually have better treatment than others, and sometimes some small payment beyond what they would receive if they were working upon a sugar or a coffee plantation.

842. We have been told that in the north of Brazil there are a class of slaves who are gradually buying their own freedom. Do you confirm that statement?—A slave in Brazil has the power of calling upon his master to fix a certain value on him at a particular date, and when the slave by his own extra exertions, either by payments received from his master for extra work, or by hiring himself out to others, is able to amass the sum which has been fixed on as his value at a particular date, he can then claim through the authorities his freedom.

843. And many have claimed it?—A great many have claimed it, and some have gone back to the Coast

of Africa, but not finding it exactly what they had pictured it to be in their own imaginations, many of them have returned to Brazil, some of whom have become slaveholders themselves, and they usually are the hardest taskmasters.

844. (*Sir George Campbell.*) Has it been the practice in any part of Brazil to raise slaves with the view of selling them into slavery in another part of the country as was the case in America?—No. Capital in Brazil is scarce, and there are few persons, who have sufficient capital, of the class likely to devote themselves to this business, although it would have been as profitable to do it in Brazil as it was in the United States.

845. Are slaves bought and sold freely?—They are. There is now a considerable duty on the sale of a slave; I think that it amounts to 40 milreis, about 4*l.*; it is a tax upon the sale of slaves.

846. Are there public slave markets or slave auctions?—No; there are agents in the various towns, and the slaves are sold, but they are not precisely public sales; only those persons go to them who have a desire to deal in slaves. I believe that they are sold by auction in Rio, but I never was present at an auction. There is no regular auction mart. I think that when slaves are to be sold the agent for the sale of them makes the announcement, and those persons who wish to purchase go to his house, and make what bids they please; but there is no public market as there is at Constantinople.

847. Do advertisements appear in the newspapers for the sale of slaves?—Yes.

848. You have said that you believe that within 20 or 30 years slavery will cease altogether in Brazil. Can you tell us by what process you think that object is likely to be attained?—First by the large number of deaths; and in all institutions of that sort which are doomed, I think that there is an accelerated motion towards the end of the term. If the manumission fund be honestly applied by the presidents of the provinces, that alone will make a great inroad in the number of slaves over 20 years of age. The Act, for example, only came into force in 1872, and to-day there is a sum equal to half a million of milreis or 50,000*l.* already accumulated. The number of slaves in Brazil is a fixed quantity, and every year a great decrease must take place from deaths and from manumissions both from the public fund and by private persons, because it is a great fashion among Brazilians to leave their household slaves free when they die. From these sources, namely, from death, from the manumissions which must arise from the public fund which is annually accumulating, and from the manumissions which are made voluntarily by Brazilians, and from those made by private societies formed in every province in the empire to promote the manumission of slaves the gross number must be every year largely increased. I believe that those causes must have a good effect in reducing the number of slaves in 20 or 30 years; and I think that it is an institution as to which, when it becomes very materially limited, and when it becomes no longer such a great interest as it is now, an almost universal interest, a great feeling will spring up in the Brazilian mind that the time has arrived when it may finally cease with advantage to the country. I have omitted to refer to another important influence in the reduction of the number of slaves. Africans in Brazil are peculiarly liable to fall victims to attacks of epidemics; thousands of slaves have died during my residence in Brazil from cholera and small-pox.

849. (*Chairman.*) How are the children who are born free supported? Who supports them?—The owner supports them.

850. Although he is never to have their labour, yet he supports them?—He is never to have their labour. I have no doubt that the view of the Brazilian Government has been that some sort of apprenticeship should be introduced at some future time. As that is only an assumption of mine, perhaps I have no right to state it.

851. (*Sir George Campbell.*) Does the present Act say nothing of apprenticeship?—The Act of 1871 does; there is a provision in the Act for the maintenance of the children. I believe that the planter may claim some proportion of the cost of the maintenance of the children.

852. From whom?—From the State.

853. (*Sir Leopold Heath.*) I suppose that the abolition of the slave trade and the modified condition in which slavery now seems to exist in Brazil, may be attributed principally to the pressure put upon Brazil by Great Britain?—I think entirely. I believe that had it not been for that pressure there would have been a line of steam-vessels between Africa and Brazil to-day, carrying slaves.

854. Then do not you think that if that moral pressure is pushed a little bit further the happy time of total abolition to which you have referred may be advanced?—I think not. In the first place the total abolition of slavery to-day would cast a very large number of aged persons naked into the world without the means of support, and, secondly, it would be the cause of the ruin of the planters. I think that the manner in which Brazil has manumitted her slaves is better than the course which we adopted with regard to the freedom of our slaves in our West Indian possessions. It has the advantage of providing for the old persons, and it has another advantage, that of training the young in habits of industry, which will render them capable of earning their own living, by receiving the kind of training which will fit them to do so. I should look upon it as a misfortune to the slaves themselves if all the slaves in Brazil to-day were suddenly manumitted. I do not think it would be in the interests of humanity, or in the interests of the slaves. I believe that a gradual manumission is much more beneficial to everybody—to the state, to the planters, and to the slaves themselves.

855. (*Chairman.*) Would Brazil have the power of paying any compensation for the manumission of these slaves?—Brazil has already accumulated a very large debt, a debt altogether, of about 80,000,000*l.* sterling, and if she were called upon to compensate the owners for 1,400,000 slaves it would create a burthen upon her exchequer which she could not possibly bear.

856. (*Sir Leopold Heath.*) Supposing that the feeling of the people of England was so strongly expressed that the Government of England was obliged to make some such regulation with respect to our men-of-war as that which has been indicated by his Grace, do not you think that, having the feelings which you have described, the Brazilian Government would devise some means by which our conscience could be satisfied, and at the same time the few slave-owners who might suffer would be compensated?—I am afraid not. The tendency in Brazil has been, through the unprofitable nature of the cultivation of sugar for a few years past, owing to the great increase in the production of beet sugar in Europe, to remove the slaves from the comparatively unprofitable employment of sugar growing, and to transport them south and employ them on the more profitable growth of coffee. In the first place, I do not think that Brazil, as an independent state, would listen to a proposition of that sort, and I scarcely see the manner in which it could be made; and, on the other hand, I see some great objections to it: first, the heavy charge upon the resources of the country; secondly, the ruin of the coffee planters, or very nearly their ruin, as they would have no time to train up the young people to habits of industry or to substitute free labour for slave labour; and, thirdly, I do not think that it would be beneficial to the slaves themselves. Out of the 1,400,000 slaves there is a large proportion of the whole number who are above 40 years of age. A slave after 40 is not the energetic man that a free man is. A slave's notion of liberty is to do absolutely nothing; he has no higher conception of liberty than that; he would squat upon a patch of land, cultivate a few bananas, and fish

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in the river, and do little else. A liberated slave is generally useless for anything like consecutive labour. There would certainly be an enormous drain upon the resources of the country as compensation for 1,400,000 slaves; an adult slave is worth 100*l.* to 200*l.*, and it would create such a debt as Brazil could never face.

857. But you surely do not anticipate that those 1,400,000 slaves would all crowd into the harbour of Rio de Janeiro, notwithstanding the police regulations of the country, and would crowd on board our men-of-war, do you?—No, that would be impossible. I am not anticipating that at all.

858. My question referred to slaves in Rio harbour, or other harbours, in which our men-of-war are, and who might go on board our men-of-war as a sanctuary, and be retained there by the authority of Government regulations; whereas now they go on board, under those circumstances, although in very small numbers, and have been retained there by the authority of the captains of the ships. There have been within the last 40 years some half dozen slaves, more or less, who have escaped to men-of-war, who have been retained by the captains of those men-of-war, and who have not always been given up even by our Government?—I think that if a slave could secrete himself on board a man-of-war or a merchant vessel, and the vessel went to sea, there would be an end of that question.

859. What I wished to know was whether if a few slaves did go on board a man-of-war and were not given up by that man-of-war, some peaceable means could not be adopted by the Brazilian Government to save the conscience of England, and, as you say they would wish to do, to save their own conscience. They wish to show their own independence, and you may suppose that we wish to uphold our traditions; would there be no means of harmonising those two feelings?—I am afraid that I do not see my way to doing so.

860. I take it that a very small number of slaves would come on board those ships?—The moment that it was known to the slaves in Brazil that if they could, *per fas aut nefas*, once place their foot on board a British man-of-war they would be free, I am afraid that the cases of slaves doing so would be very numerous. In the first place, the first band of slaves who coaled a vessel of war would refuse to go on shore.

861. They never have done so yet?—They never have done so, but that is in the belief that it would be quite useless. If, however, they acquired the knowledge that once on board a man-of-war and claiming the hospitality of England, they could not be returned to the shore, I think that they would certainly do so.

862. (*Chairman.*) With reference to the questions which Sir Leopold Heath has asked, I think that you told me that when slaves had been taken to Africa they liked it so little that they returned of their own accord to Brazil?—Many of them.

863. If then we took the trouble to take the slaves over to Africa it is probable that we should not do them a very great kindness?—No. I think that a man who has been in slavery in Brazil and accustomed to the life there, if he were transported to Africa would find himself very much in the position of a caged bird, which after a long captivity rejoined its comrades.

864. (*Sir George Campbell.*) You have told us that Africans who went to Africa returned to Brazil; did they return as free men?—Yes; those are the choicest Africans, because they have worked out their freedom by their own industry and self-denial.

865. Do you think that they would come back if they knew they would be returned to slavery?—Certainly not.

866. You have said that you think that it is under the pressure of the British Government that these measures for the enfranchisement of the slaves have been adopted. Do you think that Brazil is now in good faith carrying out those measures?—Yes, I believe so. I think that we have no reason now to

complain of Brazil, and that, under the rule of an enlightened Prince, she is doing all she can in this sense, and all that can be fairly demanded of her.

867. You have said that you expect that eventually the Africans, who are in practice from one point of view slaves, who are nominally freed, will be subjected to apprenticeship. Is there nothing upon paper now to show that such a system is contemplated?—No, not that I am aware of; but it has been done so frequently in other countries that it is possible that Brazil may endeavour to get some work out of the future population. But altogether I should like to withdraw the observation that it is possible that Brazil may do so, as it is more hypothetical than otherwise.

868. I will read a passage from the Act which seems to bear upon this question: "Upon the child of a slave attaining this age the owner of his mother shall have the option either of receiving from the State an indemnification of 600 milreis or of making use of the services of the minor until he shall have completed the age of 22 years"?—That answers all questions on this head.

869. Does not that provision amount to a law of apprenticeship, it being at the option of the slave owner?—I think that it is a beneficent arrangement.

870. But it does amount to a law of apprenticeship?—Yes, an optional law of apprenticeship.

871. At the option of the slave owner?—At the option of the slave owner. I had it in my head that the slave owner was to be compensated by the State, and I see there that it is so.

872. Do you think that under this provision the slave owners are as likely to encourage the breeding of children of slaves as they were before?—I think so. I do not see that the desire of the slave owner one way or the other would influence the increase of slaves.

873. Is marriage a common institution among the slaves?—It is a common institution, but there is no doubt that a great many connexions take place between the sexes which have not received the authority of the Church.

874. (*Chairman.*) Are the slaves Catholics?—They are all Catholics. The religion of Brazil, where they have received the Decrees of the Council of Trent, is Roman Catholic, and the slaves are educated in that religion—that is to say, as much education as they get, which is not very extensive.

875. (*Sir George Campbell.*) Are the slaves a prolific race; is the number increasing or decreasing?—The number in itself is decreasing. The practice of working women too near the period of childbirth and too soon after it, and the consequent want of care for the young children, I think lead to a decrease of the slave population in Brazil. I should think that in 1851 the slave population in Brazil must certainly have amounted to 1,800,000 at least, if not over 2,000,000; so that in 20 years there has been an immense decrease in the slave population.

876. Does not that enormous decrease seem to imply some usage, which we must call ill-usage?—No, I do not think that it does. One of the reasons, as far as I can see, I have already given, namely, that of working the women too near the period of childbirth, and too soon afterwards. Children are placed in Brazil on the plantations as they are in baby farms in England,—a few old women are employed to look after a number of young children, and the mortality among those children must be very much larger than it would be if the children remained with their mothers, and could receive their care for some months. I think that is the real answer to the question. Another reason is the liability of Africans to be carried off by epidemics.

877. Do you not think that working the women so very near the time of confinement as to cause a great mortality among the children, amounts to ill-usage?—The term "great mortality" perhaps expresses too much. I think that it is a great reason for the decrease

in the population, that the mothers are not left to give their undivided attention to rearing their offspring.

878. Coffee planting is much less hard work than sugar planting, is it not?—Much less hard work. There is little hard work in coffee planting; the hardest is that which takes place at the beginning, when the ground is being cleared to receive the new coffee trees.

879. Then do you think that the transfer of the slaves from sugar planting to coffee planting is likely to lead to a saving of the population, and that in future the population will be more prolific?—Possibly. Sugar planting is hard work, and is very monotonous; and I think that altogether in the interest of the slaves of Brazil the change is beneficial to those who have the good fortune to be transplanted from the northern to the southern provinces.

880. (*Chairman.*) Is labour very scarce in Brazil?—Yes. Brazil has made a great many efforts during the last 25 years to encourage free immigration, but it may be said that nearly all those efforts have been unsuccessful.

881. Is the free population not increasing?—The free population does not increase very largely; it has increased, I have no doubt, but it is not increasing very largely. No census has ever been taken of the population of the whole empire.

882. (*Mr. Mountague Bernard.*) Are there many free negroes in the large towns?—Yes; in every large town there are a great many free negroes.

883. Is the great bulk of the work done by slaves?—The great bulk of the work in towns is done by slaves. In the larger towns of Brazil a good deal of the very hardest work is done by Portuguese.

884. The shore boats which go off to a ship would commonly have slaves on board? I mean to work the boats, and do what else was wanted?—The boats in the harbours between Pernambuco and Rio, with which I am acquainted best, are—in a large proportion—manned with slaves.

885. Where do the ships lie at Rio?—It is a narrow entrance, and there is a large harbour inside, and the ships of war lie about three quarters of a mile from the shore.

886. Does it occur to you that if the captain of a ship knew that he was not to return a slave, but was not to invite or induce or encourage slaves to come on board his vessel, he could use any precautions to avoid getting into difficulty in that respect?—At the gangway of every vessel of war you have usually a sentry, and the sentry would not admit any unauthorised person on board, and any person presenting himself would of course be stopped until orders were received from the superior officer.

887. But some part of the work which is done on board, such as coaling and watering, would have to be done by slaves who come on board?—Yes. (*See letter at the end of witness' evidence.*)

888. (*Sir George Campbell.*) You have said that slaves have the opportunity of earning their manumission?—In many cases, principally those employed in towns.

889. Is there any law by which the right of the master's service from the slaves is limited to a parti-

cular number of hours, and by which slaves have a right to earn money by their own labour?—No. It generally happens that the slave pays to his master so much a day, and the master very frequently provides lodging; and all that the slave can earn over the sum demanded by his master is his own of right.

890. Is that the usual practice, or is it an exceptional case?—It is the usual case in towns. I am speaking now with reference to town slaves only. The slaves in the interior very rarely amass any money at all—there are no markets. If they produced provisions, pigs, or fowls, the greater part of the plantations are so situated, that there would be no market for the produce of the slaves; so that it very rarely happens that an agricultural slave succeeds in amassing a sufficient amount of money to purchase his liberty.

891. Then I suppose that the great mass of slaves have not an opportunity of earning their own freedom?—Practically they have not; it is usually only accomplished by those slaves who work in towns, and whose masters for a certain sum paid to them, permit them to retain what they earn over and above the specific sum.

892. Is there any fixed sum established by law which is the value of a slave?—It would be difficult to establish a specific sum, because the value of a slave depends upon his age and physical capacity.

893. Does that value rise in the market every day?—It has been rising in the market up to the present time; but the rapidity with which slaves are manumitted in Brazil now is acting as a check upon a further price. Altogether I should think that the prices of slaves in Brazil to-day are as high as they have been for an average of some years.

894. Is there any provision for the education of the children of slaves?—I am afraid not. The moment that a Brazilian goes up the country he finds very little provision for the education of his children. In the towns there is gratuitous primary instruction, but slave children never have the benefit of it as far as I am aware.

895. At present as regards every child born before the date of the late Act, there is no distinct law by which slavery shall cease at any period of his life?—There is not.

MR. LENNON HUNT to THE ROYAL COMMISSION.

17, Pall Mall,  
March 30th, 1876.

DEAR SIR,

It has occurred to me, with reference to the evidence which I gave before the Royal Commission, that there is one firm at Rio engaged in the coal trade whose work is performed by Portuguese, and it may well be that there are at other ports of Brazil persons in this trade who could supply coal to our vessels of war by means of free labourers.

Should you think the matter of sufficient importance perhaps you will kindly bring it under the notice of His Grace the Duke of Somerset.

Yours very truly,  
G. LENNON HUNT.

Henry Howard, Esq., C.B.,  
&c., &c.,  
8, Richmond Terrace.

The witness withdrew.

The Rev. HORACE WALLER examined.

896. (*Chairman.*) You are connected with the Anti-Slavery Society?—I am.

897. In what way?—I am a member of the Council. 898. In that position have you become acquainted with slavery in different parts of the world?—I have. May I add, that my knowledge is chiefly derived from having passed some years in the interior of Africa, and having ever since my return, in 1864, kept myself in correspondence with people interested in the subject, more particularly in Africa.

899. You have seen something of the way in which slaves are captured in Africa?—I have.

900. And of the way in which they are brought to the coast?—I have.

901. They used to be brought chiefly to Zanzibar, did they not?—The slave trade in the interior of Africa has many ramifications. At the time when I was in Africa to the south of Lake Nyassa, a very large slave trade was going on, which was carried on by the Portuguese, the object being to take slaves from the neighbourhood of Lake Nyassa across the River Zambesi in a south-westerly direction, and to sell them, namely, women and children (men were not taken) to the Kafir tribes in the interior, who from

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long inter-tribal wars had lost nearly all their women and children. That was a very lucrative trade, and was carried on entirely by the Portuguese, headed by the governor of the Portuguese settlement at Tette, and was in fact entirely in their hands. It was the cause of an immense destruction of human life in the districts to which I refer, which destruction took place not only from the actual seizure of the slaves and the slaughter of those who resisted the slave dealers, but from the famines which were sure to succeed in a country disturbed by wars, and from diseases which always break out after famine there, namely, dysentery, and so forth.

902. Were these slaves sold to the Kafirs?—Those slaves were sold to the Kafirs on the south of the River Zambesi for ivory.

903. Did the Kafirs want these women because their own had died, or why did they want them?—These Kafir tribes had been harried by war, and there were hardly any women who could stand the hardships and diseases consequent upon war; the children had also gone down in the same way, and they wanted to renovate their tribes by buying women and children; the women were used either as wives or as slaves, and the children were gradually drafted into their regiments.

904. This question is only incidentally connected with what we are mostly inquiring into. Were you also at Zanzibar?—I never have been in the island of Zanzibar.

905. Were you on the coast?—I was at Mozambique and Quilimane and the Congoni mouth of the Zambesi.

906. What did you see at Mozambique of the slaves there? did you find them in a wretched state, or in a better state than what you had seen elsewhere?—A great many of them were in a very wretched state. I found women there as slaves whom I had seen 18 months before in the interior of the country, and who had come down in slave gangs. I should add to my former observations that there is from that part of the country an immense exportation of slaves both through Portuguese agents and through Arab agents who find their way to the outer world. I would distinguish this branch of which I am now speaking from that interior branch of the slave trade of which nothing would have been known but for the presence of English people in the country.

907. Besides that internal traffic there was a considerable traffic in slaves from the mainland to Mozambique, as I understand; is that so?—Considered geographically, it would hardly be so—Mozambique is an island, but it lies close on the coast—but from the interior to the harbour of Mozambique there was a very constant stream of slaves going, and there is to this day an immense stream of slaves going, with the view of their being exported to Madagascar and the Comoro Islands; fortunately, by the vigilance of our cruisers, the sea traffic has been reduced to a mere nothing in a northerly direction.

908. But you think that there is still a good deal of slave trading to Madagascar?—A very large trade. It was reported in the "Times" within the last six weeks that seven dhows had sailed from Mozambique with 250 slaves apiece across to Madagascar, and for every dhow that is observed, and whose passage across is known, I have no hesitation in saying that a great many pass across of which nothing is known. May I add to this, that I have a very recent letter from Mr. Edward Young, a warrant officer in Her Majesty's Navy, who has recently gone to Lake Nyassa, which we always look on as the tap-root of the slave trade. He, with excellent means of gaining accurate information, informs me that he believes that as many as 20,000 slaves were taken across Lake Nyassa last year. That is the best proof that I can lay before you of the vigour of the coastward bound slave trade at the present moment.

909. (Sir Henry Holland.) By whom is that trade carried on, is it carried on by Arabs?—Yes; when

Mr. Young wrote in last October, they had five dhows, native vessels, engaged in this traffic.

910. (Sir George Campbell.) Are the Portuguese active in the traffic?—The Portuguese have never been allowed by the natives to go there. No Portuguese ever went far up the River Shire; and no Portuguese certainly have been on the Lake Nyassa.

911. Who carries on the seaboard traffic?—It is entirely carried on by Arabs.

912. (Sir Henry Holland.) Do the Portuguese supply funds for it?—The Portuguese have nothing at all to do with it; they are entirely shut out from that traffic.

913. (Mr. Rothery.) Except, I suppose, on the Zambesi?—Yes. If one may coin an expression, one may say that the slave-shed (we speak of water-sheds) lies to the south of the Lake Nyassa, some twenty miles perhaps.

914. (Sir George Campbell.) On the Mozambique coast, do the Portuguese tolerate the slave trade?—It is only right to call your attention to the fact that these settlements on the coast of East Africa are penal settlements belonging to the Portuguese, and therefore you have the very worst class of men that it is possible for Portugal to export. One could not help listening with attention to what passed from the last witness; and I, having been there, cannot help contrasting the state of things in East Africa, after having heard the status of the slave in Brazil. Nothing can be more hideously dissimilar than the state of the slave in East Africa and the state of the slave in Brazil.

915. (Chairman.) How long ago were you at Mozambique?—In 1864.

916. At that time there was a traffic not only across to Madagascar, but there was a traffic along the coast to the north, was there not?—There was.

917. I believe that traffic is said to have considerably ceased?—I believe that it has almost entirely ceased, I may add by sea; by land it is still in full force.

918. You think that the slaves are equally conveyed by land?—I have every reason to believe they are conveyed by land.

919. (Mr. Fitzjames Stephen.) You have spoken of the slave-shed being south of Lake Nyassa; the shed, I believe, would be east and west, would it not?—The shed would be in a north-easterly direction, and in a southerly direction to the Zambesi, where the slaves are used on the Portuguese farms, and at Quilimane, and in a north-easterly direction towards Zanzibar, and the more northerly sea-ports.

920. But always on the east coast of Africa?—Always on the east coast.

921. (Sir George Campbell.) There is not a legitimate domestic slavery in the Portuguese possessions at this moment, is there?—According to their edicts slavery does not exist there now, with the exception of there being some complicated arrangements whereby slavery really does exist, such, for instance, as apprenticeships which are running on. And I may again state, that with such a set of men as are at present in East Africa, with no sufficient supervision, the state of the slave is as bad as it ever was, in spite of all the edicts.

922. You have contrasted the condition of slaves upon the east coast of Africa with the condition of those in Brazil, as I understand, unfavourably to those on the east coast of Africa?—Quite so.

923. I believe that you have some knowledge of the state of slavery at Zanzibar and the adjoining coasts. Other witnesses have told us that the slavery there is of an extremely mild description; that slaves there are extremely well treated; that Arabs are the kindest of masters, and that the slaves are very comfortable, and have no desire to run away; in short, that slavery exists under the most favourable circumstances. Is that statement consistent with the information which you have acquired?—It at once becomes necessary to take Zanzibar as a special case. It is a place which is now full of European merchants with

Her Majesty's consul there, most vigilantly the friend of progress and of humanity; there are also American, French, and other consuls. It would be impossible for the brutalities to exist there for a moment which I have seen practised in places less known and more seldom visited.

924. Then when you speak of the severity of the condition of the slave in East Africa, do you refer to the slave trade or to the condition of slaves who are held in domestic slavery?—I can best answer that question by bringing before your notice again that which was stated by the last witness. The current price of a slave when I was in the country, and the current price now is, about two fathoms of calico; which, reckoning a yard of calico at the extreme price of 6*d.*, would be something like 2*s.* I ask you whether a Portuguese who is able to buy a slave at that price is likely to consider him such a valuable creature as a Brazilian would consider his slave to be, for whom he could get from 150*l.* to 200*l.*

925. Still I rather want you to tell me, as a matter of fact, whether the hardships which are endured by the slaves on the east coast of Africa are hardships endured by slaves in course of transit in pursuit of the slave traffic, or whether they are endured by slaves who are serving masters in a state of domestic slavery?—The hardships of the slaves during transit are well known to you by the reports of travellers, such as Dr. Livingstone and others, who have been eye witnesses; and I need not add my own testimony, although I have witnessed the whole thing from beginning to end. The hardships of slaves at Quilimane and at Portuguese possessions in East Africa, are very great indeed, and I can testify to this fact from personal observation. Human life is very cheap, and the Portuguese masters are for the most part convicts, many of them murderers. One I knew, who detailed to us three murders for which he was sent there. These men are isolated planters, with 300 or 400 slaves apiece, whom they have bought for a mere nothing. They are nearly all in a state of terror lest there should be a rising amongst their slaves; and the remedy which they adopt is to terrify these poor creatures by making the most dreadful example of some of them in the event of anything like insubordination. It is no uncommon thing for a master to cut their noses off, and to castrate the men. Women are put to death in a more revolting and horrible way than I can well detail to you. All these things I have not witnessed with my own eyes, but have had them first hand from other witnesses as being common acts upon the Portuguese farms.

926. (*Chairman.*) In what position were you when you were on the coast near Mozambique?—I went there with Bishop Mackenzie and his missionary party as lay superintendent of some artisans that were attached to the mission. I subsequently joined Doctor Livingstone, who was in the country during that time, and aided him in a project for bringing away a number of liberated slaves whom he had liberated in the district of which I am speaking.

927. Where did you take those liberated slaves to?—To the Cape of Good Hope.

928. Did you there apprentice them?—I did.

929. (*Sir George Campbell.*) Do you think that on the east coast of Africa the Christians are much more severe masters than the Arabs and other Mahomedans?—Of course there are Christians and Christians. I suppose that you must call a Portuguese convict, who has been sent there for murder, a Christian, in contradistinction to an Arab, who may be a merchant and really benevolent. I think that it is almost a question whether the word "Christian" should be applied.

930. I understood you to say that the general state of the Africans in the Portuguese possessions on the east coast was very severe, and more severe than in Zanzibar and other parts of the coast?—Than in Zanzibar. Other parts of the coast I can hardly speak of because I have not been there.

931. (*Mr. Rothery.*) I think that your observations chiefly relate to the Portuguese possessions, do they not?—They do.

932. The Portuguese have no authority whatever, or hardly any, north of Mozambique?—Practically they have none.

933. They assume a title over the coast as far as Cape Delgado?—They do.

934. But I think that they do not exercise any authority beyond Mozambique?—So true is that, that across the harbour of Mozambique a Portuguese would not be allowed to walk five miles into the country.

935. Have you been to Johanna?—Yes, and have staid there.

936. Were not the slaves well treated there?—Yes, as a rule they are well treated, but at the same time masters are severe. For instance, theft is punished by the cutting off of a hand, and I have seen slaves whose hands have been cut off for what we should call trivial acts of theft; but as a rule, it is right to say that an Arab in good case, with slaves, is not a hard taskmaster, nor is he a brutal man.

937. He is not like the Portuguese whom you have described to us?—Certainly not; I could not go lower in the scale of humanity than a Portuguese convict, and his conduct towards his slaves in East Africa.

938. You have spoken about the transport of slaves northward. When you spoke of that which occurred in the year 1864, you meant their transport in dhows, did you not?—Both in dhows and overland.

939. Did it exist at that time overland up the coast?—I have seen women in captivity at Mozambique whom I knew in the country in the vicinity of Lake Nyassa.

940. But did it exist northward of Mozambique along the coast, except in dhows?—I have no authority for saying that it did.

941. (*Sir George Campbell.*) What is the extent of the Portuguese possessions on the east coast of Africa?—They have three towns on the river Zambesi, Tette, Senna, and Quilimane, and there is a large ivory trade carried on there. Then again they have Mozambique, and to the south of the Zambesi they have Inhambane, and two or three small places.

942. (*Sir Leopold Heath.*) I gather that your correspondence leads you to suppose that the slave trade by sea from Quilimane and Kilwa, and those ports, has decreased since the Treaty of 1873, is that so?—Very much indeed.

943. Do you think that the total slave trade going northward by land and by sea has decreased?—By sea it has almost come to an end; by land it is at present very active.

944. Then the effect of the treaty has been not to decrease the number of slaves captured in the interior, but simply to change the line along which that traffic is carried?—I think so.

945. Are there not many dhow harbours about the river Juba and Lamoo which our cruisers cannot watch, and from which slaves may be exported?—No doubt there are; but you can get, I am sure, better information on that particular point than I can give you. Without doubt there is a trade in slaves, which is exceedingly vexatious to our cruisers, and to the authorities acting in our name at Zanzibar, which is carried on between the mainland and Zanzibar and between the mainland and Pemba, and which, from what I hear, frustrates the naval authorities continually, and requires very close attention.

946. You mean that the slaves are now carried in small numbers?—In very small numbers; in twos and threes.

947. They are carried in a great many dhows, instead of being carried in large numbers in a small number of dhows?—Yes, and they are carried in canoes and fishing vessels; it is a sort of retail smuggling.

948. I suppose that you can give us no information as to fugitive slaves taking refuge on board men of war?—I never witnessed but one case, which was at

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the Island of Johanna, and I am sorry to say that I cannot tell you the result; but I should wish to point out strongly to the Commission this fact, that although very few cases have come to light in time past, it by no means follows that very few cases will occur in time to come, because these questions are taken up on the coast, and they excite a very great deal of interest. There are quite sufficient liberated slaves, and intelligent liberated slaves, at Zanzibar to take up the matter, with some of whom I am in communication, such for instance as the two men who were mainly instrumental in bringing Doctor Livingstone's body to the coast. I do not hesitate to say that these men will know what has taken place in this country; they will be glad to hear what sympathy is felt for these East Africans, and it will very quickly be known at Zanzibar, and at Mozambique more particularly, where the slaves are very badly treated; and I am sure, as far as one's own intelligence can guide one in this matter, that the difficulty has only just begun with this excitement which has taken place in the country respecting the "Circulars."

949. (*Sir George Campbell.*) Whose are the Comoro islands?—They belong to different chiefs.

950. Are they islands on the coast of Africa?—They are to the north of Madagascar, and are some considerable distance from the coast of Africa.

951. Is there an active slavery carried on in those islands?—Yes; I believe that there is. Sugar planting is increasing very much at Johanna; the sugar is grown by slaves, and the sugar is of a most excellent quality.

952. Do you say that Johanna belongs to a chief?—To the King of Johanna, who is an Arab; the principal people there are Arabs; the population is made up of a mixture of Malagash and Arab blood, and the labour is done by slaves.

953. With respect to the Portuguese possessions, are there a large number of indigenous Portuguese upon the coast?—No.

954. It is the case that Portugal claims, and that other European nations have acknowledged the right of Portugal, to a very large line of the coast of Africa, is it not?—It is.

955. From where to where?—From Cape Delgado to Delagoa bay.

956. How far?—Several hundred miles.

957. (*Mr. Rothery.*) Is it not nearly a thousand miles?—I should think by guess that it must be.

958. (*Sir George Campbell.*) But I understand you that the Portuguese have no active control over that coast, with the exception of a few isolated settlements?—They have none.

959. Are there half-bred Portuguese at the different settlements?—In Quilimane many of them are half-castes, and, as is well known, the cruelty increases with the fact of their being half-castes; no man is more cruel than a half-caste.

960. But there is no large half-caste population?—No.

961. Is the slave trade carried on throughout the whole line of the Portuguese coast?—No.

962. Throughout how much of it?—The principal slave trade is carried on from the vicinity of Mozambique, but it is impossible to say from what creeks and from what points slaves are run, because the coast is but little known. A very excellent survey has been made lately, which will be of very great use in future operations.

963. (*Mr. Rothery.*) You mean the principal slave trade to Madagascar?—Yes.

964. The other is from Kilwa, is it not?—Yes.

965. (*Sir George Campbell.*) The Portuguese having formally abolished slavery, I apprehend that no question of the restitution of fugitive slaves can arise in the Portuguese settlements?—No question ought to arise, but this question will arise, that they will at once tell you that you have no business to take away negroes who have no passport for leaving the country. I say this because they made that objection at the mouth of the Zambesi when we wished to take these poor creatures away to the Cape of Good Hope.

Dr. Livingstone was at that time in command of Her Majesty's Ship "Pioneer," and the custom-house officer forbade our taking them away, although they all claimed our protection.

966. (*Mr. Mountague Bernard.*) What is supposed to be the object of this passport system; is it supposed to be to prevent the slave trade?—I cannot say; it can so seldom be called into operation that it would be difficult to say what is its *raison d'être*.

967. That appears to be the form in which complaints are made?—Yes, it was the form in which the complaint was made in this case.

968. (*Sir George Campbell.*) When Africans are captured by our ships, I understand that they are all subjected to an apprenticeship, which is another form of compulsory labour?—It is so.

969. How do you account for that system?—Because it would be impossible for us to restore these slaves to the countries from which they were taken. The same case occurred with ourselves; we liberated some hundreds of slaves in the interior of the country, who were being marched down in gangs by the Portuguese agents; and we at once said to these people, "You are now free, and you can go back to your own countries," but they told us that their country was destroyed, that their villages were burnt, and their parents driven to the four winds, and there was nothing for it but to offer them protection; and they made a settlement and lived with us; they were free to come and go.

970. (*Sir Leopold Heath.*) By what right did you free them?—Because we ourselves considered that we were beyond Portuguese territory (and that has not been actively disputed from that time to this), and because we as English people acted on our own instincts. I cannot give you any other answer; it is a very poor one it is true.

971. (*Chairman.*) Were these slaves of Arab masters, or of Portuguese?—The Portuguese were taking them southwards, in the way of which I have spoken.

972. (*Sir George Campbell.*) We have been told that the liberated Africans who are taken by our cruisers are subjected to a compulsory apprenticeship of five years. Do you think that there is any absolute necessity for a long apprenticeship of that kind. Might not they work as free labourers in Mauritius and the Seychelles?—You must recollect that in every slave gang that you meet with, the greater proportion is made up of small boys and young girls, and therefore somebody must stand *in loco parentis* to them; and considering what our laws are at the Cape of Good Hope, and at Natal and places of that description, I cannot conceive anything more humane than this provision. In my own case I had 42 people to apprentice out, and I suppose that I had 400 applications at Cape Town, so that I could for the most part pick out English masters and mistresses. Sir Percy Douglas, the commandant of the troops at the time, had one of those people for his servant, and a very faithful servant he turned out to be, and in that way they were put into the very best places, and nothing better could become of them.

973. For how long were they apprenticed?—For five years.

974. Were the adults apprenticed in the same way as the children?—At this moment I forget whether they were or not; there were but four or five of them.

975. Is it the case that most of the subjects of the slave trade in Africa consist of boys and girls, and not of adults?—Certainly they do; the great majority are boys and girls and young women. The adult slave is considered a very inferior article. As the slave trader very justly says, the chances are that he becomes heartbroken, and that he literally dies so before he gets to the coast; and Livingstone's later observations fully bear that out in a very terrible way, that adults die though the children will live.

976. What is the usual age at which children are taken as slaves?—From 9 to 16; the greater number being 11, 12, or 13 years of age.

977. (*Chairman.*) Have you any suggestions to make to the Commission which you think could be carried out beneficially with a view to stopping slavery?—If you will allow me I will offer two carefully considered suggestions. One is that the way to strike a blow at the dreadful slave trade which is now going on towards the Somali country, that is to say the up-coast traffic, and across to Madagascar, is to keep up all the vigilance of the fleets at present on the coast; and simultaneously to strike another blow in the interior, which can be at the present moment most easily struck; nor should I venture to suggest it if I did not know that it could be done. Doctor Livingstone in all his experience from first to last had one great plan, and it was this, to establish on Lake Nyassa, (which you may consider the tap-root of the slave trade), a body of Englishmen, either officially or commercially.

978. But that Lake is in a very hot climate, is it not?—It is in a very hot climate, but at a considerable elevation and in a healthy district. I can best point out my meaning by telling you what has been recently done. Last April a small steel steam vessel was constructed on the Thames, and in October she was steaming on Lake Nyassa, commanded by a warrant officer in Her Majesty's Fleet. He tells me that the slave trade is so active that 20,000 slaves were carried across there last year. He is not a man of new experience at all; on the contrary he was with Doctor Livingstone for some years in the interior of Africa. He went to Lake Nyassa to clear up the story of Livingstone's supposed murder in 1867, and he is there at the present moment. Therefore his opinion is very valuable, and with this experience, and I may add to it his experience as an old cruiser, when he was an officer on board H.M.S. "Gorgon" on the coast, he tells me that he is certain that he, with six Englishmen (he does not even wish to have the large boats that they have there) and a boat, could stop the whole of that slave traffic on Lake Nyassa.

979. Are the slaves brought across the lake?—They are brought across the lake. I am glad that the question has been put, because it naturally occurs to one to say—why should slave dealers make for Lake Nyassa, when they can take the more directly northerly route? The reason is this, that between Lake Nyassa and the coast the country has been entirely depopulated by the slave trade with the exception of one or two large villages which lie on the slave routes. The slave traders know this, and also that if they do not refit at Lake Nyassa, where food is always to be procured, the slaves will starve on their way to the coast. They therefore, make for Lake Nyassa as a half way house. The question then arises again why should Lake Nyassa be this half way house? For this reason, that in all the disturbed parts of Africa corn can only be grown out of season in the damp ground on the banks of the rivers, or on the shores of the lakes. Therefore it can always be grown at Lake Nyassa, and an enormous quantity of fish can also be had there, which the natives take. No Portuguese go there. When an Arab slave trader arrives from the interior with his gang of slaves at Lake Nyassa, he crosses the lake in Arab dhows. It may be said why does not he go to the north of the lake? He cannot do that, because the Maviti, a hostile tribe, are holding the whole of the country, say for a hundred miles to the north of the Lake Nyassa, and bar the passage. Then again he can come round the south end of the lake if he is bound for Mozambique, but it is out of his way to do so, except he is going thither. Therefore five of these Arab dhows are now actively employed in carrying the slaves across that lake. Mr. Young tells me that the chief to the south of the lake is entirely with the English. He also tells me that one of these Arabs hailed him in English, and there was a Zanzibar merchant in a very great fright at their being there. I may say that by one post I received intelligence in Northamptonshire from Zanzibar, in a letter which had come from Africa up the Red Sea and to England, giving a statement of one of these Arabs at Zanzibar who had been

on Lake Nyassa, and who said that Mr. Young was destroying the slave trade, and by the next post I received a letter from Mr. Young which had come down the Shire and the Zambesi, and round the Cape of Good Hope, in which he detailed his presence there, and the fright in which these very Arabs were. I could add more to this statement, but it would necessitate my going over a great deal of ground, and over a good many events in time past, the tendency of which observations would be to show you why the natives are now so much in favour of the English, and why I believe the thing could be so easily done. With that I would conclude the one suggestion, but the other which I would like to offer is this, and it embraces a much broader view of the whole question. I was allowed to state at the beginning of my evidence, that my interest in these things extended over some 15 or 16 years. During that time I am thankful to say, that there has been a great deal of loosening of the roots of the slave trade. It is well known to the Commission what nations are the owners of slaves, and I think that in every individual case you will find a tendency so far towards softening, as it were, that any influence from England and those powers who would join her, not in a protest but in an invitation, would be well received. As regards Egypt, I have it on the authority of an English officer, whose name is well known to the Commission, that already in Egypt a slave can go to any consul, or to any police officer, and claim his freedom, and he says that it only wants sufficient consular supervision on our part to be sure that the status of slavery would come to an end there, but at all events, I feel from the debate last night that we shall hear more on that subject. Then again in Turkey they are almost ashamed of their slave traffic. The Portuguese might very well be spoken to strongly on the matter. Not only at the Island of St. Thomas on the west coast of Africa have they proclaimed all slaves to be free, but they have done away with the very objectionable status of serfdom which followed on emancipation. Therefore the Portuguese are prepared. As to Spain, and the slave trade in Cuba, if Spain acts up to her engagements with this country, every slave must be free tomorrow. Therefore we have, I think, a very good voice in the question there. In Brazil you have heard from the last witness, and it is also known to us, that there is a willingness in a great many quarters in the country to do away slavery. Having gone over Spain and Portugal, Egypt, and Turkey, it remains to look at the other powers. With regard to Zanzibar, the Sultan of Zanzibar the other day did proclaim freedom to slaves in the northern part of his dominions. There again is an instance of an inclination to give up the status of slavery. I am convinced that this is merely a shelving of the question for a short time, namely, as regards the recent circular, which has caused such a commotion, and from opportunities which I have as a member of the Anti-Slavery Society of knowing the feeling throughout the country, I can only say that at present by common consent people are quiet about the matter, hoping that something good will come out of the session of this Royal Commission. But I am perfectly convinced that before long, either at Zanzibar or Mozambique or at some other place, the subject will be brought prominently forward again, and then agitation will be worse than ever, and therefore I would, with all respect for that which I am quite sure is present in the mind of every one of my fellow countrymen, say, that instead of passing one's time in trying to solve this present difficulty, to which there is no solution, I am convinced that it would be far better instead to see whether the European powers, who are not slave holders, would join with America in a warm invitation to the slave holding countries to abolish the status of slavery. That is the only radical cure for the cancer which is eating into Africa. It is of course almost a digression from what I ought to have said, but you allow me to speak as a member of the Council of the Anti-Slavery Society, and of course what I say should be taken *cum grano* as a member of

Rev.  
H. Waller.

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Rev.  
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that society; but still, looking calmly and dispassionately at the subject, and knowing the feeling which has been expressed at large public meetings, and with all the knowledge which one ought to have on the matter, I am convinced that there is no other way out of this "Circular" difficulty. I do not say that it would not be right, indeed I have no hesitation in saying that it will be right, to inform those slaves at Zanzibar and at Mozambique who are brought in contact with the English, of the feeling which has been stirred up in this country, and it might then lead to the fugitive slave difficulty being brought to an issue at once. That is a thing which must have occurred to the minds of many of those who are sitting at this table.

980. (*Sir George Campbell.*) Do you say that the Sultan of Zanzibar has proclaimed the abolition of slavery in the northern portion of his territory?—He proclaimed very recently that all slaves were free in towns which were threatened by the Egyptians.

981. Only in those towns?—Only in those towns.

982. Was it a sort of bribe to induce us to assist him?—I am sure that there must be full information at the Foreign Office on the subject, of which I am not in possession.

983. (*Mr. Fitzjames Stephen.*) I suppose that whatever the motive might be the effect would remain?—The effect remains, and I think that it is a very valuable effect, because it establishes a precedent, and he might very well be asked to do at Zanzibar what he has done more to the north.

The witness withdrew.

Captain F. PROBY DOUGHTY, R.N., examined.

Capt.  
F. P. Doughty.

989. (*Chairman.*) You were, I believe, in the Persian Gulf?—Yes, I was there for a part of two different years.

990. Have you been on the east coast of Africa besides that?—Yes, for a short time.

991. When were you in the Persian Gulf?—From April 1871 to March 1872, and from February to June 1873.

992. In 1873 you were on the east coast of Africa?—Yes, for a part of the time. From April to December 1872, and from June to September 1873.

993. While you were in the Persian Gulf did you see much of the slavery there?—No. The only three slave ships I detected I captured. These were said to be the first seizures for 14 years; they were taken at Ras-el-Had.

994. You took three vessels?—Yes.

995. Were they large dhows, or not?—They were small dhows, averaging about 50 tons.

996. How many slaves were there in them?—From Nos. 2 and 3 dhows the slaves escaped inland. In No. 1 we captured 63 by pursuing them inland, they having stranded their vessel before we got up with them. Ras-el-Had is a low sandy point with hills inland, and is formed by the meeting of the north and south and the east and west coast lines of Arabia; the captured slaves were from a dhow beached on the north coast about three miles from the point. Dhows Nos. 2 and 3 were on the east coast, running north to round the point, and were probably signalled by look-outs on the hills the fate of No. 1. As soon as they were seen by us, I steamed for the point, leaving 10 men and an officer to pursue the fugitives. Nos. 2 and 3 dhows, seeing our masts over the land in confirmation of any signal that may have been made to them, hauled in, anchored, and landed; on seeing this, I landed another 10 men and officer to cut off their escape to the hills. In this the seamen failed, owing to the great start the pursued had of them, the fast advance of a moonless night, and the danger of surprise and entanglement amid the sand hills. While this party were in pursuit, I rounded the point and took the dhows they had escaped from; there was no one on board; a quantity of mats, provisions, and a few arms only. The small arm parties I had landed did not get back till after dark.

984. Supposing him to have done it by way of an inducement to the English people to take his part, it would show that he knew what was likely to be welcome to the English people?—So far as our negotiations with the Sultan of Zanzibar go, it would pay us very well indeed to go greater lengths than this; in fact it is too much to hope for, but I myself wish that Zanzibar was under English rule; it would be far better for the Arabs, far better for the natives, far better for the trade of Africa, and would put an end to the slave trade in a way that it cannot be put an end to at present.

985. (*Sir George Campbell.*) Have you any information to show what effect has really been given to this order for releasing all the slaves in those towns?—I have no information to that effect. It has taken place so recently that there is as yet hardly time to have evidence of its being carried out, but I know that it is being carried out, and was being carried out at the time of the last mail leaving Zanzibar.

986. You have told us that the Spaniards are under obligations to release their slaves?—Yes, by treaties with this country during several years between 1818 and 1836.

987. What have the Spaniards agreed to?—They have agreed to make the status of slavery in Cuba illegal; I have not the papers.

988. They are old engagements?—Yes, which have never been carried out, and which they never intend to carry out.

997. In what year was that?—In May, 1871.

998. Did you ever see anything of slaves escaping and coming on board your vessel?—Only one case.

999. Where was that case?—At Bahrein, a slave came on board probably in the bumboat, or one of the boats bringing produce, fish, &c. to the ship. I was informed that the man declined to leave the ship with the rest of the traders. I sent for him, and through an interpreter heard his story. He had come on board to claim protection. I then considered the case, and in the afternoon went on shore to Colonel Grant, the Assistant Political Resident, to consult with him about the case, because this man was evidently a domestic slave, and had left his proper master to come on board. My object was to find out whether he had been committing any crimes, and had therefore run away from the punishment due to his offences. During the next two days we picked up information about the man; and from his master heard the whole story. The slave had robbed him, and this was certified to by the Sheik of Bahrein as well. I told the Sheik that if he liked to demand the slave he might have him; that I considered him a domestic slave.

1000. Was he sent on shore?—Yes; the Sheik sent his boat for him, and I gave him up.

1001. That was the only case?—Yes.

1002. While you were in the Gulf did you see anything of the pearl fishery?—Yes, I was a good deal among the pearl fishing boats.

1003. Was it carried on by slaves, or by people from Bahrein who were not slaves?—The majority of the crews were slave crews.

1004. And were the divers slaves?—They were mostly slaves.

1005. None of them tried to escape into your ship?—No.

1006. Did they seem to be a very wretched set of people, or did they seem to be pretty well off?—From an Arab point of view there was no particular discomfort to remark. I very often went on board the pearl diving boats to see the process of diving, how the pearl shells were opened, and what was the system for watching the people to prevent their stealing the pearls. They had their regular rations, and made no complaint. I saw no ill-usage.

1007. Was not their system of diving a very simple one; they had no apparatus?—None at all; it was a simple process; a man with a stone was dropped overboard, and he picked up the shells, and was drawn up again by a rope.

1008. Were you aware whether or not those divers got a little profit themselves by their work?—Yes, they were paid regular wages.

1009. On board your own ship had you any men who had been slaves?—No; I had 20 Seedie boys.

1010. They were free men?—They were free men, but I think that two of them had been slaves.

1011. Where did you get them?—At Bombay.

1012. Were they good useful men, or not?—Very much so; they were capital men.

1013. You have had no question about returning any fugitive slaves, because you never had any on board except this one case, which was a case of robbery?—Just so.

1014. (*Sir Leopold Heath.*) You returned that slave in accordance with the Station Order of 1871, I suppose; the Order which directed you to give up domestic slaves?—Yes; it was from reading various orders, and the conclusion that I came to in my own mind.

1015. (*Mr. Rothery.*) It was your own conclusion. You thought, I suppose, that it was the right thing to do?—Under the circumstances I thought that it was the right thing to do.

1016. (*Mr. Fitzjames Stephen.*) You satisfied yourself, I presume, that the man had committed the robbery?—I was quite satisfied of the fact.

1017. (*Chairman.*) Have you ever been on the coast of East Africa, and did you see anything of slavery there?—I saw slavery at Zanzibar; the slave market at Zanzibar. I saw slaves being sold in the market.

1018. (*Mr. Rothery.*) Which is now closed?—Which is now closed.

1019. (*Sir George Campbell.*) Was there any real substantial slavery on board the ships in the Persian Gulf?—I do not think that it is slavery, in the sense which is considered by most Englishmen, because the slaves are simply servants. In the pearl boats a great deal depends upon the amount of profit obtained by the master of the boat, and according to his profit a certain share is given to the men who work the boat.

1020. What class of people were the slaves whom you have seen captured; were they men and women, or were they boys and girls?—Of the 61 I captured in May 1871, 57 were boys and girls, and four were young women; there were no full-grown men.

1021. Of what age were the boys and girls?—From about seven or eight up to 13 or 14.

1022. Were they mostly boys or girls?—I think that the majority of them were boys.

1023. Have you any idea for what purpose those slaves were imported?—They were going for the Persian market.

1024. Have you any knowledge of the purposes for which they are used in the Persian market?—The young are chiefly trained, I believe, as domestic servants.

1025. You do not think that there is any considerable importation of slaves to the Gulf for the purpose of agricultural labour?—No, I think not; it is more domestic service, and for use in merchant's offices, and on board their ships, the young can be trained to these duties; more mature strength is required for agricultural service.

1026. Do they bear a considerable price in the Persian Gulf?—That I am hardly able to say.

1027. You believe that it is principally for domestic service?—Domestic service and household duties, which may include the account keeping of trade transactions; older men, and those who fail in their training for more mental pursuits, probably are employed for agriculture. Many of those I captured were not black, but copper coloured; the four women in No. 1 dhow were said to be "Gallas," a tribe whose women fetch a high price, being accredited with naturally cool

skins in the hottest weather; they were in good condition, had silk "sahree," a dress something like the Bombay ayah's, and silver bangles, one of them had gold; they were intended for high-priced wives, I imagine.

1028. (*Sir Leopold Heath.*) Were you sent to the Persian Gulf for any special reason, as I observe that you were sent in the very hottest season of the year?

—Yes, by my orders from Admiral Cockburn I was informed that it was the "first time" the Gulf duty had been undertaken by the Royal Navy. I was instructed to restrain the Arab chiefs of the littoral from engaging in hostilities by sea and from acts of piracy, and "to seize any vessel laden with slaves," "avoiding a doubtful case."

1029. Had you much sickness?—A great deal at one time.

1030. Were the other ships on the same service there in the same hot time?—The "Bullfinch" was there for the greater part of the year.

1031. Had she much sickness?—I think not quite as much as we had; she being more in the deep water of Oman than in the shallow heated waters north of Cape Mussendom, at the entrance of the Gulf.

1032. (*Chairman.*) What did you do with the young slaves whom you liberated?—I gave them up to the consul at Muscat.

1033. What did he do with them?—He afterwards sent them across to Kurrachee, where I believe they were apprenticed out to various Europeans.

1034. (*Mr. Rothery.*) As to those two dhows which you captured. Had you not reason to suppose that they were two out of several? Were there not about ten in fact at that time, of which you had information?—Yes. I heard afterwards that seven or eight had sailed from the East Coast of Africa for the Gulf.

1035. And you heard that many of them had escaped you?—From natives down the east coast of Arabia I heard accounts that led me to the conclusion that several cargoes of slaves had been landed; the capture of the three above mentioned was communicated down the coast by native runners to those interested. I do not think a single landing was made from those said to have escaped capture west of Ras-el-Had, but that they landed on the east coast of Arabia, south of Ras-el-Had, stopped by signal and by coast fishing-boats giving information of our whereabouts, and marched across country to "Sur" and other small coast towns. And from these towns as their condition improves they are sent by twos and threes to various parts of the Gulf.

1036. (*Sir Leopold Heath.*) We have been told by a previous witness that very few slaves have been captured in the Persian Gulf since the treaty of 1873, and he inferred that it was in consequence of that treaty. Do you think that the fact of there having been no captures is a proof that no slaves were run?—I think very few have been captured in the Persian Gulf since those captured in May 1871; but I think it will be found that nearly as many slaves find their way there as formerly, being landed south of Ras-el-Had and marched across. There is usually a ship in the neighbourhood of Ras-el-Had; the chances of a safe run past are very small.

1037. You think that slaves may be carried for sale under the plea that they are domestic slaves navigating the dhows?—I think that they may, unless they are very carefully examined into.

1038. (*Sir George Campbell.*) Throughout the whole coast of Arabia from Ras-el-Had to the island of Bahrein have we any effectual fleet to prevent the slave trade?—There were usually three gun vessels on the Gulf service, which included the sea of Oman; their cruising ground extended from about 90 miles south of Ras-el-Had, round both shores of the Gulf and sea of Oman, inclusive of islands and the river "Shah-el-Arab."

1039. Do you think that a single vessel is at all capable of stopping the slave trade?—Not at all.

*Capt.*  
*F. P. Doughty.*  
21 Mar. 1876.

The witness withdrew.



Commander JOHN S. KEATS, R.N., examined.

Commander  
J. S. Keats.  
21 Mar. 1876.

1040. (*Chairman.*) You were in command in the Persian Gulf and at Aden?—I was.

1041. When was that?—I came to Aden in January 1871, and was employed in blockading the opposite coast for four months where a murder had, I believe, been committed the year before; and the object was to induce the chief of the tribes to give up the murderer, but we failed in it.

1042. We have been told that there was a good deal of slave trading from the opposite coast. Did you see anything of it?—No. There was certainly no slave trading from the part of the coast that I was on, as far as I could tell. I was constantly up and down the coast, every two or three days, and I had orders not to allow any boats or any trading vessels whatever to enter their ports or leave them.

1043. (*Sir George Campbell.*) On what part of the coast was this?—On the Somali coast.

1044. On what part of the Somali coast?—On the north part of the coast of Africa.

1045. Inside or outside of Guardafui?—Inside of Guardafui.

1046. (*Chairman.*) We have been told that a great many dhows are sent across from Berbera?—Berbera is nearly opposite Aden, but I do not know that part of the coast at all.

1047. You were outside it?—I was.

1048. At the Somali coast you saw nothing of slavery?—Nothing at all.

1049. Did you go down to Zanzibar?—No, I was never on the south-east coast of Africa at all. I went from there to the Persian Gulf.

1050. Did you see anything of slavery there?—Nothing at all. I never saw any slave vessels; I only saw the slaves who were taken by the "Vulture" one

year, which took a slaver off Ras-el-Had. I think that they were about 170 in number.

1051. (*Sir George Campbell.*) How did you see them?—I saw them from a boat. I did not go on board the "Vulture," because they had small-pox amongst them.

1052. Had you any information as to what class of people they were?—I was told that they were principally children; that is to say, that more than 100 out of the 170 were children of different ages.

1053. (*Chairman.*) Did you see the slaves at the pearl fishery?—Yes, I saw slaves on board the pearl fishery boats; they are employed with the Arabs in diving for the pearls.

1054. You never had a case of any fugitive slaves?—I never had any case whatever.

1055. (*Sir George Campbell.*) Have you any reason to suppose that slaves are carried up the Gulf of Aden into the Red Sea?—I have heard that they are, but I was never employed there for the purpose of putting down slavery.

1056. (*Chairman.*) You never saw anything of it?—I never saw anything of it.

1057. Had you, in your own vessel, any blacks who had been slaves?—Not who had been slaves; those whom I had came from Bombay. I had only a very few.

1058. Some of those were Seedie-boys?—Yes.

1059. (*Sir George Campbell.*) Is there an abundant supply of those Seedie-boys in Bombay?—Yes, I believe that they are easily to be got.

1060. Where do they come from?—I do not know; they come from different parts. They may have been slaves, but I did not know of it. They are very easily got at Bombay.

The witness withdrew.

Thursday, 23rd March 1876.

PRESENT :

HIS GRACE THE DUKE OF SOMERSET, K.G., IN THE CHAIR.

THE RIGHT HON. MOUNTAGUE BERNARD, D.C.L.  
SIR HENRY T. HOLLAND, BART., C.M.G., M.P.  
REAR-ADMIRAL SIR LEOPOLD HEATH, K.C.B.

SIR HENRY J. S. MAINE, K.C.S.I., D.C.L.  
SIR GEORGE CAMPBELL, K.C.S.I., M.P.  
HENRY C. ROTHERY, ESQ.

HENRY HOWARD, ESQ., C.B., *Secretary.*

Commander GEORGE R. HOPE, R.N., examined.

Commander  
G. R. Hope.  
23 Mar. 1876.

1061. (*Chairman.*) You were on the east coast of Africa?—Yes.

1062. At what time?—I was in command of a ship for the last three months in 1873, and I was there for four months at different periods as commander of the "Glasgow," the flag ship.

1063. Before that time?—Yes, the last time I was in command of the "Daphne" for three months.

1064. During your command you had, I believe, some cases of fugitive slaves?—Yes, I had two.

1065. Will you state the time when they happened, and what was the nature of them?—At Lindy, about 200 miles to the southward of Zanzibar, a man came on board from a canoe ironed, and with marks of ill-treatment about him. I then went on shore and saw the chief about him, and he said that the man was always running away from his master, and that he was ironed in consequence. I asked him what would happen to the man if I sent him back; the chief declined to give any answer at all as to what the consequences might be, and on due consideration I determined not to carry out the orders under which we acted, but took off his irons and allowed him to escape in a canoe to another part of the coast.

1066. Was that what the man wished, namely, to be allowed to escape?—The man wished to be taken to Zanzibar, but I did not take him to Zanzibar,

because I thought that in all probability the Sultan would send him back to the chief, and that he would perhaps be severely punished. I could not say what would happen to him in that case; so I allowed him to escape in the canoe in which he had come off, when the dark came on. I gave him a supply of biscuit and water, and took off his irons, and gave him a few clothes, and let him escape to another place.

1067. Did he seem to be ill-treated?—Yes, he had been ill-treated, but I could not discover that he had committed any crime beyond going away from his master.

1068. Could you make out whether he was a slave who had recently been brought from the interior?—I am under the impression that he was.

1069. Had you anybody on board to test him by his language?—Yes, we had interpreters. He was working with a man on shore, but he spoke a peculiar language. I think that they said that he had come from some distance in the interior.

1070. (*Mr. Rothery.*) Do you mean recently?—Yes. I fancy that he had not been there more than a month or two.

1071. (*Mr. Mountague Bernard.*) He could not speak Suaheli well?—No.

1072. (*Sir Henry Holland.*) Was any claim made before you went on shore by the master of the slave?

—No, because I happened to go at that time. I do not know that I went for the purpose.

1073. You say that you determined not to carry out the orders under which you were acting; were those the East Indies Station Orders of 1871?—Yes; which were interpreted in all the ships, I believe by the authority of Dr. Kirk, to mean that domestic slaves were always to be given up, but not slaves taken round for the purpose of sale and barter.

1074. Is this the order to which you refer, namely, the extract from the East Indies Station Orders of 1871, articles 147 and 148?—Yes.

1075. (*Chairman.*) Will you give us the particulars of the other case?—Before I state the particulars of the other case, I may mention that at the same place there were two boys who wanted to come on board. I found them in my boat in fact, and I would not take them. I let them find their way back to their master. The other case occurred at Mombaza, a town about 140 miles to the northward of Zanzibar, I think that it was on Christmas morning, or the day before or the day after, a girl came on board in the course of the night, and was found at daylight.

1076. Did she come in a boat?—She must have swum on board in all probability; we were only about one hundred yards from the shore, or not so far, only a ship's length from the shore. She had severe marks down her back of ill-treatment from a flogging that she had received. I went to the chief of the place about her, and he promised me that if I sent her back she should be properly treated, and that she should not be punished for running away, which I accordingly did, but the next day just before we went to sea, one of the lieutenants, the navigating lieutenant, who speaks the language, and who is not likely to be mistaken, saw this girl working in the streets ironed, so that there is no doubt that the chief had not kept his promise at all, and that her master had punished her very severely. I fancy that I reported the circumstance to Mr. Prideaux, but not officially, he sent up, or said that he would write up about it; but I doubt very much whether anything came of it, because these chiefs are such arrant liars, that the chief would be sure to say that it was another girl; you cannot get to the bottom of the thing. At the same place a number of other slaves tried to come on board, but I gave orders that they were not to be allowed to do so. Perhaps I may mention that these two occurrences created a good deal of indignation in the ship, the ship's company did not like it at all.

1077. They did not like your sending the slaves back?—No. In fact on one occasion I was asked, through some of the officers, not to do it, but of course I was obliged to carry out the Regulations, although against my feelings.

1078. (*Sir George Campbell.*) To whom does Mombaza belong?—To the Sultan of Zanzibar.

1079. Is the chief of Mombaza a sub-chief?—He is a high chief; he is a man who mutinied a little time ago against the Sultan, and we sent one or two ships to keep him in order.

1080. (*Sir Henry Holland.*) Has the Sultan any real power over him?—Yes, at Mombaza he has.

1081. Has he real influence, so that he could make him respect a treaty?—Yes, it belongs to him entirely.

1082. We have been informed that the Sultan of Zanzibar has really very little power over the more influential chiefs?—I think that over the Mombaza

chief he has power. The chief mutinied on one occasion, and then the Sultan sent a party, and we sent two ships to bring him to order, but, as a rule, his power is respected there.

1083. (*Sir George Campbell.*) I suppose that if our ships go to bring him to order he would have considerable power?—Yes.

1084. (*Chairman.*) You were there at an earlier time?—Yes, I was in the Flag Ship for ten days in 1872, and three days in 1871, and I was there for seven weeks in December and January 1873.

1085. Had you any cases at that time?—Two cases occurred on board the "Glasgow," in one case the man was sent back through Doctor Kirk and the Sultan to the master, and in the other case I think the man came on board just as the ship was going to sea, and we took him as a Seedie Boy, the ship was just going to sea, and there was no time to take any steps on the subject.

1086. He was an escaped slave?—He was an escaped slave too.

1087. And you kept him afterwards as a Seedie Boy?—Yes, we did not know anything about him, we merely took him on.

1088. You never heard any complaint about him?—No, not at all.

1089. (*Mr. Rothery.*) No demand was made?—No.

1090. (*Sir Henry Maune.*) Are we to understand that you interpreted these Station Orders of 1871 as requiring you to return fugitive slaves without the demand of the owners?—Yes. We were given to understand that as we recognised domestic slavery in the country, it was our duty to return these slaves.

1091. There is nothing about the demand of the owner in the Order. I merely ask you as to the construction which you put upon it?—Yes, that was the construction I put on it.

1092. (*Sir Leopold Heath.*) Besides that Station Order of 1871, were you not supplied confidentially with a copy of a letter from Mr. Hammond, giving the decision of Lord Clarendon upon the complaints which had been made by the authorities in Madagascar against the Commanders of the "Nymph" and the "Dryad" for carrying off two slaves. The letter is dated in 1870, and I believe that I myself issued it confidentially to the Captains of the squadron, I am not certain?—I have not any documents to tell me.

1093. But you had a set of confidential instructions on the subject of the Slave Trade?—Yes, certainly. I recollect reading the letter which you talk of, but whether on board the ship I do not know. We had not copies of documents given to us to take away, they were kept in the ship, and I cannot state off hand.

1094. That letter does not require a demand for the slave to be made. Will you be kind enough to tell me what you consider to have been the general opinion of the officers of the navy as to the deck of a man-of-war being like the soil of England in all respects; I mean previously to the issue of these Orders as to giving up slaves after they have reached that deck?—I was always under the impression until I went out to the east coast of Africa that if a slave once touched the deck of a man-of-war he was free, and I think that was the general idea.

The witness withdrew.

Colonel MALCOLM L. GREEN examined.

1095. (*Chairman.*) You were Political Agent at Muscat?—I was for nine months.

1096. In 1862?—In 1862.

1097. During that time did you see anything of the importation of slaves?—Nothing.

1098. Had you any occasion to interfere about fugitive slaves?—My knowledge regarding that sub-

ject was this: I was Political Agent there; it is a slave country, and this question used to be brought home to me by the minister of the Prince to whom I was accredited coming to me, and saying that a domestic servant of His Highness had got on board a man-of-war, which might be lying in Muscat harbour, and asking for my good offices to get this domestic servant

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G. R. Hope.*

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Green.*

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turned out of the ship. I judged of the matter in a great measure on its own merits. I used to go to the commander of the ship and speak to him on the subject, and if we found out that there was a good reason for doing so, we used to give him back to the Prince's servant.

1099. Did many of these cases occur?—It is now some time since, but I think that I can remember three cases. I cannot recollect the exact dates.

1100. You think that, during the nine months, there were about three cases of that kind?—Yes, but there were other cases also in which men ran into my own house, as the political officer there, seeking protection; but with regard to men-of-war there were about three instances; that is to say, in the case of sloops of war of the Indian Navy, which were there in charge of the Gulf; and those are the cases to which I refer.

1101. When a slave ran into your own house to seek protection, what did you do?—I used to act exactly in the same way. I tried the case myself on its own merits. If there was good and sufficient evidence brought forward to show that the man was a servant, I used most decidedly to give him up. I turned him out of my house and let him go back to his own master.

1102. But supposing that you thought that he had been ill-used, what did you do?—Then I used to make use of the power which I had as Political Agent, and to keep him. If I found that he was a slave, and if he came to me in an injured and emaciated condition, I then used to consider the fact of his being a slave, and that he had not been well treated, and I used to keep him.

1103. You were at a disadvantage for that purpose in comparison with a ship, because a ship could keep men and take them away, whereas in your house you could, I suppose, only keep a very limited number?—Yes, but they were not in such numbers as to cause any difficulty in that respect; perhaps there were not two cases of that sort in a month, it always came before me as being the case of a domestic servant, and not a slave; that is what the man was styled when he was asked for.

1104. Almost all the slaves there, were domestic servants, were they not?—There were some bonâ fide domestic servants, no doubt, but there was a difficulty in judging in the matter. People, however, generally trusted me as the political officer and as an Englishman, and they were satisfied with my decision. I never once had any disagreement upon the subject, not even with the Imaum himself.

1105. Did any of those slaves appear to have been newly imported from Africa?—No; I used to keep a very sharp look-out upon that subject. My house was on the very edge of the water, and I could see every boat which came into the harbour; a boat could not enter without my seeing it, and I used to watch very closely the unloading of these boats, both at night and in the daytime, and I do not think that many slaves were landed there. I have another remark to make; a domestic slave always appears to me to be so exceedingly well treated that one can hardly call them slaves in the common acceptance of the word; they are practically the same as our own domestic servants in the household.

1106. (*Sir George Campbell.*) In what sense do you use the term "domestic slave"?—As a domestic servant; the term "domestic servant" I think is equally applicable to the position of these people.

1107. Do you confine it to slaves who are employed in domestic service?—Slaves who are employed in domestic service.

1108. (*Sir Henry Maine.*) Not a hired servant?—Not a hired servant.

1109. (*Mr. Rothery.*) In "domestic slaves" you would, I suppose, include seamen who are slaves, that is to say, slaves working on board a dhow?—No; most decidedly not. I allude to slaves who are simply employed as domestic servants in a household, but having nothing to do with forced service on board dhows.

1110. (*Sir Leopold Heath.*) You are aware that the term is used in official despatches in a very much wider sense than you are giving to it?—Yes.

1111. It in fact includes, as far as I understand, all slaves whom one witness has called tame slaves, as distinguished from wild slaves newly caught. Every slave on the East Coast of Africa, or in Arabia, or in the Persian Gulf, has been held to be a domestic slave, provided that he has been for a certain time with his master or masters, and has got a certain amount of new language and civilization?—Exactly so; that is what I should call a domestic slave, and not only that, but there are a very large number of these slaves whose families have resided there probably for a hundred years; there are hundreds of them.

1112. But you say that you do not consider the sailors in the dhows domestic slaves?—Decidedly not, in my belief; but I had not the means of judging. Most of my experience has been brought home by the prince of the place sending his minister to me to ask that some domestic servant who had run away and had got on board one of our sloops should be delivered back to him. I had nothing to do with the seamen in a dhow, or anything of that sort.

1113. (*Sir George Campbell.*) Supposing that you were satisfied that a man or a woman was a slave, but that you had no evidence of ill-usage, would you give him up or would you keep him?—I should be inclined as political officer to give him up, should he turn out to be a household slave.

1114. That was your practice?—Yes.

1115. (*Mr. Rothery.*) In fact you would give him up?—Yes.

1116. (*Sir Leopold Heath.*) Did you ever liberate any slave, that is to say, give him his freedom altogether, because he came to your house as a sanctuary?—No; not my house.

1117. Your office?—I may in one or two instances have let them go in the native boats to get their own passage to Bombay. In one or two instances, knowing that the man has been certainly very ill-treated and is in an emaciated condition, I have done so, not paying for his passage, but getting the master of a native boat to let him work his passage to India.

1118. In point of fact you, as the political agent, did actually liberate the man in one or two cases?—Yes. I used not to report these cases to the government as the thing was so easily managed, and I was on excellent terms with the rulers of the country.

1119. You have said that the Sultan's minister who came to you asked for your good offices on these occasions when slaves had run away to a man-of-war?—Yes.

1120. That, I think, rather implies that he held that you had ample power, or that the captain of a man-of-war had ample power, either to keep or to release those slaves?—I think he may have had an idea that the captains of the men-of-war had that power. The officers of the Indian Navy had been so thoroughly instructed in the affairs of the Gulf, that they knew every single matter relating to it, and they knew these people personally so well, that I think the latter used to consider that they were the persons in whose power the release or otherwise of these slaves in a great measure rested.

1121. Do you not think that the coming of these slaves to you in these numbers when they were ill-treated, notwithstanding that your liberating them was not a necessary consequence of their coming, implied that they looked up in a general way to you, being the representative of England, as the person who would always protect them from oppression?—No. I think that they probably looked up to me, being the political agent of England, as the person who was the most powerful in the place; but they would have done just the same if the representative of any other power, whether of America or of any other country, had been there.

1122. The representative of any European nation?—Yes, I think so.

1123. (*Sir George Campbell.*) Did not you as representing the British Government hold a very superior place to that of the mere representative of a foreign power who had no special relations with Muscat?—There were no others there.

1124. (*Sir Henry Holland.*) All that you mean is that if an American had been there with the same power as you yourself had, they would have looked to him?—Yes, if they thought he could carry their point better than myself.

1125. It was not merely because you were an Englishman, and represented the English Government?—No.

1126. You were the powerful man there?—Yes, I was on exceedingly good terms with the rulers of the country and with the principal chiefs and merchants. The American Consul was a Hindoo; there was a French Consul, and he was an Arab.

1127. (*Sir George Campbell.*) Had not the British Government some very special relations with the Imaum of Muscat?—They had a treaty with him.

1128. Was not it a treaty under which he had derived great assistance from Her Majesty's ships?—Yes, it had been a mutual assistance. I think that it was a treaty of mutual assistance.

1129. What was the mutuality on the part of the Muscat power; what assistance did that power give to Her Majesty's Government. Is it not the case that British ships have upon occasion largely assisted the Imaum of Muscat?—Yes.

1130. Have there been occasions on which the Imaum of Muscat has assisted the British Government?—He has assisted the British Government most decidedly. English ships have put into Muscat in a most disabled condition. We receive every possible assistance that the place supplies; it is most willingly given by the Imaum of Muscat.

1131. But not political assistance?—I think that the Imaum of Muscat gave us considerable assistance at the time of the battle of Beni-Abu-Ali.

1132. Where was that?—It was an expedition. Our ships, I think, were supplied in some instances from Muscat with stores and provisions.

1133. It was an expedition against whom?—Against the tribe of Beni-Abu-Ali, a tribe of Arabs.

1134. (*Sir Henry Maine.*) Were not the engagements which the Imaum entered into on the subject of slavery a part of the consideration of our promises of assistance to him?—I think that they were. I forget exactly the wording of the original treaty, but, I think, a later treaty was made by Sir William Coghlan, and the Rev. Mr. Badger, and others.

1135. (*Chairman.*) Did it appear to you that the Imaum of Muscat was anxious to carry out the terms of the treaty?—He always expressed himself willing and most anxious to carry out the terms.

1136. (*Sir Henry Maine.*) Had he a slave market then in Muscat?—I never saw it, and I was in the town almost from morning till night; there may have been a slave market, but it certainly never came to my knowledge.

1137. (*Sir George Campbell.*) This was in the time of the old Imaum, was it not, before Zanzibar was separated?—No, it was separated during the reign of this one—Towaynee—in 1862.

1138. (*Sir Henry Holland.*) I understand that you sent away some of the slaves who took refuge in your house; you sent them away by boats?—I allowed them to find their own way to India in one of the trading boats which were always in want of hands, and were willing to employ them.

1139. I understood you to say that some who, as you thought, had been ill-treated, or who were likely to be ill-treated, you kept and did not return?—No, I did not actually keep any, because I told them to go away in the boats when they wished to go; and as to those whom I did not let go I let their own masters take them back, but this was never done without good steady inquiry, and I may almost say a trial and evidence given.

1140. That is to say, an inquiry as to the ill-treatment or otherwise?—Yes.

1141. (*Sir George Campbell.*) In the case of the three slaves going on board men-of-war what happened; were they given up or not?—They were given up, principally at my own request after inquiry.

1142. All three?—I think all three; it is now a long time since, but I think that there were three cases.

1143. (*Sir Henry Maine.*) Is the impression abroad in those countries that if a slave escapes to a man-of-war he becomes free?—I have known them to go on board merchant ships in the same way, but they are so intimately connected with our cruisers in the gulf, that I think they have some sort of feeling that if they once get on board these ships they are free.

1144. (*Chairman.*) On board what ships?—On board the men-of-war.

1145. Not on board merchant ships?—No, I think not.

1146. (*Mr. Mountague Bernard.*) If I understand you rightly, the matter into which you inquired in these cases was whether the slaves had been ill-treated or not?—That was the principal thing which I wished to find out.

1147. Was that the ground on which you went?—It was absolutely the ground on which I went, that is was to find out whether these slaves, or whatever they were, had been badly treated, so as to induce them to run away from their masters.

1148. If there was any strong reason of humanity you kept them, and if there was not any such reason you restored them?—Exactly so.

1149. (*Chairman.*) Did any women apply for protection?—Never.

1150. (*Mr. Mountague Bernard.*) I understood you to say that there were a good many applications?—No, not two a month.

1151. If there were two cases a month I should say that was a good many. In these cases what do you suppose was the motive for which the slaves sought refuge with you; was it because they had been ill-treated, or was it from a wish to be released from the condition of slavery?—In several instances I traced home to them without much difficulty cases of theft— theft in their master's houses, and then running on board a ship, or to my house under the plea that they were slaves, and they thought that by that means they would not be returned to their masters.

1152. They were afraid of punishment?—Yes.

1153. (*Chairman.*) You were also in Beloochistan?—I was Political Agent in Beloochistan.

1154. Some time?—Yes; I have been mixed up with Beloochistan for 16 or 17 years. It is a slave country, just as it is all outside the frontier.

1155. How were the slaves treated there?—Exactly the same as at Muscat; they were treated as quite equal to domestic servants, and the principal places of trust were held by slaves; the Prime Minister of the Khan of Kelat was of a slave family; the family had been slaves in the country for nearly a century.

1156. Then they were not of African origin?—You can trace the African feature in most of them.

1157. While you were there had you any similar cases of men coming to you for refuge?—What took place was in this way: with my escort, for instance, these slaves would come into my encampment amongst the men, and would take service with them as grooms, and then the usual complaint would come down to me to say that there was a runaway servant in my lines, and begging that he might be returned.

1158. Begging you to return him?—Yes. It struck me as being very similar to the instances which occurred on board ship, it is a question whether the ground on which the squadron stands does not represent the deck of a ship in a foreign country, but at all events the application was made under that supposition.

1159. In that case you considered equally the circumstances whether or not you should return the

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man?—Exactly so. I used to judge each case on its own merits, and act accordingly.

1160. (*Mr. Mountague Bernard.*) They were, I suppose, for the most part people who wanted to better themselves?—In several cases, I, with the greatest possible ease, traced crime to them, they had committed some crime and had run away and sought our protection saying that they were slaves; but I must again say that the slaves, as far as I can see, are treated as well as any domestic servants can possibly wish to be, that is to say family servants who are servants of the household; they are mostly in excellent condition. It is the master's interest to keep them well, they are his property, he has no more reason to ill-treat them than he would have to ill-treat his horse. The better condition they are in the better workmen they are.

1161. Cases of persons wishing to escape from slavery would not be very frequent; I mean cases where there had been no ill-treatment, or where there was no crime?—Exactly so. There seems to me to be a very wide difference as to what sort of slaves they are, as to whether they are domestic slaves as I call them, or whether they are slaves who have been forcibly captured in the interior of Africa, and sent down ironed and half starved by hundreds, for embarkation in illfound slave dhows.

1162. There are plantation slaves on the Persian Gulf, are there not?—I think not many.

1163. (*Sir George Campbell.*) What is the character of the slavery in the Persian Gulf? You have told us of the slaves whom you call domestic servants; are there any other slaves?—I think very few. There is very little cultivation.

1164. In Beloochistan is the slavery entirely confined to the house slavery which you have spoken of?—Yes, I think that it is, as far as I know of it. There is a little cultivation on which the slaves may work, but there is no want of free labour in the country; there is nothing approaching the plantation slavery formerly existing in the southern states of America. The slaves are happy, and appear to be the happiest of the population.

The witness withdrew.

Major General Sir FREDERIC J. GOLDSMID, C.B., K.C.S.I., examined.

Major-Gen.  
Sir F. J.  
Goldsmid,  
C.B., K.C.S.I.

1175. (*Chairman.*) You were, I think, in Persia?—Yes, I have been in Persia.

1176. At what time?—I was there in 1865, and, I think, in 1866 and 1867; likewise in 1870, 1871, and 1872. I have been in Persia on several occasions, some six or seven times.

1177. In those various visits which you made to Persia, you were in some official position?—I had charge of the whole arrangements for the telegraph between England and India for five years, and that employment took me constantly to Persia. Latterly I have been there in connexion with the settlement of the boundaries on the East of Persia between the Persians and the Affghans, and the Persians and the Beloochees, so that I have been several times through the country backwards and forwards.

1178. Having been often in that country, can you give us any information upon the condition of slavery in Persia?—I have seen very little of slavery of any kind in Persia, but my opinion from general observation is that it is mainly confined to a kind of hereditary slavery—it might be called domestic or household slavery. I should say that the present slaves are rather the children of slaves than slaves freshly imported. There may be fresh importations, but we know very little of them, and the evil, if it exists, is not very tangible. Such a practice must be carried on very quietly, and more or less secretly.

1179. So that you in fact saw nothing of newly imported slaves?—I do not think that I ever saw a man whom I should call a newly imported slave in Persia; I have seen many men of the African type, servants whom I had reason to suppose descendants of

1165. Are the slaves openly bought and sold in any of those countries which you have visited?—No, not in Beloochistan.

1166. (*Chairman.*) Do you know at all what was the price of a slave in Muscat?—No, I do not know it at all, everything of the sort is kept very much out of the sight of the English officer there. It is a thing in which I took great interest at the time, and I used to try by all possible means to get knowledge of it, but I never succeeded.

1167. (*Sir George Campbell.*) Do you think that any considerable importation of slaves from Africa into Arabia was going on?—I think to Arabia, but not to Muscat, the slaves were landed, I think, much lower down the coast, and were brought overland in very small parties.

1168. But you think that there was a considerable importation?—Yes, I think that there was.

1169. For what purposes?—I suppose to keep up the supply of slaves. They would, I think, go to Persia, they would go round the Gulf, and get into Persia and Turkey.

1170. Do you know anything of Persia?—I was only there in the war. I do not know anything about the interior.

1171. (*Sir Leopold Heath.*) I suppose that the harbours on the coast of Beloochistan are so little frequented by men-of-war, that the question of fugitive slaves escaping to them need in no way be considered?—I think that there are very few harbours round the coast of the Gulf which were not frequently visited by the sloops of war of the old Indian navy. They were, I think, continually visited by them.

1172. Can you mention any other besides Gwadur?—Gwadur and Choubar; that is much higher up the Gulf, and several others.

1173. Are you now speaking of 1862?—Yes, of 1862.

1174. You have no knowledge of the cruising ground of the men-of-war at the present day?—None whatever. They were all sloops of war of the Indian navy when I was there.

slaves,—in the same way that I have done at Constantinople and elsewhere—men almost invariably seen among the servants of an Oriental of any position. In fact, in Sindh at the present day, there are numbers of descendants of Africans who, until Sir Charles Napier's Proclamation, must have been actual slaves there.

1180. (*Sir George Campbell.*) In Persia, is there a very large population of African blood?—I do not think so; there are descendants of Arabs in the east of Persia, and on the coast what they call Persian Arabs, but I should say that there are not many Africans.

1181. (*Chairman.*) As you often passed up the Persian Gulf did you see anything of slaves who were employed in the pearl fishery, or slaves navigating vessels?—No, I cannot recall any instance of that description. But my visits have generally been very rapid. I have usually moved backwards and forwards merely as a passenger on board the vessels. I think I may say that it has happened to me once or twice to know that a man has concealed himself on board a vessel in which I have been a passenger, but the case has been one so entirely connected with the captain of the vessel that I cannot recall the exercise of interference on my part. That slaves do escape from shore to vessels, however, I believe to be a very common occurrence; in fact, I should suppose that it was an almost every-day occurrence.

1182. You were also at Beloochistan?—Yes, I was two or three times in Beloochistan.

1183. Should you say that the slavery there was of the same type as in Persia?—Very much the same. I

really cannot give any positive information on the subject; but my own opinion would be that when slavery ceased in Sindh, after our conquest of that province, the change must have affected more or less all the ports on the coast of Mekran, that the traffic gradually dropped off there; and that existing slaves in those parts are almost all hereditary, that is to say, children of slaves. I should think there is scarcely any slave traffic now carried on in the ports of that country.

1184. (*Sir George Campbell.*) Do you think that the abolition of slavery in Sindh made a very great practical difference as regards the relations between master and servant?—I think that in the country immediately touching Sindh it made a great difference.

1185. Did it do so in Sindh itself?—Yes, it must have done so. Slavery not being acknowledged in any part of the country, I conclude that it must have almost immediately ceased; at all events, nothing of the kind is going on at the present day to my knowledge. I have lived for a great many years in Sindh, and I never heard of any such traffic.

1186. I suppose that your experience of Sindh does not go back to the times before the British conquest of Sindh?—No, but before that time there was a great deal of slavery going on in Sindh, and I do not believe that the slaves were ill treated. There is an instance of a slave having obtained a very high command in the Sindh army.

1187. Do you understand that slavery formerly existed in Sindh in any more real and decided form than that in which it now exists in Persia?—I should think so: but I can hardly answer that question positively. The attention of the British authorities was specially called to slavery in Sindh as it had existed. In Persia we have not really inquired into it so thoroughly; so that we know a great deal more of the slavery in Sindh than we do of the slavery in Persia.

1188. Attention was very specially called to slavery in Sindh?—Yes, but there never was any inquiry as to slavery in Persia: though from what we know of it, it exists in a comparatively mild form.

1189. Has the result of the inquiries into slavery in Sindh been to show that it was a very great and a very crying evil in Sindh?—In answering in the affirmative I judge principally from the reports at the time of the conquest. Perhaps the statements were somewhat exaggerated, but I think that in the histories of the conquest much has been said on the subject of slavery. I refer to what I have read in General Napier's works on the country.

1190. You, I suppose, have had some experience of other parts of India?—Yes; I have been at Hyderabad, in the Deccan two or three times, but not in any separate or detached employment; I was there with my regiment.

1191. In Hyderabad and the Deccan was there anything which you would call real slavery?—Yes; I suppose that there is a form of it there, and probably a severe form. I have not been at Hyderabad for a great many years, but my impression is that I saw a good many descendants of slaves there. There used to be a number of Arabs in the Nizam's service.

1192. But not in slavery?—No, but there are men of African type who should be hereditary slaves. However, I have not been to Hyderabad for more than 20 years.

1193. (*Sir Leopold Heath.*) Can you state very shortly the nature of Sir Charles Napier's proclamation under which the slaves were freed?—I cannot remember more than this, that it was a very concise proclamation.

1194. Was it a despotic decree that all slaves were free from a certain date?—I think so; that from a certain date slavery was abolished; it was something to that effect; very concise and short.

1195. No compensation was given?—That I do not remember, but I think not: of course the point is easily ascertained. I have not seen the book for a

very long time, but have it in my possession and can refer to it.

1196. Do you know whether that proclamation produced any great social distress?—I never heard that it did. The fact is, that the circumstances of the chiefs in Sindh changed so completely after the conquest, that what would previously have affected them as independent chiefs, would hardly do so in the comparatively low position in which they were placed when we had taken their country. I know a great deal upon that particular matter which would be quite irrelevant here, but I can certify that in some cases they were reduced to a state of positive destitution.

1197. That was through our conquest, and not through the abolition of slavery?—It was through our conquest.

1198. (*Sir George Campbell.*) You are aware that about that time the Government of India passed an Act of the Legislature, by which all courts and officers of the British Government were prohibited from recognising slavery in any form. Can you say whether, in your opinion, that created any social revolution in India?—In what year was that?

1199. About 1843 or 1844?—In 1843 I was hardly in a position to judge of the operation of that Act; in fact, I only returned from China in 1842, and had been away for a long time. I went to Sindh in 1852, and happen to know the circumstances of the several Ameers at, and shortly after, that period, because it became my special duty to inquire into these matters. I know that many were in a state of great destitution.

1200. (*Sir Henry Maine.*) Are we to understand you to say that you know nothing personally about these fugitive slaves, but that it was a common occurrence that they were concealed on board the passenger steamers?—In my experience as a passenger, I have heard that slaves have come on board and have concealed themselves or were concealed by the sailors, and so, perhaps, made their escape. I remember one case when I was at Gwadur in the beginning of 1862. I was appealed to by the Arab governor of the place, or by some of the people connected with the governor, to restore two men who had escaped to British territory. I was told that they had taken away property, and that was made a plea for their restoration; but after inquiries which I made, I saw clearly that it was a case of escaped slaves. I let the complainants, therefore, understand that I would represent the matter to my own government in making my report, but I did not think it at all probable that they would get the men back.

1201. They having got to British territory?—Yes. I have found and produce the report made on the occasion. Here is a paragraph in which I mention the circumstance.

1202. (*Chairman.*) There is in this report reference to a case which happened in 1853?—Yes; as well as that in the beginning of 1862.

1203. That was another case?—I merely allude to a previous report of 1853, which might, however, give some valuable evidence on the subject of slavery. I may mention that in my own report I have put down the numbers of slaves that I found at the different ports in going up the coast that year.

1204. In going up which coast?—The coast of Mekran; that is the coast between Persia and India—between Kurrachee and the Persian frontier.

1205. Between Kurrachee and the Persian gulf?—Yes.

1206. (*Sir Leopold Heath.*) Were they slaves for sale?—They were men reported to me as slaves at these different ports. I inquired as to the description of the inhabitants in the fishing villages passed in my journey, and among other particulars they gave me the number of slaves. I may mention that I have never filled any appointment bearing in any way upon this question. I have never had any personal responsibility connected with the slave trade, so that I am afraid that I cannot give any very direct evidence on the subject.

The witness withdrew.

Major-Gen.  
Sir. F. J.  
Goldsmid,  
C.B., K.C.S.I.

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Captain FELIX JONES, R.N., examined.

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1207. (Chairman.) You were Political Resident in the Persian Gulf?—Yes, for eight years.

1208. Between what dates?—From 1855 to 1864.

1209. At that time you had some business in connection with fugitive slaves?—Constantly.

1210. There is one case which has been brought to our notice, namely, a case of Lieutenant Disbrowe, in which he brought forward a correspondence with Commodore Jenkins?—Yes, I remember the case very well. You allude to the date of the 21st September 1858.

1211. September 1858? In that case Commodore Jenkins held the favourite position, I may say, of the Navy, that a ship of war was to be treated like British territory?—Quite so.

1212. And that a slave who once got on board a ship of war was as free as if he had landed in England?—Quite so.

1213. You pointed out, I think, the inconveniences which would result in the Gulf from such a doctrine being carried to the full extent?—I did in some respects.

1214. You said that it would disincline the people there to aid us in preventing the slave trade?—I did.

1215. And that therefore you thought it not advisable to insist upon those strict terms?—I thought it not advisable to insist upon the retention of slaves who had been for a long time in the country as domestic slaves, and absolutely appertaining to the soil. I did not allude to fresh imports from the coast of Africa.

1216. Your object being to prevent the slave trade, and therefore, under the treaties which existed, I suppose to prevent fresh imports of slaves?—According to what the treaty gave us the right to do, namely, to take or demand all freshly imported slaves only.

1217. You wanted to keep strictly within the lines of the treaty?—Yes; because had we done otherwise we should have had so many ramifications that we could not have foreseen what the results would have been; there would have been complications of every kind. The Persian Gulf must be understood as a sort of central basin in which no less than five nationalities have interests; the Turks on the north-west, the Persians on the north, the Wahabees on the west, independent Arab States on the south and south-east, and the British Government superintending the whole, and in fact having a surveillance over the whole. Those are five nationalities having interests in that basin of the Persian Gulf, and each one is opposed to the other; excepting the British Government which is endeavouring to bring about a friendly understanding with all.

1218. You have said that you knew similar cases of fugitive slaves while you were there, besides the case to which I have referred?—Very many.

1219. Can you mention any so as to illustrate the subject?—No; they have been so frequent that after the lapse of so many years I do not remember any particulars of the cases; but I know that they were very many, and that very few of those slaves did we surrender back; those that we did surrender back were undoubtedly men who had been born or bred in the country—of negro parents it is true—but still recognised as subjects of the soil prior to our treaties; and while we were in what I would call the waters of the nation from whence the slave had come we recognised that that nation had a right to the individual if it demanded him; otherwise we held our tongue, and let him have the freedom that he wished to have; in fact, we connived at his escape if he wished it.

1220. You, in short, did not take the trouble to enforce the rights of the owner unless he came forward?—Not in the slightest degree; generally we threw cold water upon them. If a demand was made we used to pooh-pooh it as much as possible if we found that it was the wish of the individual to get away, unless the demand came strongly before us. We always went upon this principle; we thought that originally those people had no right to be upon the

soil, namely, that they had been forcibly brought upon that soil, and were not *ab origine* the subjects of that power; and that therefore to a certain extent, if they wished it, they could claim the protection of the British authority.

1221. As Political Resident did slaves often come to your residence and claim British protection?—I never knew an instance in which they have come to my residence to claim *bond fide* British protection; they have come, when they have been threatened with punishment, to get me to intercede with their masters, and with the authorities of the place. Most of those people who have come to me no doubt had committed some offence for which they were liable to punishment, and they came to me not to claim protection against the authorities, but simply to ask me to intercede to save them from the measure of punishment which they probably deserved. I cannot say that they did deserve it, because it was not my province to ask questions on the subject, nor were these matters forced upon me.

1222. Were you chiefly at Muscat, or where were you?—No, my post was at Bushire, with jurisdiction over all the Persian Gulf.

1223. Were there many slaves at Bushire?—There were constantly slaves landed at Bushire, as there were at all the ports in the Gulf, by vessels coming from the south—principally by Arab traders.

1224. When you say that slaves were lauded, what do you mean?—I mean freshly imported slaves. You must understand that most of the vessels which navigate the Persian Gulf, the east coast of Africa up to the Persian Gulf, the coast of Arabia up as far as the Euphrates and the Tigris (which last river separates Turkish from Persian territory), are navigated by negroes, I will not call them exactly slaves, though they have been originally slaves, and they form the crews of these vessels; they are mostly slaves but are not freshly imported slaves, they have been trained seamen for a number of years, and we never interfered with them; it was only fresh importations that we were allowed to deal with by the terms of our treaties, and I never dealt with any but freshly imported negroes. Knowing the languages of the country I could always tell what were freshly imported negroes, they could not speak either Persian or Turkish or Arabic, and perhaps not a word of Hindustani. Now most of the old sea-going negroes, who had been introduced into these countries from a very long period, and who had served in these vessels for four or five years, had become art and part of the domestic establishment of their masters on board these vessels, they understood Arabic or Persian or Turkish perfectly well, and I could not call those men freshly imported negroes, and never had anything to do with them, in fact had I attempted to interfere with this old and recognised class of slaves the complications would have been endless.

1225. Was there a large slave population at Bushire?—A very large slave population. Of course it has connections with almost every other town throughout Persia.

1226. You think that a great many fresh importations were brought into Bushire?—That I am certain of, because I claimed them and received them in many instances. I received them from the authorities.

1227. What did you do with them when you got them?—I will first of all explain that we had treaties with Persia to the effect that we could act and board the vessels of Persia in connection with Persian Commissioners appointed by the Persian Government; we could then operate in conjunction one with another, and if the Commissioners were satisfied that these were freshly imported slaves, I might demand them, and they would be delivered into my hands. With the Arab tribes on the south coast again we had treaties, and we could demand the slaves even after they had landed, besides seizing them upon the ship's deck. I have seized them upon the ship's deck, and I have had them delivered to me by the Arab

tribes on demand. As respects the Turks on the north-western shore of the Persian Gulf, we were bound not to take any slaves out of their vessels, but to carry their vessels into a Turkish port and there consult the authorities about their surrender; and on one or two occasions we have had a slave surrendered to us under those treaties, and the same with the the Persian treaties, as I first mentioned, so that we had a variety of treaties all operating in different directions, but still we got slaves, and when I got them I formed a depôt of them at the island of Kishm, at the south-east end of the Persian Gulf, where I used to keep them, feed them, clothe them, and even instruct them to the best of their ability, until the time arrived when one of the vessels of war was going to India, when I used to despatch them on to Bombay. On their arrival at Bombay the Government there took them under its protection and sent them to schools, and what more became of them afterwards I do not know, although I have heard they were educated and brought up in various trades and professions.

1228. Did you see anything of the pearl fishery in the Persian Gulf?—I saw a good deal of it. I must explain that I knew the Persian Gulf from the year 1828 to the year 1864, either as a naval officer, or a political officer, or as a surveyor, I knew it in every sense. I knew the tribes and I knew the languages. I have seen the pearl fisheries, and in fact I have seen all the pursuits that were followed in those waters, and I know the tribes perfectly and intimately. A great many of what we called slaves, I will not say the freshly imported slaves, but the men who formed the crews and the old established servants, it is true had come originally from Africa, but they were employed in these very pearl fisheries, they used to be the divers. On several occasions I know perfectly well that in seizing vessels indiscriminately, as has been the case very often, we have been cutting our own throats to a great extent, because they have formed the only carrying traffic of the districts from the east coast of Africa right round the shore of the Persian Gulf to India, and when we have indiscriminately seized and burned and destroyed those vessels we have been cutting our own throats, because they were carrying mostly British goods for dissemination at the various ports.

1229. You think that by seizing those vessels indiscriminately we checked that trade which might gradually have become a source of commerce instead of slave traffic?—I am quite certain that we checked an immense amount of real and good commerce, and we did an immense amount of injury—unknowingly, zealously, and unwittingly—but we were doing an immense amount of injury to ourselves, and to every nationality in connexion with us.

1230. And to the interests of the African population?—I will not say to the interests of the African population alone, I will add the Arabian populations. The Arabian populations are all seafaring men, they dwell on the coast, they have been all seafaring men, sometimes pirates, sometimes slavers, although slavery was not their sole object. We did not understand by "slavery" in those parts the same as we understand by the slavery on the Western Coast of Africa, that is to say, ships were not wholly fitted for slavery, they were fitted for trade, and if they carried slaves at all they were importations in connexion with the cargo, there were a few slaves only while the whole ship was laden with cargo of different kinds.

1231. The slaves on board these dhows did not, I suppose, want to be liberated; they were employed regularly as sailors?—Those sailors on board the dhows, whom we call domestic slaves, forming part of the crews, never want to be liberated, for they are generally the happiest race in the kingdom, they are well fed and well treated, in fact, with the exception of having been originally bought, they are art and part of the families of the masters of these dhows, and of the owners of them, and they never wish to be

released; it is only the freshly imported ones that wish for freedom. Perhaps it may not be out of place here to notice that the term "dhow," used generally, is a misnomer. It applies only to one peculiar kind of Arab craft "Dáo," with an overhanging stern.

1232. Then, that being the case, whenever we visited a dhow, if we made the people understand that if there was anyone in the dhow who was kept entirely against his will, he could be released, we should do very little harm, for, as I understand, very few are kept entirely against their will?—We should do no harm whatever, we might do good, so far as our object is to put down slavery by taking all those freshly imported negroes who could not speak any languages except the languages of Africa. We should thereby fulfil our object entirely; but by indiscriminate seizure we are damaging all the seafaring populations of the coasts of Arabia, as well as to a great extent indirectly damaging our own commerce, that is to say, closing the outlets for our own goods, because we destroy the vessels.

1233. What you want is that discretion shall be given to the officers that they may, as they can easily, distinguish the newly imported slaves from the domestic slaves, or the sailor slaves?—Yes; that is exactly the thing which should be. There should be officers trained to the service who could distinguish between the freshly imported slaves and those who really belong from of old to families and to the vessels, and who have formed a part of their crews from a long period anterior, and who speak the language of the country, and of the ports that they have been domiciled in. At the same time another thing is particularly desirable, if those officers themselves are not trained and do not understand the languages, it is nearly impossible for them to know whether they are doing right or wrong, they may zealously imagine that they are doing right when all the time they are doing wrong, they will see a vessel under Turkish colours and will call her an Arab vessel, or call her a dhow, and they will proceed to sink, burn, and destroy her if they have any difficulty in carrying her into a port. Another great thing is the want of proper interpreters to assist these officers; that has been the great deficiency. The consequence is that the commanders of these vessels, with of course the best of intentions, have often been led astray.

1234. And it creates what you call a complication?—It creates complications. A Turkish vessel may be seized, and immediately complaints come from the authorities in Bagdad. A Persian vessel may be seized, and the men taken out of her without the consent of the Persian Commissioners; that occasions complaints from the Court of Persia. Arab vessels may have been seized without a slave, that is to say, what we call a slave proper, that is, a freshly imported slave on board of her, simply because negroes have been on board (I would say negroes *ab origine*) when they had no right to be seized at all.

1235. Do they bring many women to Bushire for sale?—They have brought women, but not many; one or two of them bring women. I have heard of cases where they brought and landed them lower down the coast, where they could be carried away into the interior without the British authority knowing anything of it, so that we could not claim them; but I have had women, and children too, surrendered to me by the Arab authorities and even by the Persian authorities when I have been acting in concert with the Persian Commissioner, and those women and children have been placed in our British depôts formed by myself in the Persian Gulf; they have been separately cared for, in the same way as we would care for women and children in schools in this country.

1236. Were those women anxious to be sent away, or would they sooner have gone into Persia?—They were very anxious to be released; they were freshly imported women who knew no language; they knew that they had been torn from their homes with their children, but they did not in fact know where they were going. Life before them was a prospect that they could not see through, and they knew perfectly

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well, from having heard it from people in connexion with them, that the British authorities cared for them at least, and they preferred coming to us to being taken as it were to an unknown future.

1237. They were also sent to Bombay?—Yes.

1238. I suppose that they were put to service of some sort?—Yes. I think that the Government sent them to schools, the Byculla schools, or the Nasik schools, I think.

1239. Do you know anything of a slave coming on board the "Dalhousie," or some vessel, who came on board with the chief?—No, I have not heard of that case. I think that it must have occurred since I left.

1240. You do not remember any case of that kind where slaves came on board when the chief came to visit the officers?—I know that as Political Resident I used to make a tour round the Persian Gulf annually, and every chief there used to come on board with his followers to visit me, and remain on board for hours. They had among their followers what we would generally call slaves, that is to say, they were Africans, but they had been in the country for years.

1241. You never knew a case of these people claiming their freedom?—Never.

1242. When you were near the pearl fisheries, had you any case in which the divers or other persons came for protection?—Occasionally, but not often.

1243. What was done with them on those occasions?—We always kept them, unless they were demanded; and I never knew a case, except the case which you have on record, in which Commodore Jenkins was concerned, where there has been a demand made for the man to be given up again. We used to connive at their escaping. We never said a word about them, as long as there was no demand, it was not our business to send the man back into slavery. We always, as I said before, regarded these individuals, whether they were fresh importations, or whether they were old importations, as not being rightful subjects of the soil, and we considered that the authorities of those soils had really no right over them; that is to say, that if they wished to claim their freedom, it was not our duty to prevent their having their freedom by surrendering them back into slavery, and therefore we used to let them alone.

1244. If our object is to do away, as far as we can with slavery, the best course you think would be to give our officers instructions with regard to the mode of treating these different classes of slaves, and to give them interpreters to assist them in carrying out such instructions?—Certainly.

1245. Is there any other suggestion which you can make, our object being to abolish, and if that object cannot be effected, to mitigate slavery?—There is one thing which has struck me only recently. I read in "The Times" a short time ago a letter from an officer who signed himself "a captain of ten year's standing," I think on the coast of Africa. In that letter it was avowed that a slave had come on board his vessel, I think at Madagascar, or somewhere in Mozambique, and that this slave had been demanded again from him, and that rather than surrender him he had paid a certain sum of money for that slave, and had as it were redeemed him, and kept him on board. Now I remember a case somewhat similar, in which a Captain of the Indian navy was absolutely sent by the Government to the east coast of Africa, when our first steam communications with India were on the point of being established. He was sent there with instructions to endeavour, if possible, to get a certain number of young men or boys of the negro class, with a view to their subsequent training for service in steam ships in India; for it was supposed that the Europeans and ordinary Indians would not be able to stand the heat of the engine-rooms and stoke-holes. This Captain proceeded in a sloop of war to the east coast of Africa, carrying with him a certain amount of dollars, and as an energetic officer, and a zealous one too, he got negroes here, there, and everywhere; in fact he redeemed them from captivity, and gave them their

freedom, and got them on board his vessel. Some of them turned out to be sickly after his redemption of them, and one or two of these he exchanged with passing native vessels for more healthy lads. There happened to be at the time a dispute between the Supreme Court of Judicature in Bombay and the Government of Bombay; they were not on very good terms, and it was thought a good opportunity when this ship returned into port with the negroes on board, to show the power of the Supreme Court of Judicature. A police officer was sent on board to arrest the captain of the ship. If my memory serves me rightly the police officer was hustled overboard; however it did not prevent the captain's arrest. He was tried, and the end of it was that this captain in the Government service was sentenced to be transported as a felon either for 7 or 14 years. I remember perfectly well the counsel for the prisoner on the occasion, in appealing to the judge said, "My Lord, where in this instance are the bolts, the bars, and the shackles of slavery." It did not avail him, for on the other side the counsel urged, "There are no bolts, and there are no bars, and no shackles of slavery, but there is an equally potent article, the almighty dollar the prisoner paid for the slave, the act of purchase by the British law constitutes slavery," and he was condemned upon that act of purchase only. The captain was sent to Botany Bay with all honours by the Bombay Government, in a sloop of war. It so happened that, passing through the Straits of Sunda (it was just about the time when Superintendent Elliot's first disturbance with the Chinese took place), they sighted a merchant ship, and a gun was fired to bring her to. On sending a boat aboard they found that this vessel had despatches from Superintendent Elliot to carry home to the authorities. Captain Pepper, who then commanded this sloop of war, on board of which was the prisoner, took the despatches from the merchant ship and gave a receipt for them. He altered his course, and instead of going to Botany Bay proceeded to the Thames. On arriving in the Thames, His Majesty King William the Fourth, in the exercise of his prerogative, released Captain Hawkins, which was the felon's name, from arrest, and in fact liberated him from the penalty of his offence. Now I believe that those practices which he zealously indulged in are still in vogue on the east coast of Africa occasionally, and rather than send back what they consider a poor man into slavery, the officers will pay a sum of money in redemption and give him his freedom; but such a thing might subject an officer in future to a felon's fate, hence I mention the circumstance.

1246. If he paid to liberate him?—Certainly; the act of purchase constitutes the slavery, as far as my knowledge goes.

1247. (*Sir George Campbell.*) They are not in the habit in the navy of exchanging sickly slaves for sound ones, are they?—I know not; but that, of course, was another item in the account against Captain Hawkins.

1248. (*Chairman.*) Then is what you mean to say, that the Government, if it was anxious to do away with slavery as it is, should allow officers in such cases to pay money, without visiting them with even displeasure for doing it?—No, I do not mean to say that, but I cannot see how the Government, on the other hand, can give instructions to its officers to do this and to do that, or permit money to be given, while the supreme courts are thereby to pounce down upon the individual who breaks the law.

1249. But do you not know many cases in which the Government itself, having taken slaves wrongfully, has paid compensation for them, and therefore in fact has bought the slaves?—I know those cases too, but exercised only as a "*dernier ressort*" as it were. Considering that the slaves had gone, there was no sending them back to their masters, and the only thing left was to give a compensation for the error committed.

1250. (*Mr. Rothery.*) I think you said that you have known some of the slaves in the pearl fisheries to come on board the ships?—Occasionally.

1251. On the high seas?—I cannot exactly call it the high seas, because the pearl banks are well known to be art and part of the soil, or are considered to be art and part of the possessions of the tribes located in their vicinity; they are a sort of property.

1252. Then it has been when the pearl boats have been in the neighbourhood of the pearl fisheries?—Certainly, when the pearl boats have been engaged on these banks in the pearl fisheries.

1253. Then you have considered, in those cases, that the slaves coming on board your ship have come on board your ship in their territorial waters?—Certainly.

1254. And on that ground, therefore, if a demand had been made would you have given them up?—No, I think not; if they had been freshly imported slaves they certainly would not have been given up.

1255. I do not mean slaves freshly imported, but domestic slaves employed in the pearl fisheries?—Certainly those domestic slaves employed in the pearl fisheries and proved to be domestic slaves, that is, long domiciled slaves, would have been surrendered.

1256. But you did not think it necessary to take any active measures for the purpose of finding out their masters in the event of no demand being made for them?—No active measures were ever taken unless demands were made and pressed.

1257. With respect to seamen slaves on board, if they were not well treated they would have every means of escaping, if they chose, would they not?—Certainly.

1258. They would have every means of escaping unless they were quite satisfied with their position?—Certainly; they could do anything, on shore or afloat, which they pleased; there was no coercion in any way. I have been many years amongst them, and they were as free as either you or myself would be.

1259. If I understand your observations aright, you think that the indiscriminate destruction of dhows, which at one time took place, was attended with very injurious consequences, not only to the trade of the country, but also to the suppression of the slave trade?—Certainly.

1260. And that we were not justified in seizing and destroying a dhow, simply because she had a domestic slave on board, who was quite content to remain on board?—Certainly not justified.

1261. (*Sir Leopold Heath.*) Are you aware that very strict orders are given, and have been given since 1869, forbidding the capture of dhows solely for having domestic slaves on board?—No, I am not aware of it.

1262. When did you leave the naval service of India, or the political service?—In 1864.

1263. Was this sinking, burning, and destroying, of which you have spoken, practised at that time?—No, it was not.

1264. When you speak of it as occurring, do you speak from your own knowledge?—I speak of it as having read the cases.

1265. Are you aware that every vessel captured must be condemned by a vice-admiralty court?—I am aware that the order says so, but again I firmly believe that these vessels have not been carried to port, or undergone adjudication in any court.

1266. (*Mr. Rothery.*) That is to say, you mean that they have been destroyed before adjudication?—Yes.

1267. Constantly?—I mean to say that the Captains of ships in some instances, I cannot quote the instances, but it is my firm belief that in some instances, they have condemned those vessels on the spot.

1268. (*Sir Leopold Heath.*) And have never gone to any court for confirmation of that condemnation?—I do not know what they afterwards may have done.

1269. You do not know what they have done, but have you any reason to believe that any case can possibly have occurred in which a Captain after burning and destroying a vessel took no measure before a court to show that that vessel was a slave trader?—I am

not exactly aware what evidence may have been taken, but as far as I read of the cases at the time, it struck me that it was something like what they used to call in olden times, Jodburg justice, to condemn first and inquire afterwards.

1270. And then if the inquiry took a turn against the captors, what was the result?—That I do not know, I never heard of any result afterwards. The only thing that I am aware of is having read that such cases did occur on the coast of Africa, as to take out the slaves and sink these vessels without carrying them into any port or court for adjudication.

1271. I should like to understand you clearly. Carrying a vessel into port for adjudication, you must, as a sailor, know is practically impossible in many cases against the monsoon; but if they carried evidence of the purport of the voyage upon which the vessel which was sunk was sailing, it must have gone into Court?—As a political officer I should not admit that, because I am perfectly aware that in our transactions in the Persian Gulf the vessels have been seized, and have been held for months, and carried subsequently across the seas to Bombay, we have never in any one instance either sunk, burnt, or destroyed a vessel simply for having slaves on board; we have carried away for adjudication. But I am perfectly aware of the difficulty of which you speak, for that has been one with which the naval officers have always had to contend. Yet as far as the Indian navy was concerned we endeavoured to carry out our instructions, and I endeavoured as a political officer to enforce them, which were to carry the vessels into port; I have known of an instance where the vessel has been taken into port, the case has been tried in Court, the Captain has been taken out of his ship and kept on shore for many months at a great loss to himself before the trial came on, and after the trial he has been condemned as in error, the slaves have been liberated, and he has been liable to costs.

1272. Do you suppose that rule has been changed by the courts since your day; do you think that since your day the courts are less strict?—No. I think that the courts are equally strict; but what I was speaking of was just at the change between the arrival of the Royal naval ships upon the stations and the departure of the Indian naval vessels owing to the abolition of the service. I think that at that time there were many errors committed simply from ignorance, from zeal, certainly, but nevertheless from ignorance of the modes of acting; and I am not quite sure whether there were absolute instructions at the time issued with respect to dealing with these slavers.

1273. Did the Indian Navy ever enter heart and soul into the abolition of the slave trade; were not they very much deterred by the fear of the Bombay courts, of which you have spoken?—Honestly, yes; they were very much deterred by what I have already related to you.

1274. Was not it well known that the captain of one of the Indian Navy ships would avoid capturing if he could possibly do so?—No, I will not go so far as that. I think that the officers connected with the Indian naval vessels endeavoured to perform their duty on all occasions, and wished if possible to recover slaves from slavery; but they found so many difficulties that they were deterred from fully entering into the question. When they found a difficulty, and were unable to act satisfactorily to themselves, they used, in accordance with the instructions which I, as well as other officers, gave them, to give the vessel and the slaves, as I would call them, or the seamen, or the negroes, or whatever you may term them, the benefit of any doubt.

1275. In point of fact the duties of the Indian Navy were principally surveying and keeping the maritime truce, and the ordinary duties of a man-of-war along the shores of the Indian Ocean; whereas the principal duty of the Royal Navy since the abolition of the Indian Navy has been the suppression of the slave trade; is not that so?—Yes, I am aware that vessels

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of the Royal Navy have been set apart purposely for the suppression of slavery.

1276. You think that the legitimate trade has been very much damaged by the capture of trading vessels having but a small number of slaves, even slaves for trade, on board?—I will not say that it has been actually very much damaged, but I will say that if the practice of arbitrary condemning continued in the same way as it was originally done, it would very much damage the commerce and indeed the whole seafaring populations of the sea board of Africa and Arabia.

1277. Then if it rested with you, a large dhow full of a trading cargo, but having on board a small number of slaves for sale, should not be interfered with?—No; not to the extent of burning and destroying her or condemning her, because I believe that the cargo belonging to several merchants, which merchants have no connexion whatever, perhaps, with the slaves on board, would suffer from the presence of the few slaves.

1278. Would not the result be that every dhow engaged in trade would carry this small number of slaves for sale, to which you do not seem much to object?—I do object, pardon me.

1279. But would not every trading dhow take slaves as a portion of its cargo, if the permission, which you think it is right to give to such dhows, were given to them?—No. I do not think that they would, simply because they would know the fact that these slaves would be taken out of their dhows and taken from them, and that there would be a chance also of losing their vessels and their cargoes. I think that that would be sufficient to deter them from promoting slavery, without the extreme step of sinking, burning, and destroying, which step is justifiable only as an extreme penalty for full and undoubted defiance of the law.

1280. (*Mr. Rothery.*) Supposing the case which you have put of a vessel having a valuable cargo and two or three slaves on board, that cargo not belonging to the owner of the ship but belonging to other parties, do you know that in the event of her being captured and brought in, the vessel might be condemned, but that legally the cargo would not be liable to detention?—I will take it to be so.

1281. Are you aware of a particular case which occurred not very long since, in which a vessel had a valuable cargo on board and we had to pay a considerable sum of money for the cargo, which belonged to a French firm, although the vessel itself was liable to detention. That was on the authority of the Privy Council Judgment in the case of the "Newport"?—I have heard of the case.

1282. And it is on that ground, as I understand you, that you think it is very undesirable to destroy a ship with, perhaps, a cargo on board, immediately upon capture without bringing her into port?—Certainly. There are other grounds too for circumspection, when the interests of captors and the captured are so strongly opposed.

1283. Are you aware of the instructions which have been sent out within the last few years in accordance with an arrangement entered into with the Sultan of Zanzibar, that dhows are to be left at certain ports if, owing to the monsoon or other adverse winds, they cannot be taken up to Zanzibar to the Court of Adjudication?—That I am not aware of, but I think it is a very wise provision.

1284. (*Chairman.*) You would approve of it?—I approve of it entirely as a preservation of vessels for future trade, and as affording a prospect of a third party's interposition in the cause of right for both opponents.

1285. (*Mr. Rothery.*) What you strongly object to is a case somewhat like this, which once occurred, where a vessel was seized with something like 42 persons on board, near Mozambique, she was burnt,

the crew were all sent back to Zanzibar, and the ship-of-war went on to the Cape of Good Hope and there got a condemnation of the vessel. Those are the kind of cases to which you object?—Those are the kind of cases of which I disapprove.

1286. Where condemnation is obtained behind the backs of parties interested?—Quite so.

1287. (*Sir Leopold Heath.*) I observe that Captain Jenkins when remonstrating with you for your decision as to the slave taken out of his vessel, urges that "no expediency should supplant the laws of our land, or induce a public officer to adopt any measure that does not uphold the honour of our Queen and country." Do you agree with that sentiment, or do you still think that you ought to allow a small number of slaves to be carried to sea in trading dhows for the sake of avoiding the harassing of the legitimate trade, which must necessarily occur when you are making war against so extensive and enormous an institution as the carrying of slaves on the east coast of Africa?—I should think that it might be expedient in some cases, but certainly on the coast of Arabia and Africa, where it is so very difficult to rebuild vessels after their destruction, it is totally inexpedient to be so harsh in these measures. There are other modes, I think, for the suppression of the slave trade there, which modes have been pointed out, which would be equally efficacious, by the detention of the vessels and by the capture of the slaves; the detention of the cargoes would hamper individuals, and I think that a proper respect for treaties conduces more to uphold the honour of our flag than an infringement of them manifested in the case to which you refer.

1288. (*Mr. Rothery.*) And you would include the condemnation of the vessel when it was engaged in the slave trade?—Certainly, as I before stated (in para. 1279). I may say, however, that on the east coast of Africa and on the east coast of Arabia, and generally throughout the shores of the Persian Gulf, there is no such thing as a *bonâ fide* slaving vessel, that is to say, a vessel fitted out purposely and for the sole object of purchasing and bringing slaves for sale; they are more or less trading vessels, and while performing the legitimate objects of trade they get these slaves on board as a remainder in fact. Perhaps the master and some portions of the crew will take them on board as a venture for themselves, while the cargo belongs to merchants at the distant ports from whence they sailed.

1289. (*Chairman.*) But it leads to the capture of these unfortunate children in Africa, in order to allow the captains of the vessels to make this venture, does it not?—No, I do not think that it does; I do not think that these vessels go to the east coast of Africa for the sole purpose of bringing these slaves, and if they contemplate bringing slaves, as the owners or masters undoubtedly do, the ancient character of slavery as an institution in all the adjoining countries should be considered when desirous of weaning the rulers and people from practices deemed nefarious only by nations with whom they are friendly and at peace.

1290. But is not the captain tempted, when he is coming from the coast of Africa to the Persian Gulf, to get a few boys on board besides the cargo, in order to make a little more profit?—That he certainly is; and that is why I say that, if possible, these people who are the owners of the slaves should rather be punished by the seizure of the slaves and penalties attached to their persons, than that the distant merchants who never contemplated anything like slavery should have their cargoes and their vessels destroyed.

1291. You mean that the merchant is liable to be punished when it is the sailing master of the vessel who ought to be punished?—The sailing master of the vessel, and all others wilfully infringing as I have pointed out.

The witness withdrew.

Tuesday, 4th April 1876.

PRESENT :

HIS GRACE THE DUKE OF SOMERSET, K.G., IN THE CHAIR.

THE RIGHT HON. SIR ROBERT J. PHILLIMORE,  
D.C.L.  
THE RIGHT HON. MOUNTAGUE BERNARD, D.C.L.  
THE HON. ALFRED H. THESIGER, Q.C.  
SIR HENRY T. HOLLAND, BART., C.M.G., M.P.

REAR-ADMIRAL SIR LEOPOLD HEATH, K.C.B.  
SIR HENRY J. S. MAINE, K.C.S.I., D.C.L.  
SIR GEORGE CAMPBELL, K.C.S.I., M.P.  
J. FITZJAMES STEPHEN, ESQ., Q.C.  
HENRY C. ROTHERY, ESQ.  
HENRY HOWARD, ESQ., C.B., *Secretary.*

CHARLES U. AITCHISON, Esq., C.S.I., examined.

1292. (*Chairman.*) What was the position which you held under the Government of India?—Secretary of the Government of India in the Foreign Department.

1293. For what time had you held that position?—Since September 1869.

1294. In January 1874 you wrote a letter, I think, to the Acting Political Resident in the Persian Gulf?—I did.

1295. It was upon a question relating to a runaway slave?—Yes, a slave who had escaped on board the "May Frere," one of the Bombay marine vessels.

1296. Had you had any previous correspondence respecting runaway slaves before you wrote that letter?—To the best of my recollection, none.

1297. To the best of your recollection, this was the first communication which arose upon that subject?—Yes; before the Government of India, while I was Foreign Secretary.

1298. This letter was in respect of a slave who took refuge on board the "May Frere"?—Yes.

1299. And you were then, as I understand, communicating the views of His Excellency in Council?—I was.

1300. Was it without reference to any opinion of your own upon the subject?—I had given my opinion upon the papers as they passed through my hands, before the orders were issued.

1301. Was your opinion in accordance with that letter dated January 7th, 1874?—This letter does coincide with my opinion; the words of it were not those used by me in expressing my opinion, but my opinion is substantially the same as the opinion conveyed in this letter.

1302. There was a difficulty in that case, at least it appears so to me, because the slave took refuge, not on board one of Her Majesty's ships, but on board the "May Frere"?—Yes; the "May Frere" is not a ship of war.

1303. (*Sir Robert Phillimore.*) What is she?—She is a vessel of the old Bombay marine; she is used in carrying despatches; she is, in fact, an armed despatch boat.

1304. What colours does she carry?—I should say the Union Jack, but I cannot say for certain.

1305. (*Chairman.*) You do not consider the "May Frere" to have the immunities and exemptions which a vessel of war would have?—We thought it probable that as a public vessel, armed and employed by the Government of India, belonging to Her Majesty the Queen, the same immunities would be conceded to her, although we were not quite certain as to the question whether she could claim them as a right. I think that the point is brought out in one of the paragraphs of this letter.

1306. (*Sir Robert Phillimore.*) Had she any commission?—I am unable to say.

1307. (*Chairman.*) In this letter His Excellency in Council referred first to the cases where there was no treaty; he says "in the absence of any treaties." In the Persian Gulf there were treaties everywhere, were there not?—There are treaties everywhere I may say.

1308. Therefore we may at once put aside the policy which would have to be attended to where there was no treaty; here there was a treaty every-

where?—I am not sure that the treaties referred to the question of *fugitive* slaves, I believe that although there are treaties with the tribes and States in the Persian Gulf, none of the treaties refer directly to the question of the reception on board of fugitive slaves.

1309. (*Sir Robert Phillimore.*) What do they refer to?—They refer to the slave trade, and to a certain extent also to the status of domestic slavery in the native states with which the treaties have been concluded; that is to say, that in certain of these treaties the slave status is recognized as existing in the States with which the treaties have been concluded.

1310. (*Chairman.*) Besides the complication of the vessel there was this further complication—you had treaties with the Chiefs, and you were not always in the territorial waters of those Chiefs, but had difficulties connected with the Pearl fishery which was beyond the territorial waters?—The Pearl fisheries are technically, a part of them, beyond the territorial waters—that is to say, they are beyond the usual three leagues from the mainland, but in practice they may be looked upon as a portion of the territories of the tribes, because the tribes have all common interests in the fisheries, and would certainly resent anything like interference with the Pearl banks.

1311. (*Sir Robert Phillimore.*) To what distance at sea do the Pearl fisheries go out?—In some places out of sight of land; I cannot say the exact distance, but the Pearl banks extend all along the southern coast of the Gulf, almost from Cape Mussendom up to beyond the Island of Bahrein, along the whole coast—the distance from the mainland varies.

1312. (*Chairman.*) The Pearl fisheries were to be treated not exactly as territorial waters or exactly as the high sea?—They were to be treated as doubtful cases, in which the commanders of the vessels were to exercise more discretion than they would do if they were in what would be strictly called territorial waters.

1313. As this case had never arisen before, do you think it likely that there would be many cases of that kind?—I should think it improbable that the cases would be numerous.

1314. Since that time you have, I think, still continued to be Secretary?—Until the 10th of February last.

1315. Had you any more cases?—One case occurred subsequently, in which four slaves took refuge on board one of Her Majesty's ships, the "Philomel."

1316. Had you a correspondence respecting that case?—We had.

1317. (*Sir Robert Phillimore.*) From what country did the slave come?—From Muscat—from Oman.

1318. He came on board one of Her Majesty's ships?—Yes.

1319. What question arose?—The Sultan demanded his surrender.

1320. (*Chairman.*) Was the demand complied with?—It was.

1321. Was that in territorial waters?—It was.

1322. Was he a domestic slave?—A domestic slave.

1323. Was he reported to be a domestic slave who had been for some time in what I may call domesticity, that is to say, who had been for some

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time there, or had he been recently imported?—He had been there for some time before, and the question of his surrender turned upon that point. In the treaty with Muscat it is provided that all slaves coming in future to Muscat are free when they put their foot on Muscat soil. Slaves already in slavery in Muscat are to remain so. These men had been slaves in Muscat previously to the completion of this treaty, and therefore they were not entitled to freedom under that clause, but they would have been entitled to freedom if they had been of recent importation.

1324. With the view of entering into territorial waters to put down slave trading, and to put down the importation of slaves, you think it desirable to observe strictly the obligations with regard to domestic slaves?—I think it highly desirable.

1325. You think that otherwise the good feeling of the Chiefs would be turned into hostility towards the Government?—I think that it would. It is with considerable difficulty that the treaties with these States, even for the suppression of the slave trade, have been concluded; it has been no easy matter. If the terms of some of the treaties be examined, for instance the one with Persia in 1851, you will find, from the tone of the correspondence which took place, that very great jealousy was exhibited by the Persian Government in regard even to prohibiting the importation of slaves into Persia, and to allowing our cruisers to search Persian vessels. I think that the whole of the priestly influence would be against us in those countries if we attempted to interfere with domestic slaves; we should probably have the whole of the pearl-diving interest against us, and I think that it would give rise to very great complications if we did not recognize for the present the condition of things existing in the country.

1326. (*Sir Robert Phillimore.*) Do you think that would be a perpetual recognition?—No. I think that the surest way to get domestic slavery abolished is to go about it gradually. Our action even in suppressing the slave trade has been very gradual. Our first treaties were aimed solely at putting down the trade with Christian countries, and did not refer to the trade with Mahomedan countries, or to the status of domestic slaves at all. Those were the early treaties; the treaty with Muscat, for instance in, I think, 1820 or 1822. Gradually the scope of our treaties has extended, so as to prohibit the slave trade even with Mahomedan countries. Three years ago we got the public sale of slaves in certain of these Mahomedan countries abolished by treaty. We have further succeeded in getting the importation of slaves prohibited in some of the states, that is to say, the slaves become free the moment they touch the soil of these States; and so step by step I think we have made very great progress in putting down the slave trade, and we have also touched indirectly domestic slavery. I think that by going gradually, not offending the prejudices or interfering with the rights of the people of those countries, we are likely to make more progress than if we made any hasty change in our present attitude towards them.

1327. Your opinion would be that a distinction should be taken between a domestic slave, and what we have had described to us here as a raw slave?—Quite so.

1328. (*Chairman.*) At the same time during the six years that you were Secretary to the Government only two cases have arisen, as I understand?—I would say three years, for it is only for the last three years that the Government of India have taken the control of affairs in the Persian Gulf directly into their own hands. In former years the control rested with the Bombay Government, and the Government of India, of course, only knew of such matters as the Bombay Government reported to them; but since the end of 1872, or the beginning of 1873, the Government of India have taken these matters directly into their own hands, and the correspondence now comes directly to the Government of India.

1329. These Chiefs upon the borders of the Persian Gulf have no ships of their own, have they?—Not what we would call ships.

1330. They have nothing but boats?—Nothing but boats, but these boats are capable of carrying considerable crews, and carrying armed men; and in old days the chiefs used to carry on war with each other in these boats by sea.

1331. Until we established what was called the maritime truce?—Yes.

1332. (*Sir Robert Phillimore.*) What is the date of the Slave Treaty with Persia?—1851, continued by the Treaty of Peace of 1857. The Treaty of 1857 merely continues the Treaty of 1851, and provides that it may be annulled by either party on a year's notice.

1333. (*Chairman.*) Have you yourself ever been in the Persian Gulf?—Never.

1334. (*Sir Henry Maine.*) You said that these questions were formerly dealt with by the Government of Bombay?—Yes.

1335. Did they act upon the same principles as those which the Government of India propose to act upon in your letter?—I have seen cases in which the Bombay Government have reported to the Government of India the reception of slaves on board a vessel, and have given their own opinion that the slaves should be restored, and the Government of India agreed with that opinion—that was within territorial waters.

1336. But these papers would apparently show that latterly they have acted upon different principles?—In the case which is referred to in the Parliamentary papers which have been published, the Advocate-General of Bombay gave a different opinion.

1337. (*Sir Robert Phillimore.*) At what date was that?—I believe that it was in 1871. My knowledge of it is only derived from the correspondence here.

1338. (*Mr. Fitzjames Stephen.*) That case was not reported to the Government of India, was it?—It appears not. I have no recollection of it, and judging from these papers, I should say not.

1339. I have no recollection of it either, and it would naturally have come before me if it had been reported?—Yes.

1340. (*Sir Henry Maine.*) Was your opinion confirmed by any legal advice?—Yes, a legal opinion was taken.

1341. (*Sir Robert Phillimore.*) Was that the opinion of the Advocate-General?—Of the Law Member of the Council, and I think also of the Secretary to the Legislative Council.

1342. (*Sir Henry Maine.*) Practically the law which you have laid down in this letter corresponds more nearly with what is called the second circular than with the first?—Much more nearly. The first circular is not in accordance with the opinion of the Government of India.

1343. (*Sir Henry Holland.*) That part of it especially which relates to slaves taking refuge on board a man of war on the high seas?—Yes particularly, and also with regard to the surrender of slaves when taken back into territorial waters from the high seas.

1344. (*Sir Henry Maine.*) Do you think that it is an inference from any of the provisions of the treaties that escaped slaves ought to be surrendered when they have escaped to ships within territorial waters?—I think so. I think that it is an inference from the last slave treaty with Oman, which, as I have already said, provides that slaves arriving in the Oman territory shall be free—it is a legitimate inference from it.

1345. (*Sir George Campbell.*) You have spoken of the recognition of slavery in our treaties, and of the obligations which we have incurred with regard to domestic slavery. Will you point out where these obligations are?—Did I use the word "obligations?"

1346. I think that it was put to you?—I have not the text of the treaties before me. Speaking from my recollection of them, if I used the word "obligation"

I should merely mean a moral obligation, inferential from the fact that we have concluded treaties with those States for the purpose of suppressing the slave trade, that we have concluded treaties with those states for the purpose of suppressing the sale of slaves in those territories, and that we have not gone further. I infer from that that we are not prepared at present to go further, and that we ought not, until we have gone further diplomatically, to instruct our executive officers to interfere with the status of domestic slavery.

1347. You yourself used the words "recognition" of the status of slavery in our treaties with the Chiefs. Is that inferential or direct?—Inferential.

1348. You infer that we have stipulated that certain slaves shall be free and have not stipulated that other slaves shall be free, it is only in that way that inferentially you presume that we have recognised the slavery of those whom we have not set free by treaty?—That was my meaning.

1349. (*Sir Robert Phillimore.*) From silence as to that topic?—Yes; but I would also draw attention to the fact that in the Persian Treaty I think the inference is even stronger.

1350. (*Mr. Rothery.*) Does not the 3rd Article of the Persian Treaty of 1851 say that "if the slaves who have been heretofore in Persia and are now there, should, from the present date and henceforward, wish to proceed by sea on a pilgrimage to Mecca, &c.," they are entitled to do so?—I was going to call attention to that. It distinctly says that the importation of slaves by sea alone is prohibited, and it also provides for slaves leaving Persia under passports.

1351. Does not the 1st Article say "that in giving this permission to search mercantile vessels and those of subjects, the search shall from the first to the last be effected with the co-operation, intervention and knowledge of Persian officers, who are to be on board vessels of the English Government." Is it not simply for the purpose of preventing the importation of slaves by sea?—I believe that the Persian Treaty says so.

1352. And the 3rd Article says that slaves who have been in the country before the treaty shall continue to remain there unmolested and shall even be allowed to go to Mecca?—Yes; I believe that there is that provision in the Persian Treaty. I do not believe that it is in any other treaty.

1353. The 3rd Article of the Treaty with Persia, I think, distinctly recognises slavery in Persia, so far as relates to slaves who were in Persia previously to the ratification of the treaty?—Yes.

1354. (*Sir George Campbell.*) Do you construe the words of the 3rd Article of the Persian Treaty to authorise the carrying of slaves to India, and if so, do you consider that they still remain slaves. The words are "to proceed by sea on a pilgrimage to Mecca or to India?"—Speaking without a careful study of the text, I should suppose that the meaning was that slaves proceeding under such passports are not to be forcibly released by us, that we are not to interfere with the vessels carrying them.

1355. (*Sir Robert Phillimore.*) That if a vessel came into Bombay with slaves, they would not obtain their liberty?—A man might obtain his liberty if he chose, but we are not to rescue him from slavery contrary to the wishes of the Persian Government.

1356. (*Mr. Fitzjames Stephen.*) I suppose that if he had left the country you would leave it to the courts themselves to say what the effect of that was, but you think that that treaty would prevent the Government from interfering *qua* the Government?—Quite so.

1357. I do not know that that point has ever been decided legally in India, but it would be a question for the Indian courts what the effect of the man's mere presence in India might be?—Yes, if he chose to claim the protection of the court, I suppose that the court would declare him free.

1358. (*Sir Robert Phillimore.*) There is no doubt about it?—I think not.

1359. (*Sir George Campbell.*) Do you think that the provision to which you have alluded goes further than this; that under the terms of that treaty a vessel should not be detained because she carries domestic slaves, and that there would not be a right to give them their liberty if found on the seas?—I should say that it would prohibit a vessel of war from stopping such a vessel as that, and taking away domestic slaves.

1360. Do you think that it goes any further than you have just stated?—I should like to read the text of the treaty before giving an opinion. (*The witness perused the treaty.*) I should construe the treaty with reference to the preamble and the preceding articles to the third, which appear to me to refer to the treatment of slaves found in vessels at sea, and not to slaves on land. The preamble says that "the Persian Government agrees that the ships of war of the British Government, and of the East India Company shall, in order to prevent" the importation of slaves, be permitted to search Persian merchant vessels, with the exception of Persian Government vessels. The agreement then goes on to say how this search is to be effected, Article 2 providing that the vessels are "not to be detained longer than is necessary to effect the search for slaves;" that slaves found in any of the vessels are to be taken possession of by the British authorities and carried away, and so on; but Article 3 then goes on to provide that if slaves who have heretofore been in Persia should wish to proceed by sea on a pilgrimage to Mecca or to India, if they procure passports, they are not to be interfered with. The passport is to be obtained from the Persian officer with the knowledge of the British resident.

1361. (*Sir Henry Holland.*) The British Officer would ascertain that the man was a domestic slave, and had not been imported?—Yes.

1362. (*Sir George Campbell.*) Would that necessarily follow. It is necessary that the British Officer should ascertain that the man was a slave; would it not be enough that the British Officer should ascertain that he was an inhabitant of Persia?—No; the words are that if such slaves "wish to proceed by sea on a pilgrimage, they must, with the knowledge of the British resident in Bushire, procure a passport from the officer at the head of the Persian Passport Office in Bushire."

1363. (*Sir Henry Maine.*) You think that bars the interference of Her Majesty's ships at sea?—Yes.

1364. (*Mr. Mountague Bernard.*) There is nothing there for the protection of the master, but it is solely for the protection of the slave?—Yes.

1365. (*Sir George Campbell.*) But you do not think that it goes beyond the time that the slaves are at sea?—I should construe it as not going beyond the time that the slaves are at sea.

1366. You are aware that at that time there was an Indian Act in force, which altogether prohibited the recognition of slavery within the Indian territories, which Act would operate with reference to giving effect to the treaty in the Harbour of Bombay?—No doubt it would give the slave freedom if he claimed it.

1367. Is this treaty still in force?—It is.

1368. (*Sir Henry Holland.*) Have there been any alterations in the first treaty, and if not, is it therefore still necessary that Persian Officers are to be on board the vessels of the English Government?—There has been no alteration to my knowledge.

1369. Therefore a search cannot be made unless Persian officers are on board the vessels of the English Government?—That is so.

1370. And further, no interference is to be permitted "with the Persian trading vessels without the co-operation of the Persian Government Officers, but the Persian Government Officers also must not on their part be remiss in the duty committed to them." Therefore their knowledge and assent is absolutely necessary to entitle the search to be made?—Yes.

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1371. (*Sir George Campbell.*) Is there not somewhere a construction of that Article of the Treaty, to the effect that whenever a Persian officer can be found, they are to give him notice of it, but that if no Persian officer is available they can then proceed without reference to him?—I am not aware of that.

1372. (*Sir Leopold Heath.*) Does not the 3rd Article of the Treaty imply that the Persian domestic slaves embarked without passports to go to Mecca, or anywhere else, would be liable to capture under the 2nd Article?—The language of the Treaty might perhaps admit of that inference, but I do not believe that it was meant.

1373. Is it not the plain English of it? The 2nd Article says that slaves found on board Persian ships may be taken; the 3rd Article says that slaves who have been heretofore in Persia, in other words, Persian domestic slaves, are allowed to travel by sea provided they first procure a passport from the officer at the head of the Persian Passport Office in Bushire, and that it shall be viséd by the British resident?—I think that several documents passed between our officers and the Persian Government which are not printed here.

1374. But would not the treaty be the ultimate outcome of all that correspondence, would it not embody the result of it as agreed upon between the two governments?—Even taking it so, I would construe the 3rd Article with reference to the preceding Articles and the general scope of the Treaty. The 2nd Article appears to be directed solely against the importation of slaves, and that being distinctly stated there, I should be disposed to think that the 3rd Article was rather intended merely as a precaution.

1375. (*Sir Henry Holland.*) Is it not intended to prevent difficulties arising with the British officer, who might have a difficulty in recognizing which are domestic slaves and which are raw slaves, and it is, therefore, prescribed that slaves who have been heretofore in Persia must provide themselves with a passport?—That is my view of it.

1376. (*Mr. Fitzjames Stephen.*) Might it not be considered that a passport is required for the purpose of identification, but that the provision is merely a directory provision, and not a substantive provision in itself, and that it is intended to carry out or render easier the substantive part of the provision, which is, that those domestic slaves may go by sea to Mecca?—I think so.

1377. The proviso that they must have a passport is merely for the purpose of identifying them?—Yes.

1378. (*Mr. Kothery.*) And to prevent the vessel being interfered with?—Yes.

1379. (*Sir George Campbell.*) Then we have got to this, that in this Persian Treaty the status of domestic slaves has been so far recognised as to prevent their being interfered with by sea. Can you refer us to any other treaties to the same effect?—It is a considerable time since I saw the last treaties which have been concluded with Zanzibar and Muscat.

1380. (*Mr. Kothery.*) You remember the treaty of 1822 with Muscat, the first five Articles of which prohibited the sale of slaves to any Christian nation?—I do.

1381. And also the 6th Article provided that our cruisers might capture slavers with which they might fall in beyond Madagascar, and in the sea of the Mauritius?—Yes, I recollect that.

1382. Subsequently, in the year 1842, following out the course to which you have adverted, namely, that it was better to go to work gradually, we got an additional proviso that whenever the Government cruisers found any slave vessels belonging to Muscat beyond a direct line drawn from Cape Delgado passing two degrees seaward of the island of Socotra, those vessels might be seized?—Yes.

1383. You also recollect the subsequent Treaty of 1845, by the 2nd Article of which the importation of slaves from Africa into the Sultan's possessions in Asia was strictly prohibited?—Yes.

1384. And by the 3rd Article there was an additional provision that "the ships of Her Majesty's navy, as well as those of the East India Company, might seize any vessels the property of His Highness or of his subjects, carrying on the slave trade, excepting only between certain parts of his dominions on the coast of Africa"?—Yes.

1385. So that in fact the transport of slaves from one part of his dominions in Africa to another was thereby permitted?—Yes.

1386. Subsequently we had another treaty with the Sultan of Muscat in 1873, which prohibited the export of slaves from the mainland altogether?—Yes.

1387. And now we have the treaty of 1875 which prohibits it altogether from any part of his dominions to any other part of his dominions?—Yes.

1388. That is what you meant by going gradually to work?—Yes.

1389. (*Sir Robert Phillimore.*) Have you ever seen a passport such as is described in the third article of the Treaty with Persia in 1851, "If the slaves who have been heretofore in Persia, and are now there, should from the present date and henceforward wish to proceed by sea on a pilgrimage to Mecca or to India, or travel by sea, they must with the knowledge of the British resident in Bushire procure a passport." What is the object of that passport, is it to prevent the slave from obtaining his liberty?—To show that he is a domestic slave who was in Persia before the completion of that treaty; I should imagine so. I have never seen the passport.

1390-1. Say that a Persian had gone to Bombay, the object of the passport would be to prevent the authority from setting him free?—To prevent the authority from setting him free on sea; to prevent a British vessel-of-war from interfering with him.

1392. (*Mr. Fitzjames Stephen.*) Speaking generally, the vessels-of-war could interfere with the transport of slaves on the high seas?—Yes; the previous article provides for that.

1393. If when a vessel stopped a ship such as that, a passport was produced showing that the persons on board were domestic slaves, and fulfilled the conditions of the 3rd Article of the Treaty, the effect of it would be that the ship would not be seized?—Yes.

1394. (*Sir George Campbell.*) You do not recollect any treaty made in the last 25 years in which slavery is in any way recognised and sanctioned?—The Muscat treaty of 1845 is only 5 years beyond the 25; it is within the last 30 years, and the treaty of 1873, concluded by Sir Bartle Frere, recognises it.

1395. My question is as to the last 25 years, subsequent to the treaty of 1851?—I have not seen the text of the treaties concluded in 1873 for some time, and my recollection of them is only general, but my impression is that the recognition of domestic slavery in Muscat and Zanzibar is a legitimate inference from the terms of those treaties.

1396. (*Sir Henry Maine.*) All the later treaties forbid the public sale of slaves?—They do; those two at any rate with Zanzibar and Muscat.

1397. (*Sir George Campbell.*) It is quite clear, I think, that none of the treaties for the last 25 years, at any rate, incur any obligations on our part as regards the recognition of slavery?—No, I think not, except what you may call a negative obligation, that is to say, an obligation to abstain from interfering.

1398. Are not our relations with Persia very different from our relations with the Arab chiefs. Is it not the case that Persia is an independent power from whom we obtain the right of search by a treaty, and it is not the case, on the other hand, that our relations with the Arab chiefs are to a considerable degree relations between the protector and the protected?—Partly so; at the same time our right of search in regard even to the Arab chiefs was obtained by treaty.

1399. Was it a treaty between equals, or was it a treaty between the protector and the protected?—It was a treaty between equals, the object of which was protection; we entered into the treaties as equals,

but we undertook to protect them on certain conditions, provided that they did certain things. They are certainly not at all in the position of the protected states on the continent of India.

1400. Is it not the case that as a matter of fact many of these Arab chiefs owe their safety and their existence to British protection?—It is.

1401. (*Mr. Fitzjames Stephen.*) Protection from each other, amongst other things?—Protection from each other, and protection from all attacks made upon them at sea.

1402. (*Sir George Campbell.*) Is there not protection of an inferior from a greater Arab power?—No. As to Bahrein, for instance, the Turkish Government has claimed supremacy over it, and Persia has claimed supremacy over it. I believe that our treaty with Bahrein has been the means of saving its independence from Turkey and from Persia, but there is no provision to that effect in the treaty.

1403. Have we not done anything to protect any of the chiefs from the greater Arab powers?—I am not aware of it.

1404. (*Mr. Fitzjames Stephen.*) The means of protection are mainly exercised by maintaining the peace of the Gulf?—Our policy is to maintain the peace at sea, and to avoid as far as possible interfering on land.

1405. (*Sir George Campbell.*) Has there not been British protection from the Wahabee incursions?—Yes.

1406. Has it not had the effect of protecting Muscat from them?—I do not think that it was Muscat which we protected. We attacked the Wahabees on the Arab coast in 1819; at the same time if it had not been for the purpose of securing peace at sea, we should not have attempted to interfere with them.

1407. Supposing that the British Government had altogether abstained from interference in the Persian Gulf, is it an improbable thing that the Wahabees might have altogether overwhelmed the chiefs now existing on those coasts?—I could not say. The Wahabees have been very strong in their day, and the Sultan of Muscat has been very weak in his day. But I could not say which power might have finally proved the stronger. Certainly our interference checked the Wahabee aggression in 1819, and at that time they probably would have overrun the whole coast, if we had not interfered.

1408. (*Sir Henry Holland.*) What was the date of the "Philomel" case?—1874.

1409. You said that there was some correspondence on the subject. Before the surrender was made was the Sultan called upon to prove, and did he prove to the satisfaction of the captain, that the slaves had been introduced into the country before the treaty?—I cannot say whether he was called upon to prove it, but the resident in the Persian Gulf and also the commander of the ship appeared to entertain no doubt. The slaves were given over under a guarantee from the Sultan that they would not be punished for their attempt to escape.

1410. (*Sir Robert Phillimore.*) Is there any official report of that case?—It was reported to the Government of India, and I believe from the Government of India to the India Office.

1411. (*Mr. Fitzjames Stephen.*) Do you know whether there is such a thing as domestic slavery amongst any of the native powers of the continent of India?—I believe it to exist.

1412. (*Sir George Campbell.*) Will you explain to us what is the nature of this slavery which exists among the native States in India?—It is very mild, these slaves have the means of getting their liberty if any of them desire it, they have only to cross the borders, or only to appeal to the British Resident for the British Government to take notice of any case of actual slavery. It is slavery in one sense and in another it is not slavery. So far as that they can get their liberty at any moment it is not slavery, so far as it amounts to a practical service for life, it is a very mild form of slavery. Many of them have very high

privileges, they marry into the family, and in fact are very well off.

1413. (*Mr. Fitzjames Stephen.*) Is there any slave trade there?—There is no slave trade to the best of my belief in India, at least none that would not be put down the moment it was heard of.

1414. So that the slavery which exists in the native states in fact goes little beyond permanent service as you describe it?—Yes, you may call it "slavery" if you like, it may be terminated at any moment that the so-called slave chooses.

1415. (*Sir Henry Maine.*) Is the slave transferred from one family to another?—I think not.

1416. He is born in the family and remains?—Yes.

1417. (*Mr. Fitzjames Stephen.*) I presume that if there was any case of cruelty or oppression it would be stopped if brought to the knowledge of the British Resident?—I should think so.

1418. (*Sir George Campbell.*) Do you think that there are any states in which slaves are really bought and sold?—I believe that it is not known. If such a thing occurs it is carefully kept from our knowledge.

1419. (*Sir Henry Maine.*) What should you say of Kutch?—I am not aware that any are bought or sold in Kutch.

1420. (*Sir George Campbell.*) Are there any States in India which you think now receive slaves from Africa?—I believe not.

1421. (*Mr. Fitzjames Stephen.*) Are these persons of whom you speak who are slaves, Africans by descent?—Many of them are, I should say that most of them are not, most of them are natives of India. In the centre of India they are mostly natives, on the west coast probably and on the sea coast, I should say that some of them are of African descent.

1422. (*Sir George Campbell.*) What are the native states in which slavery most prevails?—I could not enumerate them. I should say, speaking generally, that it prevails more or less in all the Mahomedan states.

1423. Do you think that it does not prevail in the Hindoo states?—It may. It is difficult to call it slavery, because when you speak of them as slaves, you convey a very wrong idea to the minds of the people of England; they are slaves in a very different sense from American slaves or Zanzibar slaves.

1424. Are you aware of the existence of any extensive system of slavery in Kutch or in Travancore?—I am not aware of it.

1425. (*Sir Henry Maine.*) Is it not the fact that the Kutchees are great slave traders out of Kutch?—Yes, the Kutchees living in Zanzibar and on the Persian Gulf, and on the whole of the African coast are very large slave owners, or were so until the treaties were concluded.

1426. (*Sir George Campbell.*) Is there no great class in Travancore who are called slaves?—I am not aware of it.

1427. I should like to know whether any questions have ever arisen with regard to African slaves in the native states taking refuge in the British Residencies or with British Officers?—I know of none, they have not come before me to the best of my recollection.

1428. (*Mr. Rothery.*) You were asked whether or not there had been any recognition of domestic slavery within the last 25 years. I do not know whether you are familiar with the additional articles of the treaty with Zanzibar signed last year. The first article says that "the presence on board a vessel of domestic slaves in attendance on, or in discharge of the legitimate business of their masters, or of slaves *bonâ fide* employed in the navigation of the vessel, shall in no case of itself justify the seizure and condemnation of the vessel"?—I had forgotten the clause. I knew that there had been rulings in accordance with that, but I was not aware that it was in the treaty.

1429. The second article says, "All vessels found conveying slaves (other than domestic slaves in attendance on, or in the discharge of the legitimate business of their masters, or slaves *bonâ fide* em-

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“ployed in the navigation of the vessels) to or from any part of his Highness’ dominions, or of any foreign country, whether such slaves be destined for sale or not, shall be deemed guilty of carrying on the slave trade, and may be seized by any of Her Majesty’s ships of war, and condemned.” But it distinctly recognizes, does it not, the existence of domestic slaves in attendance on their masters?—Yes, domestic slaves are distinctly recognized.

1430. (*Sir Leopold Heath.*) These paragraphs, I think, refer to slaves being taken out of Zanzibar vessels and not to slaves being taken out of, or being given up by an English man of war?—I should say so.

1431. Your rule (a) in the letter which you wrote on the 7th of January 1874 is to the effect that “Commanders of ships riding in foreign territory should not receive domestic slaves on board except under urgent circumstances,” and rule (b) is “They should return slaves to their lawful owners or to the public authorities of the place on proper demand being made”?—Yes.

1432. I gather from the answers which you have made that you justify that rule, not so much on legal grounds, as on grounds of policy; am I right in that inference?—I should justify it on grounds of policy. At the same time if I was asked my opinion from a legal point of view, I should say that the clauses are in accordance with what the government of India have hitherto understood to be the law.

1433. On the grounds of policy do you suppose that the interference with such few domestic slaves as would be likely to be affected by the assertion of the right of extra-territoriality for our ships of war would in any way affect or alter the relations to the states injured?—If it were merely to occur once or twice (and it has in practice hitherto not occurred frequently) I should say no; but if we were so to act by receiving, in cases which occur, slaves on board, and giving them their freedom contrary to the remonstrances of the state from which they came, and thereby gave rise to the general notion that our flag was to be a protection to all domestic slaves, I think that evil consequences would ensue.

1434. (*Mr. Fitzjames Stephen.*) You attribute, in fact, the unimportance of what has actually taken place to the absence of any general impression that domestic slaves would be covered by our flag?—Quite so.

1435. (*Sir George Campbell.*) Your attention has been called to the recent treaties with Zanzibar, and to their recognition of the status of slavery. Is it not

the case that that recognition only goes the length of protecting the vessels in which domestic slaves are found, from the penalties attaching to slave trading, but at the same time gives complete freedom to the domestic slave who chooses to claim his freedom?—I have not seen this treaty for some time, and therefore have not studied it. Certainly I should say that if slaves as a fact claimed their freedom, or were detained against their will, they should be set free.

1436. With respect to India, in all your experience at the Foreign Office do you not recollect any cases of runaway slaves which have given rise to discussion?—One case occurred the other day, I think, in Bombay. I forget the particulars of it, it was the case of a Georgian slave escaping in Hyderabad, and it created a great sensation in the newspapers, but I do not recollect the particulars.

1437. (*Mr. Mountague Bernard.*) Am I to understand that you think that under this rule which was read to you just now by Sir Leopold Heath, no discretion at all, ought to be allowed to the commanders of ships of war, as to restoring or not restoring slaves?—I should not read any general rule as debarring discretion. I think that if there are special circumstances they must be considered, but the circumstances would require to be special.

1438. Something more than the desire of the slave to escape from slavery?—Yes.

1439. The commander of a ship would be at liberty to take into consideration special circumstances?—I think so; I should interpret any general rule in that sense.

1440. That is a discretion which you could not give to the commander of a private trading vessel, could you?—I hardly think that we can command his actions at all excepting so far as they come within the law.

1441. Is he not bound by the law of the place to give up the slave?—In my opinion he would be.

1442. He could then exercise no discretion in the matter?—If he exercised his discretion and escaped, of course he might do so; but if he remained in the territorial waters he would be liable to the local law.

1443. (*Sir Robert Phillimore.*) But you think that the commander of a ship of war, could exercise no discretion except the circumstances were special?—I think so under that rule.

1444. It was not intended, you think, to give him a discretion in every case which arose?—Certainly not; otherwise there would be no occasion for a rule at all.

The witness withdrew.

Captain JAMES ANTHONY BROWNE examined.

Capt.  
J. A. Browne.

1445. (*Chairman.*) I think that you are the Marine Surveyor for the British Indian Steam Navigation Company?—I am Marine Surveyor to Messrs. Gray, Dawes, and Company, the agents for the British Indian Steam Navigation Company.

1446. In that capacity you have had a good deal of experience of the Red Sea, and of the Persian Gulf also?—Previously to holding that appointment (which I have only held in England) I was for many years commanding ships and steamers in the India and China trade, the Red Sea, and the Persian Gulf, and was subsequently Marine Surveyor in Bombay.

1447. Up to what time?—From probably about 1864 up to 1871—I was continually, at that time, in the Persian Gulf and the Red Sea.

1448. In what capacity?—Commanding steamers all that time.

1449. Commanding steamers for some English company?—Partly for an English company, and partly for a Persian company, during a portion of the time—I have been an officer in the Red Sea and the Persian Gulf for 25 years.

1450. From the Persian Gulf where did you go with your steamers?—From the Persian Gulf to

Bombay sometimes, and sometimes to Jeddah and Hodeidah with the pilgrims who were going to Mecca.

1451. Were you aware whether any of those pilgrims were slaves?—Those steamers that I commanded were generally chartered by some wealthy natives, either at Bombay, who were supposed to be British subjects, or in Persia, at Bassorah or at Bushire, by Arabs, or Persians. They used to pay so much for a steamer and then they sublet it out, and probably a steamer of 1,000 tons would have 700 or 800 followers; amongst these there were a great number of domestic slaves who were taken on to the pilgrimage at Mecca. We used to remain at Jeddah for a month or six weeks, until the pilgrimage was over, and on the return we used to take back a great number that we had not taken on—there is no doubt that many of them who had tickets, being ostensibly passengers, our ship being under the English flag with European officers, and European engineers, were slaves, who thought that if they were known to be slaves we should hand them over to the first British man-of-war, or put them into Aden, which was our port of call—consequently they ostensibly came on board with tickets as passengers.

1452. As passengers having been on a pilgrimage?—Yes.

1453. (*Sir Robert Phillimore.*) Of what date are you speaking?—The time that I am speaking of might have been probably between 1870 and 1871—about that time.

1454. (*Chairman.*) Did it appear to you that these equivocal passengers were taken at all against their will?—No.

1455. They seemed quite willing?—Quite willing.

1456. Did you see anything of any more direct slavery, that is to say people taken against their will on board ships during the many years that you were employed?—None against their will apparently; they appeared to be all quite willing. There was one instance when I was commanding a steamer which was originally called the "Snipe," on my way down to Aden I got information through the engineers and officers that there were a number of young boys and girls brought on board at Hodeidah and Jeddah, and on anchoring at Aden, fearing that I might get my ship into trouble, being under the English flag, I reported the matter to the authorities there, and I think that 22 were taken out of the ship at Aden, some of them were supposed to belong to a wealthy prince, a native, who was a master in his country, and was supposed to be under the British protection; consequently he was a British subject having slaves—he was taken out of the ship also, to the best of my recollection—I saw him afterwards at Bassorah and he had been released, but I think that the boys and girls that he took with him were not given back to him again.

1457. (*Sir Robert Phillimore.*) What became of them?—I do not know. I went on my voyage. The Political Resident at Aden released my ship, and I went away.

1458. Who took them out?—The authorities at Aden on the information that I lodged.

1459. (*Sir George Campbell.*) Of what breed were those boys and girls?—I should say that they were brought over from Muscat, or somewhere in that direction; they were jet black Africans.

1460. Do you think that they were recent importations from Africa?—I have no reason to think that they were brought over purposely to meet this prince at Jeddah and Hodeidah. I am pretty well certain that they were brought over in a native craft, and kept there for the purpose of being sold to princes or wealthy natives on their return from Mecca. I have no reason to suppose that they were natives of Jeddah and Hodeidah.

1461. Did they seem to you to be fresh Africans? Could they speak any civilized language?—No, they were as wild as could be; they were quite boys; they cropped up from the hold and came on deck. I saw them running about the decks, and I did not know where they came from.

1462. (*Sir Robert Phillimore.*) You do not know whether they were set free, or whether they were sent back?—I am only supposing that they might be put on board a man-of-war then cruising about, and ultimately would be landed at Bombay. I remember frequently at Bombay being asked to take these freed slaves on board to make use of them as boys in the ship. Some officials had charge of these boys as they were free, and we having natives in our steamer trading about in the Red Sea and the Persian Gulf were asked to take these boys as boat boys, and to make general use of them on board ship. They were becoming numerous in Bombay.

1463. (*Sir Leopold Heath.*) These slaves were released not because they were slaves but because they were slaves belonging to a British subject?—Yes.

1464. (*Sir Robert Phillimore.*) Slaves belonging to a person under British protection?—Yes. It created a great sensation at the time at Aden, because at that time Persians were on board the steamer, and they paid a great deal of money for these boys and girls, and they were very wrath about the transaction.

1465. (*Sir George Campbell.*) Was the ship sailing under Persian colours?—She was at that time under British colours. She was returning from Jeddah to Bassorah.

1466. I suppose that if you had seen any signs that these boys who swarmed out of the hold and ran about your deck were detained against their will you would not have parted with them?—It was immaterial to them apparently where they were; they were just as pleased to go on shore as to remain on board ship. They were well fed and clothed. I may mention another instance which occurred on the outward voyage. I remember being boarded by a naval officer, and these followers were all mustered on deck, and they were asked whether they were slaves, their answer was in Hindustanee, "Yes, and there is my master." They were asked whether they claimed their freedom to go on shore; they said, No, that they had all their regular meals and were very happy and comfortable and did not wish to go on shore, and they remained in the ship and went on.

1467. Have you any reason to suppose that there is any considerable traffic in slaves from Africa to Jeddah, and those ports?—I could not say, but there is no doubt that there is.

1468. I mean freshly imported slaves?—It is my opinion that there are, but I have never seen it beyond this, that at Hodeidah and Jeddah, when I have gone on shore at these places, I have seen a great number of them swarming about; and people buy them.

1469. You think that slaves are freely bought and sold there?—I am perfectly sure of it.

1470. (*Sir Robert Phillimore.*) That they are freely bought and sold where?—At Hodeidah and Jeddah; but not in a market, or where any British subjects are about. The thing is kept very quiet in my experience; the natives know the trade which exists. Numbers of the natives in these places are in a great measure under the protection of the British flag with their trade, and they know that if they were found with slaves in any way they would forfeit that protection, which they prize very much.

1471. (*Chairman.*) In the Persian Gulf did you see anything of slavery?—Only the domestic slaves in large numbers.

1472. Were not the vessels which were going about the Persian Gulf chiefly manned by slaves?—They were all manned by slaves. The men in the Arab dhows which go down to Bombay in the date season with the dates are all *bonâ fide* slaves. At Jeddah there was a wealthy Arab merchant to whom my steamer was always consigned. He was a man of business, who used to go into the country and buy and sell. His people were all slaves. His head manager was a slave, his cashier was a slave.

1473. Was he of African origin?—No, he was of fair complexion. Most of the men of business about there are of fair complexion.

1474. Were his slaves also fair?—Yes.

1475. How did he come to have these fair slaves? Where did they come from?—The fair slaves, I think, come from Bassorah and Bushire (they are more of Arab extraction), and from the ports in the Persian Gulf, Bahrein, and those places. On this point I have very little information.

1476. They are hereditary slaves. They have been slaves for some generations?—In all probability. Those men that I saw, I know had grown up from childhood with their masters; they told me so.

1477. Those slaves seemed to be well off?—Yes; in fact they controlled everything. They had the management of everything.

1478. (*Sir George Campbell.*) I suppose that those maritime slaves who man the dhows could escape if they wished it?—When lying in Bombay Harbour, when the trade has been open, and these vessels have come down, I have occasionally known that one or two men have jumped overboard, and have come on board our vessel, they having been ill-treated; they have been landed in a boat. Those are very rare instances.

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J. A. Browne.  
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*Capt.*  
*J. A. Browne.*  
4 April 1876.

1479. Have you any doubt that any such man in Bombay Harbour who wishes to be free can be free?—He can be free if he likes, because they all have access to the shore.

1480. Do you know anything of the condition of the domestic slaves. Are they all domestic servants, or are they bought and sold for agricultural purposes?—All that I have seen have been in domestic service. I have never known of any being bought and sold. That is as far as my experience goes.

1481. (*Mr. Mountague Bernard.*) As I understand you, there are a good many Arab slaves as well as negro slaves?—Yes, up in the Persian Gulf. The Persian consul, when I was there, had some white Arab slaves. They also, at Bushire, have a great many white Arab slaves—boys.

1482. You must have seen a good deal of the state of slavery in the Persian Gulf?—I have been for many years trading backwards and forwards up and down the Persian Gulf. We were four months under the Persian flag, and then were very glad to give up the whole thing. She was sold to the Turks, and I was very glad to get away. I did not like it at all.

1483. Did you ever come in contact, in the Persian Gulf, with cases of ill-usage or ill-treatment of the slaves?—Never. I have never seen any ill-usage.

1484. (*Sir Robert Phillimore.*) You would not see any, but did you ever hear any complaints of it?—No.

1485. (*Mr. Mountague Bernard.*) You never knew of a slave desiring to escape on the ground that he was ill-used?—I may say never. The only instance that I can recollect, which was many years ago, was when I was commanding one of the clippers to China. I had been commanding in China and India nearly since 1845, and I have a perfect recollection of one of two instances of black Seedie boys, as we used to call them, coming on board the sailing ship which I commanded and remaining on board all night, and my telling one of the officers to send them ashore in the morning. That is some years ago.

1486. You would not think it probable that many slaves in the Persian Gulf would be desirous of escaping from slavery in order to escape ill-usage?—No, not those that I was in the habit of meeting; those who were employed with their masters in their ordinary work.

1487. (*Chairman.*) You have seen no cases of cruelty?—None.

The witness withdrew.

Tuesday, 2nd May 1876.

PRESENT :

HIS GRACE THE DUKE OF SOMERSET, K.G., IN THE CHAIR.

THE RIGHT HON. SIR ROBERT J. PHILLIMORE, D.C.L.

THE RIGHT HON. MOUNTAGUE BERNARD, D.C.L.

THE HON. MR. JUSTICE ARCHIBALD.

THE HON. ALFRED H. THESIGER, Q.C.

SIR HENRY T. HOLLAND, BART., C.M.G., M.P.

REAR-ADMIRAL SIR LEOPOLD HEATH, K.C.B.

SIR HENRY J. S. MAINE, K.C.S.I., D.C.L.

SIR GEORGE CAMPBELL, K.C.S.I., M.P.

J. FITZJAMES STEPHEN, ESQ., Q.C.

HENRY C. ROTHEBY, ESQ.

HENRY HOWARD, ESQ., C.B., *Secretary.*

*Lieut. V. L.*  
*Cameron,*  
*C.B.*

2 May 1876.

LIEUTENANT VERNEY LOVETT CAMERON, R.N., C.B., examined.

1488. (*Chairman.*) You were in Africa from what date?—I arrived at Zanzibar in January 1873, and I left Loanda on the 8th of February this year.

1489. You have, I suppose, in that time seen a great deal of the negro population, and something of slavery?—I have seen a great deal of it. I have seen the slave trade under almost every phase, and have heard a great deal more from the Arabs, and from my own men, about some of the old coast trade.

1490. Did it appear to you that there were many persons of the Indian population connected with the slave trade in Africa?—They advance money to the Arab traders who are interested in it, but they are no more interested in it than any other capitalist who might advance money to those same Arab traders.

1491. Do you suppose that the capitalists and traders of Zanzibar are to a great extent interested in the slave trade?—A large portion of the profits on their money lendings arises from the slave trade.

1492. From what you have heard, and from what you have seen, do you think that the slave trade is now carried on at as great a rate as it was in former years?—In the interior it is spreading. In communities where there was no slave trade a few years ago it is now going on. The checking of the trade on the coast is bringing many men into Africa who live there for the purpose of being able to obtain slaves, and live with a large slave household, which they cannot obtain cheaply at Zanzibar or in Arabia.

1493. Do you mean having stations for the purpose of employing them in Africa?—For having a large household of slaves.

1494. (*Sir Robert Phillimore.*) Domestic slaves?—Yes.

1495. (*Chairman.*) Domestic slaves employed in agriculture?—In agriculture, and about their houses,

and as armed guards for their caravans, and as porters.

1496. Did you see anything of the way in which they capture and obtain the slaves?—I saw a great deal, but where I saw slaves more particularly obtained was by the blacks and half-caste traders from Bihé—the half-caste Portuguese traders close to the west coast. The Arabs certainly went to the places to obtain slaves; but these people who are working Portuguese capital are the very worst of the whole lot.

1497. (*Sir Robert Phillimore.*) What are they?—White men and black men, who call themselves Portuguese—mulattos and different people; they travel up into the interior with large caravans composed of the natives of Bihé; they obtain slaves right in the centre of Africa, and they take them down to Sékélétu's country.

1498. (*Mr. Mountague Bernard.*) Where is Bihé?—Close to the west coast, 240 miles from Benguela. On my route to Benguela I saw lying alongside the path the clogs and slave forks which evidently had not been there more than a month or two; and coming down from Bihé we met almost daily up caravans coming from the coast; this was between Bihé and Benguela; and these people told us, as a piece of news, that the import of slaves into the Portuguese town of Benguela had only just been prohibited, and I heard several rumours that quite lately steamers were exporting slaves from Masomédés and from Benguela.

1499. (*Chairman.*) Benguela is on the west coast?—Yes; it is the second settlement on the west coast.

1500. Do you mean that the slave traders from Benguela take slaves to the east coast?—I do not

know where they go. I could not find out where they went. I was amongst men who were dealing in slaves, and they told me that they sent down slaves, and about the caravans, and so on, and that it paid them to take them down for export.

1501. (*Mr. Rothery.*) By land, I suppose, and not by sea?—They took them down to the coast, and there steamers were ready to take them.

1502. To take them where?—I could not find out anything about that.

1503. But there were steamers in the harbour of Benguela which took them on board?—They said that there were steamers in Benguela and Masomédés—certainly within six months of my arriving on the coast. They left with slaves, and would go away and come back when a cargo was ready to go to sea.

1504. (*Sir Henry Holland.*) Did you yourself go to Benguela?—Yes.

1505. But you did not see anything which enabled you to form an opinion as to where the slaves went?—No; when there were rumours of the English coming there it was concealed.

1506. (*Mr. Rothery.*) Have we a Consul at Benguela?—No; there is a Consul at Loanda, and Benguela is within his district, which extends over 1,580 miles of coast; he will be home this week; he is coming home with the new Congo treaties.

1507. (*Chairman.*) Did you see anything in the interior of Africa of the cruelties which Dr. Livingstone describes?—Yes. I will tell you one instance; it was a thing which moved me for a long time, and was therefore pretty well imprinted on my memory. I had heard of all these stories about the way in which slaves were obtained. Kasongo, the Chief of Urua, would give permission to a man giving him two or three guns to go out with parties of both his own men and Kasongo's men, and loot and destroy as many villages as they chose for the purpose of obtaining slaves.

1508. (*Sir George Campbell.*) Where was this?—Right in the very centre of Africa. There was a man, the natural son of a Major Coimbra, who was at one time at Bihé, who had a sort of semi-official rank in the Portuguese Government on account of being a large trader. This man's son went out with about 10 or 12 other people from Bihé with guns, and perhaps 150 of Kasongo's own people, and brought back into camp between 50 and 60 women, some of them with their children, and all of them loaded with things stolen from the villages. I heard that to obtain these 50 or 60 women at least 40 villages must have been destroyed. Most of the male population were killed, and others were driven into the jungle to die of starvation.

1509. Is Bihé a regular Portuguese possession?—No; the Portuguese claim it, but any Portuguese who goes there has to go down upon his knees to the Chief.

1510. (*Chairman.*) As you have seen so much of the centre of Africa, and of the cruelties of the slave trade there, what occurred to you as the best means of checking it?—The only thing which I can see is to have the country opened up to proper legal trade.

1511. To open trade through the country?—Yes; but as long as the trade is in the hands of the people who are now traders there, so long will the slave trade not only go on but continue increasing.

1512. I suppose that as long as the slave trade goes on it is so profitable that the slave traders will not take to any other trade?—The ivory trade pays better according to the statements of many of the large Arab traders. Very many of the Arabs simply buy their slaves to enable them to carry the enormous amounts of ivory which they collect.

1513. Is the ivory taken down to the Zambesi?—No; it is carried on men's shoulders down to the coast. The principal portion of the ivory from the country through which I passed comes out at Bagomoyo or Kaolé, or the small ports; Kilwa strikes the Nyassa country.

1514. (*Sir George Campbell.*) Where is this?—On the east coast.

1515. Are these places south of Zanzibar?—Bagomoyo is due opposite.

1516. (*Sir Henry Holland.*) Are the slaves, when they have brought down this ivory, taken back again by their masters into the interior?—No; they leave the slaves there, and they sell them as well; they have no further use for them, because they take their men on the coast from those who are armed. If they took back the slaves to their own country they would run away.

1517. (*Sir Robert Phillimore.*) Can you give us any information as to the probable destination of the slaves who are taken down to the sea coast?—I cannot.

1518. From the west coast where could they be imported?—I do not know; I can only say what the people told me.

1519. (*Mr. Fitzjames Stephen.*) What did the people tell you; did they tell you any more than that they took the slaves to the coast?—They told me that they took them to the coast. Slaves are taken to St. Thomas and Prince's Island, two Portuguese islands off the west coast, just in the Bight of Benin.

1520. I understand that your opinion is that a good many of these people went to St. Thomas?—I have an idea that they did.

1521. That is the inference which you drew from what you heard?—Yes.

1522. (*Sir Henry Maine.*) You were told that there were steamers to carry them away from the coast?—Yes.

1523. (*Sir George Campbell.*) Is there a large negro population at St. Thomas and these places?—I have never been there; there have been risings there lately among the slaves, and in consequence of that they are now going to import Kroo boys from the Kroo country, and engage them for ten years. A large trade is springing up there. I saw an English yacht which had been bought to run Kroomen across to St. Thomas.

1524. (*Sir Henry Holland.*) Do the Kroomen go of their own will?—Yes; but they have not an idea of what they are going for. Another great trouble will be with the numbers of Kroomen that they are gathering into St. Thomas.

1525. (*Sir George Campbell.*) Is there a large cultivation at St. Thomas?—There are large sugar plantations. I do not know altogether what their products are.

1526. (*Sir Robert Phillimore.*) It is not a very large island, is it?—No.

1527. (*Mr. Rothery.*) Are not the Kroomen chiefly employed as sailors on board ships?—Yes; and that is one of the reasons why there will be a great deal of trouble with them. The Kroo women always cultivate their own patches of cultivation, and the Kroo boys are always servants in the factories, or boatmen, or on board ship.

1528. Are not the Kroomen generally a fine race of men?—Barely a fine race.

1529. Most of our vessels of war which go there take Kroomen?—Yes; but they are superior Kroomen to the ordinary run.

1530. (*Chairman.*) I see that it is stated in some of these reports that the centre of Africa is a large swampy country. Did you not find a good deal of it different from that?—It is not a large swampy country. There are an enormous number of rivers. Where Dr. Livingstone died the valley is partly dammed up, and during the rains there are large swamps. Where I crossed, all through the country of Urua it is not a swampy country. Then as I went along on the water-shed between the Congo and the Zambesi, I found that there are large plains which in the rainy season are a swamp. There are different tracts of country; there is almost every sort of country.

1531. I suppose that with these swamps it is a very unhealthy country?—When I passed through in

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the dry season it was very healthy, but what it might be in the rains I have no means of judging.

1532. (*Sir Henry Maine.*) Did you come across States of any magnitude?—Urua is the largest State; it extends from Nyangwe to about 11 or 12 degrees south latitude, and from Tanganyika to 24 degrees east longitude.

1533. Did you hear of anything that can be called regular war among these States at all, by which the prisoners become slaves?—The Chief of Urua used to go out to punish people for not paying tribute, and he would obtain a number of slaves. In Manyema every little village is independent, and these people are constantly quarrelling, and the Arabs are constantly trying to set one village against another; the Arabs take the slaves and have the plunder, the natives being content with weakening their opponents and eating the dead bodies.

1534. (*Sir Robert Phillimore.*) Where do those Arabs come from?—They go from Bagomoyo up to Unyanyembé, and from Unyanyembé they have several routes; they go up to Karagué, which is 130 miles due east of Ujiji.

1535. (*Sir Henry Holland.*) Owing to the nature of the country the facility of provisioning or otherwise, are the routes down which the slaves are taken to the shore, east or west, tolerably well defined?—Yes, they are carried along the regular caravan route.

1536. (*Sir George Campbell.*) What are the principal caravan routes?—One route which I know is from Bagomoyo to Unyanyembé; there they branch off to Karagué and Mtésa's country, that is on the Victoria Nyanza.

1537. (*Sir Robert Phillimore.*) Where do they go on to?—That is their terminus; they go to Ujiji; they cross the Tanganyika in about 7° 50' south latitude on another route; they round the southern end of the Tanganyika altogether, and they also go down to the countries of the Warori and the Wabena. At the south of the Tanganyika, and to the west of the southern end, they travel about in various directions, just as they find slaves or ivory.

1538. (*Mr. Mountague Bernard.*) It is in this great lake region?—Yes; there they travel in an indeterminate sort of way.

1539. And more into the centre of Africa?—Yes.

1540. (*Sir Robert Phillimore.*) When they have got their ivory where do they bring it to?—It all ultimately comes to Zanzibar; all the ivory from the small ports is brought over to the custom-house at Zanzibar and marked there.

1541. (*Sir Henry Holland.*) Assuming that it would be possible for a short time to stop these routes, would the traders find it easy to carry the slaves on other routes?—If you blocked one route one day, they could open another the next with facility.

1542. (*Sir George Campbell.*) What are the other main routes?—Kilwa takes the country north of Lake Nyassa.

1543. That is a different route altogether?—Yes; there are Mombaza, Melinda, and Lamoo north.

1544. Are those places supplied by separate and independent caravan routes?—Yes.

1545. Is there no range of mountains which interferes with that route; I see that there is a mountain marked 20,065 feet?—There is a mountain range, but not a sufficiently great range to prevent people from travelling.

1546. We have been hitherto led to suppose that the slaves who went to Kilwa were carried along the coast for an immense distance?—I know that they were talking of it when I was at Unyanyembe, that they were going to march them up to Brava along the coast.

1547. Are there routes from the interior to Brava as well as along the coast?—They could not pass along the interior on account of the Somalis.

1548. Between Zanzibar and Brava are there several independent routes from the interior?—Yes; from the ports there are several routes extending for greater or less distances.

1549. They do not depend upon the coast route?—They do not. The main route from Ujiji is to cross the Tanganyika again, and there is a regular well-known route straight up to Nyangwe, which is now a local settlement, from which they send out parties in all directions.

1550. (*Sir Robert Phillimore.*) Where is Nyangwe?—It is on the Lualaba, in 4° south latitude and 26° 30' east longitude.

1551. (*Mr. Mountague Bernard.*) Can you tell us the points where all these routes strike the coast eventually?—The slaves get into the hands of the Zanzibar traders.

1552. All these slave caravans go to the Zanzibar country?—Yes; but large quantities of these slaves are sold on the road, and never reach the coast.

1553. (*Sir Robert Phillimore.*) To whom are they sold?—In the whole of the centre of Africa the slave trade is going on. At Nyangwe, when I wanted to get canoes to go down the river, they said, "If you buy slaves you can buy canoes with them;" but if I offered four or five times the nominal price of canoes they would not sell them without slaves.

1554. (*Mr. Mountague Bernard.*) Who told you this?—Native chiefs. The price of a canoe was so many slaves, and the price of a slave was so many cowries. I would offer them three or four times the price in cowries, but they said, "No, if you want these canoes you must buy these slaves, and take them;" and that was the only reason why I could not get down the river from Nyangwe.

1555. (*Sir George Campbell.*) Are there any slave routes through the Somali country?—The Somalis bring down slaves themselves there; but if any outsiders brought slaves into the Somali country, the Somalis would take them away from them.

1556. Do the Somalis bring them down to the coast?—A certain amount are brought by the Somalis.

1557. They would buy slaves coming from the south along the coast?—Yes; but an interchange of slaves is wanted for different work; some tribes prefer them for one sort of thing, and others for another.

1558. There is not a regular slave traffic in the Somali country?—There is no population to get hold of behind, unless they come across to Abyssinia, and where the Egyptians are already at work.

1559. (*Sir Leopold Heath.*) What was the total length of your journey across the continent?—Taking it from camp to camp, in geographical miles it was just 3,000 miles.

1560. And almost directly from east to west?—No, the direct road is only 1,600 miles.

1561. (*Sir Robert Phillimore.*) From Zanzibar to Loanda?—Yes; it is 1,600 miles in a straight line.

1562. (*Sir Leopold Heath.*) Out of those 3,000 miles what number were through a slave-hunting country?—One does not come into a real slave-hunting country until one gets to the Tanganyika, on the Bagomoyo route. I found that then slavery went on until I got to the country just to the east of Bihé.

1563. What do you reckon roughly as the number of miles between those two points?—In a straight line, between 700 and 800 miles.

1564. That is from your own personal observation?—Yes; the whole of that is a great slave field.

1565. Can you tell me at all what the breadth of that tract would be, you have given me the length?—It is from between 3° and 4° south to about 12° south; about eight degrees of latitude.

1566. About 500 miles?—Yes.

1567. (*Sir George Campbell.*) Is the population of those countries now very large?—Yes, in some places, especially in Manyéma; they are a very prolific race, and in Urua in many places the population is very thick.

1568. (*Sir Leopold Heath.*) Did you come out at Benguela?—Yes.

1569. What was the class of people who gave you the information about the steamers?—They were Portuguese traders, or half-caste black men who called

themselves Portuguese, and they said that they had taken slaves down there themselves to sell.

1570. Did you question them as to where they were going?—I asked them where they were going, but they had not any knowledge about any countries outside Africa; their knowledge was so limited. One man said that he had heard of a place called Rio de Janeiro, and that it took three years to go there by ship.

1571. Did you cross-question them at all?—I tried cross-questioning, and then they would not answer any more; they were afraid.

1572. Do you not think that there may be some doubt about there ever having been steamers there for the purpose of exporting slaves?—There may be some doubt about it, but I think that there is every probability that they have been there, because there must have been a large amount of slaves taken down to Benguela, far more than the population there could ever use themselves, by the traces which I saw on the road.

1573. (*Mr. Mountague Bernard.*) Is there any traffic which could bring steamers there for any other purpose?—A regular Portuguese mail steamer comes there once a month from Lisbon; it goes down, touching at the Cape de Verds and Loanda, and Benguela, and other places.

1574. (*Sir George Campbell.*) I suppose that is an inferior traffic. Is not the main slave traffic from the interior of Africa eastwards?—No; the Portuguese traders who come from Bihé take the slaves away to the Kaffir country to sell them for ivory.

1575. Where do you suppose that those people eventually go to?—They are wanted in those countries; there have been so many wars among the Kaffirs that the population has been wasted, and women are always greatly in demand. A man wants to have a large harem of 30 or 40 women. They care very little about taking male slaves there; they are nearly all women.

1576. Is the larger importation of slaves from the centre of Africa to the Kaffir country?—I think so, by far. In the caravan with which I was travelling there were upwards of 1,500 slaves, all of whom were going down to Bihé. The caravans travel up to Urua to obtain slaves and then they go to Bihé; they get sufficient stores to take them down to the Kaffir country, they get their ivory, and then they take their ivory to the coast.

1577. How far is this Kaffir country from Bihé?—I forget the exact latitude and longitude.

1578. Do they take their ivory to the west coast?—Yes, to Benguela. Some of the slaves are absorbed on the road in paying for food and for tribute to the Chiefs, but the other portion are taken down to this country, which was Sékélétu's country; Sékélétu was a Kaffir who came up north and conquered the country; he is now dead, and the Kaffirs have been conquered by the original natives.

1579. (*Sir Leopold Heath.*) On your route down to Benguela did you accompany any caravans going west?—No; at Bihé I left them all behind. The only traces that I saw of slavery were the clogs and forks and things thrown down by the roadside, and skeletons down the passes.

1580. How near to the west coast did you meet marks of slaves?—Within ten or twelve miles of the coast.

1581. Is there any slave market in Benguela?—No.

1582. Did you hear of any large number of slaves being for sale for export?—No, I could hear nothing. I could get no answers to any questions about it.

1583. Turning to the east coast, with reference to "the opening up the country" to which you have alluded, do you think that hoisting the English flag on the mainland as a means of forming a dépôt there for liberated slaves would be a good method of attaining your object, provided there was a good harbour, and provided it was made a free port, and provided it was made a coaling station for mail

steamers; and in fact provided that every possible support was given to it by the English Government, and that it remained under the English flag, and was not, like Liberia, turned into a mere liberated slave state?—Any place where there was an idea of protection the natives would take as a nucleus to gather round; the natives and liberated slaves would sooner be at any place where there was a steady government and employment to be found than trusting to picking up anything they might.

1584. I think that there were about 3,000 Hindis, English Indian subjects, in Zanzibar when you were there?—I cannot give the numbers, the place was full of them.

1585. Whatever their number may be, do you think that those traders would go across and settle under the English flag instead of remaining under the Zanzibar flag, provided all these facilities for trade which I have mentioned existed there?—I believe that a very large proportion might do so; but some men would prefer to remain behind on the chance of making usurious interest out of the Arabs.

1586. Do you think that there would be any chance of that port superseding Zanzibar as a centre of commerce for ivory and products of the mainland?—I think that there would be every chance of it.

1587. (*Chairman.*) The only trade from the interior, as far as I understand you, at the present time consists of trade in ivory, or trade in slaves?—That is all at present. Close to the coast you get a few oil seeds, and things of that sort, but it does not go 20 miles into the interior.

1588. (*Sir Leopold Heath.*) Is there not a large trade in gum copal?—Yes, on the mainland, but that is only on the coast; the best of that is at Lufiji.

1589. Is there not a large trade from some parts of the coast in grain which goes up northwards?—Yes, a large portion of it goes up from Mombaza.

1590. (*Sir Robert Phillimore.*) What grain is it?—Kaffir corn.

1591. (*Sir Leopold Heath.*) And millet seed?—Yes.

1592. (*Sir Henry Holland.*) I understand you to say that it would be useless to attempt to suppress the slave traffic by blocking up these routes, as the traders would immediately open new routes?—They would at once.

1593. It has been suggested to us by the Reverend Mr. Waller, that Lake Nyassa is the tap root, as he called it, of the slave trade, and that if an officer and a few Englishmen were stationed on the lake they could effectually stop the trade; do you agree in that opinion?—They would not stop the trade, but they would do a great deal of good; they would stop the trade there locally, for the country is being depopulated, but it would go into another country instead.

1594. Would not the effect of it be simply to drive it in other directions, north or south?—Yes. It is hard for them to go north from Kilwa, because for ten or fifteen days' journey the country is entirely depopulated by the slave trade, and no provisions are to be got. Arabs have told me that they have had to go out of Kilwa with caravans carrying provisions for fifteen days; more than half their men have to carry only food, and not anything for trade.

1595. And is not there a hostile tribe, the Maviti?—Yes; the Maviti are the same as the Watuta.

1596. Would they not place obstacles in the way of the trade through their country if it was directed north?—They sell slaves themselves. The Watuta were originally one tribe, but they have now been recruited by all the blackguards and by every tribe in Africa; they range from the Nyassa. I have met them on the Tanganyika; they have got as far west as in Sékélétu's country; they have gone down to Mozambique, and they have even attacked Kilwa; they go all over the country robbing every thing they can, but they do not as a rule attack the caravans; they make friends with the caravans because they can

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get things from them by selling cattle and other things.

1597. (*Sir George Campbell.*) You have said that you think that the bulk of the slave trade is south, into the Kaffir country; do you believe that there is now a large export of slaves to the east coast from the centre of Africa?—In every caravan that brings down goods a certain portion of its carriers are slaves.

1598. Do you think that the trade to the east coast has been to a certain degree checked?—Yes. I should say that the Arabs to the west of the Tanganyika are still largely engaged in buying slaves, but when I was leaving Unyanembe there was a great deal of talk among the Arabs there as to whether it would pay them to export slaves to the coast, or whether they should not permanently settle in Africa, getting their slaves further west.

1599. Is the eastern trade exclusively in the hands of the Arabs?—In the hands of the Arabs, and what you call Arabs in Africa, and the coast tribes; they have Arab blood in them, and they always call themselves Arabs when trading in the interior.

1600. Hitherto have they not been dealers in slaves; but if they are to form these settlements in the interior they must turn planters?—They will settle for perhaps three or four years in one place, and take people to raise the different things; they will plant and cultivate the ground, and stop there until they have expended all their stores, and have got as much ivory as they can, and they will then march back again and burn down their houses; they form a regular large town with a population of perhaps 2,000 people.

1601. (*Mr. Fitzjames Stephen.*) It is migration rather than mere trade?—Yes; sometimes a large caravan has from 1,500 to 2,000 people in it, but only for trade.

1602. The caravan is a sort of wandering town, which may go from one station to another?—If they find trade bad they wait until they have got their crops in, and they go 200 miles off.

1603. (*Sir George Campbell.*) But still they have a double source of profit, namely, the ivory and the slaves. If it ceases to be profitable to export slaves they will not have the same inducement to get new slaves?—But to bring down their ivory with the present means of communication they must buy slaves. For one frasileh of beads, which they take up, they get eight or ten frasileh of ivory. Some of the slaves run away, and some are absorbed along the coast line where people are always ready to buy them, or on the plantations. Without any export they would absorb them there.

1604. But still, since measures have been taken to prevent the export of them by sea, has there been a diminution?—The Arabs say that there has not. I could not judge of the numbers that were exported in the country before I was there so as to judge whether there was any difference. The Arabs themselves say, "If we cannot take slaves to Arabia or across to the Island of Zanzibar we will settle at Bagomoyo, and have our slaves there, the same as we used to have on the Island of Zanzibar or at Muscat."

1605. Is there a large population of the so-called Arabs; are they all Mahomedans?—They are all Mahomedans; the whole population on the coast line of the dominions of the Sultan of Zanzibar are these people; numbers of them are descended from slaves themselves. If you go to Bagomoyo you will see that they are all the children of slaves. All my boys that I had with me always called themselves Arabs as soon as they got into the interior, but they will not do so on the coast.

1606. Are there not some real Arabs?—There are some real Arabs; you see them down there of every shade of colour.

1607. Are the higher class of the Suahelis white people?—Yes. It is difficult to say what is a Suaheli; if a man's family have been settled down for three or four generations they call him a Suaheli.

1608. (*Chairman.*) Did you find their language generally prevailing?—It is one great family of languages. I found that in every village up north the people could talk the Suaheli language; then down south I found the same language spoken until I got to Kasongo's country; the Portuguese are there. They have met the Arabs at Katanga, where the gold and copper mines are. The people in the Portuguese caravans also talk Suaheli.

1609. What did the caravan consist of; who carried the things?—Some of the porters were freemen and some were slaves, and there were women and children; it was a whole travelling village.

1610. The things were all carried by people?—Yes. Close to the east coast donkeys are occasionally used.

1611. (*Sir George Campbell.*) Is there any water carriage?—No, except in crossing the rivers; and on the Tanganyika, where the Arabs have boats.

1612. (*Chairman.*) They do not seem to have used the rivers as a means of communication?—No, not at all. For instance at Nyangwe, where there is an enormous river, only one Arab had one small canoe.

1613. (*Sir George Campbell.*) Have they no animal carriage besides donkeys?—Nothing else.

1614. (*Chairman.*) Did you find the Mahomedan religion prevailing in the centre of Africa?—Not at all; the Arabs at one or two places have converted a Chief, but they do not care about making the people Mahomedans, because if they did they could not make slaves of them.

1615. When you went a certain distance from the coast you found the Mahomedan religion superseded?—Directly you pass off the strip of coast line, when you get 10 or 15 miles away from the coast, Mahomedanism ceases, except that there are a few people who settle down upon the coast for a short time, and then perhaps go back and settle down at a short distance inland.

1616. (*Sir George Campbell.*) Is there any populous country between the east coast and the great lakes?—In my route I constantly passed through villages which had been depopulated by war and the slave trade.

1617. Is there now any considerable extent of populous country east of the lakes?—A good deal. After crossing the Malagarazi, for the first few days the country was fairly populous. Then when we got beyond Lake Tanganyika it was not so, and south of Ujiji to about 7° 30' south nearly the whole of the east coast of the lake is depopulated by the slave trade.

1618. Have the people there any cattle?—They had cattle at one time; at Ujiji they have cattle, but they have been destroyed in most places.

1619. Have they bullocks?—Yes. Of course they are not as fat as the English fat bullock.

1620. Do they use them for carriage?—No; the bullocks brought to the east coast are brought up from Sékélétu's country.

1621. Am I to understand that it is altogether human carriage there, and that no animals are available at all?—A few donkeys go occasionally from Zanzibar, and just to the north-east of Unyanembé there are a few native donkeys, but the Arabs do not understand saddling them and the care of them, and they scarcely make any use of them.

1622. (*Sir Robert Phillimore.*) What was the largest lake which you saw?—The Tanganyika.

1623. What is its size?—It stretches from 3° 50' to 9° 30' south, that is 360 miles long, and it varies from 25 to 40 or 50 miles wide.

1624. Is it as large a lake as there is about there?—The surface expanse of the Victoria Nyanza is greater. Those are the two greatest African lakes.

1625. (*Sir Leopold Heath.*) You, I think, were first lieutenant of the "Star" from 1868 to 1870?—Yes, from June 1867 till we paid off in 1870.

1626. Was not the "Star" a very successful anti-slave-trade cruiser?—We took 26 dhows.

1627. And you were employed very much about the east coast of Africa and that part of the station?—Yes.

1628. Are you aware that there has been a recent treaty allowing the carrying of domestic slaves in unlimited numbers in Zanzibar dhows, provided they are in attendance upon their masters, or provided they are doing the sailor's work of the dhows?—I think that we had some orders. I do not know any new orders except those in force when I was out there.

1629. The Admiralty Circular came out in 1869, but there is now a distinct treaty to that effect. Do you suppose that giving this permission to carry domestic slaves to sea will become a cloak for a new slave trade; do you suppose that slaves intended for sale will be carried to sea under the shelter of this treaty?—I am sure of it. I have heard the stories of some of my own men talking in camp about that very same thing, how a dhow has been run over to Madagascar, all the people on board of it being supposed to be the crew. My own men have been a part of the crew, and they have been boarded by a man-of-war; they have described the bursting of a shell to bring them too, and everything else, and these people were afterwards landed, and they worked the dhow back short-handed.

The witness withdrew.

The RIGHT HONOURABLE SIR H. BARTLE E. FRERE, Bart., G.C.B., G.C.S.I., examined.

1634. (*Chairman.*) I think that you went out in 1873 to conclude a treaty with the Sultan of Zanzibar?—Yes.

1635. Had you before that time been acquainted at all with that coast?—I used to see a good deal of the correspondence, in fact almost the whole of the correspondence, with the consul at Zanzibar, which used to pass either in the first instance, or second-hand, through the Bombay Government.

1636. While you were at Bombay you had a good deal of correspondence with the Zanzibar consul?—Yes.

1637. So that you were acquainted with the state of things generally at Zanzibar?—Yes.

1638. Before you went there had you a belief that there was a great deal of slave trading going on from Zanzibar?—Yes. When first I went out to India slavery still existed to a great extent in India itself.

1639. (*Sir Robert Phillimore.*) At what date would that be?—In 1834.

1640. (*Chairman.*) Do you mean that they brought slaves to India?—There was some import of slaves, but there was a very extensive holding of slaves in India itself; and I think that the present laws entirely abolishing slavery were enacted subsequently to my going out. At any rate, when I was first a magistrate, cases of the same sort as now come up, wherever slavery has been recently abolished, were of constant occurrence, and I took a good deal of interest in the matter then and afterwards. When I was in Sindh there was a good deal of slavery and occasional slave trade between the Belooch coast and Muscat, which was very intimately connected with Sindh; and more or less my attention had been a great deal directed to the subject before I went out to Zanzibar.

1641. While you were in India slavery was entirely abolished, was it not?—Yes; I think that it was about 1836 that the Act came into operation.

1642. (*Sir George Campbell.*) The Act passed in 1843?—I did not think that the general Act was so late as that, but you are no doubt correct. There had previously been a local Act or Regulation in Bombay to much the same effect.

1643. (*Chairman.*) You were at Bombay in 1843?—Yes.

1644. When you went to Zanzibar it was in 1873?—Yes.

1645. At that time there was still a good deal of slave trading going on from Zanzibar?—From Zanzibar chiefly to the Arabian coast, and occasionally to the Mekran coast and the coast of Beloochistan

1630. (*Chairman.*) Where was this?—I heard my own men telling the story amongst themselves.

1631. Where?—They ran from somewhere near Mozambique across to Madagascar.

1632. (*Sir Leopold Heath.*) In short any slave, domestic or other, being a saleable article, will always be sold when a good price is offered for him?—Always.

1633. I should like to ask you one question as to the traditions in the navy with regard to fugitive slaves. Admiral Sir Henry Keppel wrote a book in 1853, and in it I find this paragraph—he was on the coast of Soloo—and he writes, “The fact that any man putting his foot on British soil becomes free, and that the deck of a man-of-war was all the same as British soil, seemed to be perfectly understood by the Soloo chiefs, and during the stay of Her Majesty's ship “Mæander” all the slaves were carefully locked up like other live stock with the exception of a few old servants.” Does that correctly represent the tradition of the navy previous to Lord Clarendon's letter of 1870?—I always believed that an English man-of-war was as much a part of England as any part of the kingdom, and I believe most naval officers had the same idea.

*Lieut. V. L. Cameron,*  
*C.B.*

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1646. You made a treaty with the Sultan for the purpose of putting down that slave trade?—I think that the chief object of the treaty for which I opened negotiations was to extend to the whole year the same restrictions as were before applicable only to a part of the year, and to suppress the public slave market.

1647. At one time, previously to 1873, there were three or four months during which slaves might be moved?—Yes; the best part of the year for moving them was open to the slave dealer, so that the restrictive measures adopted by the squadron were necessarily very imperfect.

1648. The first treaty made no difference between what are called domestic slaves and other slaves?—None; and I never heard of it as far as I recollect, and I do not think that the distinction was at all drawn, till the discussions which arose afterwards as to how the treaty should be carried out; the distinction was drawn I think by ourselves, and not by the Sultan or at his instance.

1649. You think that the Sultan would have made no stipulation upon that subject, as he did not make any at the time when you were there?—I think not; he would have asked that any treaty made should be so interpreted as not to interfere with what is more fully defined in the subsequent correspondence as domestic slavery; but the distinction did not occur at the time to the Sultan in the form in which it appears in the later correspondence; he merely objected in the first instance to the treaty, and he wished it limited so as not at once to set adrift the whole labour of the country; and he would have been quite content, I think, to have left the distinction as a purely discretionary one, to the consuls and other officers who were interpreting the treaty.

1650. But he still wanted to maintain slavery in Zanzibar, did he not?—Yes. He wished not to disturb the existing status in his own plantations and the plantations of his people, but he always admitted that the state of things was one contrary to his interpretation of the Mahomedan law, that it was contrary to natural humanity; and he would very gladly have adopted restrictions if he had thought that they would not make a revolution in the labour market.

1651. You think that he was afraid of the people of the country; in fact of the great interest of those who were desirous to maintain slavery?—He was afraid of a sort of revolutionary movement taking place among the labouring classes, which would set against him his soldiers and the people on whose military support he relied; and if he had been assured that that would



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not have taken place he would have agreed to almost any restriction which we offered to put upon the traffic by sea, which was the only point that we had at that time immediately in view.

1652. There was a great traffic from the mainland into the islands of Zanzibar?—Yes.

1653. That he agreed to put an end to?—That he agreed to put an end to.

1654. And then there would have been no slaves in Zanzibar but those who had originally been imported, or who had been bred there?—Yes; his first objection to stop the import of slaves was founded on a very singular delusion which was shared by a great number of people; they said, “If there is no fresh importation the slaves will die out; they are a non-prolific race, and they will die out.” We pointed out to him that this was entirely contrary to what was proved to be the habit of the race everywhere else; that they were a race of remarkable vitality, and that if in any place the population of negroes was diminishing, it was clear that there were other causes at work, and those causes were not far to seek. The natural law of increase in a slave population had very seldom free play. Measures were taken to prevent the birth of children, and they were neglected afterwards in a way which was not observable in any free negro population; and it was argued (and to some extent he admitted it) that where the negroes were really fairly off, as the slaves in Zanzibar very often are, there was no fear whatever of the race dying out.

1655. Had you anything to do with the later treaty of 1875?—No.

1656. When you were at Zanzibar you also went to Mozambique, did you not?—We touched at about 24 different places on the coast, and in Madagascar and the Comoro Islands, and we saw a good deal of the coast as far south as Mozambique.

1657. What did you find at Mozambique? Was not there a good deal of slave trading going on from that coast?—Apparently from the whole of the Portuguese coast there was a considerable slave trade going on to Madagascar, and the state of things at Mozambique seemed to me most unsatisfactory. There was a wide distinction between the laws or the intentions of the laws of the Portuguese Government, which were very humane and generally well intentioned, and the practice at this very spot. It was not exactly a convict colony, but everybody who came from Portugal, with few exceptions, came there more or less under a cloud; some of them were said to have come as convicts, and the state of things was such as to give the utmost pain to men who, like the officers of the Portuguese navy and army, were gentlemen, and had civilized notions; and from what they said, and from what they did not say, and from what I saw there, I should suppose that the existing state of things was very little known at Lisbon.

1658. We had no right of search of the Portuguese vessels, had we?—I forget what were the exact terms, but it was extremely difficult to make any search except with Portuguese officers assisting.

1659. Did they often assist?—Generally it was impossible to get them at the proper moment, and so, practically, there was the same difficulty as there is in the Persian Gulf, that the person whose presence was necessary to a legal search was not forthcoming, and so there was no proper search; and what was done was done at the risk of the officer doing it proving to be in the wrong.

1660. Have they not also a law at Mozambique that no one can leave the island without a passport?—Yes; the laws there are so restrictive that I was told that unless you took particular pains to get out of the country, and paid a good deal of money to facilitate things, it took you in the ordinary way about six weeks to get away. That was probably an exaggerated popular account, but that was the sort of thing which they told you there.

1661. Under such a system as that, of course a

great many slaves might be kept under the plea that they could not leave without a passport?—Yes; there appeared to be a very active slave trade with the interior. If you went out into the town the crowd that surrounded you was greatly composed of people fresh from the interior; and if you had any persons with you who could speak the language the people around would tell you how many days they had been there, how many moons they had been there, and so on; there could be no doubt, I think, that anybody seeing the ordinary street population of Mozambique would come to the conclusion that the lower classes were very greatly recruited by constant importations of fresh slaves.

1662. When you went across to Madagascar was it in an equally unsatisfactory condition with regard to slavery?—Apparently there was a very active and large trade going on with all the coast north of Cape Saint Andrew, and the authority of the Queen of the Hovas was very limited. Generally the Hovas had garrisons in stockaded forts in which the Queen's authority was acknowledged, and they more or less controlled the country about them; but on the north-western coast, alongside the Hova settlements and garrisons, there were always tribes, the Sakalava's, and others of the indigenous population, who were made slaves, and who held slaves.

1663. At Madagascar also they have a law that no one is to leave without a passport, have they not?—Yes; but there the intention of the Government is something like the old Japanese law to prevent the people going abroad. It is, I was told, one of their political maxims that the country suffers by allowing the trustworthy Hovas to go abroad, and, therefore, every obstacle is intentionally put in the way of persons leaving the country, unless they are foreigners connected with the English or other foreign trade.

1664. But in the same way it would prevent any fugitive slave from being received in one of our ships, because there would be the claim that he was a Madagascar subject, and that he had no passport?—That objection would no doubt be raised immediately. In Mozambique, on the other hand, the declared intention of the Government was to facilitate trade, and the difficulty of getting out of the country was purely administrative.

1665. But it had the indirect effect of stopping any slave leaving?—Exactly so.

1666. (*Mr. Mountague Bernard.*) It did not prevent, as I understand you, a slave trade from being carried on from parts of the Mozambique country to Madagascar?—The slave trade was there probably without the official sanction of the authorities. The real Portuguese authority is very limited indeed, and all up the creeks, quite close to Mozambique, there are well-known places where any number of slaves can be shipped when an English cruiser is not near, and sent across to Madagascar. If the thing is brought to the notice of the Portuguese authorities they probably say, “The country is in rebellion, and we cannot prevent it.”

1667. Therefore the passport system would not operate as a restraint at all?—It was entirely inoperative for any good purpose. It was simply a mischievous interference with legitimate commerce.

1668. (*Sir Henry Holland.*) Moreover, I think that our right under certain treaties to enter bays and creeks, on the east coast of Africa where no Portuguese authorities were established, ceased in 1853; are you aware of that?—No.

1669. (*Mr. Rothery.*) At the same time it is practically exercised by the permission of the Portuguese Governor?—You frequently met people who had made attempts to open legitimate trade with the Portuguese coast, and sooner or later they had been stopped by some of these restrictions.

1670. Still the suppression of the slave trade from the Portuguese territories depends, I suppose, very much upon the character of the Governor of Mozambique?—I should say entirely.

1671. I do not know whether you are aware that at present there is a Governor who is assisting us very loyally in the suppression of the trade?—The officer who was there at the time when I was there was certainly a man of rank in the Portuguese army, and I have no doubt that his intentions were of the best; but to judge from what one saw the number of Portuguese local officials who really supported him in the sort of spirit in which the Portuguese naval officers would have done was exceedingly small.

1672. (Sir Robert Phillimore.) I think that you said that in 1834 you first went to India, and that then slavery was very rife in India?—There were large portions of India in which serfage and slavery were legal.

1673. Did it ever happen to you in the course of the execution of your duties as a magistrate, or in any other official capacity, to consider the question of fugitive slaves?—Frequently.

1674. What course did you generally adopt with regard to such a claim as was made by a fugitive slave?—At that time the law in Bombay was different from the law in the other parts of India; it was a local law which had been devised by Mr. Mountstuart Elphinstone, and it was very much the law which was subsequently adopted by the Law Commission; it was simply to ignore the status of slavery.

1675. You did not know of any case of the rendition of a fugitive slave?—Never; the master in that case would be told, "If you have any complaint to make, as in a criminal case, you should make it; but if the man was not charged as a criminal, and if you have nothing of the kind to allege, as a slave he cannot be given back to you."

1676. (Mr. Fitzjames Stephen.) I suppose that would be within the local jurisdiction of the Supreme Court of Bombay?—No.

1677. Was it throughout the Presidency?—It was a Presidency and not a local regulation. There was a prohibition to import and a prohibition to purchase or sell a slave, except in the case of famine, and there it was permitted; and I have seen considerable numbers of children who have been purchased during a famine.

1678. That would seem to show that the Bombay Presidency was on a different footing at that time?—The laws of all the Presidencies were then different. This question of slavery had given a great deal of anxiety to the Court of Directors for a long time previous; it was one of the first questions referred to Mr. Macaulay's Law Commission, and they took a great body of evidence, which is most interesting and instructive, regarding the status of labourers who were not free throughout India; and the evidence considers a great number of panaceas, emancipation, and so on. They came to the conclusion that all that was necessary was to pass a law which is in a very few words, and which merely says that the fact of a man being said to be a slave shall have no effect in civil or criminal process. The end of the whole inquiry was a law, comprised I think in a section or two, which as far as I know was perfectly effectual, and which was embodied afterwards in the Great Criminal Code.

1679. (Chairman.) That was a law not to recognize slavery in any shape?—Not to recognize it.

1680. (Mr. Fitzjames Stephen.) It even went to the extent of saying that no law or custom should be enforced in any of the courts of the East India Company whereby any person was treated as a slave of any other person?—Yes.

1681. Something to that effect?—Yes; and that it should be no defence. I think that was the substance of it.

1682. It was a very short Act indeed; it was one of the Acts of 1843. If I understand you rightly, there was some Bombay Regulation before that Act of 1843, which was somewhat to the same effect?—Yes. That was the result of an inquiry which had previously taken place under Mr. Mountstuart Elphinstone.

1683. Probably they did not appear in the Bombay Regulations?—Yes. I can give exact references to the dates and each of the laws referred to.

1684. (Chairman.) While you were at Bombay you, I suppose, had some correspondence respecting the state of things in the Persian Gulf?—Yes.

1685. There slavery was recognized, was it not?—Yes.

1686. You had certain treaties by which you did recognize slavery in some form?—Yes.

1687. You considered it therefore necessary in the Persian Gulf, it not being our own territory, to adopt a different policy from that adopted in India?—In the Persian Gulf we had a treaty with the Persians, and, if I recollect rightly, there was no power whatever of search, or of doing any effectual act without the presence of a Persian official, and constant difficulties were met with; so that practically this was a bar to much being done.

1688. Do you remember any cases of fugitive slaves in the Persian Gulf at the time when you were at Bombay?—I cannot recollect any discussion about them, but I understood that they were of frequent occurrence, and when they occurred they were disposed of according to the traditions of the navy, which were, generally, that if a man escaped to a British man-of-war he was from that moment free unless some claim, either of debt or of crime, were alleged against him, in which case, if a *primâ facie* case was made out, he was given up; that is to say, he would have been given up. I am not quite sure that I can quote any case of that kind occurring.

1689. Do you think that it would be a law which would work well at Zanzibar, for instance, if we said that every slave who could by any means come on board an English man-of-war should be at once free?—I have myself no doubt that it would work well, and my reason for thinking so is that it was till this discussion arose very much the belief, rightly or wrongly, of officers who held, as Lieutenant Cameron has just stated he did, that the deck of a man-of-war was in all such respects, like British territory.

1690. Do you think that it would cause a great many slaves to come on board, or can you not give any opinion upon that point?—I do not think that it would, for two or three reasons; first of all, I think that you may rely very greatly upon the discretion and the judgment of our officers commanding men-of-war. They generally seem to me, as far as I have seen them, to exercise any power of the kind with great judgment, and with a very strong wish not to get their country into any difficulty.

1691. Trusting to the discretion of the officer, and having a general direction that any slave who could anyhow escape on board a man-of-war should be free would of course be different things?—Of course.

1692. I asked you whether, supposing that in whatever way a slave came on board he was to be free, it would in your opinion cause a great many slaves to come on board?—I do not think that it would lead to difficulty, for, as a general rule, unless men were very ill-treated they would not run to a man-of-war. A slave who has been long in slavery, and who has had tolerable treatment, would be reluctant to face the trials and difficulties of life on board ship, and I should expect that it would only be in the case of young and active and rather enterprising men, or people who had been extremely ill-treated, that it would ever come into a slave's head to take what to him would be such a desperate step as taking refuge with strangers.

1693. But if we took the other course which you suggest, namely, leaving it to the discretion of the officer, and saying that he should receive, or not receive, the slave according to his judgment, you think that it would be perfectly safe?—I think that it would be practically safe. I may mention that another reason for my thinking so is, that in Cairo, where slavery is the law of the land, and where we have no right whatever to interfere between master and servant, during the whole time that Mr. Rogers was vice-consul, and I have no doubt before and since, it was the habit of any slave who was ill-treated to come to the British consul, and the consul conferred

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with the chief of police, and unless there was some very good reason to the contrary, if any sort of ill-treatment was proved, the chief of police generally made out the man's papers for freedom, and the man was free, and in some cases women did the same; and yet although there was all that facility I think that between 40 and 50 cases were the whole that occurred during several years. It was well known in Cairo, and it used to be a common thing with a slave, if he was discontented, to say, "I shall go to the English consul," but he rarely did; and there being so much temptation in that case, and it being so seldom resorted to, I should think that where there was less temptation in the case of a man-of-war it would be less resorted to.

1694. Then you think that the same discretion which is entrusted to a consul in the east might be entrusted to an officer commanding a man-of-war?—I should feel quite confident of it.

1695. You have spoken about the Persian Gulf and Mozambique. I wish to ask you respecting the Red Sea. Do you think that in order to put an end to the slave trade it would be necessary that we should have the right of search of Turkish and Egyptian vessels in the Red Sea?—I think so. The case of the Red Sea is a very peculiar and a very instructive one. There used to be no slave trade whatever to speak of in the Red Sea, and the slave trade which now exists has grown up entirely since the Turkish and Egyptian flags have been much used by large sea-going vessels, and now I am assured that there is a very considerable slave trade through a great many channels. First of all, there is a considerable slave trade from the west across the Nile to the west coast of the Red Sea. The different ports there are constantly visited by slave dealers bringing slaves; and there is also a very large slave trade across to the east coast straight from Zeylah and Tejreh, and great numbers of slaves, I was assured, went from those ports northwards; those are two ports just outside the Red Sea.

1696. (*Sir George Campbell.*) Do they go from the east coast of Africa round Guardafui by sea?—No, they go straight across by land routes by Harra. From all parts north of Juba, which you will find just on the equator northwards, they go to Zeylah and Tejreh. From Juba there are very good roads straight across to the south coast of the Gulf of Aden, and those are taken by slave dealers who dispose of their slaves at Zeylah and Tejreh.

1697. (*Chairman.*) You were in Egypt the other day?—Yes.

1698. Do you think that there was any inclination to assist us in stopping the slave trade across the Red Sea?—I think that there was the most ready inclination on the part of the Khedive, and one or two of his ministers. I believe from what His Highness told me himself, and from the evidence which he has always given by his acts, that he is most anxious to put a stop to the slave trade both by land and by sea. He is quite convinced of the great danger which it is to Egypt to introduce agricultural slavery into the country where at present it is unknown. He spoke to me at great length of the mischief which must result from putting a sort of stigma upon agricultural labour, which had always been deemed honourable among the labouring classes in Egypt, and he seemed to me most anxious on the subject, and I am assured by the Consul-General and other officers, that they have never found the slightest want of inclination on his part to do what he can; but he is very much in advance of public opinion among his own people, and even those in high positions who do not all support him in it. He told me that what he was most anxious for was what he called the moral support of England, that he should be able to say, "Well, this is a thing which the English wish me to do, and as they are our friends we must do what they wish," even when it was opposed to the religious or time-honoured opinions of his own people.

1699. We are told that there is a great deal of slave trade going on under the name of pilgrimage to Mecca, and that those who go for the purposes of religion in the first instance manage to connect with it a little trade when they return?—Yes. I was told that the only open slave markets now are at Mecca and Medina, and at their ports Yembo and Jeddah; and that there and there only you could see the slaves openly exposed for sale. The power either of the Egyptian or of the Turkish Government there is very limited; they have considerable influence, but it was supposed that if strong measures were taken to put down these slave markets there would be popular disturbances.

1700. The power of the Sultan even is imperfect?—Very imperfect. I was assured that very few rich pilgrims returned without either changing the slaves that they took with them, or bringing some fresh ones.

1701. If we could not put down the slave market we might at least stop or take away the slaves, because they generally take them by sea, do they not?—Yes, and there ought to be very little difficulty in putting a stop to it; but they go generally as domestic servants of the pilgrims, and in the first instance they probably very seldom make complaints.

1702. When we release these slaves we must take them somewhere; we have taken them generally to the Seychelles or some other place. Do you know anything of the way in which they are treated when they are taken to the Seychelles?—I only know from hearsay. There are very proper ordinances on the subject of their treatment, and there is a good climate, but it is far from their own homes; they look upon it as great banishment.

1703. It is banishment, and they are under compulsory labour?—They come into a system of compulsory labour, and there is very little power of looking after them. The greater numbers of liberated slaves are children—a great many of them girls, and unless some pains are taken with them they are very apt to go wrong, and it seemed from what I could hear that on that account, unless there were a very active administrator at the Seychelles, it was not such a good place as other places nearer their own homes.

1704. You saw them at Johanna, I think? Did you go there?—Yes.

1705. There they receive slaves, and work them to a certain extent, do they not?—Yes.

1706. Are they well treated there?—Extremely well treated. They seemed to me to be as well treated as was possible, partly because all circumstances are favourable to them. There is a great demand for their labour, and the Sultan and the Arabs are in continual intercourse with the English. There are English people there, at least there is an Englishman of great influence, and a most benevolent and excellent person he seemed to me, Mr. Sunley, who has a very large plantation there, and who takes very great interest about his workpeople. I happened to be at his plantation, and I saw the system by which the greater part of the people were paid. Those who were slaves generally divided their earnings with their masters. Great numbers of them were slaves, and one of the questions which they were continually asking as they took their wages was, "How much is mine, and how much is so-a-so's?"—their master.

1707. They receive wages there?—Yes; he seemed to pay all his workpeople weekly wages.

1708. Could they take many more, in Johanna, in case many more are liberated?—The Sultan said that he could take many more. He had himself a large plantation, which he was trying to work very much with English machinery, and so on, very much in the way that he saw Mr. Sunley working. There was also an American; and the quantity of available land was great, and apparently the production of sugar was only limited by the want of labour.

1709. And that is a climate which suits the African very well?—It is very well suited to him.

1710. (*Mr. Rothery.*) Did I correctly understand you as saying that there was no treaty with Portugal which entitled our ships of war to search Portuguese vessels?—I understood that there was no right of search in the creeks.

1711. Are you aware of the treaty with Portugal of 1842, which does allow our ships of war to search Portuguese vessels?—I was not aware of the date.

1712. (*Chairman.*) Having seen so much of the coast, and having considered, both in India and at Zanzibar, the question of slavery, have you thought of any policy which would be advisable with a view to diminish, and ultimately to extirpate, slavery from Africa?—Yes. I think that the first thing to be done is to stop the movement of slaves as far as possible; and beyond what can be done by naval squadrons, I think that the most promising measure is to establish settlements at points on the coast where they would interrupt the land traffic.

1713. To take some position on the coast which would check that traffic on land which we have now checked at sea?—Yes. That might be done by the direct assumption of a position by the English Government which, of course, would be the shortest and probably the most effectual mode, but to which one can imagine objections being raised; and next to that, I should advocate supporting any establishments like those of the French mission at Bagomoyo, and the English mission at Mombaza, and any other that might be established, giving them such support as should make a sort of barrier across the land route.

1714. Did you hear the evidence of Lieutenant Cameron?—Yes.

1715. He stated to us that if we stopped any one of these routes, or even two or three routes, the traders would find another; that the trade is so profitable that they will always find some means of bringing their slaves further north or further south, as the case may be, and defeating our attempts?—I think that we must abandon the idea of there being any one panacea. The fact is, that you have got a great magazine of negro labour in the interior of Africa, and that the labour is carried out of the magazine by men belonging to other races, not in one direction, but in every direction. Wherever negro labour can be profitably employed, there you find that it is taken to every quarter of the compass, but gradually, as travellers like Lieutenant Cameron go across the continent, and as powers like Egypt are established, and legitimate commerce follows, you hem the evil in. By a great many different means you may bring about what seems to me to be a desirable thing, namely, that negro labour should be left where it is, to improve the country itself, which is capable of almost indefinite improvement. I could see no natural, inherent difference between this East coast and the opposite coast of India, and no reason why, if you completed in Africa what has been done in the early ages in India, the more civilized races taking the place of directors and civilizers of the indigenous inhabitants, you should not produce a state of things very much more like that in India than anything which is to be found in Africa at present.

1716. In India we have supreme power, but I suppose that we cannot exercise the same power in Africa?—It must be a gradual process, but a great deal has been done quite lately. I believe that the extension of the Egyptian power, and the establishment of the Sultan of Zanzibar, though they are very far from being perfect checks, are a very considerable check upon slavery, and that by dealing with it through local civilized powers like those, you may do a good deal in course of time. An immense deal has been done, even since I was there, by the Khedive.

1717. Am I to understand you that, as we support the Sultan of Zanzibar in his authority, and as we have been allies with the Khedive in Egypt, we should have a claim to say that they shall give up slavery in their territory?—I think that in time they would come to that. I know that during the visit of the Sultan of Zanzibar to this country he told me himself that his eyes

were very much opened, that he did not look upon the proceedings which we had taken against him as being nearly so unfavourable as he had supposed at the time; and he said, when he was on his way down to Brighton, to the people of his suite who were travelling with him, "Do you see how many people there are at work in the fields?" and he said, "Do you think that they would be there if they did not get wages?" He said, "This is a proof that we need not be afraid of getting no negroes to work if we did away with slavery." It was a spontaneous observation which he made to the people who were with him, and it was not addressed to a European.

1718. (*Sir George Campbell.*) Have you not told us that a new slave trade has sprung up in the Red Sea under the Egyptian flag?—That is the abuse of the flag against the wishes and orders of the Khedive. He has never been slack in sending to do anything that was suggested to him; and very often of his own accord he has taken very stringent measures to carry out his views.

1719. Are Zeylah and Tejereh Egyptian possessions?—They have latterly been made over to Egypt by Turkey. Zeylah was one of the few places where the Turkish flag was always hoisted.

1720. And Berbera?—Berbera there was some question about; it was said that the Turkish flag had been hoisted there for a great many years; but the fact is that it is a periodical market, and not a permanent settlement, and it is only at a particular time of the year that large numbers of people come from the interior and trade with the vessels which come from Arabia and India.

1721. Have the Egyptians now taken possession of Berbera?—They have for the last two or three years been occupying different points along the coast nearly up to Cape Guardafui.

1722. Do you think that they are entitled to do so?—It is difficult to say what they are not entitled to do. I think that in the interests of civilization I should be very much inclined to let them do what they can along the whole coast, until they meet the Sultan of Zanzibar. There is no doubt that their influence is a civilizing influence, and wherever they establish themselves there you have a protection for trade.

1723. Have you not told us that there is a large slave trade now from the interior to Zeylah and Tejereh, and from Zeylah and Tejereh by sea to other parts of the world?—Yes.

1724. Is that tolerated by the Egyptians?—No; not by the Egyptian Government. One of the objects of the Khedive in sending an expedition to occupy Harra was to enable him better to control that slave trade. He has taken similar measures on the Upper Nile, and I was assured by Colonel Gordon with very considerable effect.

1725. How long is it since the Khedive has undertaken the expedition into the interior of Africa south of Abyssinia?—I think within the last three years.

1726. He has now established himself in the interior of Africa, has he not?—He has occupied Harra, which is a very large commercial town, which has never been visited by anybody but Captain Burton.

1727. Is it a Somali town?—It is a Mahomedan sacred town, into which they allowed no foreigners to come.

1728. You think that the Khedive is really anxious to put down the slave trade?—I believe that the Khedive acts in perfect good faith, and with the best intentions; wherever he is in contact with the slave trade, he is anxious to employ either Americans or Europeans, and I think that he has given very good proof of his desire to put down slavery.

1729. Which is the place where he comes into collision with Zanzibar?—About Brava. The whole of this triangular part of Africa eastward is peopled by the Gallas and the Somalis, who are quite a different race from the negroes, and his object was to establish his authority over them. His great want is a good

*Right Hon.  
Sir H. B. E.  
Frere, Bart.,  
G.C.B.,  
G.C.S.I.*

2 May 1876.

*Right Hon.  
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Frere, Bart.,  
G.C.B.,  
G.C.S.I.*

May 1876.

port south of Brava; he has no good port between Guardafui and Brava; they are all open roadsteads.

1730. He has now no port south of Guardafui?—I believe that at almost all these other towns as far as Brava they fly his flag at the present moment.

1731. I think that we have just had a report from the Consul which describes those parts as belonging to Zanzibar; he has established his flag there?—Yes, but only within the last few months.

1732. (*Sir Leopold Heath.*) Granting the existence of this slave trade in the Red Sea, is there any evidence whatever that it is carried on either under the Egyptian or the Turkish flag; is it not rather under the Arab flag, or in what are called "no nation" vessels?—I am told that those vessels which sail from Zeylah and Tejereh with a complete cargo of slaves generally hoist the Turkish flag, which, as you are aware, is very similar to the Egyptian.

1733. The Madagascar slave trade from Portuguese ports would also be carried on under the Arab, and not under the Portuguese flag, would it not?—I am told that they hoist indifferently the Portuguese, the Turkish, or the French flag; and that it is extremely difficult to identify them on account of the want of regular papers.

1734. As to the Persian Gulf, a Persian slave trader on a large scale is an unknown thing, is it not?—Yes.

1735. The slave trade is carried on under the Arab flag?—Chiefly under the Arab flag.

1736. Can you give any information as to the history of the Sultan of Zanzibar's recent decree abolishing slavery in the northern parts of his continental dominions?—I have only heard the fact, but I was not surprised at it, because it had been frequently pointed out to him that he would gain immensely if he established any free territory under his own flag; that if he would do there what we should do he might very possibly establish a very flourishing colony himself, and it may possibly be an experiment of that kind which he has tried; but I have not seen the decree, and have no knowledge beyond what I saw in the newspapers of what it contains.

1737. (*Sir George Campbell.*) What do you understand to be the places where he is supposed to have abolished slavery?—Mombaza and Lamoo are the two most northerly of his large garrisons. All these other ports along the coast to the North Mombaza are in a very curious condition; there is a sort of local municipality within the town. Besides that there is a citadel in which there is an Arab garrison under, say, the Sultan of Zanzibar, and outside there are perfectly independent tribes. The people of the country round are allowed to come into the town for the purposes of trade. In almost all these towns, even as far south as Lamoo and Mombaza, you will find in the town and its neighbourhood three distinct authorities: there is the municipal authority in the town itself, a sort of republic of families long established there trading and generally possessing boats; there is a garrison which is perfectly distinct, living amicably with the townspeople in a sort of citadel; and there are the independent tribes outside, who are never allowed to sleep either in the garrison or in the town. It is a very curious state of things, but it prevails in almost every one of these towns along the coast north of Mombaza.

1738. Is it not the result that the Sultan of Zanzibar has abolished slavery wherever he has no power to abolish it, and has retained it where he has power?—If he has abolished it in the country round Mombaza I think that he would have done an extremely wise thing.

1739. He has not done it there, has he, because I understand that it is only in the extreme northern ports that he has done so?—I do not know how far he has done it.

1740. Is not there now a great difficulty in disposing of the captured slaves?—None at present, I think, because at Bagomoyo you have the French missionaries, and at Mombaza you have the English

missionaries, and in Zanzibar itself they are willing to take any number. There is the University Mission there, under Bishop Steer.

1741. A gentleman connected with the Mombaza Mission told us that their power of receiving slaves was limited?—There never has yet been a difficulty in disposing of any number.

1742. Were not a number sent to the Seychelles and placed under indenture?—Yes, but that was not, as I understand, because they could not be disposed of elsewhere.

1743. Where is the French colony of Nossi Bé?—It is in the northern part of Madagascar; there is the same system there as prevails at all the French colonies, and at Mayotta, which is also a French colony.

1744. (*Sir Leopold Heath.*) Did you look at Mombaza with a view of considering its fitness as an English colony?—Yes, we went to Rebi and Kisuludini, which are some few miles in the interior, and it struck me that it was peculiarly fitted for any such purpose.

1745. Is there inland communication which might be got across the slave caravan routes?—Yes; the slaves there must come very close to the sea, because the tribes in the interior are quite independent, and would probably plunder any caravan.

1746. At Mombaza is there good water, and are there good sites for houses?—Apparently excellent.

1747. And there is, I believe, a good harbour?—An excellent harbour.

1748. With depth of water for mail steamers?—A very large and perfectly sheltered harbour, and if the entrance were buoyed it would be an extremely easy harbour for a steamer to enter.

1749. And is there anchorage in the outer roads?—I am not sure about the outside, but it struck me from what I saw of it, and from the chart, as an extremely fine harbour.

1750. Do you know of any other port, in that neighbourhood, and on that coast, which would be superior to Mombaza as an English settlement?—Port Durnford is said to be a very fine port, but from there, and from Juba, in fact south to the Portuguese frontier, the whole coast, has excellent ports, if they were only buoyed and lighted.

1751. (*Chairman.*) Do you wish to add anything to what you have already stated?—Your Grace asked me as to whether any policy had occurred to me, and perhaps you would excuse my mentioning that it seems to me that the time has now arrived for asking other nations interested in the matter diplomatically to carry out the declaration of the Congress of Vienna, that slave-trading at sea should be dealt with as piracy. The point I think was very much illustrated by a remark of Captain Wilson in his evidence, in which I very generally concur. He asked what would be the condition of English sailors who had been cast away upon this coast (of which there have been numerous cases), supposing that they were found to have been carried away against their will by sea. There can be no doubt that the people carrying them away would be very summarily taken in hand by any civilized vessel; and there is apparently no technical difference between their condition and that of a black slave who says that his father and mother were murdered in order to carry him away. There may be great difficulty in establishing the fact, but if you are satisfied of the fact by the tattoo marks upon him, and by his speech, and so on (which are easy modes of recognizing him), there does not seem to be any reason why, apart from his colour, he should be dealt with differently from an English sailor who has been cast away.

1752. But there is the difficulty about passports; you have passports from the Persian Gulf, or in the case of people going to Mecca?—Yes.

1753. And there are passports again from Madagascar and from the Portuguese territory?—The passports (I speak more particularly of those in the Persian Gulf) were intended for the protection of the

slave and of the vessel in which he went. It appears to me that in the evidence which your Grace has allowed me to read there is rather a confusion in the minds of some of the witnesses between what would justify the confiscation of the vessel and what would be a justification in dealing with the

persons. A passport would show that the man was legally on board this vessel, and that his presence there did not subject the vessel to confiscation; but it would not affect the strength of his desire if he said, "I am anxious to be free." It would be no bar to his petition being considered on its merits.

*Right Hon.  
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2 May 1876.

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The witness withdrew.

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H. T.  
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Class  
1862.

MEMORANDUM on the TREATIES concluded by GREAT BRITAIN with POWERS still owning SLAVES for the SUPPRESSION of the SLAVE TRADE, and on the LAWS relating to SLAVERY in those COUNTRIES, by Mr. HENRY HOWARD, C.B., Secretary to the ROYAL COMMISSION.

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## ABBREVIATIONS.

H. T.	- - -	Hertslet's Treaties.
S. T.	- - -	Slave Trade.
P. P.	- - -	Parliamentary Paper.
MS.	- - -	Manuscript.
S. P.	- - -	Hertslet's State Papers.
F. O.	- - -	Foreign Office.

## No. 1.—SPAIN.

SPAIN.

H. T., vol. 2, p. 271.  
H. T., vol. 2, p. 273.  
H. T., vol. 3, p. 373.  
H. T., vol. 4, p. 440.

As early as August 23, 1814, Spain had begun to modify her slave trade by Treaty with Great Britain; and on September 23, 1817, and December 10, 1822, she concluded further Treaties with that Power to the same end; but by the Treaty of the 28th of June 1835, which it was stated in the Preamble was concluded in the spirit of the Treaty of September 23, 1817, it was provided—

- A. That Spain abolished the slave trade entirely.
- B. Gave a right of search.
- C. Established mixed commissions.
- D. Gave power to condemn slave vessels on the ground of equipment.
- E. Declared that slave vessels should be broken up.
- F. Agreed that negroes liberated by the sentence of the mixed commissions should be delivered up to the Government whose cruiser had made the capture.

On the 2nd of March 1845 a penal law was passed for the suppression of the slave trade.

H. T., vol. 7, p. 101A.  
S. T. Instructions, 1852, Chron. Table.

In 1853 there was issued by the Captain-General of Cuba an Ordinance, granting freedom to certain "emancipados" (liberated Africans), and also a Decree at Havana that slaves should have pass tickets.

H. T., vol. x., p. 250.  
H. T., vol. ii., p. 592.

On the 17th November 1854 a Decree was published in Cuba for the better suppression of the slave trade in that island; and in 1857, 1860, and 1861, the Captain-General of Cuba issued circulars to his subordinate officers to that effect.

H. T., vol. ii., p. 510.

On the 18th August 1859 a Royal Order was sent to the Governor of Fernando Po, forbidding him to deliver up slaves seeking refuge there, as no slavery existed in that island.

P. P., S. T., Class B., 1866.

On the 29th September 1866 two Royal Decrees were published, viz. :—

- I. For "The Suppression and Punishment of the Slave Trade." (See p. 125 of this Appendix.)
- II. Declaring "All slaves from Cuba and Puerto Rico to be free, on stepping on the soil of the territory of the Spanish Peninsula."

It is as follows :—

## "ROYAL DECREE of September 29, 1866.

"In consideration of the reasons expressed by the Minister of the Colonies, in conformity with the full Council of State, and in accordance with the Council of Ministers, I decree the following :—

"Article 1. After the publication of the present Decree in the 'Madrid Gazette,' every individual of colour—man, woman, or child—who may be in a state of slavery in our provinces of Porto Rico or Cuba, shall be considered as emancipated and free on stepping on the soil of the territory of the Peninsula and of its adjacent islands, or on arriving in the maritime circle and jurisdiction of the same, whatever may be the cause of his completing the act of disembarking on the said territory, or of finding himself in the waters of its maritime jurisdiction. Every individual of colour, being a slave, shall also enjoy the benefit of emancipation and liberty, when, in the company of his master, or sent by him, he shall step on

38821.

"the territory, or enter within the jurisdiction of any State in which slavery may not exist.

"Art. 2. The sentence to the Colonial House of Correction (Presidio Ultramarino) with the right of retention and sale, on account of injury, against individuals of colour, who are in a state of slavery, is for the future prohibited. Those criminals, who, being slaves, shall be sentenced to the penalty of imprisonment, with the right of retention and its accessories, shall work out the term of their punishment in the prisons of the Islands of Cuba and Porto Rico.

"Art. 3. If the benefit of emancipation and liberty conferred by Article 1 should fall to the lot of individuals who may have come to the territory of the Peninsula and its adjacent islands in virtue of a sentence of the tribunals of Cuba and Porto Rico, being slaves in those places, the whole or part of the indemnification which could have been expected from the sale of the slaves thus emancipated, which sale is prohibited, shall be paid in the manner, in each case, may be determined by special dispositions. This indemnification shall never be greater than the medium price that would have been produced by the sale of the slave by public auction.

"Art. 4. When the sale on account of injury would have for its object the payment of the law costs, these must be declared officially. In every case the slave, emancipated by coming to the Peninsula to accomplish his sentence, shall be subject in his condition of a free man to indemnify for the damages and losses, and amenable to civil responsibilities to the extent that the laws may direct.

"Art. 5. The Minister of the Colonies will dictate the instructions necessary for the execution of the present Decree, and for the organization of the prison establishments, so that the sentences referred to in Article 2 may be carried out in them.

"Given at the Palace on the 29th September 1866.  
(Signed by the Royal Hand.)

"The Minister of the Colonies,  
(Signed) ALEJANDRO CASTRO."

On the 29th July 1869 a Decree of the Captain-General of Cuba was issued abolishing the office of Registrars of Slaves in Cuba.

By a Decree of the same officer of 14th May 1870 all slaves in Cuba belonging to insurgents, or persons working in their favour abroad, and which slaves had taken up arms to accompany the Spanish columns, or had served as guides, &c., were declared to be free.

On the 23rd June 1870 a Decree was issued by the Regent, promulgating the law which had been passed by the Cortes for the gradual abolition of slavery in Cuba and Puerto Rico.

It was as follows :—

## "DECREE of June 23, 1870.

"LAW RELATING TO THE ABOLITION OF SLAVERY.  
"DON FRANCISCO SERRANO Y DOMINGUEZ, Regent of the Kingdom by the will of the Sovereign Cortes; to

P. P., S. T., Class A., 1869.

P. P., S. T., Class C., 1870.

P. P., Do.



SPAIN.

" all those to whom these presents may come, greeting :  
 " the Constituent Cortes of the Spanish nation, in the  
 " exercise of their sovereignty, decree and sanction the  
 " following :—

" Article 1. All children of slave mothers, born after the  
 " publication of this law, are declared free.

" Art. 2. All slaves born between the 17th September  
 " 1868 and the date of the publication of this law are pur-  
 " chased by the State, their owners receiving the sum of  
 " 125 pesetas.

" Art. 3. All slaves who have served under the Spanish  
 " flag, or have in any way assisted the troops during the  
 " present Cuban insurrection, are declared free. All those  
 " who may have been declared free by the Supreme Govern-  
 " ment of Cuba, in the exercise of his attributions shall also  
 " have their freedom recognized. Their owners, if they  
 " have remained faithful to the Spanish cause, shall be  
 " indemnified for their value by the State; if the owners  
 " be insurgents there shall be no indemnification.

" Art. 4. Slaves who, at the publication of this law, shall  
 " have completed 60 years of age are declared free without  
 " indemnification to their owners. The same benefit shall  
 " be enjoyed by those who reach that age hereafter.

" Art. 5. All slaves belonging for any reason to the  
 " State are declared free. In like manner those who, as  
 " 'emancipados,' may be under the protection of the State,  
 " shall at once enter upon the full exercise of the rights of  
 " free men.

" Art. 6. Slaves set free by this law, and mentioned in  
 " Articles 1 and 2, shall remain under the patronage of the  
 " owners of their mothers, by payment of indemnification,  
 " according to Article 11.

" Art. 7. The patronage mentioned in the previous  
 " Article obliges the patron to maintain his clients, to  
 " dress them, to assist them in illness, and to give them  
 " primary instruction, and to teach them a trade.

" The patron acquires all the rights of a guardian, and  
 " can, besides, make use of the labour of the freed man  
 " without any remuneration up to the age of 18.

" Art. 8. When the freed man shall have arrived at the  
 " age of 18 he shall earn the half of the wages of a free  
 " man, according to his class and trade. Of this remun-  
 " eration he shall receive at once the half, and the other  
 " half shall be kept back, so as to make a stock (peculis)  
 " for time, in the manner to be determined by subsequent  
 " dispositions.

" Art. 9. On reaching the age of 22, the freed man shall  
 " acquire the full enjoyment of his rights, the patronage  
 " shall cease, and his stock shall be handed over to him.

" Art. 10. The patronage shall also cease—

" 1. By the marriage of the freed slave, contracted after  
 " the age of 14 in the case of females, and of 18 in the  
 " case of males.

" 2. If it be proved that the patron makes use of ex-  
 " cessive punishment, or if he neglects to fulfil his duties  
 " as marked out in Article 7.

" 3. If the patron prostitutes or favours the prostitution  
 " of the freed slave.

" Art. 11. The patronage is transferable by all known  
 " legal means, and can be renounced for just reasons.

" The legitimate or natural parents, being free, can  
 " recover the patronage of their children by paying to the  
 " patron an indemnification for the outlay made for the  
 " benefit of the freed man.

" Subsequent dispositions will settle the basis of this  
 " indemnification.

" Art. 12. The Superior Civil Governor will furnish, in  
 " a month from the publication of this law, the lists of the  
 " slaves included in Articles 3 and 5.

" Art. 13. The freed and free men ('libertas y libres')  
 " referred to in the previous Article shall remain under the  
 " protection of the State, which shall simply protect them  
 " and provide them with the means of gaining their liveli-  
 " hood, without infringing in any way upon their liberty.  
 " Those who may prefer to return to Africa shall be  
 " taken there.

" Art. 14. The slaves referred to in Article 4 may remain  
 " in the houses of their owners, who in that case shall  
 " acquire the character of patrons.

" If they choose to remain in the houses of their patrons  
 " their remuneration or non-remuneration by the latter  
 " shall be optional; but in any case, and especially if there  
 " be a physical impossibility of the slaves maintaining  
 " themselves, the patrons shall be obliged to feed and  
 " dress them, and to assist them in illness, and shall also  
 " have the right to occupy them in work adapted to their  
 " condition.

" Should the freed man refuse to fulfil his obligation to  
 " work, or should he produce disturbance in the house  
 " of his patron, the authorities shall decide, after having  
 " heard the freed man.

" Art. 15. If the freed man of his own will retire from the  
 " patronage of his old master, the latter shall be released  
 " from the obligations contained in the previous Article.

" Art. 16. The Government shall procure the money  
 " necessary for the indemnifications to which this law shall  
 " give rise, by means of a tax on those who, remaining  
 " still in servitude, may come between the ages of 11 and  
 " 60 years.

" Art. 17. The offence of cruelty ('revicia'), where proved  
 " and punished by the Courts of Justice, shall carry along  
 " with it the liberty of the slave suffering the same.

" Art. 18. Any concealment which may impede the ap-  
 " plication of the benefits of this law shall be punished  
 " according to Direction 13 of the Penal Code.

" Art. 19. All those not inscribed in the census formed  
 " in Puerto Rico on 31st December 1869, and in that  
 " which will be finished in Cuba on 31st December of this  
 " year 1870, shall be considered free.

" Art. 20. The Government will issue Special Regulations  
 " for the fulfilment of this law.

" Art. 21. The Government will present to the Cortes,  
 " when the Cuban Deputies shall have been admitted to  
 " the same, the project of law for emancipation (with in-  
 " demnification) of those who may remain in servitude  
 " after this law comes into operation.

" Until that emancipation takes place the punishment  
 " of flogging, authorized by cap. 13 of the Regulations of  
 " Puerto Rico, and its equivalent in Cuba, is abolished.

" Neither can children under 14 years of age be sold  
 " without their mothers, nor can married slaves be sold  
 " separately.

" By order of the Constituent Cortes this is communicated  
 " to the Regent, &c.

" Palace of the Cortes, June 23, 1870.

" (Here follow the signatures of the President and  
 " Secretaries of the Courts.)

" Therefore :

" I order all the tribunals, &c.

" San Ildefonso, July 4, 1870.

" F. SERRANO,

" The Minister of the Colonies.

" S. MORET Y PRENDERGAST."

The above Law was published in Cuba on the 28th of  
 September 1870, and the regulations referred to therein  
 were published by Royal Decree (Amadeo) on the 5th of  
 August 1872. (See p. 136 of this Appendix.)

From the 16th April 1869 to the 7th October 1870  
 inclusive, six Decrees were issued in Cuba freeing "eman-  
 cipados" who had been captured in expeditions, dating  
 from as far back as 1824, and up to 1860; in one case the  
 date of the expedition is not mentioned, and it is strongly  
 suspected to have taken place in 1868.

It may be as well to state that on the 26th February  
 1869 the insurgent Junta issued a Decree abolishing  
 slavery in Cuba.

On the 22nd March 1873 a Decree was issued by the  
 President of the National Assembly abolishing slavery for  
 ever in the Island of Puerto Rico, under condition of those  
 so freed making contracts with their owners or other  
 persons for not less than three years; and on the  
 7th August 1874 the Regulations for giving effect to the  
 above Decree were published.

They are still in force, and are as follows :—

#### 1. DECREE of March 22nd, 1873.

" LAW for the ABOLITION of SLAVERY in PUERTO RICO.

" THE National Assembly, in the exercise of its sove-  
 " reignty, decrees and sanctions the following law :—

" Article 1. Slavery is for ever abolished in the Island of  
 " Puerto Rico.

" Art. 2. The freed men are obliged to make contracts  
 " with their present owners, with other persons, or with  
 " the State, for a space of time which shall not be less  
 " than three years.

" Three special functionaries, named by the Superior  
 " Government, and called Protectors of the freed men, shall  
 " interfere in those contracts as trustees of the freed men.

" Art. 3. The slave owners shall be indemnified within  
 " six months after the publication of this Law in the  
 " Madrid 'Gazette.'

" Owners, whose former slaves will not make contracts  
 " with them, shall receive a bonus of 25 per cent. over and  
 " above the indemnification to which they would otherwise  
 " have been entitled.

" Art. 4. The indemnification is fixed at 35,000,000  
 " pesetas, which shall be realized by a loan to be raised by  
 " the Government, with the exclusive guarantee of the  
 " revenue of the Island of Puerto Rico. The sum of  
 " 3,500,000 pesetas shall be yearly included in the Puerto  
 " Rico Estimates, for interest on and amortization of the  
 " said loan.

P. P., S. T.  
 Class C,  
 1870.

P. P., S. T.  
 Class A,  
 1872.

P. P., S. T.  
 Class C,  
 1870.

P. P., S. T.  
 Class A,  
 1869.

P. P., S. T.  
 No. 9, 1872.

P. P., Do.  
 Appendix.

" Art. 5. The distribution shall be made by a Junta composed of the Superior Civil Governor of the Island, as President, the ' Jefe Economico,' the Fiscal of the ' Audiencia,' three Provincial Deputies chosen by the Deputation, the Syndic of the Municipality of the Capital, two proprietors chosen by the fifty largest slave owners, and two other chosen by the fifty smallest. " The decision of this Commission shall be arrived at by a majority of votes.

" Art. 6. Should the Government not place the loan, it will hand over the bonds to the present slave owners.

" Art. 7. The freed men shall enter upon the full enjoyment of political rights five years after the publication of the Law in the Madrid ' Gazette.'

" Art. 8. The Government will issue the necessary orders for the execution of this Law, and for attending to the necessities as to charity and labour which the said Law may bring about.

" The Executive Power will take note of this for its printing, publication, and fulfilment.

" F. SALMERON Y ALONSO, President.

" CAYO LOPEZ,

" E. BEUST,

" F. BALART,

} Secretaries.

" Palace of the National Assembly,

" March 22, 1873."

## 2. REGULATIONS for carrying into effect the DECREE of March 22nd, 1873, dated August 7th, 1874.

" EXCELLENCY, Ministry of the Colonies.

" THE President of the Executive Power of the Republic, in accordance with the Council of State, approves the following Regulations for the carrying out of the law for the abolition of slavery in your island:—

" Article 1. In virtue of Article 1 of the Law of March 22, 1873, the Governor-General of the Province of Puerto Rico will at once make a Register of Freedmen, in which, making a distinction between the sexes, there shall be included in alphabetical order the name, age, and trade of each freed person, as well as the place from which he or she may come, and all other details worthy of being taken into account. The Register shall consist of two volumes, one for each sex.

" Art. 2. Freed children, if they have a legitimate or natural father and mother, shall remain under the charge of the same, according to the Law, and the parents are under the obligation of caring for and educating their children.

" Art. 3. Freed orphans and those freed persons who on account of age, or of a physical or mental defect, are incapable of earning their living, will, like free persons in similar circumstances, remain under the charge of the respective municipalities, until the Government of the Nation shall take the measures of charity announced in Article 8 of the Law. If, however, by mutual agreement with the former patrons or owners the freed person should wish to remain with the same, authorisation may be granted to that effect; but with the understanding that such a course does not prejudice the rights of liberty.

" Art. 4. Every freed person will receive gratis a document, to be called ' Cédula de Seguridad y Contratacion,' setting forth the name, sex, and age of the freed person, the name of the person with whom the freedman may have entered into a contract, and the other details mentioned in the annexed model.

" These ' Cédulas ' will be purely local, and must necessarily be renewed when the freed person makes a change of proprietor or of residence.

" Art. 5. Whenever a freed person may have to make a change of residence, whether permanently or temporarily, he must obtain a special pass, which will be provided to him by the municipal authorities of his place of residence, reckoning with the consent of the proprietor with whom the freedman may have made a contract, and with that of the Protector or Syndic of the respective municipality.

" Art. 6. Every freedman of sufficient age and fitness is obliged to enter into a contract for his labour, according to Article 2 of the Law. The only persons exempted from this obligation are those physically or mentally incapable, temporarily or permanently, and those who, during the three years following the date of the Law, may not have completed twelve years of age.

" The freed persons completing that age within the said space of time will make contracts only for the time wanting to complete the three years.

" Art. 7. The former owners of the persons now freed will give the municipal authorities information, in a written and signed document, of the physical or mental defect or incapacity of the freedman, and should the

" existence of that incapacity be proved, after investigation, it shall be set down with the name of the freedman in the register to be kept for the purpose.

" Art. 8. Every freedman without a contract, or unduly contracted, will without delay enter into a contract with his former master or with another person, or will be employed, as contracted by the State, on the public works that may be in progress.

" Art. 9. The local authorities will take care, and for this they will be most strictly responsible, that in their district all freedmen residing therein, who may be fit to work, be contracted.

" Art. 10. The freedmen cannot exact higher wages than those which in ordinary times it is the custom in each place to give to the free labourer; the maintenance and dress of the freedman will be deducted from his wages, if the proprietor provides him therewith.

" The proprietors on their side cannot exact from the freedmen heavier service than that performed in each place by the free labourer; but the freedmen are obliged to fulfil and observe the regulations that may be made by the proprietors for the better order of the service contracted for, if those regulations are not opposed to the spirit of the law of abolition and to the special clauses of each contract.

" Art. 11. The contracts for labour shall be personal, and not collective; and three special functionaries named by the Governor-General of the island, and called Protectors of Freedmen, shall have intervention therein as trustees of the freedmen.

" Art. 12. For the better discharge of the duties of those posts, the territory of the Province shall be divided into three Departments, the respective centres of which shall be the Capital, Mayagüez and Ponce, one of the said functionaries being at the head of each Department.

" Art. 13. The following towns are included in each of those Departments respectively:—

" In the first Department:—Aguas-buenas, Arecibo, Bayamon, Caguas, Camuy—Capital, Carolina, Ceiba, Ciales, Cidra, Corozal, Dorado, Fajardo, Guainabo, Gurabo, Hatillo, Hato-grande, Humacao, Juncos, Loiza, Luquillo, Manati, Manuabo, Morovis, Naguabo, Naranjito, Patillas, Piedras, Quebradillas, Rio-grande, Rio-piedras, Sabana de Palmar, Toa-alta, Toa-baja, Trujillo-alto, Trujillo-bajo, Utuado, Vega-alta, Vega-baja, Vieques, Yabucoa.

" In the second Department:—Aguada, Aguadilla, Añasco, Cabo-rojo, Lares, Las Marias, Mayagüez, Moca, Rincon, Sabana-grande, San German, San Sebastian, Isabela.

" In the third Department:—Ajuntas, Aibonito, Arroya, Barranquitas, Barros, Cayey, Coamo, Guayana, Guayanilla, Juana Diaz, Peñuelas, Ponce, Salinas, Santa Isabel, Yanco.

" Art. 14. (This Article refers to the salary of the Protectors.)

" Art. 15. The attributions of the Protector shall be confined to the contracting of the freedmen, and to their defence and protection in everything concerning the fulfilment, interpretation, and rescinding of those contracts.

" Art. 16. By virtue of those attributions the Protectors will be present when the contracts of the freedmen are made, and will take the greatest care as to the settling of the clauses thereof; they will see that those clauses be set forth with the full knowledge and consent of the freedmen themselves, and that the will of the latter be in no way thwarted.

" Art. 17. The Protectors will themselves perform their duties in their place of residence, and in the towns of their respective Departments; their Delegates shall be the Syndics of the Municipalities.

" Art. 18. The Syndics, as Delegates, will exercise in their locality the same functions as the Protectors, to whom they will give information of all acts performed by them by virtue of the delegation. The office of Delegate shall be considered as Civic.

" Art. 19. The Protectors shall make periodical visits to the towns of their districts for the performance of everything concerning the fulfilment of the duties assigned to them by these regulations; and they will inform the Governor-General of the Province of the result of their visits; at the same time they will hear and settle the complaints that may be made to them by the freedmen of their districts.

" Art. 20. The labour-contracts of the freedmen shall be made in the Capital before the Governor-General, or a functionary delegated by him for that purpose, and in the other towns of the Province before the municipal authorities.

" Those contracts shall set forth the name, sex, trade, and age of the freed person, the name of the person

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" with whom the contract is made, the clauses thereof, and the penalty agreed to by the contracting parties.

The authorities before whom these contracts are made will write them out by order of date in a book, with the leaves numbered and signed by the said authorities, and stamped with the seal of the Alcalde's office; the contract shall be signed by the Secretary of the municipality, the Contractor, the Protector, and the Freedman, if he knows how to sign his name.

The municipal authorities will send two certified copies of the record of the contract to the Protector residing at the centre of the Department; and when his approval has been obtained, or he has corrected the defects that are capable of emendation, one of those copies shall be placed in the archives of the Protector's office, and the other shall be sent to the Governor-General for the formation of the register to be kept by the Secretary's Department of the same.

" Art. 21. The contracts shall be entirely free on both sides, but they cannot by any means be rescinded at will of the contracting parties, except for a just cause which, with the intervention of the proprietor and of the corresponding Protector or Syndic, shall be judged by the municipal authorities, with appeal to the Governor-General.

" Art. 22. During the twenty days following the publication of these Regulations, the Superior Authorities of the Island, or the functionary who may be delegated for that purpose, shall proceed to revise all the contracts hitherto made before the said authorities, or before the proper municipal authorities, the Protectors, and Syndics of the municipalities.

" Art. 23. All contracts shown not to have been made according to the law, and not possessing the formalities prescribed by these Regulations, shall be declared null and void.

" The same shall be the case with contracts shown to have been made by persons not proprietors, traders, or manufacturers, in sufficiently easy circumstances to allow of the exact fulfilment of the obligations entered into. The local authorities and the Protectors and Syndics will take especial care as to this, and they will be most strictly responsible as to the prevention of deceptive contracts and of immoral speculations in this connection.

" Art. 24. All contracts made by freedmen, in consequence of Article 2 of the Law, and at present in force, as well as those which may be made hereafter, shall be considered binding until 20th April 1876, at the least.

" Art. 25. Vicious or immoral freedmen, who may be notoriously idle, and those who may be found without the special documents mentioned in Article 3, shall suffer, as a correction, a fine of not less than 12'50 pesetas nor exceeding 187'50 pesetas, and if they cannot pay they shall be imprisoned, and the Governor-General may make use of them on one of the public works.

Art. 26. Proprietors transgressing the letter and spirit of the contracts shall be liable to a like correction.

" This correction shall be administratively applied by the respective Alcalde, with appeal to the Governor-General of the island.

" Transitory Article 1. Doubts as to the interpretation and application of these Regulations shall be decided by the Governor-General of the Province, with appeal to the Ministry of the Colonies, to be presented to the said Governor.

" Transitory Article 2. The orders issued concerning the matter forming the subject of these Regulations, and not opposed thereto, remain in force.

#### " CERTIFICATE OF ENGAGEMENT.

" Magisterial District of \_\_\_\_\_  
" Department of \_\_\_\_\_

" Age,	D _____, freedman of
" Stature,	D _____, inhabitant of _____,
" Colour,	emancipated by the Law of 22nd
" Condition,	March 1873.
" Employment,	Is engaged to D _____,
	inhabitant of _____,
	in the Ward of _____,
	for the term of _____
	by _____

He is bound to live and sleep at the [plantation or house] of the person to whom he is engaged.

" By order, &c.

" God preserve, &c.

" Madrid, August 7, 1874.

" ROMERO ORTIZ.

" To the Governor-General of Puerto Rico."

Consul Pauli, in a despatch to the Earl of Derby, dated Puerto Rico, May 12th, 1875, states that, in his opinion, the Spanish Government intend to carry out honestly the provisions of the preceding decree for the abolition of slavery in that island; that the "liberto" enjoys the same treatment as the free labourer, receives his current wages, and is paid for overtime, which is voluntary; that he is never flogged, and if idle, or badly behaved, is punished by the Alcalde of the district, with fine or imprisonment in default, during which time he is made to work on the roads; that the "libertos" are better for work than the free labourers, because they cannot stay away from their work on days following the feast days, as the others do; that out of 987 persons committed to prison in March 1875, only 12 were "libertos," for being without contracts; that the "libertos" consider their term of probation as finished on the 20th of April 1876, and although the wording of Article 2 of the Decree and Article 24 of the Regulations is a little vague, the question of the above date not being the correct one, has not been discussed in Consul Pauli's hearing; and that he considers the abolition of slavery in Puerto Rico to be a success. (See subsequent Despatch from Consul Pauli, p. 139 of this Appendix.)

In a despatch from Mr. Layard, H.M.'s Minister at Madrid, to the Earl of Derby, dated the 6th March 1876, he corroborates the opinion of Consul Pauli as to the abolition of slavery having been honestly carried out in Puerto Rico, and adds that he has on several occasions received distinct pledges from the Spanish Government, that it will abolish slavery in Cuba also as soon as the insurrection in that island is brought to an end, and that a similar pledge is given in the circular addressed by the Spanish Government to their representatives abroad, dated February 3rd, 1876.

In a subsequent despatch received from Mr. Layard, dated the 23rd March 1876, he encloses a letter from the Spanish Minister for Foreign Affairs relative to the law and practice of his Government as to fugitive slaves, of which the following is a précis:—

A. Fugitive slaves when apprehended in Cuba to be returned to their masters. Law of 1871.

B. A register to be kept of runaway slaves by the proper official. Regulations, May 26, 1824.

C. Persons embarking slaves must undertake to emancipate them on arrival in the Peninsula. Royal Order, March 22, 1830.

D. Slaves going to Spain by any means whatever to be free, even if they return to a slave-holding colony. Do., Aug. 4, 1861.

E. The above law extended to include slaves accompanying their masters to countries where slavery does not exist. Do., Dec. 12, 1862.

F. Slaves who have fled from Cuba, and have been apprehended in Spain, to be free so long as they reside in the Peninsula. Do., July 11, 1865.

G. Slaves from Cuba or Puerto Rico to be free, on touching Spanish territory, or on arriving within the jurisdiction and maritime zone of Spain or the adjacent islands, no matter how they got there. Slaves accompanying or sent by their masters to a country where no slavery exists, to be free. Do., Sept. 22, 1866.

H. Negro slaves who had been to Spain declared to be free. Do., Aug. 12, 1871.

I. Slaves in Cuba who had been to Europe declared to be free. Do., Nov. 11, 1871.

J. No passports to be issued to slaves leaving Cuba in company with their masters, unless previously, emancipated, to avoid the possibility of their being recommitted to slavery on their return to the island. Circular of Govr. of Havana, June 18, 1872.

K. The Spanish Minister for Foreign Affairs uses the following language in his letter to Mr. Layard, "With regard to the information concerning the practical case of slaves taking refuge in vessels of war, whether on the high seas or in foreign waters, I have to state to your Excellency that this matter is treated of in the rules contained in pages 13, 39, 41, 62, 63, and 65 of the said work, and that the Ministry of the Colonies has always considered, and very specially since the issuing of the Royal Decree of September 29th, 1866, that the slave who, from any cause, may go out of the territory of the Island of Cuba (and formerly also of the Island of Puerto Rico, when slavery existed there) is free, and that the slave who, from any cause, sets his foot on the territory of a nation in which slavery does not exist is also free."

The rules referred to by the Spanish Minister for Foreign Affairs are those described in the above paragraphs, c, d, e, f, g, h, i, j.

[For the status of slavery in the Spanish possessions, see also p. 117 of this Appendix.]

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## LAWS AND DECREES.

Slavery in Portugal and her territories has *legally* ceased to exist.

From the 14th December 1854 to the 29th of April 1858 various decrees and laws were passed by which slaves were freed under certain circumstances, and slavery abolished entirely in certain provinces and territories, such as Macao, the Indian possessions, the Cape de Verde Islands, and in the territories of Ambriz, Cabenda, and Molembo, in the province of Angola. The two latter territories are claimed by Portugal, but her right to them is disputed.

By the decree of April 29th, 1858, however, the 29th April 1878 was fixed as the *period at which slavery in every form was to cease in the entire monarchy and territories of Portugal.*

By the decree of February 25th, 1869, the latter date was anticipated in some degree, and slavery *proper* was declared to be abolished in all the Portuguese possessions, and from that date all slaves became "libertos" (freedmen), under the conditions prescribed in the decree of the 14th December 1854. The obligations imposed upon such "libertos" to cease on the 29th of April 1878.

It is not necessary to detail the nature of those obligations, as by the decree of April 29th, 1875, all "libertos" were declared free one year after the publication of the same in each colony.

These "libertos" thus freed (with the exception of those who profess any trade, who are entirely free in every sense of the word) are subjected to a public tutelage exercised over them by a Curator-General appointed by the Government in each province.

This tutelage is to last for two years, during which time those serving under it are bound to work under contracts, receiving wages, and, if possible, their former masters are to have the preference in making such contracts.

This tutelage is to cease on the 29th of April 1878 in every instance, and from that date, as originally decreed in 1858, every person in the territories of Portugal is to be absolutely free.

The decree of April 29th, 1875, and the subsequent law of December 20th, 1875, which was drawn up by a committee appointed under the provisions of the preceding decree, contains the official regulations for the proper execution thereof.

This law, if only carried out to the letter, is very favourable to the freedman, and I have inserted it in this précis as published, for the first time, in Mozambique on the 29th of January 1876.

It is reported that slavery is as rife as ever in Mozambique; it is true that the slaves are called "libertos" (under the decree of February 25, 1869, which I find reported, in a despatch from Sir L. G. Heath, of January 22, 1870, as having been published in Mozambique on the 15th of July 1869), but this is a mere empty title, and they enjoy none of the privileges belonging to them.

Not one-third of the slaves held by the colonists are ever registered as "libertos"; they pass from hand to hand, and frequently find their way mysteriously into the hands of the Mujoges (inhabitants of the coast), who export them to Madagascar; from 1873 to 1875, 10,000 slaves on an average were exported each year from Portuguese territorial waters to the Island of Madagascar, and the export still continues.

The men who were engaged in this traffic in 1875 are Banyans, many of whom are the subjects of the Rao of Kutch, and at Zanzibar are regarded as protected British Indian subjects; in Mozambique, however, they are Portuguese colonists, and none, for self-evident reasons, have claimed British protection.

Slave labour, or the employment of "libertos" (virtually the same), is common in all the Portuguese settlements on the East Coast of Africa with the exception of Lourenço Marques, Delagoa Bay, where the element of free labour predominates, owing to the proximity of Natal, the paid labour of that colony, and the gold fields in the Transvaal Republic.

In a despatch from Consul Elton, dated February 3, 1876, and which was only received on the 6th of March of this year, he encloses copy of the decree of April 29, 1875, as published in Mozambique on the 26th of January 1876 by the Governor-General. It as follows:—

" SUPPLEMENT to No. 5 of the OFFICIAL GAZETTE of  
" the GENERAL GOVERNMENT of the PROVINCE of  
" MOZAMBIQUE.

" Saturday, 29 January 1876.

" OFFICIAL PART.—STATE OFFICE for MARINE and  
" COLONIAL AFFAIRS.

" LAW.

" DOM LUIZ, by grace of God, King of Portugal and of  
" the Algarves, &c. We give notice to all our subjects  
" that the General Cortes have decreed and we will the  
" following Law:—

" CHAPTER I.

" Of the Condition of Freedom conferred on the Freedmen,  
" and of the guardianship to which they are subject.

" ARTICLE 1.

" One year after the publication of this law in the pro-  
" vinces beyond sea, the servile condition described in the  
" decree with force of law of 25 February 1869 is considered  
" extinct, and those to whom it refers are declared free.

" ARTICLE 2.

" The persons who will thus obtain the condition of  
" freedom are subject to public guardianship, on the terms  
" of the present law.

" § 1. Those are excepted who shall be engaged in the  
" practice of any art or calling, those who know how to  
" read and write, or are engaged in public or private  
" instruction.

" § 2. The public guardianship ceases by right on the  
" 29th of April 1878, by effect of the decree with force of  
" law of 29 April 1858.

" ARTICLE 3.

" In each of the provinces of Angola, Mozambique, and  
" St. Thomé and Príncipe there shall be a magistrate,  
" Curator-General, appointed by the Government, whose  
" office it shall be to exercise the public guardianship  
" mentioned in the preceding Article in each of the said  
" provinces, as well as the other functions assigned to him  
" by this law or that may be so assigned by the Govern-  
" ment regulations.

" § 1. The Governor of the Province in Council shall  
" have superior authority over the Curator-General.

" § 2. Their salary shall be 1,200\$ 000 reals, and for  
" all legal effects they are placed in the same position as  
" the Crown and Exchequer advocates in the provinces  
" beyond sea.

" ARTICLE 4.

" The labour of the persons referred to in Article 2 is  
" declared free, so that they may arrange its conditions  
" and receive the pay agreed upon.

" CHAPTER II.

" Of the Contracts for Labour to be done by persons subject  
" to public guardianship.

" ARTICLE 5.

" The persons who by this law are subject to public  
" guardianship shall be bound to engage their services for  
" two years, and this engagement must be shown to the  
" authority.

" § 1. These engagements shall be made by preference  
" with the former masters, if they desire it, all the rest  
" being subject to the provisions of this law.

" § 2. The Curator-General shall take special cognizance  
" of these engagements, and he may oppose them if he  
" find reasons why he should not consent to them.

" § 3. If engagements be not made with the former  
" masters they must be made with others.

" § 4. The regulations must determine the special con-  
" ditions which, besides those declared by this law, are to  
" be observed in the engagements, with regard to sex, and  
" the various states of minority and full age.

" ARTICLE 6.

" The engagements may be—

" 1. For labour only.

" 2. For labour and settlement on grant of lands.

" 3. For settlement only on grant of lands.

" 4. To serve in the same province.

" 5. To serve in different provinces.

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## " ARTICLE 7.

" The engagements treated of in the foregoing Article must be made before the public authority that has been authorized to attend to them by the Curator-General, and they must be properly registered.

" Sole §. When the engagements are for places out of the province, they must also be submitted to the authorities in such places, and be duly registered there.

## " ARTICLE 8.

" No engagement can be entered into without a stipulation of wages, or of wages, maintenance, and clothing.

## " ARTICLE 9.

" The tables of the regulations for each province are to fix the minimum of wages, rations, and clothing that must be given to the servants or settlers by the masters or landlords who engage their services, and the working days and working hours in each day, with relation to the callings and the conditions of sex and age.

## " ARTICLE 10.

" Engagements with conditions of remuneration and warranty inferior to those fixed by the respective regulations shall not be approved.

## " ARTICLE 11.

" Engagements for grant of lands shall be made according to the provisions of the Civil Code.

## " ARTICLE 12.

" If engagements for grant of lands should also contain the obligation to render services, the latter must not extend to more than a moiety of the available time according to the regulations; they must not be for more than two years, nor must they stipulate a certain price for the sale of goods, or that the said goods be only sold to the landlord.

" Sole §. The regulations for each province shall fix the minimum of a grant of lands that can be stipulated for each settler, single or with family.

## " ARTICLE 13.

" Settlers cannot enter into engagements that would separate them from their wives or their children up to the age of 15 years.

## " ARTICLE 14.

" Engagements with obligation to render personal service cannot be sub-let by the master or landlord without the consent of the servant or tenant, except in the cases specially authorized by this law; and when a sub-letting does take place it must be done with all the formalities required for the original engagement, and be subject to the same conditions.

## " ARTICLE 15.

" The engagements shall only be made by the persons concerned themselves, or by agents duly authorized by the Governor of the Province in Council, on the conditions to be established in the regulations.

## " ARTICLE 16.

" Engagements for rendering services shall not be allowed unless the master shows, before the authority that has to authorize the engagement, that he is a farmer or is engaged in business with a regular establishment. Engagements for domestic service are excepted.

## " ARTICLE 17.

" Advances of wages to be afterwards deducted must not exceed two months in each year.  
" These advances shall be considered as paid at the end of twelve months from their date, if they have not been so previously, and the deduction for them cannot be more than a twelfth in each month.

## " ARTICLE 18.

" Engagements for rendering services cannot be prolonged before the expiration of their term.

" § 1. At the expiration of the term of the obligatory engagements referred to in Article 5, as well as at the free renewal of engagements by settlers and servants, and in engagements newly made, the prescriptions of the present law shall always be observed, in so far as they can be applied, in the form that will be determined by the Government regulations.

" § 2. The provision in § 1 of Article 5 is not applicable to these engagements.

## " ARTICLE 19.

" The organization of companies of labourers or workmen to render services to the agriculturists or tradesmen who cannot or do not wish to make engagements for years is authorized.

" § 1. The workmen who engage themselves in this manner cannot do so for longer terms than those fixed in Article 5.

" § 2. The regulations shall establish a table of the lowest rate of wages at which engagements can be made, and the other indispensable conditions for such engagements.

" § 3. The table must be revised every year.

" § 4. The conditions of the labour to be thus performed shall be the same as those indicated for the other engagements.

" § 5. The regulations made in each province for the execution of this Article shall be submitted for the approval of the Government of the mother-country.

## " CHAPTER III.

" *Of Engagements for rendering Service and for Settlement out of the respective Provinces.*

## " ARTICLE 20.

" Engagements for rendering service and for settlement out of the province shall be subject to the established conditions.

## " ARTICLE 21.

" These engagements may be made by the masters or landlords themselves, on proof of the conditions mentioned in Article 16, or by agents specially authorized according to the terms of Article 15, and who have given security.

" Sole §. The engagements treated of in this Article must be concluded with the established formalities, and the agents must give account to the Curator-General of the engagements which they thus have made.

## " ARTICLE 22.

" The conveyance of settlers or servants can only take place in vessels specially registered for this purpose, on the security or deposit fixed by the regulations, and joint responsibility of ship, owner, and commander.

## " ARTICLE 23.

" The engagements must always contain an obligation to pay for the conveyance of the settlers and their families, who, on the expiration of the term of engagement, shall wish to return to their country.

## " ARTICLE 24.

" The Government, if it shall think fit, may authorize the Governor of the Province of St. Thomé and Príncipe to engage, on account of the province, settlers in any other place, and such engagements may be sub-let to private persons on the same conditions.

## " ARTICLE 25.

" These engagements shall not be allowed if it appear in any way that they serve to encourage the slave trade.

## " ARTICLE 26.

" The embarkation of negro labourers engaged shall not be allowed until the regulations treated of in this law are made.

## " CHAPTER IV.

" *Of Vagabondage and of the Punishments.*

## " ARTICLE 27.

" The persons referred to in Article 1 who, in accordance with Article 256 of the Penal Code, shall be declared vagabonds, shall be liable to forced labour up to two years in the State establishments specially instituted for the purpose, or in the forts and public works of the province, and they shall receive such wages as shall be determined by the respective Governor in Council.

" § 1. They may, however, at any time engage their services to private persons, and then the forced public service will cease.

" § 2. The public authority cannot cede the services of these men to private persons except on the terms authorized by this law, in the case of Articles 19 and 24, or on engagements freely made by the men themselves, according to the established conditions.

“ ARTICLE 28.

“ Those who disturb or endeavour to disturb the labour of servants or settlers, or entice them to abandon it, will be liable to the punishment fixed in the Penal Code.

“ ARTICLE 29.

“ Persons who have engaged their services cannot be prevented by their masters or landlords from applying to the local protective authorities.

“ ARTICLE 30.

“ Those who prevent or endeavour to prevent them shall be punished according to the terms of the Penal Code, and moreover the engagement shall be considered as dissolved if the servant or settler wishes it to be so. In this case the master or landlord shall not be entitled to any indemnification for the part of the term of engagement still unexpired.

“ ARTICLE 31.

“ The Curator-General shall watch over the performance of the engagements, and shall promote, by the proper means, the nullification of those wherein the clauses are not fulfilled.

“ CHAPTER V.

“ *Of the Indemnifications for the grant of Freedom.*

“ ARTICLE 32.

“ The Government shall order a strict inquiry to ascertain—

- “ 1. The manner in which the registration of the freedmen has been made in the different provinces, in virtue of the decree of 14th December 1854, and the subsequent legislation.
- “ 2. What registers are found in accordance with the conditions of No. 2 of Article 2 of the decree of 24th July 1856.
- “ 3. What is the average value of the servile labour in each province.

“ ARTICLE 33.

“ In order to have a claim for indemnification it will be necessary for everyone interested to prove before the Government Council the number of freedmen that he had in his service, whence they came, the date of their registration, their present age, and the works in which they were employed at the date of this law, and that he has paid the settled taxes for each slave or freedman of whose service he had the benefit.

“ ARTICLE 34.

“ The proceedings for the valuation of the indemnification, treated of in Article 33, shall be administrative, and shall be finally decided in the Government Council of the province.

“ Sole §. The conditions and formalities of these proceedings shall be settled in the Government regulations.

“ ARTICLE 35.

“ The indemnification and the form of its payment can only be determined by law after the fulfilment of the conditions treated of in the preceding Articles.

“ ARTICLE 36.

“ From the date of the publication of the present law in each of the provinces beyond sea, all the slaves or freedmen who shall be brought into those provinces shall be considered free by effect of the law, independently of declaration.

“ Sole §. The Curator-General shall watch, *ex officio*, over the perfect fulfilment of this provision.

“ ARTICLE 37.

“ The Curators-General shall report every six months to the Governors of the provinces on the manner in which this law is executed, and the Governors shall report thereon to the Government.

“ ARTICLE 38.

“ The Government shall make general regulations for the execution of this law.

“ ARTICLE 39.

“ The laws to the contrary are revoked.

“ We therefore command all the authorities to whom the knowledge and execution of the said law appertain, to fulfil it, and to see that it be fulfilled and observed to the full extent of its provisions.

“ The Minister and Secretary of State for Foreign Affairs and, *pro tem.*, for Marine and Colonies, is to have it printed, published, and circulated.

“ Given at the Palace of Ajuda, the 29th of April 1875.

“ The King (with rubric and flourish).

“ JOÃO DE ANDRADE CORVO.

“ (Great Seal of the Royal Arms.)

“ Text of the law by which Your Majesty, having sanctioned the decree of the General Cortes of the list of the present month, which entirely extinguishes the servile condition in the provinces beyond sea, and provides for its due and proper execution, commands that it be fulfilled and observed to the full extent of its provisions.

“ For Your Majesty's inspection.

“ Done by JOÃO IZIDORO DUARTE PEREIRA.”

On the 3rd of February 1876 a decree was issued by which the law of April 29, 1875, and the regulations approved by the decree of December 20 of the same year, came into force immediately in the Province of St. Thomas and Príncipe.

[For the status of slavery in the Portuguese possessions, see also p. 115 of this Appendix.]

MS., Mr. Jervoise, Feb'y. 7, 1876.

TREATIES.

From the 19th of February 1810 to the 3rd of July 1842 various treaties and additional articles thereto were concluded between Great Britain and Portugal, of which the following are the list:—

1. Treaty of February 19, 1810.
2. „ January 22, 1815.
3. Additional Convention, July 28, 1817.
4. Separate Article, September 11, 1817.
5. Additional Articles, March 15, 1823.

H.T., vol. 7, p. 231.  
H.T., vol. 2, p. 73.  
H.T., vol. 2, p. 81.  
H.T., vol. 2, p. 121.  
H.T., vol. 3, p. 349.

The treaty at present in force between Great Britain and Portugal for the suppression of the slave trade, concluded in the spirit of the above treaties, is that of July 3, 1842, which—

A. Gives to the cruisers of both Powers the right of detention and search (except when the suspected vessel is at anchor in any port or roadstead of either Power, or within cannon shot of the batteries of the shore, unless under a written demand for co-operation on the part of the authorities of such country; but should any such suspected vessel be met with in such port or roadstead, the authorities of the country shall proceed to take effectual measures to prevent the violation of the treaty, on due representation having been made to them requesting them to take such measures).

B. It authorizes the condemnation of slave vessels on the ground of equipment.

C. It establishes mixed commissions.

D. It declares slave trade to be piracy.

E. It provides that liberated negroes are to be delivered up to the Government whose cruisers had made the capture.

F. The fifth article draws a distinction between *slaves who are bonâ fide household servants and other slaves*, and as it is important I give it in full:—

“ It is, however, distinctly understood between the two high contracting parties that no stipulation of the present treaty shall be interpreted as interfering with the right of Portuguese subjects to be accompanied, in voyages to and from the Portuguese possessions off the coast of Africa, by slaves who are *bonâ fide* household servants, and who may be duly named and described as such in passports, wherewith the vessel must be furnished, from the highest civil authority at the place where such slaves shall have embarked; provided—

“ 1st. That in such voyages no Portuguese subject, except he be a Portuguese settler, removing definitively from his residence in a Portuguese possession on the coast of Africa, shall be accompanied by more than two slaves, being *bonâ fide* household servants.

“ 2nd. That such a settler removing definitively, with his family, from his residence in a Portuguese possession on the coast of Africa, shall not be accompanied by more than 10 slaves, and that all these slaves shall be *bonâ fide* his household servants.

“ 3rd. That such household slaves shall be found at large and unconfined in the vessel, and clothed like Europeans in similar circumstances.

H.T., vol. 6, p. 625.

## PORTUGAL.

"4th. That no other slaves shall be embarked on board of the vessel in which the said household servants shall be found; and that the voyage on which such settler and his family shall be so accompanied by such household slaves shall be a direct voyage to the Portuguese islands of Cape Verd, Princes, or St. Thomas from some place in the Portuguese possessions on the coast of Africa, where the said settler shall have been permanently residing.

"5th. That the passports above mentioned shall enumerate each of the persons on board the vessel, and shall state their names, sex, ages, and occupation, their last place of residence, and the place to which they are going.

"6th. That there be nothing in the equipment or character of the vessel in which such household slaves may be found which shall justify its detention under the provisions of this treaty.

"But if the equipment or character of the vessel shall justify the detention of the vessel under the stipulations of the present treaty, or if any of the regulations

"specified in this article shall be unobserved or violated in respect to such vessel, then her master, her crew, and the owner or owners of the vessel, of the cargo, or of the slaves, shall be liable to be proceeded against as accomplices in an infraction of the present treaty, and to be punished accordingly; and the vessel and cargo shall be adjudged and condemned, and the slaves shall be liberated."

By the Convention of February 12th, 1872, between Great Britain and Portugal, the Mixed Commissions appointed by the preceding Treaty of 1842 were abolished, and it was agreed that the jurisdiction heretofore exercised by those Commissions should be transferred to the courts of the contracting parties.

From the 12th of August 1847 to the 19th of November 1853 British cruisers had a right (under Protocols signed in London in 1847 and 1850) to enter bays, ports, creeks, rivers, and other places within the dominions of Portugal, on the east coast of Africa, where no Portuguese authorities were established.

I do not find that such right exists at present.

P. P. [C.—  
470.], 1872.

H. T., vol. 8,  
p. 808.  
H. T., vol. 9,  
p. 656.

## BRAZIL.

## No. 3.—BRAZIL.

H. T., vol. 2,  
p. 72.

On the 22nd January 1815, a treaty was concluded between Great Britain and Portugal for the gradual abolition of the slave trade in the entire dominions of Portugal (including Brazil).

H. T., vol. 2,  
p. 81.

On the 28th of July 1817, an additional Convention to the above treaty was concluded between Great Britain and Portugal for the purpose of preventing their subjects from engaging in any illicit traffic in slaves.

This Convention, which also applied to Brazil, gave power to the ships of war of either party, provided with special instructions for that purpose, to visit and search merchant vessels of the two nations as might be suspected of being engaged in the slave trade.

It also contained regulations for the mixed commissions which it was determined to establish on the coast of Africa, in the Brazils, and in London, for the purpose of deciding upon the legality of the detention of such slave vessels as the cruisers of both nations should detain.

H. T., vol. 2,  
p. 121.

A separate article was attached to this Convention, dated the 11th of September 1817, by which it was agreed, that as soon as the total abolition of the slave trade, for the subjects of the Crown of Portugal, should have taken place, the high contracting parties would adapt, to that state of circumstances, the stipulations of the Convention of the 28th of July 1817; but that, in default of such alterations, the Convention should remain in force until the expiration of fifteen years from the day on which the general abolition of the slave trade should so take place on the part of the Portuguese Government.

S. P., vol. 12,  
p. 674.  
H. T., vol. 3,  
p. 38.

In 1825 the independence of Brazil was recognized by Portugal, and on the 23rd of November 1826 a treaty was concluded between Great Britain and Brazil for the abolition of the African slave trade.

By Article 1 of this treaty it was agreed that at the expiration of three years from the date of the exchange of the ratifications it should not be lawful for Brazilian subjects to be concerned in the carrying on of the African slave trade, and that any Brazilian subjects so carrying it on after that date should be deemed guilty of piracy.

By the 2nd and 3rd Articles the treaty of January 22, 1815, with Portugal, and the additional Convention of July 28, 1817, with the explanatory articles added thereto, were declared to be renewed, and to be considered as binding upon Brazil.

By Article 4 it was agreed that mixed commissions should be appointed similar to those which had been established under the Convention between Great Britain and Portugal of 1817.

H. T., vol. 2,  
p. 121.

The ratifications of the Convention of November 23, 1826, were exchanged on the 13th of March 1827, and the three years contemplated by the 1st Article would therefore expire on the 13th of March 1830; and the 15 years contemplated by the separate article of September 11, 1817, from the day on which the general abolition of the slave trade should take place in the Portuguese (Brazilian) dominions, namely from the 13th of March 1830, would be the 13th of March 1845.

H. T., vol. 7,  
p. 140.

Accordingly, on the 12th of March 1845, the Brazilian Minister for Foreign Affairs announced to the British Minister at Rio de Janeiro that as the 15 years referred to in the separate article to the Convention of July 28, 1817, would expire on the following day, the right of search and visit would cease, as well as all other stipulations contained in that Convention, with the additional articles, instructions, and regulations annexed thereto.

But so far from the slave trade having been suppressed in the three years following the 13th of March 1827, which was the sole condition upon which the Convention of 1817 was to terminate, it was still carried on with vigour and success under the Brazilian flag, no law having been passed by Brazil making any special reference to the 13th of March 1830 as the date when the slave trade should be abolished.

The British Government informed the Brazilian Government, in reply to their notice of the 12th of March 1845, that they felt themselves bound to admit that the Convention of 1817, with all its annexes, must be considered as at an end from the 13th of March 1845; but they added that they had therefore no longer any course open to them, under the treaty of the 23rd of November 1826, than to give full effect to the stipulations of Article 1 of that treaty by which the traffic in slaves by Brazilian subjects was declared to be piracy.

Accordingly on the 4th of August 1845 an Act of Parliament was passed (8 & 9 Vict. c. 122) declaring the slave trade carried on by Brazilians to be piracy; repealing the prohibition which had existed under the treaties against the exercise of jurisdiction by British Admiralty Courts, in cases of Brazilian slave vessels; and granting authority to Admiralty Courts to adjudicate such cases, as to vessels detained after the 13th of March 1845.

This was known as the "*Aberdeen Act*."

By the Brazilian law of November 7, 1831, the slave trade was made punishable by fine and corporal punishment, and it was declared that slave vessels arriving in Brazil should be confiscated, and all slaves entering from a foreign port should be free, *except*, 1stly, those slaves enrolled in the service of vessels belonging to countries where slavery was allowed, so long as they were employed in that service; and, 2ndly, those who might have escaped from the territory, or from vessels of a foreign country, in which case they were to be delivered up to their masters who claimed them, and to be re-exported from Brazil.

By the decree of April 12, 1832, all vessels were ordered to be visited and searched on their arrival in all ports, &c. of Brazil, as an enforcement of the decree of 1831.

By the Ordinance of June 6, 1837, the visit and search described in the previous decree of 1832 was made still more strict.

On the 4th of September 1850, a law was passed—

- Declaring slave trade to be piracy.
- Providing that all slaves seized shall be re-exported at the cost of the State, and until such re-exportation shall be employed on work under the guardianship of the Government.
- Giving Brazilian Courts jurisdiction in those cases, and authority to condemn vessels, &c. &c.

A decree was issued on the 14th of October 1850 for the carrying out of the law of 1831.

A second decree was issued on the 14th of November 1850, for the execution of the law of September 4, 1850.

In 1851 Brazil closed slave depôts south of Rio. In the same year an article was inserted in the treaty between Peru and Brazil forbidding the introduction of negroes by land.

In 1853 a decree was issued for the emancipation of liberated Africans after 14 years service.

On the 19th of April 1869, an Act was passed by the British Parliament (32 Vict. c. 2), repealing the "*Aberdeen Act*" of 1845, on the ground that the circumstances

S. P., vol. 34  
p. 638.

H. T., vol. 7  
p. 148.

H. T., vol. 4,  
p. 64.

H. T., vol. 4

H. T., vol. 5  
p. 32.

H. T., vol. 9  
p. 161.

H. T., vol. 9  
p. 163.

H. T., vol. 9  
p. 175.

Slave Trade  
Instructions, 1808.  
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which had led to the passing of the latter Act no longer existed, by reason of the cessation of the importation of slaves into Brazil from Africa.

The Brazilian Decree of September 15th, 1869, provides—

A. That all sales of slaves by public auction and exposed to public view are prohibited. Commercial auctions of slaves are forbidden, judicial sales in virtue of execution for debt, or of division of property, shall be substituted by written proposals to the Judges.

B. In all sales the separation of husband and wife, the child from the father or mother (except those children over 15 years of age), is forbidden under pain of nullity.

C. In those inventories where progenitors or descendants may not be concerned as heirs, and the right of creditors be provided for by other property, the Judge of the inventory can grant letters of freedom to the inventoried slaves who show that they possess the price of their judicial valuation.

The Law of September 28th, 1871, and the Decree of November 11th of the same year, emancipating all children of women slaves, and all slaves belonging either to the Government or the Crown, and giving facilities for other slaves to be freed by various means, are so important that I give them in extenso.

### 1. LAW of 28th of September 1871.

*Law of 28th September 1871 declares to be free, from the date of this law, the children that may be born of women slaves, the slaves of the State, and others; and takes measures for the rearing and proper usage of those minors, and for the annual freeing of slaves.*

"The Princess Imperial, Regent, in the name of H.M. the Emperor Señor D. Pedro, 2<sup>o</sup>, makes known to all the subjects of the Empire, that the General Assembly has decreed, and that she has sanctioned, the following law:—  
"Art. 1st. The children of women slaves that may be born in the Empire from the date of this law shall be considered to be free.

"§ 1st. The said minors shall remain with and be under the dominion of the owners of the mother, who shall be obliged to rear and take care of them until such children shall have completed the age of eight years.

"On the child of the slave attaining this age the owner of its mother shall have the option either of receiving from the State the indemnification of \$600, or of making use of the services of the minor until he shall have completed the age of 21 years.

"In the former event the Government will receive the minor, and will dispose of him in conformity with the provisions of the present law.

"The pecuniary indemnification above fixed shall be paid in Government bonds, bearing interest at 6 per cent. per annum, which will be considered extinct at the end of thirty years.

"The declaration of the owner must be made within 30 days, counting from the day on which the minor shall complete the age of eight years; and should he not do so within that time it will be understood that he embraces the option of making use of the service of the minor.

"§ 2nd. Any one of those minors may ransom himself from the *onus* of servitude, by means of a previous pecuniary indemnification, offered by himself, or by any other person, to the owner of his mother, calculating the value of his services for the time which shall still remain unexpired to complete the period, should there be no agreement on the *quantum* of the said indemnification.

"§ 3rd. It is also incumbent on owners to rear and bring up the children which the daughters of their female slaves may have while they are serving the same owners.

"Such obligation, however, will cease as soon as the service of the mothers ceases. Should the latter die within the term of servitude the children may be placed at the disposal of the Government.

"§ 4th. Should the female slave obtain her freedom, her children under eight years of age who may be under the dominion of her owners shall, by virtue of § 1st, be delivered up, unless she shall prefer leaving them with him, and he consents to their remaining.

"§ 5th. In case of the female slave being made over to another owner, her free children under 12 years of age shall accompany her, the new owner of the said slave being invested with the rights and obligations of his predecessor.

"§ 6th. The services of the children of female slaves shall cease to be rendered before the term marked in § 1st, if by decision of the Criminal Judge it be known that the owner of the mothers ill-treat the children, inflicting on them severe punishments.

"§ 7th. The right conferred on owners by § 1st shall be transferred in cases of direct succession; the child of a slave must render his services to the person to whose share in the division of property the said slave shall belong.

"Art. 2nd. The Government may deliver over to associations which they shall have authorized the children of the slaves that may be born from the date of this law forward, and given up or abandoned by the owners of said slaves or taken away from them by virtue of Art. 1st., § 6th.

"§ 1st. The said associations shall have a right to the gratuitous services of the minors, until they shall have completed the age of 21 years, and may hire out their services, but shall be bound—

"1st. To rear and take care of the said minors.

"2ndly. To save a sum for each of them, out of the amount of wages, which for this purpose is reserved in the respective statutes.

"3rdly. To seek to place them in a proper situation when their term of service shall be ended.

"§ 2nd. The associations referred to in the previous paragraph shall be subject to the inspection of Judges of the Orphans' Court, in as far as affects minors.

"§ 3rd. The disposition of this article is applicable to Foundling Asylums, and to the persons whom the Judges of the Orphans' Court charge with the education of the said minors, in default of associations or houses established for that purpose.

"§ 4th. The Government has the free right of ordering the said minors to be taken into the public establishments, the obligations imposed by § 1st on the authorized associations being in this case transferred to the State.

"Art. 3rd. As many slaves as correspond in value to the annual disposable sum from the emancipation fund shall be freed in each province of the Empire.

"§ 1st. The emancipation fund arises from—

"1st. The tax on slaves.

"2ndly. General tax on transfer of the slaves as property.

"3rdly. The proceeds of six lotteries per annum, free of tax, and the tenth part of those which may be granted from this time forth, to be drawn in the capital of the Empire.

"4thly. The fines imposed by virtue of this law.

"5thly. The sums which may be marked in the General Budget, and in those of the Provinces and Municipalities.

"6thly. Subscriptions, endowments, and legacies for that purpose.

"§ 2nd. The sums marked in the Provincial and Municipal Budgets, as also the subscriptions, endowments, and legacies for the local purpose, shall be applied for the manumission of slaves in the provinces, districts, municipalities, and parishes designated.

"Art. 4th. The slave is permitted to form a saving fund from what may come to him through gifts, legacies, and inheritances, and from what, by consent of his owner, he may obtain by his labour and economy. The Government will see to the regulations as to the placing and security of said savings.

"§ 1st. By the death of the slave half of his savings shall belong to his surviving widow, if there be such, and the other half shall be transmitted to his heirs in conformity with civil law.

"In default of heirs the savings shall be adjudged to the emancipation fund of which Article 3rd treats.

"§ 2nd. The slave who, through his savings, may obtain means to pay his value has a right to freedom.

"If the indemnification be not fixed by agreement it shall be settled by arbitration. In judicial sales or inventories the price of manumission shall be that of the valuation.

"§ 3rd. It is further permitted the slave, in furtherance of his liberty, to contract with a third party the hire of his future services, for a term not exceeding seven years, by obtaining the consent of his master, and approval of the Judge of the Orphans' Court.

"§ 4th. The slave that belongs to joint proprietors, and is freed by one of them, shall have a right to his freedom by indemnifying the other owners with the share of the amount which belongs to them. This indemnification may be paid by services rendered for a term not exceeding seven years, in conformity with the preceding paragraph.

"§ 5th. The manumission, with the clause of services during a certain time, shall not become annulled by want of fulfilling the said clause, but the freed man shall be compelled to fulfil, by means of labour in the public establishments, or by contracting for his services with private persons.

"§ 6th. Manumissions, whether gratuitous or by means of *onus*, shall be exempted from all duties, emoluments, or expenses.

"§ 7th. In any case of alienation or transfer of slaves, the separation of husband and wife, and children under



BRAZIL.

" 12 years of age from father or mother, is prohibited under penalty of annulment.

" § 8th. If the division of property among heirs or partners does not permit the union of a family, and none of them prefers remaining with the family by replacing the amount of the share belonging to the other interested parties, the said family shall be sold and the proceeds shall be divided among the heirs.

" § 9th. The ordination, Book 4th, title 63, in the part which revokes freedom, on account of ingratitude, is set aside.

" Art. 5th. The Emancipation Societies which are formed, and those which may for the future be formed, shall be subject to the inspection of the Judges of the Orphans' Court.

" Sole paragraph. The said societies shall have the privilege of commanding the services of the slaves whom they may have liberated, to indemnify themselves for the sum spent in their purchase.

" Art. 6th. The following shall be declared free:—

" § 1st. The slaves belonging to the State, the Government giving them such employment as they may deem fit.

" § 2nd. The slave given in usufruct to the Crown.

" § 3rd. The slaves of unclaimed inheritances.

" § 4th. The slaves who have been abandoned by their owners.

" Should these have abandoned the slaves from the latter being invalids they shall be obliged to maintain them, except in case of their own penury, the maintenance being charged by the Judge of the Orphans' Court.

" § 5th. In general the slaves liberated by virtue of this law shall be under the inspection of Government during five years. They will be obliged to hire themselves under pain of compulsion; if they lead an idle life they shall be made to work in the public establishments.

" The compulsory labour, however, shall cease so soon as the freed man shall exhibit an engagement of hire.

" Art. 7th. In trials in favour of freedom—

" § 1st. The process shall be summary.

" § 2nd. There shall be appeal *ex officio* when the decisions shall be against the freedom.

" Art. 8th. The Government will order the special registration of all the slaves existing in the Empire to be proceeded with, containing a declaration of name, sex, age, state, aptitude for work, and filiation of each, if such should be known.

" § 1st. The date on which the registry ought to commence closing shall be announced beforehand, the longest time possible being given for preparation, by means of edicts repeated, in which shall be inserted the dispositions of the following paragraph.

" § 2nd. The slaves who, through the fault or omission of the parties interested, shall not have been registered up to one year after the closing of the register, shall, *de facto*, be considered as free.

" § 3rd. For registering each slave the owner shall pay, once only, the emolument of 500 rs., if done within the term marked, and \$1 should that be exceeded. The produce of those emoluments shall go towards the expenses of registering, and the surplus to the emancipation fund.

" § 4th. The children of a slave mother, who by this law became free, shall also be registered in a separate book.

" Those persons who have become remiss shall incur a fine of \$100 to \$200, repeated as many times as there may be individuals omitted; and for fraud, in the penalties of Article 179 of the Criminal Code.

" § 5th. The parish priests shall be obliged to have special books for the registry of births and deaths of the children of slaves born from and after the date of this law. Each omission will subject the parish priest to a fine of \$100.

" Art. 9th. The Government, in its regulations, can impose fines of as much as \$100, and the penalty of imprisonment up to one month.

" Art. 10th. All contrary dispositions are revoked.

" Therefore, order all authorities to whom, &c., &c. Given at the Palace of Rio de Janeiro, on the 28th September 1871. Fiftieth of the Independence and of the Empire.

" Princess Imperial, Regent.

" THEODORO MACHADO FREIRE  
" PEREIRA DA SILVA."

" 2. DECREE of 11th November 1871.

" Instructions to which the Decree of this date refer, for putting in execution Art. 6th, § 1st, of the Law of 28th September 1871.

MS. Mr.  
Cobbold  
Nov. 11,  
1871.

" Art. 1st. Letters of freedom shall be given to each one of the slaves who belonged to the domains of the State, and which the Law of the 28th September last, Art. 6th, § 1st, ordered to be declared free.

" The said letters shall be signed at the Capital by the Minister of Finance, and in the provinces by the respective Presidents, according to the printed forms annexed to these instructions. Those of minors shall be entrusted to the keeping of their mothers or fathers, if living, and, in the absence of these, to the Judge of the Orphans' Court of the district, who shall cause them to be placed in the archives of the respective scrivener, to be delivered to the said persons whenever they shall have attained their majority.

" Art. 2nd. There shall be a register in the General Directory of Revenue at the National Treasury of all the letters of freedom which shall be passed in conformity with the preceding Article, and special registers in the Treasuries of those which may be passed in the provinces, a circumstantial relation of which must be sent for entry thereof in the above-mentioned central department of the Treasury.

" Art. 3rd. These freed persons may continue in the same service as that in which they had before been employed, under conditions which may correspond to their new civil state.

" The Government will fix the wages or advantages which those who serve public establishments will enjoy, and the Presidents in the provinces will proceed in like manner, upon information furnished by the inspectors of the Treasuries, with respect to those who may be employed in the national estates of Piauhy, Maranhão, and Pará, as long as these estates may not be put to other use.

" Art. 4th. The President of the Province of Piauhy will take such measures as Article 3rd prescribes relative to the freed persons who may be on the estates of Canindé, which were given as a patrimony to H.S.H. the Princess D' Januaria, Countess of Aquila, the necessary agreement with the administrator of the said estates being made beforehand.

" Art. 5th. It shall be permitted the aforesaid freed persons to seek other useful occupation which may suit them better, as long as they do it by permission obtained from the President of the Province, directly or through his delegate, and with the knowledge of the Judge of the Orphans' Court of the place, in conformity with the combined dispositions of §§ 1st and 5th of Art. 6th of the law.

" Art. 6th. The children will follow the destination of their mothers or fathers, the separation being permitted only of those who are over 12 years of age, when the union of the whole family is not possible.

" Art. 7th. The Presidents of Provinces shall regulate the discipline to which the freed persons who may remain on the estates of the nation, and on those of Canindé, will be subjected, bearing strongly in mind the education of the minors and the religious instruction necessary to all.

" Art. 8th. The Presidents of the Provinces of Piauhy, Maranhão, and Pará shall address, with all possible brevity, to the Minister of Finance a circumstantial report of the manner in which the provisional instructions shall have been executed, and shall propose at the same time the measures which they may judge most fitting to the benefit of the freed people, and the use to which the national estates should be put, weighing well the advantage of letting or alienating them.

" Rio de Janeiro, 11th November 1871.

" VISCOUNT OF RIO BRANCO."

It only remains for me to add, that on the 1st of December 1871 (see p. 98 of this Appendix), and on the 13th of November 1872, decrees were issued defining, by various distinct regulations, how the law of 28th September 1871 was to be carried out.

P.P. S.T.  
Class A.  
1872.

[For the status of slavery in Brazil, see also p. 95 of this Appendix.]

No. 4. MOROCCO.

MOROCCO.

H. T., vol. 1, pp. 96, 100, and 113.

THE treaties between Great Britain and Morocco of December 15, 1734, July 28, 1760, and April 8, 1791, all contain the following provision, though in different language:—"That all subjects of the Emperor (of Morocco) who shall have been made slaves and shall escape to any English ship-of-war, or to any part of the English dominions, shall be protected and sent with all convenient speed to their homes; and in like manner all English subjects who may escape from any garrison on the coast of Africa, or from any place without the English dominions, where they were prisoners or slaves, to any part of the Emperor's dominions, shall be immediately free, and

"be delivered up to the Consul or his deputy, or be sent to Gibraltar."

These treaties were replaced by the General Treaty of December 9, 1856, in which there is an agreement as to the apprehension, &c., &c., of all deserters from the merchant vessels of either of the contracting parties within any port or territory of the other party, such deserters not being slaves, nor subjects of the party upon whom the demand is made.

H. T. vol. x., p. 903.

[For the status of slavery in Morocco, see also p. 112 of this Appendix.]

No. 5.—THE OTTOMAN DOMINIONS.—TURKEY, EGYPT, TUNIS, TRIPOLI, &c., &c.

TURKEY.

H. T., vol. 2, p. 346.

In the Treaty of Peace between the Sultan Mehemet and King Charles the Second of England, in 1675, it was agreed that if an Englishman should be found to be held slavery in the Turkish States he should be released immediately on his nationality being proven.

from these prohibitions. The imperial orders conveyed in this firman were sent to the authorities of the following islands and coasts of the Archipelago and Mediterranean:—

Since that date I find no Treaty with Turkey in which slavery is mentioned.

The Pashas of—

- |                  |               |
|------------------|---------------|
| 1. Salonica.     | 13. Rhodosto. |
| 2. Scodra.       | 14. Volo.     |
| 3. Izmid.        | 15. Brussa.   |
| 4. Aleppo.       | 16. Cyzicus.  |
| 5. Candia.       | 17. Mytilene. |
| 6. Rhodes.       | 18. Scio.     |
| 7. Sidon.        | 19. Cos.      |
| 8. Adana.        | 20. Lemnos.   |
| 9. Cyprus.       | 21. Tenedos.  |
| 10. Dardanelles. | 22. Teke.     |
| 11. Jerusalem.   | 23. Kodjaili. |
| 12. Gallipoli.   |               |

The following are the firmans, &c., &c., which have been published by the Porte for the suppression of the slave trade:—

1. In January 1847 the slave market at Constantinople was abolished by order of the Sultan; private sales still being allowed, but no public exposure of the slaves being permitted.

11. In a viziral letter to the Pasha of Jeddah, dated December 27, 1857, it was stated that the black slave trade had been abolished in every part of the Sultan's dominions, and instructions were given to the Pasha to force the Kaimakam of Massowah to renounce the same.

F. O. Paper 2,583, 1875, p. 12.

2. In February 1847 the Sultan prohibited the importation of slaves to ports in the Persian Gulf, and ordered a Turkish squadron to be sent to the Gulf to cruize with the British vessels of war, in order to prevent a continuance of the traffic in slaves within those waters.

12. A second letter to the same Pasha, in 1858, instructed him to prevent the sale and purchase of black slaves in Massowah.

Do., p. 12.

3. By two viziral letters addressed to the Pasha of Tripoli in April and September 1848, the Porte forbid all public functionaries from taking part in the slave trade.

13. Two similar letters, in the same year, were addressed to the Pasha of Tripoli and the Kaimakam of Bengazi to suppress the slave trade at the latter place.

Do., p. 13.

4. By a viziral letter, dated November 13, 1850, all embarkations of slaves on board vessels belonging to the Turkish Government was prohibited.

14. On the 17th of November 1858 a letter was addressed to the Pasha of Tripoli West, instructing him to enforce the firman of January 1857 in his province.

Do., p. 13.

5. By a firman, dated October 1, 1854, the taking of women and children from Georgia and selling them as slaves was prohibited and made punishable.

15. In a letter dated June 21, 1859, to the Governor of Jeddah, the export and import of slaves from Massowah was strictly forbidden.

Do., p. 14.

6. By another firman written in the same month and year as the preceding one, orders were given to dissuade the Circassians from selling their children and relations as slaves, and from stealing each other's children for the purpose of sale. Mustafa Pacha, to whom the firman was addressed, was desired to use his best efforts to carry out these orders, to inflict punishment, if necessary, and to the exportation by sea of such slaves.

16. In October of the same year letters were sent to the Governor General of Tripoli, and to the Pasha of Salonica, in which it was stated that, as it was understood to have become the practice to transport and import negro slaves under the pretence that they were free passengers, an inquiry was to be made in all cases of negroes, whether male or female, leaving Tripoli West, for the purpose of ascertaining whether they be really free or not; and the Pasha of Salonica was told to liberate all negroes arriving in his province if found to be slaves.

Do., p. 15.

7. By a viziral letter addressed to the Governors of Batoom and Trebizond on the 1st of December 1854, they were told to act in concert with the admirals of the English and French fleets, then in the Black Sea, for the purpose of preventing the export of any slaves from Circassia.

17. In a letter from the Egyptian Government to the Governor of Suez, dated January 9, 1865, it was stated, that it had been for some time past the duty of the employés of the Government to examine negroes arriving in vessels, &c. to see if they were free, and had documents to that effect, and if so, to send them to the police of Cairo to prove that they had obtained their freedom, or, in the contrary case, to give them an emancipation letter; but that as it was rumoured that slaves continued to be brought by certain steamers, the Governor was instructed to go on board every steamer or vessel, &c. arriving at Suez, or to send his agent in his absence, taking with him one or two employés of foreign Powers as witnesses, in order to examine any negroes on board, and to carry out the instructions of the Government. He was also told to give all free negroes the option of remaining with their masters, or of leaving them if dissatisfied.

Do., p. 16.

8. In a viziral letter of the 18th of March 1855, addressed to the Pasha of Tripoli, it was ordered that the slave traffic between Africa and the Island of Candia should cease.

18. In a note dated Cairo, March 19, 1865, sent to Sir H. Bulwer by Cherif Pasha, the latter stated that the best way of putting an end to the slave trade, of which Soudan was the source, would be to decree that all vessels coming from the White Nile with negroes on board should be detained and examined, &c.; and that if found to contain slaves, the slaves should be liberated, and the vessels condemned and confiscated, &c. &c. He then proposed regulations respecting the passage of foreigners through that country.

Do., p. 16.

9. A viziral letter was addressed to the Governor of Trebizond, dated March 24, 1855, ordering him to enforce the orders already given with reference to the slave trade in Georgia and Circassia.

H. T., vol. x., p. 1097, and F. O. Paper, 2,583, 1875, p. 10.

10. By a firman and letter of January 1857, addressed to the Pasha of Egypt and the Governor-Generals of Tripoli and Bagdad, all importation of slaves from the Province of Western Tripoli was forbidden, the latter place being, according to this firman, "the Mediterranean outlet for any place whatever." Eight weeks law was to be allowed to slave dealers in the interior of Africa, six weeks to those in the Mediterranean, and three months to those in the Persian Gulf. All slaves arriving after that date were to be liberated; cruizers were to be sent to the Persian Gulf to confiscate all ships they might meet with negro slaves on board. This firman did not liberate slaves imported before its date, but declared the publication and sale of them to be henceforth forbidden.

It also declared the return of freshly imported slaves to their own country after liberation to be forbidden, "as it would only expose their lives to fresh dangers," but that they were to be cared for, and enabled to earn their livelihood.

The sacred province of Hedjaz, owing to "well-known circumstances of delicacy," was exempted for a time

## TURKEY.

F. O. Paper,  
2,583, 1875,  
p. 18.

19. In April 1865, the Kaimakam of Massowah received orders from the Governor General of Hedjaz directing him (under instructions received from the Sublime Porte) to peremptorily interdict the slave traffic, which he accordingly did; and in May of the same year the British Government were informed by Aali Pasha that Massowah was no longer within the jurisdiction of the Government of Jeddah, but had been placed under the administration of the Viceroy of Egypt.

Do., p. 18.

20. In a despatch dated the 10th of August 1865, Sir H. Bulwer informed Earl Russell that the Porte still acknowledged the firmans of 1854 relative to the Circassian slave trade.

P. P. S. T.,  
Class C.,  
1869.

21. In a letter dated the 3rd of June 1869, the Governor of Tripoli was again instructed to put down the traffic in negro slaves.

F. O. Paper,  
2,583, 1875,  
p. 20.

22. Sir P. Francis, in a letter to Sir H. Elliot, dated August 12, 1870, reported upon the state of the law in the Ottoman Empire in respect of the slave trade and of slavery in that country. This letter is already before the Royal Commission in the series of printed documents furnished by the Foreign Office, and, therefore, it is not necessary for

me to detail it at length, but the following is the opinion which he arrived at on the subject of his report, viz:—

1. That slavery was still a legal institution in Turkey, in spite of vague professions of a desire to abolish it.
2. That the negro slave trade was illegal, though tolerated.
3. That slaves might be sold by private contract, but not by auction, or publicly.
4. That the white slave trade had never been prohibited.

23. In a circular to the Governor Generals of the Empire, dated May 1871, it was announced that the Khedive had appointed a Commission to inspect Egyptian vessels supposed to be engaged in the traffic of slaves, and that the said Governors were to report to him all vessels arriving in their districts found to be engaged in the traffic.

F. O. Paper,  
2,583, 1875,

24. By a circular addressed to the Governor Generals of the Vilazets of the Empire, dated July 8, 1872, they were informed that the slave markets in Constantinople and the Provinces were closed, and that all persons re-opening such markets or found engaged in this prohibited commerce should be punished by imprisonment.

Do., p. 22.

[For the status of slavery in Turkey, see also p. 141 of this Appendix.]

## EGYPT.

P. 107 of this  
Appendix.

Consul-General Stanton, in a despatch dated March 10, 1876, states that, although the traffic in slaves is prohibited by law in Egypt, yet that those laws are not very rigorously carried into effect, and that a contraband trade in slaves is still continued, although of late years a marked diminution has occurred in the number of slaves annually sold in Egypt. His Highness the Khedive has notified his readiness to enter into engagements with H.M.'s Government for the total suppression of the slave trade and slavery in Egypt within a certain number of years. Slaves in Egypt are not ill-treated, but considered as members of the household of their masters. Cases of fugitive slaves to the Consulate are rare, but, as a rule, they obtain their freedom when they do seek refuge there.\* The men so freed are generally enrolled in the army, the

## EGYPT.

women find domestic employment without difficulty, and the children of both sexes are received in the Government schools, which are kept up at the expense of the State. The local authorities are directed to free all slaves who apply to them for protection on account of ill-treatment when such ill-treatment is proven.

Great Britain, so far as I find, has concluded no treaties with Egypt with reference to slavery, but such treaties do exist with Tunis and Tripoli. The following is a précis of these treaties, to which I have added such declarations, &c. as have been made at different times by the Beys of those countries.

[For the status of slavery in Egypt, see also p. 107 of this Appendix.]

## TUNIS.

H. T., vol. 1,  
pp. 159, 157,  
and 164.

In the two treaties between Great Britain and Tunis of October, 5, 1662, and August 30, 1716, the following article appears, having reference to slavery:—

"That in case any slave in the Kingdom of Tunis, of any nation whatsoever, shall make his escape and get on board any ship belonging to the dominions of H.S.M. the King of Great Britain, &c., &c., the Consul shall not be liable to pay his ransom, unless timely notice be given him to order that none such be entertained; and then, if it appear that any slave hath so got away, the said Consul is to pay to his patron the price for which he was sold in the market, and if no price be set, then to pay 300 dollars, and no more."

In the treaty between the same Powers, of October 19, 1751, Articles 13 and 14 are as follows:—

"Art. 13. That in case any ships of war belonging to the Dominion of Tunis shall take, in any of their enemy's ships, any Englishmen serving for wages, they are to be made slaves, but if merchants or passengers, they are to enjoy their liberty and goods free.

"Art. 14. That if any slave of Tunis shall make his escape from thence, and get on board an English man-of-war, the said slave shall be free, and neither the English Consul, nor any of his nation, shall in any manner be questioned about the same."

This treaty was renewed by the treaty of June 22, 1762.

By a Declaration of the Bey of Tunis, signed on the 17th of April 1816, he declared that no prisoners made by him during a war with any European Power should be consigned to slavery.

A Declaration, of April 29, 1841, states that the exportation of slaves from the territories of Tunis had been forbidden.

A *Second*, of September 6 of the same year, announces that the Bey had closed slave markets, and had caused the tax thereon to be discontinued.

A *Third*, of April 27, 1842, is to the effect that orders had been sent by the Bey to the Governors and slave dealers not to permit any slaves to enter his dominions, and that all slaves so entering after the date of those orders were to obtain their freedom.

In a *Fourth*, dated January 23, 1846, the Bey declared that

## TUNIS.

he had abolished "men's slavery" in all his dominions, inasmuch as he regarded all slaves who were on his territory as free, and did not recognise the legality of their being kept as property; also, that all slaves touching his territory by sea or land became free.

The above-mentioned treaties were replaced by the Treaty between Great Britain and Tunis of July 19, 1875.

By the 37th Article of that Treaty it was provided that "whilst, on the one part, the British Government engage not to release their efforts with friendly powers for the prevention of the barbarous traffic in human beings, and for the emancipation of slaves, His Highness the Bey especially engages, on the other, to cause the Declaration of Moharun (23rd January 1846), abolishing for ever slavery in the Regency, to be obeyed and respected, and to use his utmost efforts to discover and punish all persons within his Regency who contravene or act contrary thereto."

Consul-General Wood, in a despatch dated March 14, 1876, states that the traffic in slaves has virtually ceased in the Regency of Tunis since 1846; that a few slaves may still be imported clandestinely by way of the Sahara, or across the borders of Tripoli; that it is the custom for H.M.'s Consul-General to procure the manumission papers of all slaves, whether male or female, who take refuge in it, as also of those slaves secretly brought overland or by sea, without ever experiencing any difficulty on the part of the Tunisian Government; that but few slaves are employed to work in the fields; that slaves are perfectly aware that they can obtain their manumission papers from the local authorities by seeking refuge in, or applying to, the British Consulate; that the slaves in harems are very well treated, and when married are generally given their freedom; that no child born a Mussulman can be sold into slavery; that the female slaves emancipated by the Consul are handed over to a very respectable negro chief, who either procures husbands or finds employment for them; and that slaves are now such an insecure property that the natives do not care to invest their money in them.

[For the status of slavery in Tunis, see also p. 140 of this Appendix.]

\* The liberation of slaves who may seek refuge in H.M.'s Consulates in Egypt, is accorded through the courtesy of the Khedive, and not under any right by Treaty.

## TRIPOLI.

In the Treaty of October 18, 1662, between Great Britain and Tripoli, the only Article relating to slavery is identical with that given above in the Treaty with Tunis of October 5 of the same year.

The Treaty between the same powers of March 5, 1675, contains the following Article:—

"That when any of H.M.'s ships of war shall appear before Tripoli, upon notice thereof given to the English Consul, or by the Commander of the said ships, to the chief Governors of Tripoli, public proclamation should be immediately made to secure the Christian captives; and if after that any Christians whatsoever make their escape on board any of the said ships of war, they shall not be required back again, nor shall the said Consul or

"Commander, or any other His said Majesty's subjects be obliged to pay anything for the said Christians."

The provisions of the above Treaty were renewed by subsequent Treaties bearing the following dates:—

1. May 1, 1676.
2. July 19, 1716.
3. September 19, 1751.
4. July 22, 1762.
5. May 10, 1812.

A Declaration of the Bey of Tripoli, dated April 29, 1816, forbids the sale as slaves of any prisoners of war.

[For the status of slavery in Tripoli, see also p. 140 of this Appendix.]

TRIPOLI.

H.T., vol. 1,  
p. 134.  
Do., p. 141.  
Do., p. 143.  
Do., p. 151.  
Do., p. 152.  
Do., p. 156.

## No. 6.—PERSIA.

By two firmans of the Shah of Persia, dated the 12th of June 1848, and addressed to the Governors of Fars, and of Ispahan and Persian Arabia, the export and import of negroes by sea (but by no means by land) was prohibited in the Persian dominions.

In August 1851 a Convention was concluded between Great Britain and Persia for the prevention of the slave trade, by the search and detention of Persian vessels by British and East India Company's cruisers. This right was to last for 11 years only, commencing from January 1852; and it was only to include Persian *Merchant* vessels, no interference whatever being permitted with Government vessels; the Persian Government agreed, however, that in no manner whatever should any negro slaves be imported in the vessels of the said Government.

The search of such mercantile vessels, and those of subjects of Persia, was to be effected from first to last with the co-operation, intervention, and knowledge of Persian officers, who were to be on board the vessels of the English Government.

The vessels so searched were not to be detained longer than was necessary for such search to be effected, and if slaves were found on board, the importers thereof were to suffer no other loss than that of the slaves. The vessel itself was to be deli-

vered to the authorities of the Persian ports by and with the co-operation of the Persian officers on board of the British cruisers, and to be dealt with, and the importers of the slaves to be punished, according to Persian law. No interference was to be permitted with the Persian trading vessels without the co-operation of the officers of that Government, but the said officers were ordered not to be remiss in the duty committed to them.

Any slave residing in Persia before the date of this Convention, and wishing to proceed by sea on a pilgrimage to Mecca or to India, or to travel by sea, was to be provided with a passport, to be obtained from the Persian Passport Office at Bushire, with the knowledge of the British resident at that place, such passport to be valid for the 11 years during which the Convention was to last, and no exceptions were to be taken to any slave holding such a passport.

By the 13th Article of the Treaty of Peace between Great Britain and Persia, signed on the 4th of March 1857, it was agreed to renew and continue in force the above Convention of August 1851 for the further space of 10 years after the date at which it expired (the month of August 1862), and for so long afterwards as neither of the contracting parties should, by a formal declaration, annul it, such declaration not to take effect until one year after it should be made.

PERSIA.

H.T., vol. x.,  
p. 947.

## No. 7.—ARABIA.

## PERSIAN GULF.

On the 8th of January 1820, a Treaty or "Maritime Truce," was concluded by Great Britain with the friendly Arabs at Ras el Khyma.

The Sheik of Bahrein acceded to the same, and the following is a list of the Chiefs who signed it:—

1. Hassan Bin Rama.
2. Sultan Bin Suggest.
3. The Sheik of Dubey.
4. Sheik Shakbool.
5. Hassan Bin Ali.

The provisions of this Treaty were as follows:—

A. Cessation of plunder and piracy by land and sea for ever by the contracting Arabs.

B. Any individual of the people of the contracting Arabs committing an act of piracy shall be held as having forfeited his life and goods.

C. The friendly Arabs shall adopt as their flag the one known in the British Navy by the title of the "white pierced red." And they shall use no other flag.

D. The friendly (literally pacificated) Arabs shall continue in their former relations, except that they shall be at peace with the British Government, and shall not fight with each other, and the flag shall be a symbol of this only, and of nothing further.

E. The vessels of the friendly Arabs shall have a register, signed by their Chief, in which shall be the name, length, and breadth of the vessel, and how many karahs it holds; they shall also have a port clearance, likewise signed by their Chief, giving the names of the owner and Nachodah, the number of men and arms, from whence sailed, at what time, and to what port bound; if met by a British vessel, they shall produce their register and clearance.

F. The friendly Arabs may send an envoy to the British Residency in the Persian Gulf to remain for the transaction of business. The Residency and the British Government may likewise send an envoy, who shall affix his signature to the registers given to vessels, such signature to be renewed every year.

G. If any tribe, or others, shall not desist from plunder or piracy, the friendly Arabs shall act against them ac-

ording to their ability and circumstances; an arrangement shall be come to between them and the British when such plunder and piracy shall occur.

H. The putting to death of any men, either Mohammedans or others, after they have given up their arms, is an act of piracy, and any tribe having done this shall be held to have broken the peace, and the friendly Arabs shall act against them in conjunction with the British.

I. The carrying off of slaves, men, women, or children from the coasts of Africa, or elsewhere, and the transporting them in vessels, is plunder and piracy, and the friendly Arabs shall do nothing of this nature.

J. The vessels of the friendly Arabs bearing their flag shall enter into all the British ports and those of the allies of the British, and shall buy and sell therein, and if any shall attack them the British Government shall take notice of it.

K. The aforesaid conditions to be common to all tribes and persons adhering thereto hereafter, in the same manner as to those who adhered to them at the signing thereof.

On the 17th of April 1838 an agreement was come to with Sultan Bin Suggest, Rashid Ben Humeed, Mukhtoom Ben Buttaye, and Khaleefa Ben Shakbool, Chiefs of Ras el Khyma, Ejinan, Debaye, and Aboothabee, to the following effect:—

That all vessels connected with their ports might be detained and searched by British cruisers whenever fallen in with, if suspected of being employed in the carrying off (literally stealing) and embarkation of slaves, men, women, or children; and if it be ascertained that the crew were employed in the aforesaid way, then their vessels should be liable to seizure and confiscation by such cruisers.

By an agreement with Sheik Sultan Bin Suggest, signed off Ras el Khyma on July 3, 1839, it was provided:—

A. That when any of his vessels or those of his subjects were met by British cruisers beyond a direct line drawn from Cape Delgado, passing two degrees seaward of the Island of Socotra and ending at Cape Guadel, and be suspected to be engaged in the slave trade, the said cruisers were to be permitted to detain and search them.

PERSIAN  
GULF.

H.T., vol. 8,  
p. 797.

Do.

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b. That if the said vessels should be proved, on examination, to be carrying slaves for sale beyond the aforesaid line, then the Government cruisers were to seize such vessels and their cargoes, except when they should pass beyond the aforesaid line, owing to stress of weather or other cause of necessity not under control.

c. That, as the Mohammedan religion forbids the sale of all free males or females, whether grown up or young, and that as the Soomali tribe is included in the "ahrar," or free, the Sultan agreed that the sale of such male or females, &c. of the Soomali tribe should be considered as piracy, and that four months after the date of this agreement all his people convicted of being concerned in such an act shall be punished the same as pirates.

Agreements similar to the above were entered into by—

1. Sheik Khuleefa Bin Shakbool, of Aboothabie, on the 1st July 1839.
2. Sheik Muktoom, of Debaye, on the 2nd July 1839.
3. Sheik Abdoolah Bin Rashid, of Amulgavine, on the same date.
4. The Imaum of Muscat on the 17th December 1839.

On the 1st of June 1843 a Convention was concluded, under British mediation, between the Chiefs of the Arabian coast in the Persian Gulf for another "maritime truce" of ten years, the terms of which were as follows:—

A. That from the 1st of June 1843 to May 1853 an inviolable truce was to be established, during which period the several claims of the contracting parties were to rest in abeyance.

B. That redress was to be immediately afforded by the parties to the agreement in the event of any acts of aggression being committed at sea by the subjects or dependents of either, upon the subjects or dependents of the other, on the same being brought to notice.

C. That in the event of any acts of aggression being committed at sea by any of the subjects or dependents of the parties to the agreement, the other would not proceed to retaliate immediately, but would inform the British Resident or the Commodore of Bassadore, who would forthwith take the necessary steps for obtaining reparation for the injury inflicted, provided that its occurrence could be satisfactorily proved.

D. That at the end of the truce, an extension thereof should be arranged if possible, and that in the event of its proving impracticable, the parties to the engagement were to give notice to the British Resident of their intention to renew hostilities.

This Convention was signed by the following Chiefs:—

1. Sultan Bin Suggur, Chief of the Joasme Tribe.
2. Khalifa Bin Shukhboot, Chief of the Beni Yas.

3. Muktoom Bin Butye, Chief of the Boo Falasa.

4. Abdoolah Bin Rashid, Chief of Amulgavine.

5. Abdool Azeez Bin Rashid, Chief of Ejmaun.

The above "maritime truce" was substituted by a treaty of "perpetual peace," signed on the 4th of May 1853.

The terms of the same are identical with the former truce, with the exception of a further agreement, which declared that they are binding for ever on the contracting parties, and that the maintenance of the peace was to be watched over by the British Government, who was to take steps to ensure at all times the due observance of the articles of the treaty.

This Treaty was signed by the following Chiefs:—

1. Abdoolah Bin Rashid, Chief of Amalgavine.
2. Hamed Bin Rashid, Chief of Ejman.
3. Saeed Bin Butye, Chief of Debaye.
4. Saeed Bin Tahnoon, Chief of the Beni Yas.
5. Sultan Bin Suggur, Chief of the Joasmees.

In the spring of 1847 fresh engagements were entered into by the Arabian Chiefs of the Persian Gulf for the suppression of the slave trade, at the request of Major Hennell, British Resident of the Persian Gulf. The provisions of the same were as follows:—

A. All export of slaves from the coast of Africa and elsewhere on board of vessels belonging to the contracting Chiefs or their subjects or dependents to be prohibited from December 10, 1847.

B. The right of detention, search, seizure, and confiscation given to British cruisers to carry the above prohibition into effect.

These engagements were signed by the following Chiefs on the dates given:—

1. Sultan Ben Suggur, Sheik of Ras el Khyma, and Chargah, Chief of the Joasme Tribes, April 30, 1847.
2. Muktoom Bin Buttye, Sheik of Debaye, April 30, 1847.
3. Abdool Azeez Bin Rashid, Sheik of Ejman, May 1, 1847.
4. Abdoolah Bin Rashid, Sheik of Amulgavine, May 1, 1847.
5. Saeed Bin Tahnoon, Sheik of Aboothabee, May 3, 1847.
6. Mahomed Bin Khuleefa, Chief of Bahrein, May 8, 1847.

These engagements were renewed in 1872 by the Chiefs of the above-named places, at the request of Colonel Pelly, Political Resident in the Persian Gulf, and at that time attached to Sir Bartle Frere's Mission to the East Coast of Africa.

H.T. vol. 9,  
p. 618.

H. T., vol. 8,  
p. 798.

P. P., No.  
1,549, 1873,  
pp. 93-97.

GULF  
OF OMAN.

H. T., vol. 9,  
p. 715.

SOHAR.—On the 22nd of May 1849 the Chief of Sohar, Synd Suif Bin Hamood, entered into an engagement with Major Hennell, which was identical with those signed in 1847 by the Chiefs of the Persian Gulf.\*

MUSCAT.—(For the treaties with the Imaums of Muscat, "see ZANZIBAR and MUSCAT.")

## GULF OF OMAN.

GULF  
OF ADEN.

P. P., S. T.,  
No. 4, 1874.

MACULLA.—By a treaty signed by the Nukeeb of Maculla and the Governor of Aden on the 14th of May 1863, the export and import of slaves into Maculla was prohibited, and vessels so employed were ordered to be seized and confiscated by the Nukeeb or British ships, and the slaves to be released. The above treaty was renewed by a treaty signed by Sir Bartle Frere and Silah Mahommed, the Nukeeb of Maculla, on behalf of himself and his heirs and successors, on the 7th of April 1873.

SHUHR.—A treaty similar to that with the Nukeeb of Maculla was signed on the 14th of May 1863, by the Jenadar of Shuhr and the Governor of Aden, which was renewed by the treaty of November 17th, 1873, signed by the Jenadar and his brothers, for their heirs and successors, and the British Political Resident at Aden.

EAST AFRICAN COAST OF GULF.—In October 1855 a treaty was signed by the Governor of Aden and the Chiefs of the several tribes of Oulakis, Somali, and Habr Taljala, by which they bound themselves to prohibit the export of slaves from Africa, and declared that any vessel found carrying slaves should be seized and confiscated, and the slaves released.

On November 7th, 1856, another treaty was signed a Berbera by the British Political Resident of Aden and the Sheiks of the Habr Owul, tribe of Somalis. By the 4th Article of this treaty it was provided, that the traffic in slaves throughout the Habr Owul territories, including the port of Berbera, shall cease for ever, and that any slave

or slaves who, contrary to the engagement, should be introduced into the said territories should be delivered up to the British, and that the commander of any vessel of H.B.M.'s Navy or of the navy of the East India Company shall have the power of demanding the surrender of such slave or slaves, and of supporting the demand by force of arms if necessary.

I think the following extract from a letter addressed to the Earl of Clarendon by Doctor Livingstone in June 1866 might interest the Royal Commission, as it gives his opinion as to slavery in Arabia:—

"Extract.

"DR. LIVINGSTONE to the EARL OF CLARENDON.

"East Africa, lat. 11° 18 S.

long. 37° 10' E.

"June 11th, 1866.

\* \* \* \* \*

"But let us calmly view the subject of stopping the external slave trade in connection with what is universally admitted to be the normal condition of slavery among the Arabs. It is the mildest possible form; the master lives with his slaves as the father of the family. He dislikes toil, and is too indolent to force others to work for more than the mere necessities of life. This indolence is frankly avowed at Zanzibar, and as the Arabs there form

\* I am informed that Sohar now forms part of Muscat.

H. T., vol. 13,  
p. 9.

H. T., vol. 13,  
p. 10.

S. P., vol. 59,  
pp. 1022-3.

"no exception to the generality of Arabian slaveholders, it does not appear very obvious why the mere cessation of large additions to the existing number of slaves should produce the frightful convulsions predicted. The abolition of the external slave trade would leave the rela-

tionship of master and slave exactly as it is at present, with the exception that the slave would be of increased value, and therefore less likely to be discarded than before."

GULF  
OF ADEN.

## No. 8.—ZANZIBAR AND MUSCAT.

Zanzibar and Muscat formed but one country until it was finally separated in April 1861 by the award of Lord Canning, then Governor-General of India, who had been chosen as arbitrator by the two rival brothers, Syeed Thowaynee then reigning in Muscat, and Syeed Majid then reigning in Zanzibar.

For this reason I have included these two countries in the same précis of the treaties concluded by H.M.'s Government with those Powers, and, by the permission of Mr. E. Hertslet, C.B., librarian, &c. of the Foreign Office, I commence it by giving in extenso his memorandum on the same subject drawn up in 1871.

"MEMORANDUM ON TREATIES with ZANZIBAR and MUSCAT, by Mr. E. HERTSLET, C.B., &c. &c., dated January 31st, 1871.

"The following is a list of the treaties and engagements now in force between Great Britain and the Sultans of Muscat and Zanzibar relating to slave trade, commerce, &c. :—

"Treaty, slave trade, 10th September 1822.

"Convention, commerce, slave trade, &c., 31st May 1839.

"Additional article, slave trade, 17th December 1839.

"Agreement, slave trade, 2nd October 1845.

"Declaration, slave trade, 6th May 1850.

"By the treaty of 10th September 1822, it was agreed, among other things, that all traffic in slaves to foreign countries should cease and be abolished for ever from the dominions and dependencies of the Sultan of Muscat; and orders were accordingly issued at Zanzibar, and throughout all the dominions and dependencies of the Imaum of Muscat, on the coasts of Arabia, Africa, &c., to all his officers, to prohibit the sale of slaves to all foreign nations, &c. By this treaty permission was also given to the British Government to have an agent at Zanzibar and the neighbouring parts, for the purpose of giving intelligence, and watching the traffic in slaves with Christian nations.

"The validity of this treaty was not affected by the separation of Zanzibar from Muscat in 1861; and it is therefore in force in Zanzibar.

"On the 31st May 1839, a Convention was concluded between Her Majesty and the Sultan of Muscat, whereby the 'engagements' entered into by the Sultan on the 10th September 1822, for the suppression of the slave trade, were renewed and confirmed.

"By this Convention British subjects were also permitted to enter, reside in, trade with, and pass, with their merchandize, through all parts of the dominions of the Sultan of Muscat, and to enjoy all the privileges and advantages, with respect to commerce or otherwise, which were, or might be, accorded to the subjects or citizens of the most favoured nation.

"It also contains stipulations with regard to the inviolability of the dwelling-houses or premises of British subjects, the appointment of Consuls, the employment by British subjects of the subjects of the Sultan, and their protection while so employed; the jurisdiction of the British Consul, or Resident Agent, over British subjects; the disposal of the property of deceased British subjects; the steps to be taken in cases of bankruptcy; the amount of duty to be levied on imports; the freedom of trade; the assistance and protection to be afforded to wrecked vessels, &c.

"On December 17th, 1839, three additional articles were concluded to the treaty of 1822, authorizing the detention of Muscat vessels by English cruisers beyond certain limits, unless driven thither by stress of weather; and declaring the sale of the 'Soomalee Tribe' to be piracy.

"On October 20th, 1845, a further agreement was concluded between Great Britain and the Sultan of Muscat, his heirs and successors, prohibiting the export of slaves from Africa, as well as their import from Africa into Asia, Arabia, the Red Sea, or Persian Gulf; and authorizing the seizure and confiscation of Muscat slave vessels by British ships of war and East India Company's ships, excepting only such as were engaged in the transport of slaves between Lamoo and Keelwa on the mainland to the islands.

"On May 6th, 1850, a declaration\* was signed by the Imaum of Muscat, in the shape of a letter addressed to Consul Hammerton, granting permission to British ships of war to enter the creeks, rivers, and harbours, to seize vessels engaged in the slave trade, and to destroy slave barracoons.

"On the death of the Imaum, Syeed Saeed, in 1857, his son, Syeed Thowaynee, who had been appointed 'deputy and successor' in Muscat during his father's lifetime, laid claim to Zanzibar, which had been governed by another son, Syeed Majid, also as 'deputy and successor,' during the lifetime of Sultan Syeed Saeed.

"An engagement, however, was entered into between them, by which Syeed Majid agreed to make his brother an annual payment of 40,000 crowns.

"A dispute soon arose regarding the nature of this payment, and whether it implied the dependence of Zanzibar on Muscat.

"War was threatened; but both parties were persuaded to refer the question to the arbitration of the Governor-General of India, and to abide by his decision.

"Lord Canning gave his award on April 2nd, 1861, to which both parties agreed, viz., that Syeed Majid should be declared Ruler of Zanzibar and the African Dominions of the late Syeed Saeed, and be subject to an annual payment (with arrears) of 40,000 crowns in perpetuity to Muscat, which payment was not to be considered as implying the dependence of Zanzibar on Muscat.

"On the 10th March 1862, a Declaration was signed between Great Britain and France, by which they mutually agreed to respect the independence of the Sultan of Muscat and the Sultan of Zanzibar.

"In October 1863 (20 Rabbi-ai-Akhir, 1,280), Sultan Syeed Majid, of Zanzibar, issued orders forbidding the export of slaves from the port of Kelwa; and on the 1st January 1864 (20 Regib, 1,280), he issued two notifications, one entirely prohibiting the transport of slaves during the season of exportation, viz., from the 1st January to the 1st May; and the other forbidding householders from renting houses to the Northern Arabs who visited Zanzibar for the purpose of kidnapping slaves. "Sultan Majid died a short time since, and the present Sultan (Seyeed Burgash), whilst recognizing the validity of the Treaties entered into by his father with the British Government, hesitates to be bound by the orders and notifications issued by Sultan Majid in 1863 and 1864."

ZANZIBAR  
AND  
MUSCAT.

Acheson's  
Treaties,  
vol. vii.,  
p. 324.

State  
Papers,  
vol. lvi.,  
p. 1396.

State  
Papers,  
vol. lvii.,  
p. 785.

I now divide this part of the précis into two heads, viz. :—

No. 1.—Zanzibar from 1868 to the present time.

No. 2.—Muscat do. do.

### 1.—ZANZIBAR.

On the 22nd of March 1868, the Sultan issued a decree—

- A. Forbidding the traffic of slaves during the monsoon (January 1st to May 30th), between the limits of Kilwa and Samoo.
- B. Forbidding the slave trade with the coast of Arabia.
- C. Forbidding the concealment of slaves for the Arabs.
- D. Offering awards to those giving information regarding slaves hidden in houses occupied by the Northern Arabs.

E. Forbidding the sale of slaves to the Arabs by strangers. Auctioneers unknown to the authorities are not to sell slaves during the monsoon; the authorized auctioneers to report all sales made during the same period. If any person be found buying more slaves in the monsoon than his means seem to warrant, an inquiry is to be made, and if it be discovered that he has sold any of such slaves to other than subjects of the Sultan, he shall be fined and imprisoned.

\* This declaration has not the same force as a treaty, but it must be assumed to be still in force, inasmuch as it has not been officially withdrawn.

ZANZIBAR.

## ZANZIBAR.

P. P., S. T.,  
Class B.,  
1869.

On the 20th of January 1869, notice was given to all natives of India in Zanzibar by Her Majesty's Political Agent and Consul residing there, to the effect that the Government of India had taken into their serious consideration the subject of the possession of slaves, and the carrying on of the slave trade by Kutchees and other natives of India in Zanzibar, and that they had deemed it urgent to issue orders, that although domestic slavery might, for a time, be tolerated to a certain extent amongst those already possessing slaves, all attempts at purchasing, selling, or trafficking in slaves should be summarily put down; and that the Indian Government would not entertain any claims for redress or compensation on that head. It then ordered all the holders of such slaves to present a list to the Political Agent, within a limit of 14 days for those residing in the town of Zanzibar, one month for those inhabiting the island of that name, and two months for those residing out of the island; and all slaves found in the possession of the natives of India after the time named should be set free, and the owner punished, unless sufficient excuse could be afforded for his non-appearance.

P. P., Do.

On the 24th April of the same year, the Rao of Kutch issued a proclamation to his subjects residing in Zanzibar, to the effect that he had given permission to the British Political Agent there to treat them as he would do British subjects, if they trafficked in slaves; and that he, the Rao, would entertain no claim for compensation for any punishments, &c. inflicted on them in Zanzibar, and that they would be considered as criminals, and liable to punishment in his own domain.

MS., Dr.  
Kirk, April  
5, 1870.

On the 19th of March 1870, the Sultan of Zanzibar issued a proclamation forbidding the import of the people of Oman as passengers.

P. P. (C.—  
820), 1873.

On the 9th of December 1872, Sir Bartle Frere left England on a special mission to Zanzibar and Muscat, with the object of concluding treaties with the two Sultans of those countries, for the suppression of the slave trade. The correspondence relating to this mission has been published in a blue book laid before Parliament in 1873, to which I must refer the Royal Commissioners for the full details of the same, and I will now simply give a précis of the treaty which Sir Bartle Frere concluded and signed with the Sultan of Zanzibar on the 5th of June 1873.

P. P., S. T.,  
No. 2, 1874.

By this treaty the Sultan binds himself and his heirs and successors to agree—

A. That from the date of the treaty all export of slaves from the coast of the mainland of Africa, whether destined for transport from one part of his dominions to another, or for conveyance to foreign parts, shall cease; and that all vessels engaged in the transport or conveyance of slaves after this date shall be liable to seizure and condemnation by all such naval or other officers or agents, and such courts as may be authorized by Her Majesty.

B. That all public markets for the sales of imported slaves in his dominions shall be entirely closed.

C. That all liberated slaves shall be protected, and all attempts to re-enslave them punished.

## MUSCAT.

P. P., S. T.,  
No. 1

On the 14th of April 1873, Sir Bartle Frere signed a treaty with the Sultan of Muscat, which is identical with the treaty signed by him with the Sultan of Zanzibar on the 5th of June of the same year, already given, and in this

## 2.—MUSCAT.

treaty with Muscat, the Sultan of that country agrees, that all persons entering his dominions and dependencies after the date of the treaty shall be free.

## MADAGASCAR.

H. T., vol. 1,  
p. 354.

On the 23rd of October 1817, a Treaty was concluded by Great Britain and King Radama of Madagascar, by which the King, in consideration of certain sums of money and articles of clothing, ammunition, &c. &c. to be paid and furnished to him yearly by the Governor of Mauritius, agreed—

A. That all sales or transfers of slaves from off the soil of Madagascar to any other country should cease.

B. That he should issue a proclamation to carry out the provisions of the Treaty, declaring that all persons offending against the same in any way should be punished by being reduced to slavery themselves.

C. That the King of Johanna should be protected against all predatory attacks; that King Radama should use all means in his power to put a final end to this system of piracy; and that for this end proclamations should be issued by His Majesty and the Governor of Mauritius, prohibiting all persons from engaging in this piracy.

By an additional Article it was agreed that this Treaty should be considered as provisional until ratified and con-

## No. 9.—MADAGASCAR.

firmed by the King of Great Britain, but that this formality was not to prevent the stipulations of the Treaty from being carried into full effect from the date thereof.

On the very day of the signing the above Treaty, King Radama issued the Proclamation therein referred to.

On the 11th of October 1820, an additional Article to the former Treaty was concluded confirming the same, and providing—

A. That the Governor of Mauritius might send a certain number of subjects of Madagascar to England to be instructed in various trades.

B. That if the Governor should refuse to take charge of the said subjects, the Treaty became null, without, however, compromising the word or promise of King Radama.

C. That the latter should issue a proclamation notifying the abolition of the exportation of slaves from within his dominions, and inviting all persons of talent, or skilled in any trade or profession, to come and visit his country, he engaging to protect the same.

D. That all natives of Indian states under British protection shall be prohibited from possessing slaves, and from acquiring fresh slaves in the meantime, from the date of the signing of this treaty.

The Sultan's ratification was attached to the original treaty. That of Her Majesty was delivered to the Sultan in September 1873.

On the 17th of January 1874, Earl Granville received a despatch from Dr. Kirk, dated Zanzibar, December 9th, 1873, enclosing a provisional declaration of the meaning of the above treaty, signed by the Sultan and himself, which was to the following effect:—

A. That any Zanzibar vessel found carrying slaves, either as domestics, or serving as sailors against their will, but not for sale, shall, although liable to detention, no longer be destroyed or condemned; those slaves shall, however, in all cases be freed by the British authorities, and the vessel and cargo released, the Sultan engaging to punish the offenders, the owner or owners and the captain.

B. It was moreover declared to be distinctly understood that nothing written in this document should in any way affect or alter what had been agreed upon regarding vessels in which slaves are conveyed for sale.

On the 14th of July 1875, a further treaty was signed in London by the Sultan and the Earl of Derby, so as to remove any doubts which had arisen, or might arise, in regard to the interpretation of the treaty of June 5th, 1873. It only consists of three articles, which are as follows:—

## "ARTICLE I.

"The presence on board of a vessel of domestic slaves in attendance on or in discharge of the legitimate business of their masters, or of slaves *bond fide* employed in the navigation of the vessel, shall in no case of itself justify the seizure and condemnation of the vessel, provided that such slaves are not detained on board against their will. If any such slaves are detained on board against their will they shall be freed, but the vessel shall, nevertheless, not on that account alone be condemned.

## "ARTICLE II.

"All vessels found conveying slaves (other than domestic slaves in attendance on or in the discharge of the legitimate business of their masters, or slaves *bond fide* employed in the navigation of the vessels) to or from any part of His Highness' dominions, or of any foreign country, whether such slaves be destined for sale or not, shall be deemed guilty of carrying on the slave trade, and may be seized by any of Her Majesty's ships of war, and condemned by any British Court exercising Admiralty jurisdiction.

## "ARTICLE III.

"The present treaty shall be ratified, and the ratifications shall be exchanged at Zanzibar as soon as possible."

The Sultan's ratification was attached to the original treaty, and that of Her Majesty was delivered to the Sultan in Zanzibar, September 20th, 1875.

P. P., S. T.,  
No. 1, 1873.

P. P., Zanzibar,  
No. 1,  
1874.

H. T., vol. 3,  
p. 230.

H. T., vol. 3,  
p. 240.

King Radama issued this Proclamation on the date of the signature of the preceding Article.

On the 31st of May 1823, four additional Articles to the Treaty of 1817 were signed, by which it was agreed—

A. That the ships and vessels of H. B. Majesty should have power to seize and detain all ships and vessels carrying on, or aiding, or abetting in the traffic of slaves, whether they belong to subjects of Madagascar or to any other persons on the high seas, and in all the territorial waters of King Radama.

B. That the vessels, &c. so seized and detained should be delivered up for adjudication, either to officers named by the King of Radama, or might be dealt with according to the laws of Great Britain; and that all vessels so condemned, &c. should be confiscated with their cargoes, &c. for the benefit of King Radama, to be by him applied as he should judge fitting.

C. That all Madagascar subjects found in such ships as slaves should be returned to their owners and homes; but that if the slaves seized belonged to any other country they were to be sent to their homes, and in case this were impracticable, they were to be enrolled in King Radama's corps called the Serundahs, and maintained and provided for by him.

D. These Articles were to be considered provisional until ratified by H.B. Majesty.

On the 27th of June 1865, a Treaty of Peace, Friendship, and Commerce was concluded between Great Britain and the Queen of Madagascar, of which the following are the most important provisions bearing on the present question:—

A. That the subjects of the two Powers should have equal liberty to enter into, rent, or lease houses or lands in, trade with, and pass with their merchandize through, the territories, &c. of the two countries, as freely as the subjects of the most favoured nation.

B. Full religious liberty to be allowed to all Madagascar subjects, and British subjects to exercise and teach the Christian religion.

C. Each power to appoint agents and consuls for the protection of trade, to reside in the dominions of the other.

D. British subjects to have equal rights with the subjects of Madagascar; no house of a British subject to be visited without his consent or in concert with the British Consul, and he, on the other hand, to have no right to enter the house of a Madagascar subject against the will of the latter. The British subject to be free to hire any native not a slave or a soldier.

E. The trade to be free between the dominions of the two Powers, subject to a duty not exceeding 10 per cent.

F. British ships of war to be permitted to enter all the territorial waters of Madagascar, and to provide themselves with such stores, &c. as they may stand in need of. No Madagascar subject to be permitted to embark on board any British ship, except such as shall have received a passport from the Malagash authorities. The rights of sovereignty in all cases to be respected in the dominions of the one Sovereign by the subjects of the other.

G. British subjects to be tried by their own Consuls, except when disputes arise between subjects of the two countries, and in that case the British Consul to be aided by a Madagascar officer. A British subject offending against the laws of Madagascar to be banished. No British interference to be allowed in native disputes, or in disputes between natives and subjects of a third Power.

H. No interference to be allowed by the local authorities with British vessels of commerce, except at the request of

H.B.M.'s Consul. The local authorities to use every effort to apprehend and restore to the British Consul all deserters from the ships, &c. of his nation.

I. The property of the subjects of either Power dying in the country of the other to be delivered up to his heirs, &c., or else to the Consul of his nation.

J. If a vessel of either Power be plundered, the authorities of the country in which it took place to use all efforts to return such goods and punish the offenders.

K. The Queen of Madagascar engages to use every effort to suppress piracy in the waters, &c. under her control; not to give asylum or protection to any vessels or persons engaged in piracy; in no case to permit ships, *slaves*, or merchandize captured by pirates to be introduced or exposed for sale in her dominions; she concedes to Her Britannic Majesty the right to invest her officers, &c. with the power to enter at all times with vessels of war, or other vessels duly empowered, the ports, rivers, and creeks within the dominions of Madagascar, in order to capture all vessels engaged in piracy; and to seize and reserve, for the judgment of the proper authorities, all persons so offending.

L. The Queen of Madagascar engages to use every effort to suppress the slave trade, and to prevent all such traffic on the part of her subjects, and to prohibit all persons residing within her dominions, or subject to her, from countenancing or taking a share in the trade. No persons from beyond the sea shall be landed, purchased, or sold as slaves in any part of Madagascar. British cruisers to have the right to search all Malagash or Arab vessels suspected of being engaged in the slave trade, whether under sail or at anchor in the waters of Madagascar. All vessels engaged in the slave trade, when seized, to be dealt with by the British cruisers as if engaged in a piratical undertaking.

M. The ordeal of poison to be abolished in Madagascar, and in case of war between the two countries the prisoners taken are to be well treated and exchanged, and *not on any account to be made slaves or put to death.*

This Treaty was ratified on the 5th of July 1866.

On the 2nd of October 1874 the Queen of Madagascar issued a proclamation to the following effect:—

A. That all new persons imported into Madagascar from Mozambique since the 7th of June 1865, (the date of the treaty with Great Britain,) should no longer be slaves, but be reckoned amongst the Queen's free subjects.

B. That they should have their option of returning to their homes or remaining as free subjects in Madagascar.

C. That all persons concealing such Mozambiques as slaves, or refusing to free them, should be put in chains for ten years.

In a report received from Captain Ward, of H.M. ship "Thetis," Senior Officer on the East Coast of Africa, dated November 17th, 1875, he states, that in his opinion the above proclamation was never intended by the Ministers of the Queen of Madagascar to be anything more than a temporary expedient for the purpose of pleasing the British Government, and that they were perfectly well aware that it could not for many years, at least, be practically carried into effect, and that so far as he is aware, Majunga is the only one of the numerous stations along the N.W. coast where any attempt has been made by the Hova authorities to carry out the proclamation, but that they had, however, prohibited the import of Mozambiques, where there is a Hova Governor on that coast. He does not anticipate that many slaves will leave their masters, as they could not gain their living if they did.

MADAGASCAR.

MS., Cons. Pakenham, Nov. 2, 1874.

MS.

## No. 10.—COMORO ISLANDS.

The islands forming this group are as follows:—

1. Johanna.
2. Mohilla.
3. Comoro.
4. Mayotta (this island belongs to France).

### JOHANNA.

JOHANNA.

The provisions of the treaty of November 8th, 1844, concluded between Great Britain and Selim, the Sultan of Johanna, are as follows:—

A. The Sultan prohibits the foreign slave trade for ever in his dominions.

B. The Sultan orders the seizure of all vessels belonging to his subjects found carrying on the foreign slave traffic,

and the seizure and punishment of the captain and crew as pirates.

C. The commander and crew of every vessel belonging to the subjects of the Sultan, going from his dominions, engaged in the slave trade, shall be punished, if it be done without the order of the owner; if it be done by order of the owner, then he shall be punished.



## JOHANNA.

d. Every vessel shall be treated as if engaged in the slave traffic on board of which shall be found chains and fetters, &c. in greater numbers than two or three, sufficient for the correction of any of the crew who may be refractory.

e. British cruisers are authorized to seize all vessels of the Sultan's subjects found with slaves or with slave implements on board, after four months.

f. All such vessels to be seized, as dealers in slaves, by British cruisers, who are not provided with a "port clearance."

g. All vessels seized by British cruisers to be sent to the nearest British Vice-Admiralty Court for adjudication; and in the event of their being condemned, the slaves are to be set free, and the vessels and their cargoes to be sold for the profit of the two Governments.

This Treaty was ratified on the 10th of December 1845.

On the 3rd of June 1850 a Treaty of Friendship and Commerce was concluded between the same parties, and by the 8th Article of said Treaty, the ships and vessels of war of the East India Company were given the same rights of search, &c., for the suppression of the slave trade, as were accorded to H.B.M.'s cruisers by the Treaty of 1844.

By an engagement entered into by Abdallah, the Sultan of Johanna, at the request of Sir Bartle Frere, dated March 8, 1873, the former engaged to insure to all immigrants into the Island of Johanna the rights and privileges of free natives, and especially to protect any persons who might be rescued from slavery by vessels of H.B.M.'s navy, and who might be permitted by the orders of H.B.M.'s Government to reside in the island.

H. T., vol. 9,  
p. 546.

P. P., S. T.,  
No. 3, 1874.

## MOHILLA.

H. T., vol. x.,  
p. 34.

On the 16th of September 1854, a Treaty was concluded between Great Britain and Fombefatoma Ebntytolotoani Aboderchemani, Queen of Mohilla, for the suppression of the slave trade.

This Treaty is identical with the Treaty concluded with the Sultan of Johanna in 1844, just given, with two exceptions,—

1stly. That the Queen of Mohilla orders not only the

## MOHILLA.

seizure of the vessels of her own subjects found carrying on the foreign slave traffic, and the punishment of the captain and crew as pirates, but also that all other vessels bringing slaves to the island are to be treated in like manner.

2ndly. No mention is made that two or three chains and fetters are to be permitted on any vessel for the correction of the crew.

## COMORO.

H. T., vol. x.,  
p. 36.

On the 20th of September 1854, a treaty was concluded by Great Britain with Bonafooma, Chief of Ytsanda, Island of Comoro, for the suppression of the slave trade, which is identical with the preceding treaty, signed by the Queen of Mohilla.

H. T., vol. xi.,  
p. 2.

By an agreement entered into on the 29th of July 1861, by H.M.'s Government, and the Sultan Amadi, Chief of Muroi and other places in the Island of Comoro, the Sultan—

## COMORO.

a. Engages to prohibit all foreign traffic in slaves in his territories, as also the import of slaves into Muroi, or any place under his dominions; and

b. Consents to the seizure by H.M.'s ships-of-war of any vessels under his flag which may be met with having slaves on board, or slave fittings, or which shall not be provided with a proper pass under the Sultan's hand.

WEST  
COAST OF  
AFRICA.

## No. 11.—WEST COAST OF AFRICA.

THE following is a memorandum on the treaties concluded by Her Majesty's Government at different times with the petty Kings and Chiefs on the West Coast of Africa, which has been drawn up, at the request of the Royal Commission, by Mr. W. H. Wylde, Superintendent of the Slave Trade Department and Consular Division of the Foreign Office, and dated March 19, 1876:—

## " MEMORANDUM.

" We have treaties with nearly every independent King or Chief on the West African Coast, from about the 12th degree of north latitude to the 8th degree of south latitude, which is the northern limit of the Portuguese possessions on the West Coast of Africa, as acknowledged by Her Majesty's Government.

" The greater portion of these treaties are framed on the same model, and in reading two or three of them you have a type of them all.

" The larger proportion of them simply aimed at suppressing the traffic in slaves, which, at the time the treaties were made, was extensively carried on along the whole of the African Coast within the before-mentioned limits, including also the Portuguese possessions, which extend to Cape Frio in about the 18° S. latitude, but excluding, of course, the colonies held by the English, French, and Dutch. The so-called Kings, in many instances, were only very petty chiefs, owning a town or villages, with a small extent of adjoining territory, but it was found necessary to have agreements with all these

" chiefs, with the view to put an effectual stop to the slave trade.

" At all the principal rivers where a considerable trade is carried on, our treaties, in addition to stipulations for preventing slave traffic, contain provisions for regulating the legal trade, defining the duties to be paid on imports and exports, and constituting courts of equity, where disputes between the native and European traders are settled.

" Some of the treaties provide also that in case of disputes between neighbouring chiefs they shall submit their differences to the arbitration of the English Consuls under heavy penalties, in case of proceeding to hostilities without doing so. Some also contain provisions for the abolition of human sacrifices and of other barbarous customs, but none of them attempt to interfere with the status of domestic slavery.

" An alphabetical list of our treaty-engagements with uncivilised African states for the suppression of the slave trade up to the year 1864, ninety-seven in number, together with the treaties in extenso, will be found in the volume of ' Instructions for the Suppression of the Slave Trade,' 1865, at page 392 and following pages. A few treaties have been concluded since the volume of Slave Trade Instructions has been printed, which will be found in Hertslet's Commercial Treaties, but these treaties chiefly relate to trading matters, and to the settlement of disputes between rival chiefs or between the European and Native traders."

3, Richmond Terrace,  
Whitehall.

HENRY HOWARD.

LIST of COUNTRIES in which SLAVERY still exists (1876), with their Dependencies and Possessions in the various Quarters of the Globe.

Name of Country.	Dependencies and Possessions in—			
	Europe.	Africa.	America.	Asia.
SPAIN - -	Spanish Peninsula. Balearic Isles :— Iviza. Minorca. Majorca. Formentera.	Ceuta. In Morocco. In the Mediter- ranean. Jebha. " " Melilla. " " Zafrin Islands. " " Alboran Island. " " Santa Cruz or Aguadir. In Morocco. On Atlantic Coast. (Postal establishment.) Canary Islands. Off Atlantic Coast :— Palma. Gomera. Ferro. Teneriffe. Grand Canary. Fuerteventura. Lanzarote. Graciosa. Clara. Alegranza. Fernando Po Island (Bight of Biafra, Gulf of Guinea), with its Depend- encies :— Annobon Island. Corisco Island. Elobey. Cape St. John.	Cuba. West Indies. Isle of Pines. " Puerto Rico. " Crab Island. "	Philippine Islands. Between Pacific Ocean and China Seas.
PORTUGAL -	Continent of Portugal. Madeira, Islands of :— Madeira. Porto Santo. Desertas. Azore Islands :— Fayal. Pico San Jorge. Terceira. Angra. S. Miguel. Sta. Maria.	Cape Verd Islands. West Coast :— Bissao (Bissagos Islands). Bulama Island " Cacheo. Senegambia. Whydah. (Commercial factory. } Bight of Benin, No territorial } Gulf of Guinea. possession.) Ambriz. Angola. Loanda. } Lying between 8° and Benguela. } 18° south latitude. Mossamedes, &c. } Ambrizette. } Lying between 5° 12' Zaire or Congo } and 8° claimed by River. } Portugal; but sove- Cabinda. } reignty not recognized Molembo. } by Great Britain. St. Thomas Island. } Bight of Biafra. Principe Island. } Gulf of Guinea. East Coast :— Mozambique. } Lying between Sofala. } 10° 41' 12" and Quilimane. } 26° 30' south Lorenzo Marques, &c. } latitude.		Goa. India. Pegu. Salcete. " Bombay Presi- dency. Damao. " " Diu Is- land. " " Macao. China. "
BRAZIL - -	- - - -	- - - -	Territory on Atlantic coast of South America, extending from about 5° north latitude to about 33° south latitude.	
MOROCCO - -	- - - -	Territory in the Mediterranean and on West Coast of Africa.		
OTTOMAN DOMIN- IONS :— TURKEY -	Territories in Europe and on shores of Black Sea, Sea of Marmora, and Ægean Sea.	- - - -	- - - -	Territories in Asia Minor, on shores of Black Sea, Sea of Marmora, Persian Gulf, and Syria. Islands in Ægean Sea :— Lemnos. Mitylene. Tenedos. Lesbos. Patmos. Scio. Nikaria. Samos. Syria. Rhodes. Sporades Islands. Cnidus. Ruad, &c.

Name of Country.	Dependencies and Possessions in—			
	Europe.	Africa.	America.	Asia.
OTTOMAN DOMINIONS :— TURKEY— <i>cont.</i>	- - - -	- - - - -	- - - - -	Crete Island. Mediterranean. Cyprus Island. Levant. Arabian Coast of Red Sea :— Jeddah. Hedjaz. Loheia. Yemen. Hodeida. ” Mocha. ”
EGYPT - - - -	- - - - -	Territory bordering on the Mediterranean :— Alexandria, Cairo, &c. In Africa :— Lower Egypt. Soudan. Nubia. White Nile. Khartoum. Blue Nile. Upper Egypt. Sennar, &c. Red Sea. African Coast :— Suez to Zeila, including Suakin and Massowah. Zeila to Cape Guardafui ( <i>claimed</i> ).		
TUNIS - - - -	- - - - -	Territory bordering on the Mediterranean.		
TRIPOLI - - - -	- - - - -	Territory bordering on the Mediterranean.		
PERSIA - - - -	- - - - -	- - - - -	- - - - -	Territory extending from shores of Caspian Sea to Persian Gulf. Bushire, &c.
ARABIA— PERSIAN GULF - - - -	- - - - -	- - - - -	- - - - -	Aboothabee. Amulgavine. Bahrein. Debeye. Ras-el-Khyma. Shargah. Joasmee. Eginan.
GULF OF OMAN - - - -	- - - - -	- - - - -	- - - - -	Sohar. Muscat.
GULF OF ADEN - - - -	- - - - -	- - - - -	- - - - -	Maculla. Shuhr. Zeila. Soomalis. Berbera ” Oulaki tribe ” Habr Tajala tribe. Soomalis. Habr Owul tribe. Soomalis.
ZANZIBAR - - - -	- - - - -	Island of Zanzibar; and territory on East Coast of Africa, from Portuguese Possessions, in 10° 41' 12" south latitude, to Soomali country in the north, the boundary of which has not been clearly defined.		
MADAGASCAR - - - -	- - - - -	In Indian Ocean, off East Coast of Africa, lying between 12° and 26° south latitude.		
COMORO ISLANDS - - - -	- - - - -	In Indian Ocean, off East Coast of Africa, lying between 11° and 13° south latitude. Comoro island. ” Johanna island. ” Mohilla island. ” Mayotta (French).		
WEST COAST OF AFRICA.	- - - - -	See list next page.		

LIST of WEST AFRICAN KINGS and CHIEFS with whom GREAT BRITAIN has concluded TREATIES  
for the SUPPRESSION of the SLAVE TRADE.

Abbeokuta.  
Abo den Arfo.  
Aboh.  
Acassa.  
Adaffie.  
Addo.  
Adinnar Cooma.  
Afflowhoo.  
Aghwey.  
Ambrizette.  
Angiana.  
Antonio Lahou.  
Badagry.  
Baddiboo.  
Bareira.  
Batanga.  
Batanga Benito.  
Bento or Brass River.  
Bereira.  
Biaforos.  
Bimbia.  
Biombo.  
Biocck-ouse.  
Bolola.  
Bonny.  
Brekama.  
Bulola.  
Bussama.  
Cabenda.  
Cagnabac.  
Calabar, New.  
Calabar, Old.  
Cameroon.

Camma.  
Cantalicunda.  
Cape Lopez.  
Cape Mount.  
Cartabar.  
Chacoonda.  
Combo.  
Congo River.  
Corisco.  
Corro.  
Dahomey.  
Dobacoonda.  
Drewin.  
Egarra.  
Egba.  
Epé.  
Fouricaria.  
Gallinas.  
Garraway River.  
Goom Cork Way.  
Grand Bereby.  
Grand Lahou.  
Grand Popoe.  
Grand Sesters.  
Ivory Bay.  
Jaboo.  
Jack Jacques.  
Kaffu Bullom.  
Kaloomb.  
Kambia.  
Kinsembo.  
Kittam.  
Kykandy.

Lagos.  
Little Booton.  
Little Popoe.  
Locco Marsam.  
Macbatee.  
Malaghea.  
Malimba.  
Mambolo.  
Manna.  
Mooney.  
Morycaryah.  
Naloes.  
New Cestos.  
Nunez, Rio.  
Nyanibantang.  
Okeodan.  
Otondo.  
Pocrah.  
Pongas, Rio.  
Porto Novo.  
Ro Wollah.  
Samo.  
Scarcies, Small.  
Sherbro.  
Solyman.  
Soombia.  
St. Andrew.  
Sugury.  
Timmanees.  
Tintimar.  
Wonkafong.  
Woolli.  
Zanga Tanga.

E. HERTSLET.

Foreign Office,  
April 1st, 1876.

REPORTS from H. B. M.'s REPRESENTATIVES ABROAD as to the LAW and PRACTICE of FOREIGN COUNTRIES with reference to FUGITIVE SLAVES, and as to the STATUS OF SLAVERY in COUNTRIES still holding SLAVES.

I N D E X.

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DENMARK - - - -	- 107	NETHERLANDS - - - -	- 114	TUNIS - - - -	- 140
EGYPT - - - -	- 107	PORTUGAL - - - -	- 115	TURKEY - - - -	- 141
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I.—The ROYAL COMMISSION to the SECRETARY OF STATE, Home Office.

Brown's Hotel, 22, Dover Street, London,  
February 24th, 1876.

SIR,

I AM instructed by His Grace the Duke of Somerset, Chairman of the Royal Commission on the Fugitive Slave Question, to request you to obtain, through Her Majesty's Secretary of State for Foreign Affairs, from Her Majesty's Legations abroad, information as to the law and practice of foreign countries in regard to fugitive slaves.

I have, &c.

HENRY HOWARD,  
Secretary.

The Right Honourable  
The Secretary of State,  
Home Department.

as the Commission is nominated and about to commence its sittings.

I have, &c.  
DERBY.

Inclosure 2 in Mr Lister's note of February 26th, 1876.

The EARL OF DERBY to HER MAJESTY'S REPRESENTATIVES in TURKEY and EGYPT.

SIR,

Foreign Office, February 25, 1876.

I TRANSMIT to your Excellency herewith a copy of a Circular which I have addressed to H.M.'s representatives abroad requesting them to furnish a report on the law and practice of the countries in which they reside in regard to fugitive slaves, and I have to instruct your Excellency to also furnish any information which you may consider may be useful to the Royal Commission appointed to inquire into this subject.

I have, &c.  
DERBY.

1. The Right Honourable  
Sir Henry G. Elliot, G.C.B.,  
&c., &c., &c.,  
Constantinople.
2. Major-General Edward Stanton, C.B.,  
&c., &c., &c.,  
Alexandria.

II.—MR. LISTER to the ROYAL COMMISSION.

MR. LISTER presents his compliments to the Secretary to the Royal Commission on Fugitive Slaves, and, with reference to his application which has been forwarded to this Department by Mr. Secretary Cross, begs to forward herewith copies of despatches, as noted in the margin, which the Earl of Derby has addressed to Her Majesty's representatives abroad, calling for a report upon the law and practice in regard to the reception of fugitive slaves which obtain in the countries in which they severally reside.

The reports, when received, will be forwarded in due course for submission to the Royal Commissioners.

Foreign Office,  
February 26, 1876.

Inclosure 1 in Mr. Lister's note of February 26th, 1876.

The EARL OF DERBY to HER MAJESTY'S REPRESENTATIVES abroad.

MY LORD,

SIR,

Foreign Office, February 25, 1876.

THE Royal Commission appointed to inquire into the question of fugitive slaves having requested me to procure information as to the law and practice of foreign countries in regard to fugitive slaves, I have to request your Excellency to obtain this information with regard to the country to which you are accredited, and to furnish me with a report on the subject with as little delay as possible,

To Her Majesty's representatives at—  
Paris.  
Rome.  
United States  
(by telegraph).  
Madrid.  
Lisbon.  
St. Petersburg.  
Vienna.  
Berlin.  
The Hague.  
Stockholm.  
Copenhagen.  
Brussels.

III.—The ROYAL COMMISSION to the UNDER SECRETARY OF STATE, Foreign Office.

Royal Commission on Fugitive Slaves,

SIR,

8, Richmond Terrace, February 28th, 1876.

I AM directed by His Grace the Duke of Somerset, the Chairman of this Commission, to request you to move the Earl of Derby to afford him what information his Lordship may possess as to the present status of slaves in foreign countries, and, if necessary, to obtain such information through Her Majesty's Legations abroad.

I have, &c.

The Under Secretary of State,  
Foreign Office.

HENRY HOWARD,  
Secretary.

IV.—The UNDER SECRETARY OF STATE, Foreign Office,  
to the ROYAL COMMISSION.

Foreign Office, February 29th, 1876.  
SIR, I HAVE laid before the Earl of Derby your letter of yesterday requesting that his Lordship will afford the Fugitive Slave Commission any information which this Office may possess as to the present status of slaves in foreign countries, and I am, in reply, to request that you will state to the Chairman of the Royal Commission that Lord Derby will cause this information to be supplied, so far as this Department can furnish it, and has also addressed a Circular to Her Majesty's representatives and agents in the countries where slavery exists, instructing them to report on the subject.

A copy of this Circular is enclosed, and Lord Derby will be glad to be informed if the Royal Commission desire it to be sent to any other countries, or any further specific information to be asked for.

The Secretary of the  
Fugitive Slave Commission.

I am, &c.  
TENTERDEN.

Inclosure.

The SECRETARY OF STATE, Foreign Office, to HER  
MAJESTY'S REPRESENTATIVES and CONSULS  
abroad.

Foreign Office, February 29th, 1876.  
SIR, THE Royal Commission appointed to inquire into the question of fugitive slaves have requested me to procure information as to the present status of slaves in foreign countries, and I have accordingly to instruct you to furnish me with a report with as little delay as possible on the status of slaves in the possessions of the country in which you reside, and especially as to any measures in progress for emancipation.

I am, &c.

To Her Majesty's  
Representatives and Consuls  
at Countries named in the margin.

DERBY.

BELGIUM.

MR. LUMLEY to the EARL OF DERBY.

British Legation, Brussels,  
March 12th, 1876.  
MY LORD, ALTHOUGH Belgium possesses no vessels of war nor any public vessels except the mail steamers plying between Ostend and Dover, and a few revenue cutters; and although, so far as I am aware, no laws having reference to fugitive slaves exist in this country, still, as Belgium has acceded to the Slave Trade Treaty, I thought it right, on the receipt of your Lordship's despatch of the 25th ultimo, to address a note to Count Lynden, requesting him to furnish me with any information he might possess on the subject.

I have now the honour to forward to your Lordship a copy of Count Lynden's reply, stating that no regulations exist in the Belgian Legislation with reference to fugitive slaves.

The Right Honourable  
the Earl of Derby,  
&c. &c. &c.

I have, &c.  
J. SAVILE LUMLEY.

Inclosure in Mr. Lumley's Despatch of March 12th, 1876.

COUNT LYNDEN to MR. LUMLEY.

Ministère des Affaires Etrangères,  
Bruxelles, le 8 Mars 1876.  
Monsieur le Ministre,  
J'AI l'honneur d'informer votre Excellence en réponse à son office du 27 Février, qu'il n'existe dans la Législation Belge aucune disposition concernant les esclaves fugitifs.

Je saisis, &c.

Son Excellence  
Monsieur Savile Lumley,  
&c. &c. &c.

COMTE D'ASPREMONT LYNDEN.

BELGIUM.

BRAZIL.

MR. DRUMMOND to the EARL OF DERBY.

Petropolis, March 14, 1876.  
MY LORD, IN accordance with the instruction of your Lordship's telegram of the 5th instant, I have the honour to transmit herewith a report by Mr. O'Connor on the status of slaves and emancipation in Brazil.

The Right Hon. the Earl of Derby,  
&c. &c. &c.

I have, &c.  
VICTOR A. W. DRUMMOND.

Inclosure in Mr. Drummond's Despatch of March 14,  
1876.

REPORT by MR. N. R. O'CONNOR on the 'STATUS'  
of SLAVES in BRAZIL.

The Slave Emancipation Law of the 28th of September 1871 provided for the gradual abolition of slavery in Brazil.\* The enlightened public opinion of the country has since advanced in front of the progressive legislation then inaugurated. To-day the "status" of slaves in Brazil, although slavery still continues a legal institution of the State, may be considered anomalous. It is regarded as a necessary evil of the previously existing social and economic organization, but as one which is to be thrown off with the least possible delay, consistent with a due regard to the vested interests of large numbers of persons.

It is to be regretted that the laws still applicable to slaves are not more in accordance with the legislation

which has doomed the institution to annihilation, and that the pain of death for injury to masters by their slaves, and the scourge for trivial offences, are still to be met with in the Brazilian Penal Law; that no beneficial legislation has limited the hours of labour, nor forbidden the putting in irons and flogging of slaves who have incurred their masters' displeasure. But so long as slavery exists as a legal institution of the country, so long will it be accompanied by the degrading features which are inseparable from its existence. The slave is an instrument of profit, his life or his death is estimated by the marked value of his labouring power; his treatment is dependent on the humanity of his master; his life is one of continued toil. The slave is advertised in the newspapers for sale, like any other marketable object, and full particulars of his physical advantages are broadly set forth. A strong healthy slave between 14 and 25 years of age will fetch from one to two hundred pounds. Others are advertised for hire by the day, week, month, or year, while it is to be feared that behind this public traffic there is a still more loathsome one, where vice and avarice combine to prostitute the female slave, and to grow rich on the proceeds. The Chief of Police in Rio de Janeiro has not hesitated to put forth to public condemnation such practices as this last, and to propose that slave owners guilty thereof should forfeit their right to their slaves.

The liberty accorded to masters in the punishment of slaves is often, no doubt, productive of grievous abuse, but on the other hand, any very severe ill-treatment is restrained by the slave owner's interest in his slave, by the naturally kind disposition of the Brazilian, by the force of public opinion daily growing more favourable

BRAZIL.

\* See p. 81 of this Appendix.

## BRAZIL.

to the slave, and lastly by the position and consideration insensibly accorded to the slave from the feeling that his offspring are born free.

This latter consideration has peculiar force in a country like Brazil, where colour excites but little prejudice, suffers under no civil disabilities, and is to be found at the bar, in the colleges of medicine and theology, and where if the coloured man's wealth, so all his position, may compete with that of the white.

The treatment of the slave, which on the whole cannot be considered as cruel, varies very much with local and personal influences. In the large seaport towns of the empire the slave and the freeman are seen working side by side, mostly on the same terms, the one hardly distinguishable from the other, unless perhaps that the slave has occasionally longer hours of labour, and is punished somewhat more arbitrarily. They both enjoy frequent holidays. As a domestic servant the position of a slave is still more favourable, and he is often after a certain number of years of faithful service given his freedom. Nurses who have brought up the children of their masters are most frequently freed afterwards.

In the interior his position is less fortunate, and many painful characteristics are still attached to his lot. He seldom receives religious instruction (baptism however is now generally administered to the children of slaves), family ties are ignored, marriage discouraged if not forbidden, and the slave treated as an economic instrument, while fourteen hours a day's work may be looked upon as the average. But the enlightened legislation of 1871 which emancipated the womb, and prepared the way for the entry of the slave into the social hierarchy, which respected the vested interests of one party, while gradually yet surely reforming the position of the other, has done much to soften the relations between master and slave, and to encourage the generous impulses of a naturally kind and good hearted people.

The municipal and police laws regulate in some measure the relations between master and slave, and vary in the different provinces of the empire according to local traditions, prejudices, and influences. They are generally framed however, with humanity and justice; theft, insubordination, and such like offences are punished by the slave owner, who is generally unwilling to bring his slave to justice on account of the loss of his labour thereby entailed; serious crimes such as assault with bodily harm, murder, &c., are brought before a jury, and so far as I have been able to learn the laws affecting slaves are fairly carried out by the Government officials, against whom few complaints are heard. The traffic in slaves is still considerable. Great numbers are annually exported from the northern to the southern provinces where agricultural labour is more profitable, and the price of a slave from twenty to twenty-five pounds higher. The number of slaves stated officially to have arrived in Rio during the year 1874 is 7,644, of whom 7,015 arrived from the northern provinces and 629 from the southern; nearly all of them went on to the province of São Paulo, having been sold in Rio by slave dealers, of whom a great number exist in the capital, and who are open not unfrequently to serious charges on the score of inhumanity and immorality.

In order to facilitate a clearer understanding of the position, conduct, employment, &c. of slaves in Brazil, I have drawn up from the official reports of the several Ministries the following facts; but I regret that the statistics of slaves convicted of crimes, as given in the "Reports" of the Ministers of Justice are extremely meagre, and seldom state the nature of the crime. It does not appear, however, that any disproportionate number of slaves have come under the criminal jurisdiction of the state, but it is extremely difficult to deduce from this the conclusion that they are more free from crime than the free class, for it is to be remembered that a great deal of the judiciary power vested in the legal tribunals of the country as applicable to the free man is still, when the slave is the offender, assumed and exercised by the slave owners.

The Minister of Justice states that on the 1st January 1870, there were in the—

House of Detention, slaves	-	-	79
Entered in the same year	-	-	1,281
Discharged	-	-	1,298
On the 1st January 1871 there were in			
the House of Detention	-	-	83
Entered in the same year	-	-	1,304
Discharged	-	-	1,300

12 slaves were flogged (a punishment exclusively reserved for slaves) and 137 condemned to hard labour.

In 1872, 1873, and 1874 the above figures vary very little.

In his report of 1875 he states that on the 1st January 1874 there were in the House of Detention 152 persons, of whom 74 were slaves.

Received during year, 3,292, of whom 2,216 were slaves. Remained in House of Detention at the end of the year, 276, of whom 196 were slaves.

The Chief Officer of Police in his report of 1875 states the number of persons in the lock-up during 1874 to be 8878, of whom 2,441 were slaves, and the number of drivers of public vehicles in Rio to be 3,397, of whom 237 were slaves.

The Minister of Marine in his report of 1875 states that during the previous year 142,547 free sailors, and 6,444 slave sailors entered the ports of the Maritime Provinces, that 120,780 free sailors and 6,673 slave sailors left these ports; and estimating the number of free sailors in the 13 maritime provinces of the Empire at 41,241, he puts down the slave sailors as amounting to 3,642.

I enclose as marked in the margin, copies in translation of such laws affecting slavery as I have been able to collect in a short time, but which, I believe, are the principal ones of the Criminal Code on the subject.

The provisions of the Emancipation Law of the 28th September 1871 were reported to Her Majesty's Government in a despatch from this Legation of the 2nd October of the same year.\*

It will be my duty to show from the reports of the Minister of Finance and Agriculture of 1875, how far those provisions have been carried out, and at the same time to point out where they have fallen short of the expectations justly raised four years ago.

In cases where the sense of the Law of Emancipation required official explanation, it has been interpreted in a liberal and generous manner, generally very favourable to the slaves.

The Minister of Finance calculates the amount received under the heading "Emancipation Fund," and applicable to the liberation of slaves as follows:

1871-1872	1,050,185\$ 400	=	£116,689
1872-1873	1,533,146\$ 401	=	£170,349
1873-1874	1,218,188\$ 850	=	£135,354

But the estimate of receipts for the year 1874-1875 he calculates at only 1,133,070\$ 000 = £125,896, the average of the three former years having been 1,267,173\$ 550 = £140,796. This reduction is in consequence of the registration of slaves as ordered by the Law of September 28th, 1871, being now completed.

A table herewith enclosed, shows the amounts received and allotted to each province of the Empire, in accordance with the Emancipation Law of 1871, amounting in all to 4,386,809\$ 000 = £487,423. From this sum 395,315\$ 000 is deducted for the necessary expenses of collection, &c., thus leaving a balance of 3,991,494\$ 000 Reis = £443,499 in the Treasury, to be devoted towards the purchase of the freedom of slaves.

I regret to state that in the Minister's report, there is no account of the application of even a portion of this large accumulated fund towards the emancipation of slaves.

The Emancipation Fund must now amount to about £600,000, yet up to the present date it is not known what part, if indeed any, has been applied to the object for which by law it is intended.

This silence of the government is the more to be regretted, in that it excites mistrust and suspicion in the minds of those who are naturally anxious to see the beneficent results of a measure which is of such vital importance to the interests of the country.

The second part of this table shows the sources from whence the emancipation fund has proceeded.

The Minister of Agriculture in his Report of 1875 on the Servile Element, and the Law of the 28th September 1871, states that the registration of slaves, ordered by Article 20, of that law, is now completed throughout the Empire, with the exception of 49 municipalities, and that according to the most recent information the total number of slaves in Brazil amounts to 1,431,300.

This number may safely be increased to 1,500,000, by calculating the number of slaves still unregistered in the 49 municipalities, and allowing for those who have been registered in consequence of the great difficulty of registration in this country.

In 1873 the number of slaves registered was 198,814.

In 1874 1,002,240,

The product of the Emancipation Fund has, in accordance with Article 3. of the Law of 28th September 1871, been distributed over the provinces of the Empire, a reserve fund of Reis 287,500\$ 000 = £31,944 being retained

\* See p. 81 of this Appendix.

for those municipalities where the number of slaves registered was not known at the time of the distribution.

A table showing the distribution here alluded to is inclosed.

The Minister of Agriculture then proceeds with the following remarks :

" The application of these amounts ought to be carried out in the terms of Article 27 of the Code approved by Decree, &c., 5135, of November 13th, 1872 (sent to Foreign Office), according to the schedule therein stipulated in virtue of the labours of the Classification Board in divers municipalities. This work, now, I own with regret, has met with great difficulties in practice, and has failed in many municipalities, in spite of the reiterated recommendations of the administration, and the compulsion arising from the fines attached in the Article 96 of the aforesaid code."

" It falls, in great part, on the judges of the peace, who, charged with the performance of other obligations and labours, from which they derive their subsistence, are over and above obliged to render service in this matter gratuitously. It is not therefore surprising to those who are acquainted with the conditions of the country, and the difficulty which the administration encounters in its endeavours to carry out this work."

" Such are the reasons why, up to the present date, only the result of the labours of classification is known in respect of the municipalities comprised in the following table."

(In his previous report of 1874, the Minister of Agriculture stated that they had encountered obstacles on all sides in the classification of slaves to be manumitted, that the government had used every endeavour with the Presidents of the provinces, juntas, &c., to collect the money for the gradual manumission, and that 30,387 slaves had been classified as qualified, viz., 27,600 in the Capital, 1,184 in the Province of Rio Grande do Sul, and 1,603 in the Province of Santa Catharina).

" It is desirable, therefore, to define out of the Emancipation fund the portion strictly necessary to remunerate such functionaries, and to provide the indispensable expenses for the proper carrying out of this work."

" I cannot, as I much wished, present you with statistics of slaves who have been freed through the generous sentiments of the population in all the provinces of the Empire since the memorable date of the 28th September 1871, it behoving me only to inform you that it is stated that in this Capital and nine of the Provinces 5,984 slaves have since then been voluntarily freed :

In Rio de Janeiro	-	-	-	-	3,805.
Amazons	-	-	-	-	18.
Parà	-	-	-	-	740.
Maranhã	-	-	-	-	42.
Rio Grande do Norte	-	-	-	-	195.
Parahyba	-	-	-	-	176.
Espírito Santo	-	-	-	-	185.
Rio de Janeiro (Province)	-	-	-	-	92.
São Paulo	-	-	-	-	679.
Minas Geraes	-	-	-	-	52."

" Though deficient, these data show that the movement of emancipation has not diminished, and that the action of private individuals conspire with the salutary dispositions of the protective legislation towards the gradual extinction of slavery in Brazil."

The Minister concludes his report by presenting " a table of the registration of freeborn children of slave women in the capital and 10 provinces, calculated up to the 30th April 1874," the total number amounting to 119,456 (Enclosure No. 8).

In the previous report of 1874 this number was reckoned at 56,165.

Slaves in order to be eligible for state emancipation in Brazil must be first registered, and then classified; but it will be seen that already over 119,000 slaves have gone through this latter requirement, and that nevertheless the Minister of Agriculture, like his colleague of Finance, refrains from any statement as to the number of slaves who have reaped the benefit of a Legislative Act now more than four years in existence.

It is very generally believed that the pressure of public opinion abroad and at home against slavery will force the Government to bring forward a still more liberal Emancipation Bill, which will abolish slavery within a period variously stated as from ten to fifteen years; but in any case it may safely be said that every obstruction in the execution of the Emancipation Law of 1871, will serve but to excite public opinion in its favour.

N. R. O'CONNOR.

March 14, 1875.

Inclosure 1 in Mr. O'Connor's Report.

BRAZIL.

(Translation.)

LAW of the 10th June 1835.

The Regency, in the name of the Emperor Dom Pedro II. makes known to all the subjects of the Empire, that the General Legislative Assembly has decreed and it has sanctioned the following law:

Art. I. Will be punished with death the male or female slaves who murder, in whatever manner they may, who give poison, or who seriously wound or inflict any other serious physical injury on their master, on his wife, descendants or parents who live with him, on his bailiff, steward, and the women that live with them. If the wound or physical injury is slight, the punishment shall be flogging, in proportion to the circumstances of the case.

Art. II. On the occurrence of any of the crimes mentioned in Art. I., or of insurrection, or of any other crimes worthy of death, committed by slaves, there must be an extraordinary meeting of the Jury of the District, (unless it should be already in session) called by the Juiz de Direito, to whom such events must be immediately communicated.

Art. III. The Magistrates will have cumulative jurisdiction in every District for proceeding against such criminals until they have been put on their trial, and they will also take all subsequent legal measures, and imprison the criminals, and on the accomplishment of the process, will send the criminals to the Juiz de Direito, that he may set them before the jury, as soon as it has assembled, and that the other conditions may follow.

Art. IV. In the above-mentioned crimes the penalty of death shall be imposed when there are two thirds of the jury in favour of it, and in the case of other crimes, a simple majority of the jury shall decide; the sentence if unfavourable to the accused, shall be executed without any appeal being permitted.

Art. V. All laws, decrees, or other regulations in a contrary sense are revoked.

It is therefore ordered to all authorities to whom the recognition and execution of the above-mentioned law belong, that they shall observe it and have it observed in its entirety.

(Signed) FRANCISCO DE LIMA E SILVA.  
JOAO BRAULIO MONIZ.  
MANOEL ALVES BRANCO.

Palace of Rio Janeiro,  
10th June 1835.

14th year of Independence and the Empire.

Inclosure 2 in Mr. O'Connor's Report.

(Translation.)

PUNISHMENT OF SLAVES IN BRAZIL.

Part 1st of the Criminal Code, Chap. IV. of Title II. of the kinds of Punishments, and the manner of imposing them.

Art. 60. If the accused be a slave, and incurs other penalty than that of capital punishment, or the galleys, he shall be condemned to be flogged, and after undergoing this, shall be given over to his master, who shall undertake to put irons on him for the time and in the manner that the Judge may order. The number of strokes shall be fixed by the Judge, and the slave may not receive more than 50 strokes in a day.

Part II., Title IV., Cap. IV. Insurrection.

Art. 113. This crime has been committed, when 20 or more slaves have come together to obtain liberty by means of force.

Punishments. To the chief movers, death as the maximum, perpetual galleys as the medium, 15 years as the minimum; to the others concerned, flogging.

Art. 114. If the chief movers are free persons, they will incur the same penalties as mentioned above for slaves.

Art. 115. For aiding, exciting, or advising slaves to rise, for furnishing them with arms, munitions, or other means for the same end, the punishment is, imprisonment with hard labour for 20 years as the maximum, 12 years as the medium, and eight years as the minimum penalty.



BRAZIL.

Inclosure 3 in Mr. O'Connor's Report.

(Translation.)

DECREE No. 4835 of the 1st December 1871 which approves the Regulation for the special Registration of Slaves, and of the Free born Children of Slave Mothers.

For the putting in execution of what is determined in Art. 8 of the Law No. 2040 of the 28th September of the present year, Her Imperial Highness, the Regent, in the name of the Emperor, Senhor Don Pedro 2do approves in her good pleasure, the regulation for the special registration of the slaves existing in the empire, and of the children of slave mothers, considered of free condition by the above-mentioned law, which is below given. Signed by Theodoro Machado Freire Pereira da Silva, a member of His Majesty's Council, Minister and Secretary of State for the affairs of Agriculture, Commerce, and Public Works, who will so understand it, and order it to be put in execution. Palace of Rio de Janeiro, the first of December 1871, the fiftieth year of the Independence, and of the Empire. Princess Imperial Regent.

THEODORO MACHADO FREIRE PEREIRA DA SILVA.

REGULATION to which DECREE No. 4835 of this Date refers, for putting in execution Art. 8th of the Law No. 2040 of the 28th September 1871.

## Chapter 1st.

*Of the Registration of Slaves.*

Art. 1st. The register of every slave in existence shall contain the following declarations (Model A). (See page 101.)

1st. The name in full, and the place of residence of the owner of the registered slave.

2nd. The number of the slave about to be registered in the register of the slaves of the district, and in the lists of which Art. 2nd of this regulation treats.

3rd. The name, sex, colour, age, state, filiation (should it be known), aptitude for work, and trade of the slave to be registered.

4th. The date of the registration.

5th. Observations.

Art. 2nd. The registration of the slaves shall be effected in the district in which they reside in virtue of lists, in duplicate, containing the declarations required in Art. 1, numbers 1 and 3, according to the form of Model B. (See page 102.)

Sole paragraph. The lists of slaves should be dated and signed by the persons on whom it is incumbent to register them, or by some one requested to do so by him before two witnesses, should those persons not know how to write or are unable to do so.

Art. 3. The obligation is incumbent on the following to register :

1st. The owner or possessor of slaves, and in default of these, those who represent them legally.

2nd. The tutors and guardians of the slaves under their tutelage or guardianship.

3rd. The judicial depositaries of the slaves deposited in their possession.

4th. The syndics, attornies, or religious orders and corporations ; the slaves of such orders or corporations.

5th. The managers, directors, or other representatives of societies, companies, or any other associations ; the slaves of such associations.

## Chapter 2nd.

*Of the Registration of the Free Offspring of Slave Mothers.*

Art. 4th. The registration of the free children of a slave mother, born since the 28th September of the present year, shall be made in the district in which they may happen to be with their mothers, and shall contain the following declarations (Model C). (See page 102.)

1st. The full name and the place of residence of the mother's owner of the child to be registered.

2nd. The number in the list of the slave to be registered in the register of free born children of slave mothers.

3rd. The name, sex, colour, day, month, and year of the birth, where born, and filiation of the child to be registered.

4th. The date of registration.

5th. Observations.

Art. 5th. In the declarations concerning the filiation, either natural or legitimate, of the free children of slave mothers, the number in the list which the mother's (should the filiation be natural) or the father's and the mother's (should the filiation be legitimate) have in the registry of

the slaves in the district—shall be indicated in the register of the slaves in the district and in the lists of which Art. 2 treats.

Should the children to be registered not yet have been baptised, the names which they are about to receive shall be declared.

Art. 6th. On view of the lists, in duplicate, which shall contain all the declarations required in numbers 1 and 3 of Art. 4, in conformity with the Model D., the registry shall be written. (See page 103.)

Sole paragraph. These lists should be dated and signed by the persons on whom it is incumbent to register the free children of slave mothers, or by some persons at the request of the same in conformity with the sole paragraph of Art. 2nd.

Art. 7th. The following are bound to have registered :

1st. The said persons designated in Art. 3 on whom falls the duty of registering the slave mothers of the minors :

2nd. The curator-general of orphans, public prosecutors, and their adjuncts, and the judges of the orphan's courts, when they are made aware that some of those free children of slave mothers were omitted to be registered within the term fixed in this regulation. The registration shall in that case be made at the requisition of the orphans judge, the master of the mother being previously heard.

## Chapter 3rd.

*Of the Persons charged with the registering and of the Books concerning it.*

Art. 8th. The registering pertains to the collectors and administrators of inland revenue, and to the inspectors of the customs in the districts where those fiscal stations are wanting.

For each one of the two classes to be registered, of which chapters 1 and 2 treat, there shall be a special book opened, numbered, signed, and with the declaration made at the end by the inspector of the treasury in the provinces, and by the director-general of the public revenue in the province and in the Neutral District of Rio de Janeiro, or by the functionaries to whom the above may commit that charge.

Art. 9th. The said employes shall have two alphabetical indexes, both alike authenticated, one for the names of the masters of slaves whose free children have been registered in conformity with the models E and F. (See page 103.)

Sole paragraph. The cost of those books, and every other expense of registry, shall be at the charge of the general coffers, the part of the emoluments of the registration which shall be fixed by the ministry of agriculture, commerce, and public works, being applied to the said coffers.

## Chapter IV.

*Of the Time and Mode of Procedure with the Registration of the Slaves.*

Art. 10th. As soon as the functionaries intrusted with the registration, in conformity with Article 8, by a communication from the superior authority, or through the "Diario Official," shall be made aware of the publication of this regulation, they shall order to be advertised in the public papers an edict, to be affixed in the most public places of the district, that the registration of slaves ordered by Art. 8 of the Law No. 2,040 of the 28th September of the present year, shall be opened in the respective fiscal departments from the 1st April to the 30th September 1872, it being necessary that the whole of the section 2 of the cited Article 8 should be inserted in the advertisements and edicts.

Art. 11th. Copies of the advertisements and edicts shall be sent to the vicars of all the parishes of the district, in order that they, on every Sunday and holiday, up to the end of June, shall announce to their parishioners after celebration of mass, the opening of the register, the day of its close, and the penalty mentioned in Art. 8, section 2, of the law.

Art. 12th. The above-mentioned fiscal stations shall be opened on every working day from the 1st April till the 30th September, from nine in the morning till four in the afternoon, for registering, which shall be done in the order in which the lists of the slaves shall be presented.

Art. 13th. The registering of each list being concluded, the chief of the department, with the employe who shall have inscribed the names, shall mark, in both the copies, the numbers under which the slaves shall be inscribed in the registry of the districts, they shall be dated and signed, and having placed one of the copies in the archives, shall deliver the other to the person who presented them.

Art. 14th. Should there come in, on each day, such a press of names to be registered, that the business cannot be concluded by the time the department closes, the functionaries mentioned in the preceding Article, receiving the lists which may have been presented to them, shall sign them, and inscribe thereon the numbers which ought to correspond with the registry, and shall give to the parties presenting the lists receipts dated and signed, which shall declare those numbers. In this case, the said functionaries shall deliver to them the copies of the said lists, which ought to be returned to them after they shall have been inscribed in the register.

Art. 15th. On the 30th September 1872, at four o'clock in the afternoon, in the presence of the president of the municipal chamber, and of the public prosecutor, or of his adjunct, who shall have been invited, with all due antecedence, by the persons charged with the registering, shall be entered in the books of the registry of slaves the instrument of closure which shall be signed by the said functionaries convoked for that act.

Section 1st. If, up to that date, all the lists presented shall not have been inscribed, separate instruments shall be drawn up, in which shall be mentioned the last number of the lists inscribed, and of those which still remain to be inscribed.

Section 2nd. Within the term of the subsequent 30 days all the lists shall be entered up to the 30th September, and the register book shall be closed in the manner indicated.

Art. 16th. After the expiration of the term fixed in Art. 10, and the register is closed as the foregoing Article determines, there may yet be admitted, during a year, fresh registries which shall be written in the same books, and in the same manner, following after the minute of closure.

Art. 17th. There shall be observed in everything respecting these new registrations, all that was determined respecting those which are made within the term mentioned in Art. 10.

Art. 18th. On the 30th day of September 1873, at four o'clock in the afternoon, whether there shall, or shall not have been made, new registrations within the term marked in Art. 16, there shall be drawn up, with the same formalities, and in the presence of the said functionaries mentioned in Art. 15, fresh instruments of closure.

Art. 19th. The slaves who, through the fault or omission of the interested parties, shall not have been presented to be registered up to the 30th September 1873, shall, from that fact, be considered free, save the means of proving in a common suit, with a citation to the freed slaves, and their curators who shall be heard.

1st. The right which the interested parties have over them.

2nd. That there was no blame or omission on their part, in not having them registered within the terms of Arts. 10 and 16.

Art. 20th. In the course of the month of October 1872, the chiefs of the departments charged with the registry shall forward to the director-general of statistics in the capital directly, and in the provinces through the medium of the treasuries, a general résumé of the registered slaves, with the specifications relative to the number of each sex, the age, condition, profession, and residence, urban or rural, as per model G. (See page 103.)

The same shall be done in the first 15 days of the month of October 1873, in respect to the registries made within the term fixed in Art. 16.

#### Chapter V.

##### *Of the Observations in the registering of Slaves.*

Art. 21st. The parties charged with the registering shall make the entry in the register books, of the manumissions, removal out of the district, transference of ownership, and the deaths of the slaves registered in the district, in view of the declarations in duplicate, which the persons designated in Art. 3 are obliged to make within the three months following the occurrence of those facts. Those declarations shall contain the specifications mentioned in the respective registry, and those relative to the free children who accompany the slave or freed-mothers, in conformity with Sections 4 to 7 of Art. 1 of the Law No. 2,040 of the 28th September of the present year.

Section 1st. The removal of the slaves from the district in which the registry was effected obliges those persons not only to declare it, as this article determines, in the station of the said district, as well as in that of the district of their new residence, where it shall be noted in a special book, according to Model H. (See page 104.)

Section 2nd. In the same manner, when there is a transfer of owners of slaves to another district, the said

obligation is applicable to both the seller and to the purchaser; to the former, the presenting the declarations only in the district where the transfer takes place, and to the latter that he may do so in the district of the new residence of the slaves.

Art. 22nd. The observations being made, the persons charged with the registering shall note or cause them to be noted in the declarations treated of in Art. 21. They shall date and sign them; and, placing one of the copies among the archives, they shall deliver the other to the interested parties, or to their substitutes.

Art. 23rd. For the fiscalization and fulfilment of the obligation prescribed in Art. 21, information shall be forwarded to the parties charged with the registration up to the 31st January and 31st July of each year.

1st. By notaries, scriveners, executors of wills, curators-general of orphans, public prosecutors, their adjuncts, and orphans judges, concerning the change of condition and transference of ownership of the slaves, as well as by the judges who may intervene or take cognisance of questions of freedom, or who accept a bidding in favour of the same.

2nd. By the vicars and administrators, or persons in charge of cemeteries, on the number and names of the deceased slaves, the place of their death, and the names of their masters.

Art. 24th. In view of this information, the persons charged with the registration shall complete opportunely the observations and inscriptions of which Art. 21 treats, fining the persons indicated in Art. 3 should they have been remiss.

Art. 25th. It is also incumbent on the persons charged with the registration to organise and to forward to the statistic department, in the months of April and October, the table of alterations, of which Art. 21 treats, of the slaves residing in the district, with a specification of the number who have been freed, of those who have changed their residence, and of those who died in the previous half-year, counting from the month of July of each year.

#### Chapter VI.

##### *Of the Time and Mode of Procedure in the Registration of Free Children of a Slave Mother.*

Art. 26th. There shall be presented for registration, in the month of April 1872, all the children of a slave mother, born between the 28th September and the 31st December 1871; and from that date forward within the term of three months, counting from the date of their birth. The owners of the slaves shall state in the lists which they must give in which of the free-born children died before they were registered.

Art. 27th. Whenever the free children and the slave mothers are simultaneously presented for registration, the latter shall be first registered in the competent book, in order that the disposition of Art. 5 may be complied with respecting the registration of the children.

Art. 28th. The dispositions of Arts. 13 and 14 respecting the registration of slaves, extends to the free children of a slave mother, in all that applies to them.

Art. 29th. The functionaries charged with the registration shall forward quarterly to the Director-General of Statistics, by the means prescribed in Art. 20, and to the orphans judge of the place, a list of the free children of a slave mother, registered in the preceding quarter, containing all the declarations of Art. 4.

The lists of the slaves registered in the month of May 1872 shall be sent in until the month of September.

Art. 30th. The registration of the free children of a slave mother will always be open in order that it be made at the time and in the manner prescribed in this regulation, until slavery becomes extinct in this empire.

#### Chapter VII.

##### *Of the Observations in the Registration of the Free Children of Slave Mothers.*

Art. 31st. In case of the death of the free children born of slave mothers, and who shall have been already registered, the observation shall be made of that occurrence in the respective register, in the mode prescribed in Arts. 21, 22, and No. 2 of Art. 23.

Art. 32nd. The persons charged with the registration shall also organise and forward to the Director-General of Statistics, and to the orphans judge of the place, in the same period of time, of which Art. 25 speaks, a table of names of the said free minors who may have died in the district, showing each one's number.

## Chapter VIII.

*Of Fines and Penalties.*

Art. 33rd. The persons on whom it is incumbent to register free children of slave mothers, and who shall not do so within the time and according to the mode established, shall incur a penalty for mere negligence of \$100 and \$200, repeated as many times as there are individuals omitted in the registration; if through fraud, they shall incur the penalty inflicted by Art. 179 of the Criminal Code.

They shall incur a fine of \$10 to \$50 should they omit to communicate the death of any of the said free children of a slave mother.

Art. 34th. The person who shall make inexact declarations intentionally shall incur a fine of from \$50 to \$100: and should these declarations have been made with the intention of causing to be registered as slaves, children born on the 28th September of the present year, or subsequently, he shall, besides the above fine, incur the penalties of Art. 179 of the Criminal Code.

Art. 35th. The person who may make any contract, such as are mentioned in Art. 45, without exhibiting the lists or certificates of the respective registrations: the person who accepts the stipulations of the said contracts, without demanding the presentation of any of those documents; who does not communicate to the competent station the change of residence to a place out of the district; the transfer of ownership, or death of the slaves, or of free minors born of slave mothers, in conformity with what this regulation determines; the public officer, who draws up an instrument, act, or deed of transfer of ownership, or of security, mortgage, or hire of services of slavery, without the formalities prescribed in the cited Art. 45; who gives a passport to the slave without demanding the exhibition of the lists, or certificates of the registration; and he who does not make known to the functionaries charged with the registration, the manumissions which he shall have entered on his notes, shall incur a fine of \$10 to \$50.

Art. 36th. Should the employé on whom it is incumbent to make the registrations, not have his books written up to the day, in due form, and according to the dispositions of this regulation; and who fails to organize or to forward the lists, notes, tables, and information, of which Arts. 20, 23, 25, 31, and 32 treat, shall incur a fine of \$20 for the first offence, and of double the amount for recurrence, besides the process for criminal responsibility which he may have incurred.

Art. 37th. The functionaries convoked in conformity with Art. 15th, to be present at the acts of the first and second closure of the registration, and who do not make their appearance, having no justifiable reason to give, and do not communicate beforehand their intended absence, in order that they may be substituted, shall each incur a penalty of \$50.

Art. 38th. The vicars who, after having received the copies of which Art. 11 treats, do not announce to their parishioners the opening and the day of closure of the registration at the time and in the manner prescribed in the said Article, shall incur a fine of \$10 as many times repeated as there shall be Sundays and holidays on which he failed to make the announcement.

Art. 39th. The judge or authority who admits that before his court was carried a lawsuit on the right of ownership, or of possession of a slave, without there having been immediately exhibited the lists or certificates of registration, shall incur a fine of \$20 to \$100.

Art. 40th. The following are competent to impose fines: The chiefs of the departments charged with the registration are competent to impose fines on the persons of whom Arts. 33, 34, and 35 treat, should the motive be verified by administrative authority; and the judges and tribunals, both civil and criminal, are competent to impose the fines and penalties of which Arts. 33, 34, and 35 treat, should the motives be verified in law.

Section 2nd. The inspectors of treasuries, and in the Neutral District and in the province of Rio de Janeiro, the director general of the public revenues, to impose the fines of which Arts. 35, 37, and 38 treat, on the public functionaries designated in the same.

Section 3rd. The judge or tribunal to whom shall be presented the contracts to which Art. 35 refers, to impose the fine therein established.

Section 4th. The judge or superior tribunal who in case of aggravation, appeal, or review, have to take cognizance of the suit of which Art. 39 treats, to impose the fine therein established.

The district judge is equally competent to inflict penalties.

Art. 41st. The minister and secretary of state for the affairs of Agriculture, Commerce, and Public Works, in the Neutral District, and the presidents of provinces, shall impose a fine of \$50 to \$100 on the authorities indicated in the preceding Article who shall be remiss in the imposition of the fines belonging to their competency.

Art. 42nd. The said minister in the Neutral District, and the presidents in the provinces, shall appoint, whenever they may deem fit, persons to examine the books of registries, and give circumstantial information respecting the manner in which the service is performed, in order that the penalties and fines above threatened be put in effective force against the remiss or negligent employés.

Art. 43rd. Appeal may be made against the imposition of fines—

To the presidents in the provinces when imposed by the administrative and judiciary authorities of the said province.

To the minister when imposed by presidents of the provinces, or by the director general of the public revenues.

To the council of state in conformity with Art. 46 of the Regulation No. 124 of the 5th February 1842, when imposed by the minister.

Art. 44th. The fines shall be executively recoverable, the competent certificates being forwarded for that purpose to the fiscal departments.

## Chapter IX.

*General Dispositions.*

Art. 45th. After the 30th day of September 1872, no deed of alienation, transmission, pledge, mortgage, or hire of service of slaves shall be drawn up, unless the public officer who is called on to draw up the deed shall have before him the lists of the registration or the certificates of the same, and there shall be included the numbers of the registered slaves, the date and the district, as well as the names, and all other declarations of the free children of slave mothers which shall accompany them in conformity with Art. 1, Sections 5 and 7, of the Law No. 2,040, of the 28th September of the present year.

As likewise no inventory or division of property between heirs or partners, which may comprise slaves, and no suit affecting the ownership or possession of slaves, shall be admitted in court, should the document of registration be not immediately exhibited in Court.

Art. 46th. To the parties charged with the registration shall be awarded by the minister of agriculture, commerce, and public works, a gratification corresponding to the increase of the work that they may have.

Art. 47th. For the registration of each slave made within the term fixed in Art. 10, the owner or whomsoever may act in his place, shall pay 500 reis, and 1\$ 000 should it be effected after that term.

No emolument shall be collected for the registration of free children of slave mothers.

Art. 48th. For the certificates of registration of slaves, and of free children of slave mothers, the emolument marked in the table annexed to the Regulation No. 4,356, of the 24th April 1869, shall be collected. But they shall be extracted gratuitously when demanded by the judges, curator general of orphans, public prosecutors, their adjuncts, or by the private curators of the registered parties for the defence of the rights of these last.

Art. 49th. The emoluments fixed in Art. 47, as well as the fines threatened in this Regulation shall form part of the fund of emancipation.

Palace of Rio de Janeiro,

1st December, 1871,

THEODORE MACHADO FREIRE PEREIRA DA SILVA.

Appendix to Inclosure 3. Mr. O'Connor's Report.  
**MODEL A.**

For entering in the SPECIAL BOOK of REGISTRY all the SLAVES existing in the DISTRICT of \_\_\_\_\_, PROVINCE of \_\_\_\_\_,  
 (Art. 1 of the Regulation.)

Number of the Lists.	Owners.		Registration.				Slaves.							Observations.			
	Names.	Residence.	Number in List.	Date.			Names.	Sex.	Colour.	Age.	State.	Filiation.	Aptitude for Work.		Trade.		
				Day.	Month.	Year.											
1st	Justino de Mendonça	Nitheroy	1	1	2	January	1872	Maria da Gloria.	Female	Brown	28 years	Single	Unknown	Capable of any work.	Sempstress	Hired in the City.	Removed to the Province of S. Paulo on 5th April 1872.
2nd	Manoel Antonio da Silva	City	2	2	4	April	"	Antonio	Male	Black	56 "	Widower	"	Capable of moderate work.	Carpenter	A runaway since the 24th Sept. 1871.	Died on the 6th May 1872.
3rd	José da Silva Peixoto	"	3	1	5	"	"	Manoel	"	"	"	Single	Legitimate son of Manoel Casange and Maria Crioula.	Invalid	Labourer, works with a hoe.	"	Manumitted by Letter of freedom dated 1st May 1872, registered in Notary Tialho's book of notes.
4th	Manoel José Borges	Curacy of Santa Cruz.	4	2	5	"	"	Eudoxia	Female	Brown	48 "	Married	Natural daughter of Teatriz.	None	Ironer	"	Sold to Manoel José da Silva, instrument dated 6th May 1872.

MODEL B.  
 LIST No. 4 of SLAVES belonging to JUSTINO DE MENDONÇA, residing in the DISTRICT of NICHTEROY.  
 (Art 2. of the Regulation.)

Number in Registry.	Number in the List.	Names.	Colour.	Age.	State.	Where born.	Filiation.	Aptitude for Work.	Trade.	Observations.
8	1	João	Black	32 years	Single	Rio de Janeiro	Unknown	Capable of all work	Quarrier	—
9	2	Mathias	Brown	40 "	Married	Bahia	"	Capable of light work	Cook	He is married to the slave Joanna, No. 7 in this list.
10	3	Firmino	Black	33 "	Single	Rio de Janeiro	"	"	Seaman	—
11	4	Thomé	"	50 "	"	"	"	Invalid	"	—
12	5	Jacinto	"	25 "	"	"	"	None	Stone mason	—
13	6	Thereza	Brown	50 "	"	S. Paulo	"	Valentinarian	Washerwoman	—
14	7	Joanna	Black	35 "	Married	Bahia	"	Capable of all work	Sempstress	Wife of Mathias, No. 2.
15	8	Rita	"	20 "	"	Rio de Janeiro	"	"	Ironer	—
16	9	Unbaptized	Brown	4 months	"	Capital	"	"	"	Legitimate child of Joanna and Mathias.

Presented for registry, and registered on the 3rd January 1872.  
 Paid four mil five hundred reis of emolument.  
 The Administrator, SCRIVENER, SILVA.  
 FIEIRA PINTO.

N.B.— With the exception of the last born in the household, the remainder were inherited from the present owner's father.  
 Capital, 3rd January 1872. DIOGO DE MENDONÇA, Attorney of the Owner.

MODEL C.  
 For the REGISTRATION of the FREE CHILDREN of SLAVE MOTHERS residing in the DISTRICT of \_\_\_\_\_, the PROVINCE of \_\_\_\_\_  
 (Art. 4 of the Regulation.)

Number of the Notes.	Owners of the Mothers.		Registry.			Free Children of Slave Mothers.			Observations.	Information.							
	Names.	Residence.	Number in the General Registry of the District.	Day.	Month.	Year.	Names.	Sexes.			Colour.	Where born.	Names of the Parents.	Registry of the District.	In the List of Registration.		
1st	José Francisco da Costa	Neutral District.	1	3	March	1872	Jonão	Male	Brown	28	September	1871	Neutral District.	Isabel	7	2	Died the 25th March 1872.
2nd	Justino de Mendonça	Nichteroy	3	5	"	"	Eduardo	"	Black	10	December	"	"	Antonio and Rita.	4 & 7	3 & 8	Was not yet baptised. Received baptism 30th March 1872.

MODEL D.

(Translation.)

(Art. 6 of the Regulation.)

Note No. 1.

José Francisco da Cunha, residing in this District, declares that on the 28th September 1871, there were born of his slave, an unmarried woman named Isabel, of a brown colour, and an ironer, who is registered under No. 7 of the General Registry of the District, and 2 of the list presented by the said Cunha, two children, twins, one of the male sex, baptized by the name Joaõ, the other a female, baptized by the name of Maria, and both of them of a brown colour.

Capital, this 3rd March 1872.

JOSÉ FRANCISCO DA CUNHA.

Presented for registry, and registered, Joaõ under No. 1, and Maria under No. 2, in the General Registry, 3rd March 1872.

The Administrator,  
FIEIRA PINTO.

Scrivener,  
SILVA.

MODEL E.

(Art. 9 of the Regulation.)

ALPHABETICAL INDEX of the REGISTRY of the SLAVES by their MASTER'S NAMES.

Names of the Masters.	Numbers of the Slaves.		Registry.		A B C D &
	In the General Register.	In the Lists of the Masters.	Book.	Page.	
Arao Bonifacio da Silva	450 to 471	1 to 22	1st	24	
Abel José da Cunha	200 to 204	1 to 5	1st	12	
Adaõ Francisco dos Santos	903 to 905	1 to 3	1st	46	
Affonso Arthur da Costa	1,152	1	1st	58	
Agisilaõ Pereira da Silva	621 to 629	1 to 9	1st	37	
Amancio Borges de Mello	1,103 to 1,115	1 to 49	1st	57	
Antonio Alves de Abren	205 to 292	1 to 88	1st	12	
Antonio Alves de Barros	630 to 649	1 to 20	1st	37	
Antonio Bento da Fonseca	906 to 920	1 to 15	1st	47	
Antonio Candido da Rocha	472 to 479	1 to 8	1st	24	

MODEL F.

(Art. 9 of the Regulation.)

ALPHABETICAL INDEX of the REGISTRY of the FREE CHILDREN of SLAVE MOTHERS by the NAMES of the MASTERS of their MOTHERS.

Names of the Masters of the Mothers.	Registry of the Mothers of the registered Children.						A B C D &	
	Registered.			Mothers of the registered Children.				
	Number.	Registry.		Numbers.	Registry.			
		Book.	Page.		In the General Register.	In the Lists of the Owners.		Book.
Abel José da Cunha	953	1st	80	203	4	1st	12	
Affonso Arthur da Costa	63	"	13	1,152	1	"	58	
Amancio Borges de Mello	201	"	41	1,104	2	"	57	
Antonio Alves de Barros	502	"	62	636	7	"	38	

MODEL G.

GENERAL RÉSUMÉ of the SLAVES REGISTERED in the DISTRICT of \_\_\_\_\_, PROVINCE of \_\_\_\_\_

(Art. 20 of the Regulation.)

From the \_\_\_\_\_ day of \_\_\_\_\_ 1872, up to the day of October of the same year, were registered slaves, being :

Sex	Male	-	-	-	
	Female	-	-	-	
	Total	-	-	-	
Age	Up to 1 year old	-	-	-	
	From 1 to 7 years	-	-	-	
	" 7 to 14 "	-	-	-	
	" 14 " 21 "	-	-	-	
	" 21 " 40 "	-	-	-	
	" 40 " 50 "	-	-	-	
	" 50 " 60 "	-	-	-	
	Total	-	-	-	
State	Single	-	-	-	
	Married	-	-	-	
	Widowers	-	-	-	
	Total	-	-	-	
Trade	Agricultural	-	-	-	
	Artizan	-	-	-	
	Day-labourers	-	-	-	
	Total	-	-	-	
Residence	Urban	-	-	-	
	Rural	-	-	-	
	Total	-	-	-	

BRAZIL.

## MODEL H.

PARTICULARS respecting SLAVES who changed their DOMICIL (Art. 21, Section 1, of the Regulation).

PROVINCE of \_\_\_\_\_, DISTRICT of \_\_\_\_\_

Number.	Particulars respecting the Slave's Master.		Particulars respecting the Slave.						
	Name.	Residence.	Name.	Sex.	Colour.	Age.	State.	Aptitude for Work.	Trade.
1st	Manoel Antonio da Silva.	City of Angra -	Antonio -	Male -	Black -	36 years	Single -	Great -	Cook -
2nd	José Manoel da Fonseca.	City of Rezende -	Eudoxia -	Female	Brown	27 years	Married -	Great -	Sempstress -

Particulars respecting the Slave.									
Place where registered.		Date of registry.			No. in Register.	Date of particulars given.			Observations.
Province.	District.	Day.	Month.	Year.		Day.	Month.	Year.	
Pará -	Cametá -	2	May -	1872	11	5	September -	1874	Particulars entered in the Districts of the Capital and of Itaguahy of this Province.
Bahia -	Sto. Amaro -	7	June -	1872	4	6	October -	1874	—

Inclosure 4 in Mr. O'Conor's Report.

## PROJECT of LAW PROPOSED by SENOR ALVES DOS SANTOS.

## MEMORANDUM.

At a session of Parliament, held on the 2nd August 1875, Senhor Alves dos Santos laid on the Table a project of law on slaves, which was read and judged a subject for consideration, and was to be presented to the committee of the section of criminal justice in order to obtain their opinion thereon.

## LAW ON SLAVES.

Article 1. The punishments of death and of flogging are alone applicable to slave criminals.

Paragraph I. The sentence of death can only be passed by the judge when the jury is unanimous in its vote (of condemnation).

Paragraph II. Should the voting not be unanimous, both the punishment of death and that of the galleys, incurred by slaves, shall be substituted by flogging.

Article 2. Crimes committed by slaves shall be tried and judged according to the Law No. 562 of the 2nd July 1850, and to the Regulation of the 9th October of the same year.

Sole Paragraph. Crimes which incur the penalty of death, and which are not committed in the districts of the frontiers of the empire, are excepted.

Article 3. The recourse to appeal, both ex officio and voluntary, as well as protest for a new trial, are all applicable to crimes committed by slaves.

Sole Paragraph. The process and judgment of such crimes shall have the preference over any others in the first and second instances.

Article 4. All other dispositions of the criminal code to the contrary, of the law of the 10th June 1835, and others, are hereby revoked. (Annals of Parliament.)

Inclosure 5 in Mr. O'Connor's Report.  
TAXES PRODUCING EMANCIPATION FUND.  
N. 10.  
Fundo de emancipação.

BRAZIL.

	1871-72.	1872-73.	1873-74.	1874-75.	Total.
Município da Côte	447,417\$325	564,774\$176	705,863\$268	490,879\$507	2,208,934\$276
Rio de Janeiro	93,166\$710	157,767\$057	62,262\$941	6,693\$040	319,889\$748
Espirito Santo	7,822\$000	10,016\$000	3,863\$600	2,476\$000	24,177\$600
Bahia	84,768\$240	130,541\$542	78,545\$170	15,064\$080	308,919\$082
Sergipe	17,631\$840	19,018\$51	9,615\$510	3,954\$120	50,219\$991
Alagoas	18,129\$920	26,137\$860	14,619\$040	1,920\$890	60,807\$710
Pernambuco	60,972\$500	78,258\$700	51,914\$560	8,088\$280	199,234\$040
Parahiba	8,060\$320	12,468\$560	5,333\$680	90\$000	25,952\$560
Rio Grande do Norte	4,260\$250	7,020\$110	4,295\$280	635\$210	16,210\$850
Ceará	14,741\$070	26,190\$950	18,713\$260	2,794\$150	62,439\$430
Piauh	9,446\$130	12,953\$580	5,643\$853	31\$980	28,075\$543
Maranhão	48,745\$050	48,451\$760	31,679\$350	15,021\$500	143,897\$660
Pará	25,954\$118	28,651\$210	18,017\$620	5,942\$790	78,565\$733
Amazonas	1,263\$060	1,473\$760	706\$100	192\$930	3,635\$650
S. Paulo	40,766\$082	134,605\$405	54,878\$218	268\$520	230,518\$225
Paraná	8,858\$240	12,977\$520	6,098\$850	1,679\$800	29,614\$410
Santa Catharina	11,172\$880	13,730\$920	8,499\$840	1,656\$350	35,059\$990
S. Pedro	53,082\$980	77,351\$590	61,528\$890	11,768\$200	203,731\$660
Minas	86,838\$190	159,574\$500	67,572\$290	13,891\$620	327,876\$600
Goyaz	3,204\$000	7,353\$160	5,787\$640	210\$000	16,554\$800
Mato Grosso	3,884\$500	2,829\$520	2,749\$890	3,140\$340	13,604\$250
	1,050,185\$400	1,533,146\$401	1,218,188\$850	586,399\$307	4,387,919\$958
at 26 $\frac{1}{2}$ d the milreis	£116,687	£170,349	£135,354	£65,155	£487,546

These Funds proceed from	1871-72.	1872-73.	1873-74.	1874-75.	Total.
Tax on slaves	634,658\$000	661,718\$000	624,272\$000	235,162\$000	2,155,810\$000
Transmission of property of above	66,410\$325	103,287\$176	209,588\$388	144,715\$507	524,001\$396
Transmission by gift	554\$092	349\$952	2,244\$371	306\$500	3,454\$915
Proceeds of fees on inscription	215,928\$500	514,720\$500	53,610\$000	2,120\$000	786,379\$000
Sale of printed forms for above	697\$270	2,913\$900	844\$130	187\$300	4,642\$600
Fines	1,076\$000	30,290\$000	54,620\$000	12,760\$000	98,746\$000
Donations and legacies	1,261\$213	2,924\$873	4,125\$961	4,030\$000	12,342\$047
Produce of untaxed lotteries	129,600\$000	213,600\$000	256,290\$000	174,600\$000	774,090\$000
10 per cent. of the same conceded since passing of the law	-	-	7,770\$000	12,210\$000	19,980\$000
Receipt of arrears	-	3,342\$000	4,824\$000	308\$000	8,474\$000
	1,050,185\$400	1,533,146\$401	1,218,188\$850	586,399\$307	4,387,919\$958

## OBSERVATION.

Sums received in the years 1871, 1872 to 1874, 1875 - - - 4,387,919\$958  
 Idem paid as expense of collection in 1871, 1872 to 1873, 1874 - - - 395,315\$987

3,992,604\$061

Balance - - - - - £443,622  
 The figures in the accounts of 1872, 1873 to 1874, 1875, are liable to correction on final liquidation.

## Inclosure 6 in Mr. O'Connor's Report.

## Inclosure 7 in Mr. O'Connor's Report.

## EMANCIPATION FUND from MINISTER OF AGRICULTURE'S REPORT.

## CLASSIFIED SLAVES.

Provinces.	Number of Slaves recorded.	Emancipation Fund.	
		Amount collected.	Amount allotted.
Amazonas	1,185	2,589\$284	2,887\$703
Pará	14,611	95,141\$578	35,665\$451
Maranhão	74,939	107,220\$834	182,926\$099
Piauh	25,533	20,905\$986	62,326\$053
Ceará	33,409	46,205\$828	81,530\$164
Rio Grande do Norte	13,434	12,505\$505	32,014\$444
Parahiba	26,025	19,097\$440	63,527\$025
Pernambuco	92,855	181,190\$423	226,659\$055
Alagoas	33,242	49,447\$169	81,143\$723
Sergipe	32,974	32,997\$055	80,489\$534
Bahia	173,639	255,657\$997	423,352\$799
Espirito-Santo	22,738	16,919\$418	55,503\$458
Município neutro (City of Rio Janeiro)	47,260	1,896,850\$745	115,361\$660
Rio de Janeiro	304,744	264,317\$453	743,880\$104
S. Paulo	169,964	203,307\$974	414,882\$124
Paraná	10,715	28,163\$812	28,155\$315
Santa-Catharina	10,551	30,383\$974	25,754\$991
Rio-Grande do Sul	69,366	170,988\$299	169,322\$406
Minas-Geraes	235,115	278,689\$357	573,915\$715
Goyaz	10,174	10,150\$102	24,384\$734
Matto-Grosso	6,932	9,232\$756	16,921\$012
	1,409,448	3,727,962\$766	3,440,462\$568
At 26 $\frac{1}{2}$ d. the milreis =		£414,218	£382,278

Provinces.	Number of Municipalities.	Classified Slaves.
Maranhão	7	18,790
Rio Grande do Norte	21	6,689
Parahiba	16	9,459
Pernambuco	21	44,917
Bahia	13	18,754
Espirito Santo	9	15,332
City of Rio de Janeiro	—	27,600
Province of ditto	4	4,493
San Paulo	31	39,663
Santa Catharina	6	3,223
Rio Grande do Sul	5	888
Minas Geraes	16	9,648
Total	149	119,456



BRAZIL.

**Inclosure 8 in Mr. O'Connor's Report.**

**TABLE OF FREE CHILDREN of SLAVE MOTHERS born in the CAPITAL, and in TEN PROVINCES, up till the 30th April 1874.**

Provinces.	Slaves.		
	Male.	Female.	Registered.
Côrte (City of Rio Janeiro) -	1,511	1,509	3,020
Amazonas - - - - -	49	50	99
Ceará - - - - -	1,924	1,935	3,859
Alagoás - - - - -	1,698	1,672	3,370
Sergipe - - - - -	1,894	2,032	3,926
Espirito-Santo - - - - -	1,199	1,249	2,448
Rio de Janeiro - - - - -	15,898	15,990	31,888
S. Paulo - - - - -	9,307	9,252	18,559
Paraná - - - - -	525	484	1,009
Rio-Grande do Sul - - - - -	4,781	4,757	9,538
Matto-Grosso - - - - -	226	243	469
<b>Somma -</b>	<b>39,012</b>	<b>24,782</b>	<b>63,794</b>

**POSTSCRIPTUM to Mr. O'CONNOR'S REPORT.**

I enclose (in translation) further extracts from the criminal code bearing on the treatment and punishment of slaves in certain cases of misdemeanour and crime, and which will assist towards a clearer understanding of their legal position in Brazil. So far as is known at present, it does not appear that any new legislative measures regarding slavery are in contemplation. But since the date of my previous remarks the Provincial Journal of Matto Grosso states that on the 28th of February last fifteen slaves were placed in freedom in virtue of the law of the 28th September 1871, the money being paid out of the emancipation fund, and adds that this is the first occasion in the province on which slaves have been manumitted out of the emancipation fund.

**Inclosures in Postscriptum to Mr. O'Connor's Report.**

**I.**

(Translation.)

**EXTRACT FROM THE CRIMINAL LAWS CONCERNING SLAVES.**

*Law of 15th October 1827.*

Creating Justices of Peace, imposing on them among other obligations, the following with respect to slaves:—

§ 6. To cause the places of refuge for runaway slaves to be destroyed, and to take measures against their being established.

§ 14. To endeavour to settle all contentions and disputes that may arise among the inhabitants of his district, . . . . . and, finally, about the damage done by slaves, domestics, or animals of a house.

**II.**

**CRIMINAL CODE.**

*Law of the 16th December 1830.*

Art. 28. Of Compensation.—The following shall be obliged to make compensation, although they may not be delinquents.

§ 1st. The owner, for his slave, to the amount of that slave's value. The quality of the penalties, and the mode of imposing and putting them in force.

Art. 60th. Should the criminal be a slave, and incur a penalty other than capital, or of the galleys, he shall be condemned to be flogged; and after suffering that punishment he shall be delivered up to his master, who will be bound to put an iron on him, for the term of time and in the manner that the judge shall designate.

The number of lashes shall be fixed in this sentence, and the slave must not receive more than 50 lashes on each day.

Art. 113. Insurrection.—This crime will be considered to have been committed when 20 or more slaves shall meet together for the purpose of obtaining their freedom by force.

Penalties.—Death to the ringleaders, in the maximum degree; galleys for life to those in the medium; and 15

years in the galleys for those in the minimum; flogging for the remainder.

Art. 114. Should the ringleaders of the insurrection be free men, they shall incur the same penalties imposed by the preceding article to the ringleaders who are slaves.

Art. 115. To aid, excite, or counsel slaves to rise against their masters, furnishing them with arms, ammunition, or other means for the same purpose.

Penalty.—Imprisonment with hard labour for 20 years, in the maximum degree; for 12 years in the medium degree; and for 8 years in the minimum.

*Against individual Freedom.*

Art. 179. To reduce to slavery a free person who is in possession of his liberty.

Penalty.—Of imprisonment from 3 to 9 years, and of a fine corresponding to a third part of the time; the term of imprisonment, however, shall never be less than that of the unjust deprivation of liberty, added to a third part.

Order No. 109 of the 13th April 1855, from the Ministry of Justice.

A . . . . . says, that if Article 60 of the criminal code orders indistinctly, to be commuted in flogging, all the penalties imposed on criminal slaves, excepting only the capital penalty, and that of the galleys, the penalty of fine is undoubtedly comprised in this general rule; for, being criminal, the penalty cannot be removed from the person of the delinquent, seeing that, by Articles 28 and 30 of the said code, the master alone is obliged to make compensation for the injury caused by his slave, and only the penalty—the fine—is considered compensation for injury (Art. 55 of the Criminal Code).

Order No. 44 of the 30th October 1872 of the Ministry of Justice declares that the pardon conferred by the moderating power annulled the social condition of the slave condemned to the galleys for life, for he cannot again become a slave.

**III.**

*Law of the 10th June 1835.*

Art. 1. Slaves who kill, by whatsoever means, either by administering poison to, wounding grievously, or who commit any other grave offence on the person of their owner, his wife, his descendants, or ascendants who may reside with him, to his administrator, overseer, and to their wives who live with them.

Should the wounding, or physical offence, be light, the penalty shall be flogging, in proportion to the circumstances, more or less aggravating.

Art. 2. Should any of the delicts mentioned in Art. 1 take place, that of insurrection and any other committed by slaves, to which the penalty of death is attached, there shall be an extraordinary meeting of the jury of the district (should the same not be sitting) convoked by the District Judge, to whom such events shall be immediately communicated.

Art. 3. The Justices of Peace shall have a cumulative jurisdiction throughout the whole district for proceeding against such crimes, as far as to commit the delinquents, taking the subsequent legal steps, and imprisoning them; and the process being concluded, they shall send the papers to the Judge of the district, in order that he may present them to the jury as soon as they shall have met, and it will then follow its course.

Art. 4. In such delicts, the imposition of the penalty of death shall be overruled by two-thirds of the number of votes, and that of the other penalties by a majority; and should the sentence be condemnatory, it shall be put in execution without any appeal being allowed.

**IV.**

*Decree No. 310 of the 2nd January 1864.*

Declares that the law of the 10th June 1835 should be executed without any appeal (save that of the moderating power) in case of a condemnatory sentence against slaves, not only for the crimes mentioned in Art. 1 of the same law, but also for that of insurrection, and any others for which the punishment of death may be incurred as Art. 4 determines,—the disposition of which is generic, and comprises, not only the crimes treated of in Art. 1, but also of those of Art. 2.

**V.**

*Municipal Statutes of the 11th September 1838.*

Section 2. Tit. 7. §6. All slaves who shall be encountered from and after 7 o'clock in the evening without a writing

Law of 15 Oct. 1827.  
Law of 16 Dec. 1830.  
Law of 10 June 1835.  
Decree 310 of Jan. 2<sup>nd</sup> 1864.  
Municipal statutes of 11 Sept. 1838.  
Law of 15 Sept. 1860.

from their masters, dated on that same day, in which is declared the errand on which they are going, shall suffer eight days imprisonment, the master having notice given him of the same.

Section 2, Tit. 8, § 3. All persons who shall be encountered in the streets, squares, and other public places, &c. gambling at any kind of game, shall be fined 4\$, and suffer 8 days imprisonment, and double that penalty for reincidence. Should he be a slave, the respective owner shall pay it, having the right to petition the executive Judge to commute the imprisonment to flogging, in conformity with Art. 60 of the Criminal Code.

Section 2, Tit. 10, § 29. The slaves who may be encountered causing a disturbance shall be conveyed to the public prison, immediate notice being given to the masters, that they may order the infliction of 100 lashes, in conformity with the law, and should they refuse to do so, they shall suffer a fine of 30\$ 000, and 8 days of imprisonment.

Those who are not considered the promoters (of the disturbance) shall suffer half this penalty as well as their owners, who did not chastise them.

Order No. 263 of the 25th November 1852 of the Ministry of Justice. Declares the mode of procedure with respect to the slaves who make depositions in court against their owners, in order that the slaves may be guaranteed against the abuse of the rights conferred on them by the laws of chastising them moderately.

## VI.

*Law of the 7th November 1831.*

Declares free all the slaves who enter the ports of Brazil from abroad.

Art. 1. All slaves coming from abroad who enter the territory of Brazil, or its ports, become freed.

Except,

§ 1. The slaves registered as serving on board vessels belonging to the country, or, if slavery is permitted, while employed in the services of the said vessels.

§ 2. Those who fly from a foreign territory or vessel, who shall be delivered up to their owners, who may claim them, and re-export them from Brazil.

For cases of exception No. 1, there shall be drawn up on their entry a document stating the number of the slaves, with the declarations necessary for the verification of the identity of the same, and an examination shall take place on the vessels going out to ascertain if she takes away those which were in her when she entered.

The slaves who shall be found after the vessel's departure shall be seized and retained until they are re-exported.

Order of No. 188 of 20th May 1856 from the Ministry of Justice.

The following question proposed by the President of the Court of Appeal of the capital is decided in the negative:—  
"If a slave residing in a foreign country can enter the Empire, and be not only kept in slavery, but even ordered to be given up to his master by the justices of the country."

## VII.

*Law No. 1,695 of the 15th September 1869.*

Prohibits the sale of slaves while prisoners, and in public exhibition.

[For treaties and laws relating to slavery in Brazil see also p. 80 of this Appendix.]

BRAZIL.

## DENMARK.

SIR C. L. WYKE to the EARL OF DERBY.

MY LORD, Copenhagen, March 17, 1876.  
I HAVE this day had the honour of addressing the following telegram to your Lordship:—

"Danish Government inform me that no regulations are in force bearing upon fugitive slaves on board of Danish ships of war; and, moreover, that they have had no naval station in the West Indies since 1864."

I have now the honour to enclose copy of a note from Baron Rosenörn-Lehn on this subject, in reply to mine of the 28th ultimo and 7th instant.

I have, &c.

The Right Honourable CHARLES LENNOX WYKE.  
the Earl of Derby,  
&c. &c.

Inclosure in Sir C. L. Wyke's Despatch of March 17th, 1876.

BARON ROSENÖRN-LEHN to SIR C. L. WYKE.

M. LE CHEVALIER, Copenhagen, le 16 Mars 1876.  
En se référant à vos lettres du 28 du mois passé, et du 7 du courant, dans lesquelles vous avez bien voulu demander des renseignements sur les instructions données par le Gouvernement Danois aux chefs des vaisseaux du Roi relativement au traitement des esclaves qui se réfugieraient au bord de leurs vaisseaux, le Ministère a l'honneur de vous informer que le Ministère de la Marine, auquel nous nous étions adressés de soumettre votre demande, vient de communiquer qu'il n'a jamais été appelé à statuer sur une affaire de cette nature, et que les instructions aux chefs des vaisseaux du Roi ne contiennent aucune règle sur le procédé à observer dans le cas susmentionné, qui du reste ne saurait guère se présenter, vu que depuis 1864 la Marine Danoise n'a eu aucune station fixe aux Indes Occidentales.  
Veuillez, &c.

Sir C. Lennox Wyke, K.C.B.

LEHN.

DENMARK.

## EGYPT.

CONSUL GENERAL STANTON to the EARL OF DERBY.

MY LORD, Cairo, March 10th, 1876.  
I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, of the 25th ultimo, transmitting the copy of a Circular which your Lordship has addressed to Her Majesty's representatives abroad, requesting them to furnish a report on the law and practice of the countries in which they reside in regard to fugitive slaves, and instructing me also to furnish any information which I may consider may be useful to the Royal Commission appointed to inquire into this subject and I have the honour, in compliance with these instructions, to submit the following remarks to your Lordship.

In Egypt, as in other portions of the Ottoman Empire, domestic slavery is an institution recognized alike by the laws and the religion of the country; at the same time the traffic in slaves is prohibited, though the penalties attaching to a breach of the law on this head are neither very clearly defined nor rigorously carried into effect, the consequence being that a contraband trade is still carried on, and slaves can be procured without any serious difficulty in the principal towns of this country.

Within the last few years the attention of the Egyptian Government has been frequently called to this traffic, and orders have been from time to time issued, with a view to its suppression; and it is only just to say that according to all accounts a marked diminution has occurred in the number of slaves now sold annually in Egypt to what was formerly the case.

His Highness the Khedive has, moreover, notified his readiness to enter into engagements with Her Majesty's Government for the total suppression of slave trade, and for the abolition of slavery in Egypt within a certain number of years.

As a general rule slaves in Egypt are not ill-treated, but considered as members of the household of their masters, and as such meet with a certain consideration at their hands; the number of fugitive slaves is consequently comparatively small, and in those cases in which slaves seek the protection of Her Majesty's Consulates or, I believe, those of other Powers, a demand for their freedom is generally attended to by the local authorities, though difficulties are sometimes raised which require the intervention of superior authority.

EGYPT.

## EGYPT.

The rule which has been followed in cases where a slave has claimed the protection of Her Majesty's Consuls has been to send the slave, accompanied by an officer of the Consulate, to the Governor or chief of police, with the request that manumission papers may be granted, and although, as above stated, difficulties are sometimes raised, and attempts made to detain the slave a prisoner on some charge such as theft, the papers are, as a rule, given to the slave in the presence of the consular delegate, the man or woman being thus allowed to go free; the men who cannot find employment either as domestic servants or as field labourers are generally enrolled in the army; the women, as a rule, finding domestic employment without difficulty.

Children of both sexes are received in the Government schools, which are kept up at the expense of the State.

The local authorities are, moreover, as I am assured, directed to free all slaves applying to them for protection on account of ill-treatment from their masters when such cases of ill-treatment are proved, but I am unable to state to your Lordship how far this regulation is carried out in practice.

I have, &c.

The Earl of Derby,  
&c. &c.

E. STANTON.

[For laws relating to slavery in Egypt see also p. 83 of this Appendix.]

## FRANCE.

## FRANCE.

## No. 1.—LORD LYONS to the EARL OF DERBY.

MY LORD, Paris, March 2, 1876.  
IN answer to your Lordship's despatch of the 25th ultimo, I have the honour to transmit to you a Report by Monsieur Treitt upon the Law and Practice of France in regard to Fugitive Slaves.

Right Hon. the Earl of Derby,  
&c. &c.

I have, &c.

LYONS.

## Inclosure in Lord Lyons' Despatch of March 2nd, 1876.

## REPORT as to the LAWS and PRACTICE of FRANCE with regard to FUGITIVE SLAVES.

1. C'est un principe fondamental de droit public en France que tout esclave est libre dès l'instant qu'il met le pied sur le sol Français.

2. Ce principe est fort ancien; il est formulé dans des ordonnances royales de 1315, 1318, et 1553. Il a toujours été appliqué aux esclaves des colonies.

Un édit du Roi (15 Décembre 1738) avait bien tenté de restreindre l'application de ce principe, en faveur des maîtres qui voulaient amener ou envoyer des esclaves en France; mais cet édit n'a jamais été observé; et dès 1862, l'ancienne maxime avait été remise en pleine vigueur. (Edits de 1762 et 1770.)

3. En 1791, un décret de l'Assemblée nationale proclama de nouveau le principe que le sol Français ne peut porter un esclave.

4. La jurisprudence a toujours fait une large application de ce principe dans tous les cas où la liberté d'un esclave était en question. Ce principe a été du reste rigoureusement appliqué en 1841 dans l'affaire du navire *la Créole*, par le gouvernement Anglais.

5. Une ordonnance royale du 29 Avril 1836 alla même plus loin que les anciens règlements, elle a décidé que le maître qui voulait amener ou envoyer un esclave en France, devait préalablement l'affranchir; faute de quoi, l'esclave était libre de *plein droit en débarquant*.

Il a été jugé que cette disposition s'applique même aux esclaves, qui embarqués par exemple sur un navire à défaut de matelots libres, pour les nécessités du service, auraient mis seulement le pied sur le sol de France sans y séjourner. Les esclaves ont pu du reste achever le voyage, selon leurs engagements, non plus comme esclaves, mais comme hommes libres. (Arrêt de la cour de cassation du 3 Mai 1852—Affaire Jacques.)

6. Le principe que le sol de la France affranchit l'esclave, s'exerce non seulement sur le continent, mais encore dans toutes les colonies et dans toutes les possessions Françaises sans exception. C'est ce qui est dit textuellement dans l'article 7 du fameux décret du 27 Avril 1848, lequel a définitivement aboli l'esclavage. (Voir ce décret dans la première annexe ci-après.)

7. On peut donc dire qu'il n'y a plus de lois en France concernant les esclaves fugitifs.

8. L'ordonnance de Mars 1685, autrement dit, le *Code noir*, a cessé d'avoir son application depuis la première révolution en 1789; et dès avant cette époque, les peines terribles qui frappaient les esclaves fugitifs, telles que la marque, la mutilation et même la mort en troisième récidive, étaient en quelque sorte tombées en désuétude et avaient été remplacées par le fouet.

9. Les esclaves fugitifs sont donc protégés en France contre toute extradition. Du reste, aucun traité international ne mentionne de stipulations au sujet de la livraison des esclaves.

10. Cependant l'application du principe de liberté a soulevé des difficultés au Sénégal.

La ville de St. Louis est entourée de territoires où règne

l'esclavage. Cette ville est devenue le refuge de nombreux esclaves échappés des pays voisins.

Devait-on déclarer ces esclaves libres par cela seul qu'ils avaient touché le sol Français? Cette mesure aurait certes mécontenté des peuples avec lesquels la politique conseillait de vivre en paix.

De plus, depuis peu d'années, plusieurs territoires à esclaves ont été annexés à la colonie du Sénégal.

L'esclavage a-t-il été aboli par le fait seul de l'annexion? Et les propriétaires d'esclaves sont-ils possibles des peines qui frappent la simple possession d'esclaves?

Ces questions ont vivement préoccupé les divers gouvernements de la France depuis 1848.

11. Les principes ont cédé le pas aux nécessités de la politique; et l'on peut dire, sans hésitation, que le principe qui veut que le sol Français ne peut porter d'esclave, n'est pas rigoureusement appliqué au Sénégal. Nous en avons la preuve dans une lettre du 21 Juin 1855 que le Ministre de la Marine, l'Amiral Hamelin, a adressée au gouverneur du Sénégal.

12. La lecture de cette lettre, dont le texte est ci-après (comme deuxième annexe), démontre qu'au Sénégal l'administration Française, tout en déclarant Français ou sujets Français les indigènes qui viennent s'établir à l'ombre du pavillon Français, les dispense de subir les conséquences du décret d'abolition du 27 Avril 1848, ou ne tient pas la main à son exécution.

13. Le langage de la dépêche ministérielle est quelque peu embarrassé; on voit que la loi gêne la politique.

14. C'est là le fait du *pouvoir exécutif*; il peut faire des distinctions subtiles entre les sujets Français et les citoyens Français, entre les captifs et les esclaves; il peut ne vouloir recourir qu'à l'expulsion des réfugiés et se bien garder de se servir du mot livraison ou extradition; c'est la de la politique qui peut être bonne et opportune; mais ce qui est certain c'est que le *pouvoir judiciaire* ne peut admettre et n'admettra pas ces distinctions; et si un captif quelconque arrivé sur le sol Français au Sénégal réclamait sa liberté, les juges le déclareraient libre, malgré les tolérances de l'administration.

15. Jamais le pouvoir judiciaire n'a faibli devant l'application du principe qui déclare libre tout homme qui foule le sol Français.

Du reste la lettre ministérielle laisse voir qu'aux yeux mêmes de l'administration la situation du Sénégal est temporaire et exceptionnelle.

TREITT.

Paris, ce 1 Mars 1876.

## Première annexe.

## 27 Avril 1848.—DÉCRET relatif à L'ABOLITION de L'ESCLAVAGE dans les COLONIES ET POSSESSIONS FRANÇAISES.

Le gouvernement provisoire, considérant que l'esclavage est un attentat contre la dignité humaine, qu'en détruisant le libre arbitre de l'homme, il supprime le principe naturel du droit et du devoir, qu'il est une violation flagrante du dogme républicain, Liberté, Égalité, Fraternité; considérant que si des mesures effectives ne suivaient pas de très-près la proclamation déjà faite du principe de l'abolition, il en pourrait résulter dans les colonies les plus déplorables désordres.

Décète :—

Article 1. L'esclavage sera entièrement aboli dans toutes les colonies et possessions Françaises, deux mois après la promulgation du présent décret dans chacune d'elles. A partir de la promulgation du présent décret dans les colonies, tout châtimement corporel, toute vente de personnes non libres, seront absolument interdits.

2. Le système d'engagement à temps établi au Sénégal est supprimé.

3. Les gouverneurs ou commissaires généraux de la République sont chargés d'appliquer l'ensemble des mesures propres à assurer la liberté à la Martinique, à la Guadeloupe et dépendances, à l'île de la Réunion, à la Guiane, au Sénégal et autres établissements Français de la côte occidentale d'Afrique, à l'île Mayotte et dépendances et en Algérie.

4. Sont amnistiés les anciens esclaves condamnés à des peines afflictives ou correctionnelles pour des faits qui, imputés à des hommes libres, n'auraient point entraîné ce châtement. Sont rappelés les individus déportés par mesure administrative.

5. L'Assemblée nationale réglera la quotité de l'indemnité qui devra être accordée aux colons.

6. Les colonies purifiées de la servitude et les possessions de l'Inde seront représentées à l'Assemblée nationale.

7. Le principe que le sol de la France affranchit l'esclave qui le touche, est appliqué aux colonies et possessions de la République.

8. A l'avenir, même en pays étranger, il est interdit à tout Français de posséder, d'acheter ou de vendre des esclaves et de participer, soit directement, soit indirectement, à tout trafic ou exploitation de ce genre. Toute infraction à ces dispositions entraînera la perte de la qualité de citoyen Français. Néanmoins, les Français qui se trouveront atteints par ces prohibitions, au moment de la promulgation du présent décret, auront un délai de trois ans pour s'y conformer. Ceux qui deviendront possesseurs d'esclaves en pays étrangers, par héritage, don ou mariage, devront, sous la même peine, les affranchir ou les aliéner dans le même délai, à partir du jour où leur possession aura commencé.

#### Deuxième annexe.

##### Copie textuelle.

DEPÊCHE adressée par l'AMIRAL HAMELIN, Ministre de la Marine, à MONSIEUR LE GOUVERNEUR DU SÉNÉGAL, le 21 Juin 1855.

MONSIEUR LE GOUVERNEUR,

VOTRE lettre du 25 Avril dernier, No. 184, me soumet une question dont la solution vous paraît, à bon droit, urgente et opportune.

C'est, en effet, au moment où la race noire du Sénégal, débarrassée par la vigueur de notre politique de l'oppression des Maures, commence à retrouver le travail et la tranquillité et tend de plus en plus à venir chercher sous les murs de nos établissements une sécurité qui, pour elle, n'existe pas ailleurs au même degré, qu'il y a un avantage évident, sous le rapport du développement de notre influence et de nos relations commerciales, à favoriser ce mouvement, en plaçant sous la protection de notre pavillon, et en déclarant Français, ainsi que vous le proposez, tous les villages établis sur le fleuve à portée du canon de nos forts.

Déjà le canton de Gandiol sollicite de vous cette mesure, le Walo délivré de l'oppression des Trarzas, offre aux émigrants des pays voisins de vastes plaines où il est d'une sage prévoyance d'attirer les colons qui s'attachent à notre drapeau, déjà notre influence et notre commerce rayonnent facilement sur le Fouta, le Yoloff et le Cayor et nous pourrions voir ainsi peu-à-peu se grouper autour de St. Louis, comme sur la longueur de la rive gauche du Sénégal, des populations amies, fixées à notre sol, en communication incessante avec nous, et présentant à la fois, un sérieux obstacle aux tentatives des pillards de la rive droite et des ressources nouvelles pour les cultures et les transactions.

La mesure que vous proposez rentre donc tout-à-fait dans la ligne politique que nous avons adoptée au Sénégal.

Une considération vous a toutefois arrêté dans la réalisation immédiate de ce projet, vous vous êtes demandé et c'est la question que m'adresse votre lettre précitée, si les dispositions du décret du 27 Avril 1848, permettraient, dans ce cas, aux familles indigènes de conserver leurs captifs ou si le fait seul de l'adjonction, pour ainsi dire, des villages indigènes à nos établissements, aurait pour résultat immédiat d'affranchir les captifs qui en seraient partie.

Ainsi que vous le remarquez avec raison, en Afrique et sur la rive gauche du fleuve, les captifs forment une classe reconnue de la société, classe inférieure sans doute, mais qui a ses droits et ses garanties et dont l'établissement touche à des institutions séculaires, qui sont de la part des peuplades indigènes, l'objet d'un profond respect.

Dire aux populations qui nous entourent que pour vivre sous la protection de notre drapeau, il faut immédiatement renoncer aux captifs, ce serait les éloigner de nous, peut-

être à tout jamais, les jeter dans les bras de nos ennemis et manquer complètement notre but au point de vue même de leur émancipation future et des intérêts de la civilisation.

En accordant au contraire à ces populations qui demandent à se rapprocher de nous toutes les facilités compatibles avec nos principes, nous les verrons peu-à-peu prendre racine sur notre sol, s'habituer à nos mœurs dépendre chaque jour de notre assistance et modifier insensiblement leurs idées et leur règles sur l'organisation de la famille et de la société.

Notre ligne de conduite est donc facile à tracer et nous ne devons pas nous en laisser égarer pas des scrupules sans fondement.

Ce n'est pas, au surplus, pour la première fois que la question des captifs se présente; elle a déjà été résolue pour le Sénégal même, dans le sens des considérations qui précèdent.

Au lendemain, en effet, de la déclaration de l'abolition de l'esclavage dans les colonies et possessions Françaises, une dépêche du 7 Mai 1848, allait au devant des conséquences qui pouvaient être tirées au Sénégal spécialement de l'article 7 du décret du 27 Avril 1848, (le sol de la France affranchit l'esclave qui le touche) et recommandait dans cette pensée à l'un de vos prédécesseurs de "s'abstenir " de provoquer en quelque sorte la désertion des noirs " captifs à l'intérieur en y propageant l'opinion que le " Sénégal est un refuge ou l'autorité Française est désireuse " de les attirer." En même temps, l'administration locale était autorisée à "surveiller les noirs qui viendraient ainsi " dans nos villes chercher leur affranchissement et même " au besoin à les expulser de notre territoire."

Un peu plus tard, à l'occasion d'un incident né de l'application de ce même article 7, une dépêche ministérielle du 26 Octobre 1848, recommandait à M. le Capitaine de vaisseau Baudin, comme un moyen de parer à des difficultés analogues à celles dont vous m'entretenez aujourd'hui " la " faculté qui serait donnée aux indigènes de l'extérieur, " de se faire accompagner de leurs captifs, en quelque " sorte jusqu'aux portes de St. Louis et de Gorée, puisque " ces villes ont à leur proximité des territoires sur lesquels " ne s'étend pas l'effet du décret du 27 Avril 1848."

Diverses dépêches subséquentes entre autres, celle du 18 Avril 1849, ont développé et confirmé cette doctrine, qui, vous le voyez, vient tout-à-fait à l'appui de la distinction indiquée avec raison par M. le Chef du Service Judiciaire au Sénégal, dans son rapport en conseil d'administration; à savoir, que les indigènes du Sénégal qui se placent sous notre protection et reconnaissent notre domination, deviennent sujets de la France, mais non citoyens Français et demeurent ainsi en dehors des dispositions du décret du 27 Avril 1848. Les villages qui viennent à nous et demandent uniquement à vivre sous notre drapeau rentrent donc dans ces conditions, et doivent pouvoir, par conséquent, conserver leurs captifs; nous ne demanderons qu'au temps, à notre exemple, à notre persévérante influence, les moyens de transformer peu-à-peu ces sociétés primitives et de faire disparaître ainsi progressivement chez elles jusqu'aux dernières traces de l'esclavage; telle a été, vous le savez, en Algérie, la règle absolue de notre conduite.

Mais si en ce qui concerne le Sénégal, cette interprétation du décret du 27 Avril 1848 a été consacrée depuis le premier jour et doit être soigneusement maintenue, il est en même temps aussi des principes dont les fondements demeurent inébranlables,

Ces principes veulent que le sol Français ne porte jamais d'esclave. C'est sur ce point en même temps que sur la légitimité de l'application en pareille matière de l'article 341 du code pénal, que la Cour de Cassation a récemment statué. Cet arrêt a été signalé à votre attention par la dépêche du 28 Décembre 1854 et rappelé dans la délibération du conseil d'administration du 10 Avril dernier, il n'a pas eu d'autre objet.\*

\* Note du Copiste.—L'article 341 du code pénal punit des travaux forcés à temps les individus qui, en dehors des cas spécifiés par la loi, auront arrêté détenu ou séquestré des personnes.

Il a été fait application de cet article à des individus étrangers résidant au Sénégal. L'arrêt porte que le fait d'avoir vendu comme esclave un noir que sa présence sur le territoire de la colonie du Sénégal avait rendu libre, constitue le crime prévu par l'article 341 du code pénal, encore bien que le crime aurait été consommé dans un bien placé hors du dit territoire ou le noir aurait été attiré par artifices. (Arrêt de la Chambre criminelle de la Cour de Cassation du 1 Décembre 1854, affaire Seye.) Cet arrêt pose le principe que le sol de la France affranchit l'esclave, non seulement sur le continent, mais dans toutes les possessions Françaises. Les dispositions de cet article se concilient difficilement avec les prescriptions de la lettre ministérielle. La jurisprudence n'admettra pas la distinction entre les esclaves et les captifs.

FRANCE.

Il ne peut donc y avoir de captif ni à St. Louis ni à Gorée, ni dans l'enceinte proprement dite d'aucun de nos divers postes ou établissements.

En dehors de ces limites se retrouvent ces territoires dont parle la dépêche du 20 Octobre 1848 et sur lesquels "ne s'étend pas l'effet du 27 Avril 1848." Les villages indigènes peuvent s'y établir, à l'ombre de notre drapeau, continuer à se régler par leurs propres lois et conserver par conséquent leurs captifs.

L'administration a d'ailleurs le double devoir de veiller d'une part à ce que là, comme partout ou s'étend son action, nul citoyen Français n'enfreigne les prohibitions relatives à l'esclavage; de l'autre à user comme l'indique la dépêche précitée du 7 Mai 1848, de toute l'étendue de ses pouvoirs, en matière de police pour surveiller et expulser au besoin de nos établissements les noirs qui tenteraient d'y chercher leur affranchissement et dont la présence pourrait ainsi être un sujet de trouble ou de danger.

HAMELIN.

## No. 2.—LORD LYONS to the EARL OF DERBY.

MY LORD,

Paris, March 13th, 1876.

WITH reference to your Lordship's despatch of the 6th instant, I have the honour to transmit to your Lordship a report from Mr. Treitt on the protection afforded to fugitive slaves who may take refuge on board French ships of war either on the high seas or when the vessels are in the territorial waters of a foreign State.

I have also applied to the French Government for information on this point.

The Earl of Derby,  
&c. &c.

I have, &amp;c.

LYONS.

Inclosure in Lord Lyons' Despatch of March 13th, 1876.

## REPORT.

13 Mars 1876.

"Information in regard to the protection afforded to fugitive slaves who may take refuge on board French ships of war either on the high seas or in the territorial waters of a foreign State."

1. Les esclaves fugitifs sont assurés de trouver une protection efficace et inviolable, s'ils parviennent à se réfugier à bord d'un bâtiment de guerre Français, non seulement en pleine mer mais encore dans les eaux territoriales d'un autre État.

En effet les bâtiments de guerre sont une portion du Gouvernement auquel ils appartiennent; ils doivent être indépendants et respectés comme ce gouvernement lui-même.

Les officiers à bord des navires de guerre exercent en quelque sorte la puissance exécutive et en certains cas la puissance judiciaire, ce sont là deux des attributs qui caractérisent la souveraineté.

Nul étranger ne peut s'immiscer dans ce qui se fait sur un navire de guerre ni y pénétrer par la force; car ce qui se passe à bord est censé se passer sur le territoire du Gouvernement auquel appartient le navire.

En un mot, on applique pleinement aux navires de guerre les principes du *droit d'exterritorialité*.

Ce droit est ainsi formulé par un des écrivains les plus estimés sur le droit international. Hubner dit, "Tout navire de guerre est partie *détachée* de son pays, en quelque lieu qu'il se trouve, non seulement en haute mer et dans les passages qui ne sont pas et ne peuvent pas être occupés, mais même dans les endroits occupés tels que les ports, rades, havres, côtes, etc., etc."

2. Il y a des auteurs qui ont critiqué l'application aux navires de guerre du principe d'exterritorialité; et Pinheiro-Ferreira, n'accepte pas leur assimilation aux hôtels des ambassadeurs et des ministres.

Cependant un vaisseau de guerre est un corps organisé de fonctionnaires; dans l'ordre administratif et judiciaire il fait partie de la puissance publique du pays auquel il appartient; il eut régi par ses lois et fait partie de sa souveraineté. Soumettre les bâtiments de guerre aux lois du pays où ils se trouvent c'est subordonner une puissance à l'autre.

Certes, en cas de violation des lois internationales un État peut prendre contre un navire de guerre étranger toutes les précautions qu'il jugera utiles; il peut même l'expulser, sauf à donner ultérieurement des explications; mais il ne peut violer le sol d'un autre État en pénétrant par la ruse ou par la force sur un navire de guerre pour y enlever un réfugié, lors même que ce réfugié serait un malfaiteur; en pareil cas, il devra recourir aux usages,

et réglemens de l'extradition ou aux traités s'il en existe.

3. Mais les esclaves fugitifs ne sont pas de malfaiteurs; l'esclavage est proscrit dans le droit public de l'Europe; jamais un navire de guerre ne livrera un esclave, car le navire, c'est le sol de la patrie; et depuis siècles c'est une maxime que la terre de France ne porte pas d'esclave. L'officier qui violerait cette maxime, encourrait les plus grands reproches et de graves inconvénients.

Cette doctrine est vivement soutenue par les auteurs les plus autorisés en France: (\*) Je n'ai pu trouver d'exemple où elle ait été violé par les officiers de la marine.

4. Il faut donc maintenir le principe de l'exterritorialité des navires de guerre comme le principe même de l'indépendance des nations les unes à l'égard des autres.

C'est aussi l'opinion de l'Américain Wheaton dans ses *Éléments de droit International*, Forme I., partie 2, chapitre 2, § 9, page 126.

La doctrine contraire au droit d'exterritorialité des navires de guerre, telle qu'elle a été soutenue en Allemagne,† serait une source de conflits; elle conduirait à la pratique de quelque droit de visite; l'on sait dans tous les pays maritimes combien le droit de visite a soulevé d'objections et de récriminations.

Je termine donc comme j'ai commencé en déclarant qu'un esclave fugitif trouvera à bord d'un navire de guerre où il se sera réfugié la même protection que sur le territoire Français.

Paris, le 13 Mars 1876.

TREITT.

SIR A. J. E. COCKBURN to MONSIEUR TREITT, Legal Adviser to Her Britannic Majesty's Embassy at Paris.

40, Hertford Street, May 1, 1876.

THE Lord Chief Justice of England presents his compliments to Monsieur Treitt, and takes the liberty of troubling him on the subject of fugitive slaves.

In a letter from Monsieur Treitt to Lord Lyons, of the 13th of March last, a copy of which has been laid before the Royal Commission now sitting on the subject of fugitive slaves, there occurs the following passage:—

"Certes, en cas de violation des lois internationales, un état peut prendre contre un navire de guerre étranger, toutes les précautions qu'il jugera utiles; il peut même l'expulser, sauf à donner ultérieurement des explications: mais il ne peut violer le sol d'un autre état, en pénétrant par la ruse ou par la force sur un navire de guerre pour y enlever un réfugié, lors même que ce réfugié serait un malfaiteur; en pareil cas, il devra recourir aux usages et réglemens de l'extradition, ou aux traités s'il en existe."

"Mais les esclaves fugitifs ne sont pas des malfaiteurs; l'esclavage est proscrit dans le droit public de l'Europe; jamais un navire de guerre ne livrera un esclave; car le navire, c'est le sol de la patrie; et depuis des siècles c'est une maxime que la terre de France ne porte pas d'esclave. L'officier qui violerait cette maxime encourrait les plus grands reproches et de graves inconvénients."

"Cette doctrine est vivement soutenue par les auteurs les plus autorisés en France: je n'ai pu trouver d'exemple où elle ait été violé par les officiers de la marine."

The Lord Chief Justice would feel greatly obliged if Monsieur Treitt would have the goodness to inform him who are the authors to whom reference is here made, and would also take it as a great favour if Monsieur Treitt would inform him of any instance within his knowledge in which the commander of a French ship of war has refused to give up a fugitive slave who had got on board his vessel.

With assurance of the highest consideration.

A. E. COCKBURN.

Monsieur Treitt.

\* Règles Internationales et Diplomatie de la Mer, par Ortolan, Capitaine de Frégate, Vol. 1, pp. 210, et suivantes, 2d édition, 1853.

M. Ortolan était le frère d'un savant Professeur à l'École de Droit à Paris.

Des Droits et des Nations Neutres en Temps de Guerre, Maritime, par Hautefeuille, Avocat à la Cour de Cassation, Vol. 1, pp. 5, et suivantes.

† Droit des Gens Européens par Schmalz, Livre 8, Chapitre 2.

MONSIEUR TREITT to SIR A. J. COCKBURN.

Paris, 7 Mai 1876,  
27 Rue d'Enghien.

MY LORD,

LES ouvrages dans lesquels le principe de l'exterritorialité des navires de guerre est le plus énergiquement soutenu sont :—

- 1°. Règles et diplomatie de la mer, par Ortolan, capitaine de frégate, 2<sup>e</sup> édition, premier volume, pages 210 et suivantes.

Cet ouvrage n'est pas seulement l'œuvre d'un marin, mais aussi celui d'un juriste; car il a évidemment été retouché par l'un des plus savants professeurs de l'école de droit de Paris, par M. Ortolan aîné, frère de l'officier de marine.

- 2°. Des droits et des nations neutres en temps de guerre maritime, par Hautefeuille, avocat à la Cour de Cassation. (Deuxième volume, pages 5 et suivantes).

Ce sont les deux ouvrages Français les plus modernes que nous ayons sur cette matière.

Les auteurs citent les opinions des écrivains qui ont traité la même question, tels que Hubner et Wheaton. (Eléments de droit international, tome premier, deuxième partie, chapitre 2, § 9, page 126).

Ils mentionnent également les publicistes qui ont combattu le principe d'exterritorialité, tels que Schmolz. (Droit des gens européen, livre 8, chapitre 2.)

J'aurais bien voulu vous envoyer Ortolan et Hautefeuille; je n'ai pu me les procurer en ce moment, les éditions sont épuisées. Mais je crois que ces ouvrages sont au British Museum.

Quant à un refus d'un officier de marine de livrer un esclave réfugié sur son bord, je n'ai pu en trouver un exemple ni dans les annales maritimes où j'ai fouillé, ni dans ma mémoire, quoique j'aie toujours porté intérêt aux choses de la marine.

Je suis allé au ministère voir un fonctionnaire dans l'état-major de la flotte, lequel a été secrétaire de l'Amiral Sothuan, alors qu'il était ministre.

Ce fonctionnaire m'a déclaré qu'il ne pensait pas qu'il existât un cas, se référant à l'information que je désirais obtenir. Il m'a cependant adressé à M. le chef de bureau des mouvements de la flotte, bureau qui fait partie du cabinet du ministre. Ce fonctionnaire m'a fait la même réponse; il en a même référé à l'Amiral Roussin, chef du cabinet du ministre actuel. L'Amiral a également répondu qu'il ne pensait pas qu'un officier ait jamais eu l'occasion de refuser de livrer un esclave réfugié à bord. Je n'ai pas besoin d'ajouter que ces messieurs ont été

d'accord pour dire que jamais un officier ne se permettrait cet oubli des principes.

Veillez agréer l'expression de mes sentiments les plus distingués.

TREITT,  
Avocat à la Cour d'Appel, Legal Adviser  
to the British Embassy.

FRANCE.

No. 3.—LORD LYONS to the EARL OF DERBY.

MY LORD,

Paris, March 24th, 1876.

WITH reference to my despatch of the 13th instant, I have the honour to transmit to your Lordship a copy of a note from the French Minister for Foreign Affairs, from which it appears that no special instructions respecting fugitive slaves are given to the officers of the French navy, but that they are left to act according to the circumstances of any case that may present itself.

I have, &c.

The Right Honourable  
the Earl of Derby,  
&c. &c.

LYONS.

Inclosure in Lord Lyons' Despatch of March 24th, 1876.

The Duc DECAZES to LORD LYONS.

Versailles,

le 21 Mars 1876.

MONSIEUR L'AMBASSADEUR.

VOTRE Excellence, par sa lettre du 8 de ce mois, m'a exprimé le désir d'avoir communication, pour les transmettre au Gouvernement de Sa Majesté Britannique, des documents relatifs à la protection des esclaves fugitifs qui cherchent un refuge à bord des bâtiments de guerre Français, soit en pleine mer, soit dans les eaux territoriales d'un état étranger.

Je m'empresse de vous faire savoir qu'il n'existe point d'instructions spéciales sur ce point dans la Marine Française.

Les difficultés que peut soulever la situation des esclaves fugitifs dans leurs rapports avec nos navires restent soumises aux principes généraux du droit des gens, chaque commandant devant s'efforcer d'en faire l'application la plus équitable, suivant les circonstances dans lesquelles des questions plus ou moins délicates viennent à se produire.

Lord Lyons,  
&c. &c.

Agréé, &c.

DECAZES.

## GERMANY.

GERMANY.

LORD ODO RUSSELL to the EARL OF DERBY.

MY LORD,

Berlin, March 11, 1876.

IN conformity with your Lordship's instructions I addressed an enquiry to the German Government as to what rules were in force in this country relating to fugitive slaves, and more especially as to their treatment when they took refuge on board German ships of war both on the high seas, and in the territorial waters of foreign Powers.

I have now the honour to forward to your Lordship copy and translation of a preliminary reply which I have this day received from the German Minister for Foreign Affairs, in which His Excellency states that no occasion has yet arisen for the promulgation of any Imperial Decree respecting fugitive slaves.

I shall not fail to forward to your Lordship any further information on this subject with which Herr von Bülow may supply me.

I have, &c.

The Earl of Derby,  
&c. &c.

ODO RUSSELL.

Inclosure in Lord Odo Russell's Despatch of  
March 11th, 1876.

(Translation.)

M. DE BÜLOW to LORD ODO RUSSELL.

Berlin, March 9, 1876.

THE undersigned, in reply to the notes of His Excellency the Ambassador Extraordinary and Plenipotentiary of Her

Britannic Majesty, dated respectively the 27th ultimo and the 7th instant, has the honour to state that no occasion has yet arisen for the promulgation of any Imperial edicts on the subject of fugitive slaves.

In Prussia the Law of March 9, 1857, copy of which is enclosed, prevails, under which slaves become free from the moment they set foot on Prussian soil, and the master's right of ownership becomes void from the same moment. It appears a doubtful question, and one presumably to be answered in the negative, whether in accordance with the general principles of international law under which ships at sea are considered a portion of the State to which they belong, and which more especially admits the exterritoriality of ships of war, as such, this law, promulgated for Prussia only, can apply to the ships of the actual German navy, since they no longer fly the Prussian but the German flag.

The undersigned has availed himself of the opportunity to take steps to obtain a further competent opinion in regard to this matter, and also to obtain information as to any legal provisions which may have been enacted by other German States.

The undersigned, whilst compelled to reserve to himself the honour of making a further communication on this subject, was unwilling to neglect placing His Excellency in possession of the above preliminary information, and at the same time avails himself, &c.

B. BÜLOW.

GERMANY.

Inclosure in M. de Bülow's Letter to Lord Odo Russell,  
of March 9th, 1876.

(Translation.)

Law respecting the Alteration in the Regulations contained  
in the General Law of the Land (Allgemeines Land-  
recht), Tit II., Tit 5, §§ 198, relating to Slaves, of  
March 9th, 1857.

We, FREDERICK WILLIAM, by the Grace of God, King  
of Prussia, decree, with the assent of both Houses of the  
Landtag of Our Monarchy, what follows:—

§§ 1.

Slaves will be free the moment they set foot on Prussian  
territory.

The proprietary right of the master is from that moment  
extinguished.

§§ 2.

All regulations contrary to these orders are hereby  
annulled, especially §§ 191 to 208, Part II., Tit V., of the  
General Law of the Land.

Given under Our High Sign Manual and Royal Seal,  
Charlottenburg, March 9, 1857.

(L.S.)	(Signed)	FREDERICK WILLIAM.
	(Countersigned)	V. MANTEUFFEL.
		V. DE HEYDT.
		S. V. RAUMER.
		V. WESTPHALEN.
		V. BODELSCHWINGH.
		V. MASSOW.
		COUNT V. WALDERSEE,
		VON MANTEUFFEL, II.

ITALY.ITALY.

SIR AUGUSTUS PAGET to the EARL OF DERBY.

MY LORD, Rome, 25th April 1876.  
WITH reference to your Lordship's despatches, of the  
25th February and 6th March last, requesting information  
as to the Law and Practice of the Italian Government with  
regard to fugitive slaves, I have now the honour to forward  
herewith copy and translation of a note from the Italian  
Minister for Foreign Affairs in answer to my note to His  
Excellency on the above subject.

The Right Hon. the Earl of Derby,  
&c. &c. &c.

I have, &c.

A. PAGET.

Inclosure in Sir A. Paget's despatch of 25th April 1876.

Translation.

M. MELEGARI to SIR A. PAGET.

M. LE MINISTRE, Rome, 22nd April 1876.  
I REGRET to have been obliged to delay until now  
the answer to the wishes expressed by the Minister for  
Foreign Affairs of the United Kingdom, mentioned in the  
two notes which you addressed to my predecessor dated 25th  
February and 8th March last, in which information was  
requested respecting the treatment of fugitive slaves  
according to the law and practice of Italy, but I thought  
it expedient in order to strengthen my reply to refer the  
matter to my colleagues, the Minister of Justice and of the  
Marine.

Italian legislation, by not recognising slavery as a thing  
contrary to humanity, but rather by punishing severely  
(Mercantile Marine Code Act, 335-345) those who practise  
trade or other commerce in slaves, leaves no doubt that any  
slave who might take refuge on an Italian ship, considered  
by us as continuance of the national territory, whether on  
the high seas, or in territorial waters, must be considered as  
perfectly free. And the law at first declared this positively.  
In fact the Maritime Penal Law of 13th January 1827,  
which extended to all the provinces of the Kingdom, was  
in force up to the end of the year 1865, whilst it contained  
in Article 104 a prohibition to captains and masters of  
national vessels to let for hire { their ships }  
themselves for the trans-  
port of slaves of any description laid down the principle  
that the slave must be considered as restored *ipso facto* to  
personal liberty from the moment in which he should  
place his foot on the national vessel, and besides did not  
permit that the captains and masters or members of the  
crew of the national ships should take duty and participate  
in the trade or commerce of slaves unless with a view to  
restoring them to liberty.

The new Mercantile Marine Code which succeeded on  
the first of January 1866 to the above named law, did not  
think opportune a reproduction of the rules respecting the  
liberation of slaves because it was too obvious that accord-  
ing to the rational principles of right a slave who had  
placed his foot on Italian soil was free and treated as such,  
the condition of slavery not being recognised in any person.

I have, &c.

Sir A. Paget, &c., &c., &c.

MELEGARI.

MOROCCO.MOROCCO.

SIR JOHN DRUMMOND HAY to the EARL OF DERBY.

MY LORD, Tangier, 30th March 1876.  
I HAVE the honour to acknowledge the receipt of  
your Lordship's despatch, of the 29 ult., instructing me to  
furnish your Lordship with a report on the status of slaves  
in this country, and especially of any measures in project  
for emancipation.

In a Despatch, of 10 January 1872, I had transmitted to  
Her Majesty's Government the copy of a Memorandum  
regarding slaves in Morocco, and I have the honour to  
transmit an extract of the remarks I had made on that  
occasion, and beg to add that I have no grounds for  
altering my opinions on that subject.

Slaves are brought to this country from the interior of  
Africa, via the city of Morocco and Mogador, unless it be  
now and then that female slaves from Circassia or Abyssinia  
have been brought by sea from the East, as members of the  
harem or as servants of rich Moors, with the free consent  
of the former and without the knowledge of British au-  
thorities. Since the abolition of slavery in the East, such  
importations have of late years become, I am assured, very  
rare.

I have directed Her Majesty's Consul at Mogador to  
send me, as soon as possible, a full report upon the traffic  
in slaves with the interior, as he has facilities to obtain  
information which I do not possess at Tangier, and I shall

forward to your Lordship Mr. Drummond Hay's report  
as soon as it is received.

Slaves are not numerous in the northern provinces of  
Morocco. They are well treated and rarely employed for  
agricultural purposes or any hard labour. The men are  
generally employed as servants or grooms. The women are  
employed as servants and also as concubines of the  
wealthier classes. If a master of a slave has a child by a  
female slave, she cannot be sold, and the woman and her  
child inherit a portion of the property of the master on his  
decease.

I do not think there are above 100 slaves in Tangier, and  
about the same number in this province, which extends  
about 25 miles to the southward and eastward of this  
town.

During my long residence in this country, though  
Moorish subjects frequently take refuge in the Legation  
from the arbitrary acts of Moorish authorities, and beg for  
my good offices, I have never had slaves appeal to me for pro-  
tection against their masters on account of ill-treatment,  
but on the contrary, on four occasions, I have been  
petitioned to request masters not to liberate their slaves, as  
the latter declared they would be worse off than if they  
remained in slavery.

If a slave is cruelly treated by a master he can prosecute  
the latter before a Moorish court of law, and the Kadi can  
order the master to sell the slave for the price he was

bought at, if a purchaser can be found, or the slave can raise himself the money to purchase his freedom.

In the reign of Sultan Mulay Ismael, about 200 years ago, he called upon his subjects to pay their taxes in slaves. Several thousand men, women, and children were delivered over to the Sultan. The men were formed into a body guard of the Sultan, and were called "Abeed\* Cid el Bokhary" on account of a library of valuable manuscripts of "Bokhary," a learned Moor, having been placed under their especial charge. The City of Mequenez was selected as the chief town of their residence, and at the present day the inhabitants of that city are Buakhar (Bokharries) and hereditary slaves of the Sultan who are required to serve in the Sultan's army, and they form a body of five or six thousand men.

Some of the chief officers at the court and authorities in this country are Bukhar. Cid Moosa is a Bakhary, and His Majesty always spoke to me, when I was at the court, of him as "Wasefoona," or "our bondsman." The present Governor of Tangier is another Bokhary.

As these Buakhar have long enjoyed great influence and power at the Court, they have intermarried with white daughters of the Moors, and many of the Buakhar are at the present day as fair as Europeans. Others are blacks, with negro features. The Sultans of Morocco have not, of late years, been known to sell any Buakhar or to impose on them any forced labour, but they are compelled to serve as soldiers.

With regard to emancipation, no step has ever been taken by this Government towards it, and I do not think the present Sultan would even venture to introduce any alteration of their religious and social laws in this respect, as it would create the greatest dissatisfaction throughout the country, especially amongst the officers about the court and governors of provinces, who are the chief slave holders.

Morocco is in a very different position from Turkey, Egypt, or other Mohamedan powers. The sovereigns of Morocco have never been placed under great obligations to European Governments for assistance when in difficulties as the Turks and other Mohamedan powers.

I fear they would not understand and would even resent any attempt to interfere with their domestic institutions, unless the case arose when Great Britain, or other European power interested in the abolition of slavery, gave this Government, and especially the Moorish population, to understand, in a case of emergency, when their independence was threatened by some European power, that their support or friendly interference to prevent a war could not be given unless slavery was abolished in Morocco as in other Mohamedan countries.

I have, &c.,  
J. DRUMMOND HAY.

The Right Hon. The Earl of Derby,  
&c. &c. &c.

Inclosure in Sir J. Drummond Hay's despatch of  
March 30th 1876.

EXTRACT FROM SIR JOHN DRUMMOND HAY'S MEMORANDUM sent in his DESPATCH of 10 January 1872.

My predecessor made, in 1832, by order of Her Majesty's Government, representations to the Sultan, urging the abolition of slavery. The correspondence was brought to a close by the Sultan quoting the Koran in favour of slavery, and declining to admit of any change in the social laws of this country. I never received any instructions from Her Majesty's Government to make any representation on this subject, though I have on more than one occasion, in an officious manner, expressed to members of the Moorish Government the satisfaction it would occasion to the British Government and to the British public if the Sultan would follow the examples of the sovereign of Turkey and the Basha of Egypt. It is a curious fact that during my long residence in this country I have never been appealed to by slaves for my good offices with their masters except on four occasions, and two of these were that I should beg their masters not to liberate them, as they would lose the protection and friendship of the family.

Until the British Government takes as active an interest in the affairs of Morocco as it has done of Turkey and Egypt, and places this Government under similar obligations, I fear there is little or no hope of obtaining the abolition of slavery.

\* Note.—Meaning "Slaves."

No. 2.—SIR JOHN DRUMMOND HAY to the  
EARL OF DERBY.

MOROCCO.

MY LORD, Tangier, 30th April 1876.  
WITH reference to my Despatch of the 30th March, I have the honour to transmit herewith the copy of a report I have received from the Consul at Mogador.  
I have, &c.  
The Right Honourable J. H. DRUMMOND HAY.  
The Earl of Derby,  
&c. &c.

Inclosure in Sir J. Drummond Hay's Despatch of  
April 30th, 1876.

CONSUL R. DRUMMOND HAY to SIR J. DRUMMOND HAY.  
British Consulate, Mogador,  
12th April 1876.

SIR, I HAVE the honour to acknowledge the receipt of your Excellency's Despatch, of the 28th ultimo, directing me to transmit with as little delay as possible to you a report on the traffic in slaves within the interior of Mogador and the city of Morocco, stating, as far as I can, the number bought annually of men, women, and children, what part of the interior of Africa they are brought from, and who are the people that are engaged in the traffic; and, further, to state the value of slaves in these districts, and whether they are bought for agricultural or domestic purposes, and the treatment of slaves in general by their masters.

The slaves which are sold in this part of Morocco are brought by the slave dealers from Timbuctoo, across the desert to Tindoof (great caravan station on the northern confines of the desert), and from thence they are taken to the different markets in the interior and chief towns of Morocco.

The great slave hunters are the Arabs of Hamd Allahi, who make raids into the Soudan or negroland which adjoins their territory. On returning with the prisoners, one fifth becomes the property of their Sultan, and the remainder are divided in equal proportions amongst the chiefs and others who formed the expedition.

After dividing their booty in this manner, there are always at hand slave traders from different parts, chiefly from Timbuctoo, to take the slaves off their hands, and convey them to the latter market, there to await the departure of a caravan.

There are two great caravans during the year, by which slaves are brought to Morocco by the Moorish traders with Timbuctoo, and also by the slave dealers from that city.

It is difficult to calculate the number of slaves imported into Morocco by Tindoof. I am informed by persons who have been engaged in the Timbuctoo trade at that station, and who are therefore well acquainted with all the particulars, that as many as 3,000 slaves have been known to arrive in a caravan. This, however, was an exception to the rule; and, as far as I can learn, the average number of slaves that enter Morocco via Tindoof annually, by the two great caravans, does not exceed 2,000 souls. The number imported by other means and routes is insignificant. Slaves are sold in all the markets, both in the towns and country. At the city of Morocco there is a market especially for slaves, which is held daily after the hour of Asar (4 o'clock), but not more than three or four slaves are generally offered for sale. Many slaves are sold in private by the slave dealers, but when placed in the market they are handed over to an auctioneer, who conducts the slaves through the streets crying out the last bid. Those in the auction have generally the appearance of being well nurtured, in order, no doubt, to command a good price, and the women are gaudily dressed for the occasion.

The prices of slaves in this part of Morocco are as follows:—

A female slave, from 5 to 10 years old,	15 <i>l.</i> to 20 <i>l.</i>
Do. do. 10 to 15 do.	20 <i>l.</i> to 30 <i>l.</i>
A male do. 5 to 10 do.	10 <i>l.</i> to 15 <i>l.</i>
Do. do. 10 to 15 do.	15 <i>l.</i> to 20 <i>l.</i>

These are prices of slaves which arrive fresh from the Soudan, their value varying according to their ages, children commanding higher prices than grown-up persons; and those who are re-sold, after having been broken in to domestic or agricultural labour, are valued according to their knowledge of work. For instance, a girl of 14 or 15 years old, accustomed to domestic service, will fetch from 40*l.* to 80*l.*, and if she is a virgin, or very comely in appearance, a still higher price is offered for her.

Full grown slaves of either sex, coming straight from the desert, are not much sought after, for as they arrive in a semi-savage state they are next to useless as domestic slaves, and especially the men, who would be precluded from entering the Mohamedan master's abode, and would



## MOROCCO.

therefore be unavailable for household service, as slaves in this country are principally employed in that capacity.

I am informed that three-fourths of the slaves imported yearly into this country are under the age of 17, and about two-thirds of them are of the female sex. Boys below the age of ten are used as attendants on the ladies of the harem. They are employed as pages, and generally one or more are kept picturesquely dressed to carry the tea-kettles, which are so frequently in demand in Moorish houses. It very often happens that these little slaves become great favourites with their owners, and grow up with the sons of the house.

Girls are employed in cleaning, sifting, and sometimes grinding the wheat for the consumption of the house, and in looking after the children; and, in fact, performing all the menial offices which are filled by free servants in Europe.

When boys reach the age of puberty, they are either employed in catering for the household, and looking after the horses and mules, or are turned into the fields to make themselves useful.

Governors of Provinces, and Sheikhs, employ a certain number of male slaves as ploughmen, herdsman, &c., but they never possess more than 10 or 12, and even those numbers are rarely seen.

The Moors (inhabitants of the town), and the Schloh and Berher tribes, are more humane to their slaves than the Arabs. Some of the rich farmers amongst the latter race invest in slaves of both sexes, who are allowed to live together in the farm, and whose offspring their master sells as he would any of his live stock.

It sometimes happens that slaves belonging to one, or different owners, marry, but nevertheless the husband is always liable to see his wife carried off to her master's harem, to serve as his concubine, and also if an Arab becomes enamoured of another Arab's female slave, and marries her, with the consent of her master, without purchasing her, the children would not belong to their father, but to the owner of their mother, and thus be liable to be sold. Cases of that kind are, however, of rare occurrence.

In some of the chief cities of Morocco, and to a certain degree in this town, master masons, weavers, &c. employ young slaves as apprentices, and when they have learnt the trade they labour on their master's account, and bring him the whole, or, if they subsist independently, a portion of their earnings. Two of the chief masons in this town are the slaves of a wealthy Moor, to whom, I am told, they are extremely attached.

There is a large number of slaves in Mogador owned by the several Governors of Provinces, and merchants, &c., but no case of cruelty to a slave has been brought under my notice. A woman slave once took refuge in the porch of the Consulate, complaining that her mistress had beaten her, but on making inquiries, and ascertaining the facts of the case, I was informed that the fast of Ramadan being very close at hand, the lady of the house had on that account given vent to her wrath by beating all the inmates of the harem, and it appeared that the unfortunate slave had not been spared.

There are precepts in the "Shraa," or Mohamedan law, for the protection of slaves against the tyranny or cruelty of their masters, as well as in other matters; for their prophet, Mohamed, said, "Fear God regarding these persons whom you possess."

"Clothe them with that which you wear."

"Feed them with that which you eat."

"Give them not work which they are unable to perform, for God He gave them to you, and if He had desired He might have given you to them."

If a slave is ill-treated by his owner he can appeal to the Shraa, and if the cruelty is proved can demand to be sold; and the murder of a slave is regarded by the law in the same light as the murder of a free man.

Most females slaves, when young, are the concubines of their masters, and the law provides that if a man has a child by his slave she becomes free, but on his death the child alone inherits. On the other hand, if a man frees any of his slaves he cannot claim them again, but on their death he only lawfully succeeds to their property.

It frequently occurs that slaves who have served their masters faithfully during his lifetime are given their freedom on his death-bed, but they will often continue to serve in the family where they have been brought up.

A slave can buy his own freedom by drawing up, before public notaries, an agreement with his owner by which he promises to pay his price by instalments within a stated period. If, however, the debt is not paid in the time agreed upon his master appropriates the money already advanced, and the contract becomes void, for, as the Koran says, "The slave and all he possesses belong to his master."

I have, &c.

R. DRUMMOND HAY.

Sir John Drummond Hay, K.C.B.,

&c., &c., &c.,

Tangier.

[For Treaties with Morocco relating to slavery see also p. 83 of this Appendix.]

## NETHERLANDS.

## NETHERLANDS.

SIR EDWARD HARRIS to the EARL OF DERBY.

MY LORD,

The Hague, March 24, 1876.

In obedience to the instructions contained in your Lordship's despatch, dated the 25th ultimo, and telegram dated the 6th instant, I addressed two notes to the Minister for Foreign Affairs, copies of which I have the honour to enclose herewith, asking for information respecting the law and practice of the Netherlands with regard to fugitive slaves taking refuge in the territories of the King of Holland or on board of Dutch men-of-war in foreign ports or on the high seas.

I have the honour to transmit the answer of Monsieur de Willebois recording the opinion of the jurist whom he had consulted.

The Earl of Derby,  
&c. &c.

I have, &c.  
E. A. J. HARRIS.

Inclosure in Sir E. Harris' Despatch of March 24th, 1876.

MONSIEUR DE WILLEBOIS to SIR E. HARRIS.

MONSIEUR L'AMIRAL,

La Haye,  
le 23 Mars 1876.

EN réponse à votre office du 28 du mois précédent, j'ai l'honneur de porter à votre connaissance que la légis-

lation Néerlandaise ou les règlements administratifs ne contiennent pas de dispositions spéciales par rapport aux esclaves fugitifs. Quiconque, cependant, se trouve sur le territoire Néerlandais est libre de par la loi, de sorte qu'un esclave qui se serait réfugié sur ce territoire, ne serait pas extradé, à moins qu'il n'eût commis quelque crime prévu par un traité d'extradition.

Quant à la pratique suivie à bord des vaisseaux de guerre Néerlandais sur laquelle votre office du 7 de ce mois demande des informations, le cas d'un esclave qui y cherche un refuge ne s'est pas présenté, et n'est par prévu par les règlements en vigueur. Je n'hésite toutefois pas à dire que l'esclave ne serait pas rendu à son maître, à moins que le vaisseau se trouvant dans les eaux territoriales d'un autre état, n'eût à respecter les lois auxquelles l'esclave y est soumis et à faire droit à l'intervention de l'autorité compétente.

Veuillez agréer, &c.

Sir Edward Harris,  
&c. &c.

V. D. D. WILLEBOIS.

## PORTUGAL.

PORTUGAL.

## No. 1.—MR. WATSON to the EARL OF DERBY.

MY LORD, Lisbon, 9th March 1876.  
 WITH reference to my two telegrams which were addressed to your Lordship yesterday, I have the honour to enclose herewith copies and two translations of communications from the Portuguese Minister for Foreign Affairs, and from the Law Adviser to this Legation, respectively, regarding the law as to fugitive slaves applicable under the Portuguese flag.

I have, &c.,  
 for Mr. Watson,  
 H. CLARKE JERVOISE.  
 The Right Honourable  
 the Earl of Derby,  
 &c. &c.

Inclosure 1 in Mr. Watson's Despatch of March 9th, 1876.

(Translation.)

PORTUGUESE MINISTER for FOREIGN AFFAIRS to  
 MR. WATSON.

Foreign Department, Lisbon,  
 March 6th, 1876.

SIR, Received 7th.

I HAD the honour to receive the note which you addressed to me on the 2nd instant, asking for information as to the law and practice of this country with reference to fugitive slaves seeking for refuge under the national flag.

In reply I beg to state to you, that, from the information obtained upon this matter, it appears that in case a Portuguese ship of war should be at any port where slavery is lawful, and any slave should take refuge on board, he would be delivered up to the local authorities; should the fugitive slave, however, appear on board, while on a voyage to Europe, as soon as the ship passes to the north of the equator, he is to be considered free, in accordance with the decree of the 10th of December 1836.

I renew, &c.  
 R. G. Watson, Esq., JOAÕ DE ANDRADO CORVO.  
 &c. &c.

Inclosure 2 in Mr. Watson's Despatch of March 9th, 1876.

(Translation.)

REPORT of Legal Adviser to Her Britannic Majesty's  
 Legation at Lisbon.

Lisbon, March 6th, 1876.

THE Viscount Alves de Sà presents his most respectful compliments to his Excellency, Her Britannic Majesty's Chargé d'Affaires, Mr. Robert Grant Watson; and, while acknowledging the receipt of his last letter, dated the day before yesterday, the 4th instant, which has reference to the previous one, requesting that an exact and complete epitome of the legislation and practice of this kingdom with respect to fugitive slaves should be furnished, the meaning of those words being,—slaves, who being held to be such, in virtue of the laws of their own country, may have taken refuge on board a Portuguese ship of war, and under the protection of the Portuguese flag, has the honour to state as follows:—

In accordance with the precise terms of the query, as above mentioned, and which constitute the hypothesis in question, it must be said that the legislation is deficient upon this matter in spite of the gravity and importance of the matter. He is not aware that there is any general law, either codified or separate, or any special law or decree for the purpose of regulating this question. He is also unaware of any practice or jurisprudence thereupon; no writers have reported anything upon the subject; and it appears to him that he is in a position to assert, without any danger of being in error, that there is no such thing.

Such cases are of very rare occurrence, and very uncommon in this kingdom; and should any such case occur, it is impossible to foresee how the judges or authorities, who would have to take cognizance thereof, would give their decision in the matter, in view of the absence of any express and positive legislative enactments for the due regulation thereof.

With respect to the mode of procedure adopted with respect to fugitive slaves captured, some measures are in existence which have, at different times, been decreed by the Governors General of the Transmarine Provinces, and which are to be found in the respective official bulletins. These measures have been approved by the Government in several "Potarias": but all this is not in any way appli-

cable to the point in question, and is no more than a set of measures, required and dictated by the special circumstances of the time, which do not occur a second time, without any permanent or general character, and which cannot therefore be pointed out as constituting a law or even a precedent to be quoted.

Moreover, our legislation does not invest the judicial decisions or cases tried with any force or authority beyond the special case or cases to which they may refer, and only as far as regards the persons affected thereby, or their representatives, in accordance with the rule of Roman law as laid down in the 63rd Book, "Dig. de Re Judic.;" and also in the 2nd Book, "Cod quid res jud.," in which it is decreed that judgment should be given according to law, and not in accordance with precedents (exemplos).

The matter in question is both important and difficult; but in view of the legislation of this country with regard to the slave trade, no other answer can be given to the query above referred to, saving always a better opinion upon the point, as well as any further information that may be procured in respect thereof.

## No. 2.—MR. WATSON to the EARL OF DERBY.

MY LORD, Lisbon, March 15th, 1876.

IN reply to your Lordship's despatch, of 29th ultimo, instructing this Legation to report upon the present status of slaves in the Portuguese possessions, for the information of the Royal Commission appointed to inquire into the question of fugitive slaves, I have the honour to transmit herewith to your Lordship a memorandum drawn up by Mr. Duff upon the status in question.

I have, &c.,  
 for Mr. Watson,  
 H. CLARKE JERVOISE.  
 The Right Honourable  
 the Earl of Derby,  
 &c. &c.

Inclosure in Mr. Watson's Despatch of March 15th, 1876.

## MEMORANDUM by MR. DUFF.

The present status of slaves in the transmarine possessions of Portugal is set forth in the Law of the 29th of April 1875, and published in the Official Journal of the 11th May 1875.\*

In virtue of this Law, at the expiration of one year after the date of the publication thereof, in the transmarine provinces of Portugal, namely, the Province of Cape de Verde, including Guinea, &c., on the mainland, that of Angola, the islands of St. Thomas and Prince, on the west coast of Africa, and, in fine, the Province of Mozambique, on the east coast of Africa (in all which colonies such publication has already been made), the servile condition imposed upon all libertos by the decree of 25th of February 1869 was abolished. This decree did away with slavery, and transformed all slaves into "libertos," with the obligation of serving their masters until the 29th April 1878, and with the respective rights accorded to them by the decree of the 14th of December 1854.

But all the individuals thus acquiring the status of freedom are to be subject to a public tutelage, and are bound to contract their services for two years; their former masters—should they be willing to engage them—being entitled to the preference.

The nature and conditions of these contracts, the penalties incurred for vagrancy, and the question of indemnification to the owners of libertos under certain conditions, are fully laid down in the Law above referred to as well as in the voluminous regulations (for carrying out the same) dated the 20th of December 1875, and published in the Official Journal of the 24th of that month, copy and translation of which were forwarded to the Earl of Derby by Lord Lytton in his despatch of the 31st of December 1875.

The public tutelage above referred to will cease, de jure, on 29th of April 1878, which was the day fixed in the decree of April 29th, 1858, for the complete termination of the state of slavery throughout the Portuguese possessions.

By the Law of the 3rd of February of this year (a copy and translation of which were enclosed in Mr. Jervoise's despatch of 7th of February 1876) it was enacted that the servile condition referred to in the decree of February 25th, 1869, was to cease in the islands of Prince and St. Thomas, on the west coast of Africa, on and after the publication of

\* See page 77 of this Appendix.

## PORTUGAL.

the said Law therein; thus anticipating the period fixed in the Law of April 29th, 1875.

It is perhaps not out of place to record the dates and purport of several laws and decrees published in this country, in 1856 and 1857, with reference to the subject of this Memorandum.

By a Law of the 30th of June 1856 it was enacted that all slaves belonging to the State, and to certain corporations, should be set free.

The Law of July 5th, 1856, abolished slavery in the district of Ambriz, from the River Lefune to the River Zaire, and in the territories of Cabinda and Molembo.\*

The Laws of the 24th and 25th of July of the same year decreed the freedom of children of slaves in the transmarine provinces of Portugal, and, also, of any slaves belonging to churches in the Portuguese dominions, respectively.

By the Law of 18th August 1856 it was enacted, that all slaves landing in Portugal, in the adjacent islands, and

also in Macao, and in the Portuguese Indian possessions of Goa, &c., should be immediately free.

The decree of the 29th September 1856 provides for the manumission of all the slaves in the Island of St. Nicholas, Cape Verde.

By a decree dated the 3rd of November 1856 it was enacted that the compulsory labour of free negroes in the Province of Angola should be discontinued.

Finally, by the Law of December 23rd, 1856, and by the decree of 10th March 1857, slavery was respectively abolished in Macao and in its dependencies, and in the Island of St. Vincent, Cape Verde.

British Legation, Lisbon,  
March 15th, 1876.

[For Treaties and Laws relating to slavery in the Portuguese Possessions, see also p. 77 of this Appendix.]

## RUSSIA.

## RUSSIA.

LORD A. LOFTUS to the EARL OF DERBY.

MY LORD, St. Petersburg, March 29, 1876.

WITH reference to my despatch, of the 8th instant, I have now the honour to enclose to your Lordship herewith copy of a note I have received from the Imperial Government, containing the information I had requested with reference to the legislation of Russia in regard to fugitive slaves.

From Monsieur de Giers' note your Lordship will see that the Minister of the Interior has replied that there exists no law in Russia referring to this subject; the Minister of Marine has likewise replied that no regulation exists for fugitive slaves seeking protection on board of an Imperial ship of war.

Nevertheless, His Excellency encloses, in the original Russian text (of which I have the honour to annex a translation by Mr. Egerton), copy of a Naval Regulation which authorizes the commander of a ship of war to receive on board anyone, without distinction as to nationality, who may find himself in peril. Consequently, the commander of a ship of war may find himself morally obliged, if there should be no serious obstacle, to receive a fugitive slave on board of his ship.

I have, &c.

The Earl of Derby,  
&c. &c.

AUGUSTUS LOFTUS.

Inclosure in Lord A. Loftus' Despatch of March 29th, 1876.

M. DE GIERS to LORD A. LOFTUS.

Ministère Impérial des Affaires Etrangères,  
St. Pétersbourg,

le 17  
29 Mars 1876.

M. L'AMBASSADEUR,  
PAR une note en date du 24 Février  
7 Mars a. c. Votre

Excellence a bien voulu s'adresser au Ministère des Affaires Etrangères à l'effet d'obtenir des renseignements sur les lois qui existent en Russie concernant les esclaves fugitifs.

Pour se conformer à ce désir, le Ministère des Affaires Etrangères s'est mis en rapport avec les différents chefs d'Administration de l'Empire, ainsi qu'avec M. le Gouverneur-Général du Turkestan.

Les seules communications que le Ministère Impérial ait reçues pendant ce court espace de temps émanent des Ministères de l'Intérieur et de la Marine.

M. l'Aide-de-Camp Général Timascheff informe que la législation Russe ne contient aucune ordonnance ni indication à ce sujet, et le Dirigeant le Ministère de la Marine communique de son côté qu'il n'existe non plus aucune disposition de la loi pour les esclaves fugitifs qui réclameraient un abri sur un navire de guerre.

Toutefois comme d'après la teneur des Articles 63 et 770 du Règlement Maritime (ed. 1870) le commandant d'un navire de guerre est autorisé à recevoir à bord toute personne, sans distinction de nationalité, qui se trouverait en péril, il peut et peuvrait se trouver même moralement

obligé, s'il ne s'y présente pas d'empêchement grave, à recevoir un esclave fugitif à bord de son navire.

En portant ce qui précède à votre connaissance, M. l'Ambassadeur, j'ai l'honneur de transmettre ci-près à Votre Excellence un extrait du Règlement Maritime transmis au Ministère Impérial, et me réserve de lui faire part, aussitôt que possible, des réponses qui lui parviendront sur cette affaire.

Veillez agréer, &c.

GIERS.

Inclosure in M. de Giers' Note to Lord A. Loftus.

(Extract translation from the Naval Regulations.)

Art. 63.—An officer commanding a squadron shall not receive on board any vessels of his squadron any strangers in Russia without the order of the chief commander of the port, and abroad without the demand of the Russian Minister; in the latter case he has the power not to comply with the demand should he find it incompatible with the object of his cruise, but he must at the same time furnish his reasons in a report to the Minister. In especially important cases the commander shall act according to his own judgment, and on his own responsibility. The prohibition to receive strangers does not extend to the saving of persons in distress of whatever nation they may be.

Art. 770.—On ships which form part of a squadron passengers can only be taken with the permission of the officer commanding the squadron, and on ships on separate duty with the permission of the local chief, such as the port authority in Russia, and abroad, the Russian Mission. In cases of special importance the captain is permitted to take passengers on his own responsibility; but this he is bound to report at the first opportunity to his commanding officer.

No. 2.—LORD A. LOFTUS to the EARL OF DERBY.

MY LORD, St. Petersburg, April 3, 1876.

I HAVE the honour to enclose to your Lordship copy of a further note which I have received from the Imperial Ministry for Foreign Affairs, on the subject of Russian legislation in regard to fugitive slaves.

Monsieur de Giers states, on the authority of the Minister of Justice, that the existing Imperial legislation contains no direct stipulation in regard to the treatment of fugitive slaves.

On the other hand, His Excellency observes that certain clauses of the Penal Code, having an indirect bearing on the subject, lead to the conclusion that the delivering up of slaves who may have taken refuge on Russian territory into the hands of the authorities of the country from whence they fled cannot in any way take place.

Article 1,410 of the Penal Code further prohibits to Asiatics or others, under penalty of punishment, the delivering up to slavery not only of Russian subjects, but of every one under the protection of the Russian laws.

I have, &c.

The Earl of Derby,  
&c. &c.

AUGUSTUS LOFTUS.

\* The right of Portugal to these territories is not acknowledged, as I am informed.—H. HOWARD.

Inclosure in Lord A. Loftus' Despatch of April 3rd, 1876.

MONSIEUR DE GIERS TO LORD A. LOFTUS.

Ministère Impérial des Affaires Etrangères,  
St. Pétersbourg,

le 20 Mars  
1 Avril 1876.

M. L'AMBASSADEUR,

PAR ma note du 17 Mars c. je me suis réservé de communiquer à votre Excellence les nouveaux renseignements qui parviendront au Ministère Impérial concernant les esclaves fugitifs.

J'ai l'honneur de vous informer M. l'Ambassadeur, par suite d'une récente communication du Ministère de la Justice, que les lois existantes dans l'Empire ne renferment aucune indication directe quant à l'ordre qui doit être adopté en pareil cas.

D'autre part les Articles 1,410 et 1,411 du Code Pénal ayant un rapport indirect avec l'objet de la présente communication, donnent à conclure que la remise des esclaves, réfugiés sur le territoire russe, entre les mains des autorités du pays qu'ils ont fui, ne saurait avoir lieu en aucune manière.

Une semblable disposition aurait été en pleine contradiction avec l'Article 1,410 qui interdit, sous peine de châtement, le renvoi en esclavage aux Asiates ou autres, non seulement des sujets russes, mais de toute personne se trouvant sous la protection de nos lois.

Je ne manquerai pas de faire part à votre Excellence des nouvelles informations qui seront transmises à ce sujet au Ministère Impérial.

Veillez agréer, &c.

A  
S. E. Lord Loftus,  
&c. &c.

GIERS.

RUSSIA.

SPAIN.

SPAIN.

No. 1.—MR. LAYARD to the EARL OF DERBY.

MY LORD, Madrid, March 6th, 1876.

WITH reference to your Lordship's despatch of the 29th ultimo, I have the honour to state that since the passing of what is known as the "Moret Law," in 1870, for the partial emancipation of slaves in Cuba, no other law for the abolition of slavery in that island has been voted by the Cortés.

A translation of the "Moret Law" was forwarded to your Lordship in my despatch, of the 25th of July 1870. Its most important provisions were, that all children of slaves born after the date of its publication, viz., the 6th of July of that year, and all slaves who had attained the age of 60 years, should be free. According to the statement contained in the Royal Speech to the Cortés on the 15th ultimo, referred to in my despatch, of the same date, 76,000 slaves gained their freedom under the existing laws in the Spanish colonial possessions. It is presumed that this includes Cuba and Puerto Rico. How far this may be true, and how far the existing laws may have been evaded, to the detriment of the slaves in those islands, I am unable to state. On this subject I would refer your Lordship to the reports of Mr. Consul-General Dunlop, of the present Acting Consul-General at the Havana, Mr. Crawford, and of Her Majesty's Consul at Puerto Rico, by which it would appear that at least in Cuba those laws have been unfortunately evaded to a considerable extent.

Slavery in Puerto Rico was completely abolished by the Law of the Cortés, passed on the 24th of March 1873, enclosed in my despatch, of the 27th of that month, a three years' apprenticeship being required of the emancipated slaves. As far as I can judge by the reports from that island, the law has been honestly and successfully carried out.

I am not aware that any measures are in progress for the further emancipation of slaves in the Spanish dominions. As your Lordship will remember, I have received on many occasions a distinct pledge from the Spanish Government that it will abolish slavery in Cuba as soon as the insurrection in that island is brought to an end, and a similar pledge is given in the Circular addressed by Señor Calderon Collantes, on the 3rd of February last, to the Spanish representatives abroad, a copy of which has been communicated to your Lordship by the Marquis de Casa-Yglesia.

I have, &c.

The Earl of Derby,  
&c. &c.

A. H. LAYARD.

No. 2.—MR. LAYARD to the EARL OF DERBY.

MY LORD, Madrid, March 23rd, 1876.

WITH reference to your Lordship's despatch, of the 25th ultimo, instructing me to obtain information as to the law and practice in Spain with regard to fugitive slaves, and to your Lordship's telegram of the 6th instant, informing me that the report thereon should include information as to practice where slaves take refuge on board ships of war either on the high seas or in foreign territorial waters, I have the honour to enclose copy and

translation of a note which I have received from Señor Calderon Collantes on the subject. Your Lordship will observe that reference is made therein to certain pages of a book containing the laws and orders promulgated with regard to fugitive slaves, which I also beg to enclose, together with an abstract of such laws, &c. as appeared to bear upon the subject of the question into which the Royal Commission are appointed to inquire.

Señor Calderon Collantes gives me no information with regard to slaves who may take refuge on board ships of war either on the high seas or in foreign territorial waters, nor do the regulations which he has forwarded to me appear to contain anything relating to them.

I have, &c.

The Earl of Derby,  
&c. &c.

A. H. LAYARD.

Inclosure in Mr. Layard's Despatch of March 23rd, 1876.

SEÑOR CALDERON COLLANTES TO MR. LAYARD.

(Translation.)

EXCELLENCY,

SIR,

Palace, 18th March 1876.

IN addition to that which I had the honour of stating to your Excellency on 9th instant, when acknowledging the receipt of your notes of 29th February last and 7th instant, in which you expressed your desire to become acquainted with the orders issued by the Government of Spain, or its delegates in the Island of Cuba, concerning fugitive slaves, I transmit to you the enclosed copy of the work entitled "The Book of the Municipal Syndics and of the Juntas for the Protection of Freedmen," which has been forwarded to me for that purpose by the Minister of the Colonies, and in which all these orders are inserted at pages 20, 153, 154, 163, 169, 193, 174, 217, 232, 233, and 236.

With regard to the information concerning the practical case of slaves taking refuge in vessels of war, whether on the high seas or in foreign waters, I have to state to your Excellency that this matter is treated of in the rules contained in pages 13, 39, 41, 48, 62, 63, and 65 of the said work, and that the Ministry of the Colonies has always considered, and very specially since the issuing of the Royal Decree of 29th September 1866 (page 48 aforesaid), that the slave who from any cause may go out of the territory of the Island of Cuba (and formerly also of the Island of Puerto Rico, when slavery exists there,) is free, and that the slave who from any cause sets his foot on the territory of a nation in which slavery does not exist is also free.

I shall feel gratified, M. le Ministre, if these data satisfy the desires expressed by your Excellency, and I avail, &c., &c.

FERNANDO CALDERON Y COLLANTES.

Her Britannic Majesty's Minister  
Plenipotentiary.

## SPAIN.

## Inclosure in Señor Calderon Collantes' Note to Mr. Layard.

ABSTRACT of LAWS, ORDERS, or CIRCULARS contained in "El Libro de los Sindicos de Ayuntamiento y de las Juntas Protectoras de Libertos," referred to in Sr. Collantes' Note of 18th March 1876.

Page 20 does not bear on the question.

Page 153.

Fugitive slaves, when apprehended (in Cuba, &c.), to be returned to their masters, the latter paying expenses incurred.

Page 154.  
Page 163 does not bear on the question.

A register is to be kept of runaway slaves by the proper official.

Page 160.

Local regulations.

Page 163.

Local regulations.

Page 174.

Details relative to unruly slaves absent from the place of their domicile at irregular hours.

Page 217.

Similar details as to where fugitive slaves, when apprehended, are to be kept, pending identification by their masters.

Pages 232, 233.

Local regulations.

Page 236.

Regulations relative to passes for the transport of slaves from one district to another.

Page 13.

A Royal Order of 29th March 1836 declares that persons desiring to embark slaves must undertake to emancipate them so soon as they shall arrive in the Peninsula.

Page 39.

A Royal Order of 2nd August 1861 declares that slaves who by any means whatever may go to Spain are to be considered as emancipated, and that even if they return to a slave-holding colony they are to be regarded as free.

Page 41.

A Royal Order of December 12, 1862, extends the benefits of the preceding Order to slaves who may leave Cuba or Puerto Rico in the company of their masters, and may proceed in their company to the United States, or to any other country where slavery does not exist.

A Royal Order of the 12th July 1865 declared a slave who had fled from the Island of Cuba, and who, being apprehended in Spain, was confined in the prison at Orense, to be free "so long as he resides in the Peninsula, where he loses, in accordance with existing regulations, the quality of slave in an irrevocable manner."

Article 1 of a Royal Order of September 29, 1866, declares that every slave from Cuba or Puerto Rico shall be considered as emancipated and free on touching Spanish territory, or on arriving within the jurisdiction and maritime zone of Spain or the adjacent islands, no matter from what cause may proceed the disembarkation within such territory, or the fact of his finding himself within the waters of the said maritime jurisdiction. Every slave shall also enjoy the benefit of emancipation and liberty when, in company with his masters, or sent by them, he shall touch the territory or enter into the jurisdiction of any State in which slavery does not exist.

A Royal Order of 12th August 1871 declares free a negro slave who had been to Spain.

A Royal Order of November 12th, 1871, addressed to the Governor of Cuba, approved a slave and her four children having been declared free from the fact of having been in Europe and the United States.

A Circular of the 18th June 1872, issued by the Governor of Havana, directed that no passports should be issued to slaves leaving Cuba in company with their masters, unless it shall previously have been established that they have obtained their liberty, in order to avoid that at their return they may again be reduced to the position of slaves, as has occurred in cases of persons little scrupulous in their fulfilment of the law.

Madrid, 23rd March 1876.

## SPAIN (Cuba.)

SPAIN (CUBA). No. 1.—CONSUL-GENERAL CRAWFORD to the EARL OF DERBY.

MY LORD, Havana, March 23, 1876.  
IN obedience to the telegram I received on the 4th instant, I have the honour of transmitting herewith to your Lordship a report upon the status of slaves and emancipation in Cuba, with two copies of a book recently published, containing the laws and regulations now in force affecting them.

I have, &c.  
JOHN V. CRAWFORD,  
Acting Commissary Judge  
and Consul-General.

The Right Honourable  
the Earl of Derby,  
&c. &c.

Enclosure in Mr. Crawford's Despatch of March 23rd, 1876.

REPORT upon the STATUS OF SLAVES and EMANCIPATION in the ISLAND of CUBA.

A reference to the correspondence which has been presented annually to Parliament will give some idea of how much has been written about slavery in Cuba. I shall endeavour therefore to condense this report as much as possible, but I cannot omit a cursory review of what has occurred regarding its origin, the slave trade, as far as that traffic relates to the "legal status" of every slave in Cuba at this moment.

From the year 1472, the Catholic Church, to which Spaniards belong, has condemned the African slave trade. Pius II., Pius III., Urban VIII., Benedict XIV., and Pius VII. successively, anathematized it.

Pope Gregory XVI., in a brief dated the 3rd December 1839, positively prohibited the traffic to all Catholics. The publication of this brief was not permitted in Cuba.

Spain acknowledged and became a party to the declaration made at the Congress of Vienna in 1815, that "the African slave trade was repugnant to the principles of humanity and universal morality;" and on the 23rd September 1817, she signed a solemn engagement with Great Britain to abolish the slave trade throughout the entire dominions of Spain on the 30th day of May 1820, receiving the sum of 400,000*l.*, as a full compensation for all

losses which might be sustained thereby by Spanish subjects.

This treaty was further enforced by a royal decree dated 19th December 1817, prohibiting the acquisition of slaves in Africa after the 30th May 1820, and the observance of this prohibition was inculcated by a series of royal decrees, in spite of which the shameful traffic did not cease.

From 1823 to 1832, a period of only nine years, 325 vessels sailed from Havana for the coast of Africa, and of these 236 are known to have returned with over a hundred thousand Negroes.

In 1835 a new treaty was signed, and although active measures were employed to repress the unlawful traffic, the slave trade continued to flourish, for in the seven years from 1835 to 1841 there arrived in the neighbourhood of Havana and Matanzas alone, 229 vessels with 82,051 slaves.

On the 17th of December 1840 Great Britain proposed a convention for obtaining the freedom of the Negroes landed in Cuba since the 30th October 1820.

The draft of this convention was submitted to the corporations and leading men of Havana, and was strongly objected to on the plea that no foreign interference in the matter of slave ownership in Cuba should be allowed.

Their answers were published in the Blue Books Class A for 1842, but no mention is made of the Attorney-General's opinion, which, although contrary to the Convention, made admissions which will do more to establish the "legal" right to freedom to which the slave population now in this island is entitled, than any argument that could be brought forward in its support.

The Attorney-General, Don Vicente Vazquez Queipo opposed the Convention on the following grounds, stating—  
1st. That Spain had done as much as any other nation to suppress the slave trade.

2nd. That although according to the treaty of 1817 it was unlawful for Spaniards to purchase Negroes, or to carry on the slave trade, in any part of the coast of Africa, there was nothing to prevent their doing so on this side of the Atlantic.

3rd. That to free the enslaved African would be like seizing merchandise offered for sale in the market on the plea that it had been smuggled into the country.

4th. That to institute "ex parte" proceeding was against law and morality.

5th. That a mixed Court could not be authorised to make a general enquiry into the titles of slave property merely on the suspicion that the slaves were fraudulently imported from Africa.

6th. That the proposed Convention would upset existing legislation which requires an accuser to prove his accusation, whereas it was proposed that if, from the affidavits of owners, slaves, or other parties, the Court thought fit to examine, it did not appear satisfactorily proved that the Negroes had *not* been recently imported from Africa, or that they *had* been born in Cuba, or imported previously to 30th October 1820, the Court would declare the said Negroes free.

7th. That owing to the informal way Africans had been transferred, no documentary evidence could be obtained, and that to admit the verbal testimony of interested parties, would be to yield to the decision of the slaves.

8th. That what was demanded by England would affect transactions anterior to the passing of the Convention.

9th. That "prescription," or the operation of time had made good the titles of the slave owners, and

Lastly, that it was not expedient to pass a measure which owing to the number and the class of those affected by it, and the disturbance it would create, might involve the safety of the island and impede the development of its resources.

These arguments, of themselves sufficient to establish the illegal tenure of all Negroes imported into Cuba after the 30th October 1820, may be met as follows:

1st. Spain had done absolutely nothing to suppress the slave trade.

2nd. The fact that recently imported Negroes were to be found everywhere in Cuba proved beyond a doubt that the law had been evaded.

3rd. To compare the status of a human being to smuggled merchandize is inadmissible.

4th. Had claimants to freedom had the opportunity of obtaining it, parties to establish the cases and produce the necessary proofs would not have been wanting.

5th. The Negro's personal appearance, and his speech, as well as verbal testimony, if admitted, would have far outweighed any mere suspicion of illegal importation.

6th. The object was not the conviction and punishment of the slave importer, but the release of the slave; and, considering all the disadvantages under which the latter laboured, it would have been only just to have obliged the owner to prove his title, especially if the slave bore on his person the evidence of having been illegally imported.

7th. The informal manner in which the slaves were acquired shows the insecurity of the transaction and the unwillingness of the parties to record in any way its illegitimate nature, and it certainly could not be invoked to imperil or destroy the right to freedom which was secured to the slave by existing Spanish law.

8th. The slave trade had been abolished long previous to 1841, so that the Convention proposed nothing but what was lawful and right.

9th. The law regulating the principle of "prescription" in the Spanish dominions admits no "lache" or loss of right, even in a matter of civil claims, when the act it has reference to has not been done in good faith. The lapse of years cannot destroy a right which is expressly excluded from the law of prescription by Spanish legislation. The 24th law, chap. 29. section 3rd, lays down in precise language that however long the time which may have transpired during which one man may have held in slavery another man who was free, it does not change the status of the latter.

And lastly, with reference to the influence which the emancipation of the slaves would have had on the interests of the white proprietors, it may certainly be affirmed that "free labour is cheaper than slave labour, and it is beyond question that a free and contented working class is a safer neighbour for the wealthy than ill-treated and aggrieved slaves."

On the 2d of March 1845, Spain passed a penal law for the more effectual suppression of the slave trade, but it was never enforced. In fact, by a studied misinterpretation of its ninth article, the slave traders felt quite secure as soon as their Negroes were landed.

It was only by a Royal Decree, dated 21st March 1854, or nine years after the penal law had been passed, that the Captain-General of Cuba was authorised to pursue and seize "Bozals," or recently imported Africans.

In October 1850, England again proposed a Convention similar to that which was presented to Spain in 1841, but it met with no better success, the Marquis of Pidal stating to Lord Howden, that "if in 1841 it was not possible for the Spanish Government to accede to such a proposition, it could still less do so in 1850, inasmuch as, besides the reasons put forward at that time, there was a special

"and decisive one in the ninth article of the penal code of 1845, which says conclusively, that in no case and at no time is it permitted to proceed against the proprietors of slaves, nor to disturb them in their possession, under the pretext of their precedency."

It would only be to chronicle a repetition of fruitless negotiations, and a long and continued series of breaches of Spain's solemn engagements, were I to follow up the subject.

My object, in referring to it at all, is to show that the only "legal" servitude in Cuba is that which attaches to the children of slave mothers, and to those Negroes who were imported previous to 30th October 1820.

All Negro slaves not comprised under these two classes, and I of course include the offspring of all Negroes who have been unlawfully imported, are "ipso jure" free.

Fifty-five years have elapsed since the importation of slaves from the coast of Africa was declared contrary to law.

In Cuba, therefore, every able-bodied African under 55 years of age must have been imported clandestinely, and is legally entitled to his freedom at once.

Unfortunately, this legal view of the condition of the slaves in Cuba to day cannot be turned to immediate advantage.

It is enough that the authority of custom, and the local legislation of Cuba, maintain slavery in the island as we now find it; and the great and perplexing question is how it is to be got rid of in a way which will conciliate the interests and the welfare of all parties concerned.

The enclosed table (Enclosure No. 1) shows the population of Cuba at various periods, according to official reports, since the year 1774; but it must be remembered that the Spanish authorities have always been interested in returning the number of the slaves at far below the truth, and in trying to show as little disproportion as possible between the white and the coloured population in the island. How totally unreliable the statistics published previous to 1862 are, may be deduced from the comparison between the estimated population in 1860 and the census of the following year, which last makes a difference of 170,687 in favour of the whites, and of 36,354 only in favour of the coloured people.

The last census of which the particulars have been published is that of 1862, and as the totals of that of 1867 nearly agree with it, there is good reason for supposing both to be incorrect. Reliable statistics cannot be expected in an island where all such information is connected with heavy taxation, and where it is in the interest of the taxpayer to cheat the Government.

The slave population in 1862 was, according to the census of 1861-2:

Ages.	Males.	Females.	Total.	Nearly.
Under 1 - -	7,397	5,988	13,385	Per Cent. 3·60
1 to 10 - -	26,673	22,239	48,912	13·20
11 to 12 - -	13,026	10,067	23,093	6·20
13 to 15 - -	17,047	13,631	30,678	8·30
16 to 40 - -	105,611	67,745	173,356	47·
41 to 60 - -	37,884	22,571	60,455	16·40
61 to 80 - -	11,240	4,812	16,052	4·35
81 to 100 - -	2,306	1,109	3,415	·92
Over 100 - -	126	56	182	·05
Totals - -	221,310	148,218	369,528	100·

Say 370,000 slaves of all ages; and taking into consideration that the importations from Africa ceased after 1866, and that the mortality has far exceeded reproduction owing to the disastrous nature of the insurrection in the central and eastern departments of the island, and to epidemics, it is fair to estimate the total number of slaves in Cuba to day at about 320,000, that is, making allowance for inaccuracy in the census of 1862, and including all those born since 1868. It is quite impossible to arrive at a strictly correct estimate of either the free coloured or the slave population for want of data.

By the census of 1862 the births were

	Legitimate.			Illegitimate.		
	Males.	Fe-males.	Total.	Males.	Fe-males.	Total.
Whites - -	12,338	11,781	24,119	1,787	1,872	3,659
Free Coloured - -	2,295	2,019	4,314	1,903	1,905	3,808
Slaves - -	743	643	1,386	3,786	3,567	7,353
Totals - -	15,376	14,443	29,819	7,476	7,344	14,820

## SPAIN (CUBA)

or 8,122 free coloured, and 8,739 slaves, whilst the deaths are reported to have been 6,365 and 9,089, showing an increase of 1,757 in the free coloured people, and a diminution of 1,266 slaves in that year. The rate of mortality among the slave population is about 2½ per cent., which is the same rate adopted by the Commissioners from Cuba to Madrid in their report of 26th April 1867, but many persons put it much higher.

According to the census of 1861-2, the coloured population was divided as follows:

	Free Blacks.			Slaves.		
	Males.	Females.	Total.	Males.	Females.	Total.
Eastern Department	42,783	43,018	85,803	27,479	24,299	51,778
Western Department	70,961	75,069	146,030	101,243	127,532	318,775
	113,744	118,087	232,433	218,722	151,831	370,553

but on account of the insurrection, a great many of the slaves who were employed on the sugar and coffee plantations which might have been destroyed or abandoned, in the eastern department, have been brought west and sold, so that the great bulk of the slave population is now to be found in the western department of the island.

I must again repeat that the statistics published in 1862 by the Government are very inexact, and that unfortunately there are no other data to be had; for although a census was taken in 1867, nothing has been made public regarding it.

The laws and regulations affecting slavery are comprised in a book, of which I enclose two copies (Enclosure No. 2) recently compiled and published for the guidance of the syndics of municipalities, and of the so-called boards for the protection of freed-men.

The Regulations for slaves now in force are those published 14th November 1842 (Enclosure No. 3), with the only exception that the use of the lash was abolished by the 21st Article of the Emancipation Act of 4th July 1870.

These regulations authorise the owner to sell his slave for whatever price he pleases; to oblige him to work on the sugar estates or in field labours, up to 16 hours a day during crop time, including Sundays and holidays, and to punish him with arrest, iron, chains, clog, stocks, or stripes (the last abolished).

The slave is entitled to six or eight plantains, eight ounces of jerked beef or codfish, and four ounces of rice, indian corn meal, or flour per diem, and to two suits of clothing, a blanket, a handkerchief, and a cap or hat every year.

The slaves of one plantation may not go off it, nor visit the slaves of another plantation without special permission of the owners or managers of both, and a written license which must be dated and must contain the slave's personal description.

On the other hand the law concedes to the slave the right to change masters; to marry; to acquire money, and to redeem himself wholly or in part by coercion; and in cases of dispute or complaint against his owner, the law provides that the syndics of the municipalities are to represent and defend him.

The civil condition of the slaves has not altered since 1842.

A slave is a "thing" in the eyes of the law. His testimony is not valid against his owner; but evidence may be admitted from a slave to corroborate facts, or when it suits the Crown to do so. It is not generally received in the Courts of Law, and may be impugned.

In criminal cases the law makes no distinction between a slave and a free man.

The general condition of the slaves in Cuba has undergone a great change for the better since the cessation of the African slave trade.

With few exceptions, the slaves are far better treated on the plantations. Night work has been almost entirely abolished. The use of the lash has been very generally suppressed, although it is still continued on some plantations which are managed by Catalans and Biscayans. The improvements in machinery, and the substitution of mechanical for manual labour, have tended enormously to lessen the fatigue and the continuance of work of the negroes on the plantations.

Some planters, with judicious foresight, have adopted the practice of paying something to their slaves as a premium for their faithful services, and in consequence of this, and a much more liberal system, the cases of redemption and coercion have become more numerous. Many slaves who have freed themselves continue to work on their

former master's plantations, and there are many instances where slaves who have the means therewith to purchase their freedom do not do so. These cases occur only where the negroes have a kind and intelligent master, and where they have family ties.

The impossibility of replacing their negroes by fresh importations from the coast of Africa, and the consequent necessity of taking better care of them, have obliged the slave owners to effect the great amelioration I have mentioned.

The emancipation of the slaves in this island has been frequently urged by the Cuban proprietors, but has been persistently opposed by the Spaniards or pro-slavery party here.

The Commissioners, who went from this to Madrid in 1866, at the request of the Home Government, proposed a plan of gradual emancipation, which, had it been accepted and carried out, would have already put an end to slavery in Cuba, and besides yielding a handsome indemnity to the slave owners would have probably prevented the insurrection which broke out on the 10th of October 1868, and which bids fair to ruin the island.

The Spanish Government was, unfortunately too suspicious and too shortsighted to avail itself of that proposal, and the slave traders were too powerful to allow of its adoption.

The matter, however, was so forcibly brought to their notice that the Government had to do something, and as it would have been idle to indulge in schemes of emancipation whilst the importation of negroes continued, a new penal law for the suppression of the slave trade was enacted on the 11th of July 1866, and the regulations for carrying it out obtained the Royal sanction on the 18th of June 1868. (Enclosure No. 5.)

From the date of the publication of this penal law at Havana on the 17th September 1868, the African slave trade may be considered to have ceased.

The advent of Serrano's Government in Spain, and perhaps a sincere wish to appease the clamour against slavery, led to the passing of the Emancipation Act of 4th July 1870, better known as Moret's Law (Enclosure 6).

By this law it is enacted that all children of slaves born after its publication are declared free. That all slaves born since the 17th September 1868 up to the publication of this law are acquired by the State on payment of \$25 to their owners. That slaves who have completed their sixtieth year are declared free without indemnity to their owners, and that all slaves who belong to the state are likewise declared free.

The law then goes on to provide for the maintenance and protection of the newly-born emancipated slave, of the aged, and of the class known as "emancipados," but in a highly objectionable manner, as I shall have occasion to show further on.

By the 7th, 8th, and 9th Articles the so-called free-born negro or mulatto is virtually condemned to slavery up to the age of 18, when he may emancipate himself by marriage; otherwise, he must drag on another four years, during which he is to be on half wages only. Of this miserable pittance one-half is reserved to be paid to him on his attaining his twenty-second year.

The boon, therefore, which the law confers upon him from his birth, is that he shall certainly remain a slave for at least eighteen and probably twenty-two years; for to all intents and purposes he will be treated precisely as a slave, — a fact which is clearly anticipated by the 10th and 17th Articles, which speak of possible prostitution, cruelty, and ill-treatment.

The practical working of this Act would be to maintain slavery, not for twenty-two years, as some persons suppose, but for an indefinite period, not only the slaves who, by Article 3, have acquired their freedom for services rendered to the Government, and those mentioned in Article 5, known as "emancipados," but likewise all those who are made free by virtue of the Act of 4th July 1870, will be considered as "libertos" or freedmen, and will be held under the protection of the Government, that is, to be hired out under contracts with the intervention of the so-called boards for the protection of freedmen, which is neither more nor less than continued slavery.

The regulations for the performance of the Emancipation Act above referred to were approved of on the 5th of August 1873, but I do not remember to have seen them published in the Havana Gazette, and I believe they never were made public here.

By these regulations the Government established boards for the protection of freedmen in each district of Cuba and Porto Rico, "under whose protection shall be all those who are declared free by the law of 1870."

The Havana board, or head office, is to make a general registry of slaves and freed men throughout Cuba, and is to have the entire management of them.

In fact, it is the Emancipado system revived on a sweeping scale.

Since the establishment of these "boards" the syndics of municipalities have ceased to act on behalf of "freed men."

The 19th article of the Emancipation Act provides that all slaves who were not registered previous to 31st December 1870, or in the census which ought to have been concluded at that date, are to be considered free. No such census has ever been published, and I have no means of knowing how this part of the law has been carried out.

The Spanish Government in declaring by Article 5, that "all slaves who belong to the state are free," and that "those known as "Emancipados" shall immediately enter "into the full exercise of their rights as free men," made a statement which is not borne out by facts. In apparent fulfilment of that declaration, Captain General Caballero de Rodas decreed the freedom of some 15,519 "Emancipados," but this freedom consisted merely in passing them over from the Government to the Boards of Protection; from one taskmaster to another! It was with that object that the 13th Article was inserted in the Emancipation Act. "The freed men and free shall remain under the protection of the state, merely to protect them and to provide them with the means of gaining their livelihood, without in any way restricting their liberty."

The Emancipation Act has been evaded in every possible manner by ante-dating the birth of children born after the 4th of July 1870 and 17th September 1868, and by returning the ages of negro slaves at much lower figures than the reality.

This could not have been done without the connivance of the local authorities.

The traffic in "Emancipados" still continues. They are dealt out by their so-called "protectors" under contracts which are made to appear to be voluntary, and they are treated in all respects as slaves. These contracts can only be had by paying for them! And yet this is called freedom!

The Government collects part of the "Emancipados" wages under the pretence of creating a fund for the general benefit of that unfortunate class, but I would ask what becomes of this fund?

The "Emancipado Fund" produced during the government of the islands by—

1840.	Prince Angelona	-	-	54,408
1843.	D. Geronimo Valde's	-	-	29,270
1847.	Conde de Lucena	-	-	231,352
1850.	Conde de Alcoy	-	-	87,931
1852.	D. José de la Concha	-	-	77,942
1854.	D. Valentin Cañedo	-	-	87,854
				\$568,757

What became of all this money, and of what has been collected since General Cañedo's Government in 1854, will probably remain a secret. It certainly has not been applied to benefit the poor "Emancipados" in any way.

It is not unjust to infer that the fund which is to be created by Article 8 of the Emancipation Act of 1870, out of the wages of the freed men, will not be applied to the purpose to which it was intended; and that the proceeds of the tax spoken of in Article 16 upon all slaves between the ages of eleven and sixty, in order to raise the amount of indemnity required for the slave owners, will be also misapplied.

As regards the "Emancipados," I beg to repeat part of my report of 28th August 1863 (Enclosure No. 4.), for although the Government has given them over to the board of protection for freed men, and has nominally decreed their freedom, the condition of the "Emancipado" is very nearly the same as it was.

"The Emancipado is the most wretched of human beings, for he is neither more nor less than a Government slave, and he is condemned to drag out a life of hopeless misery, being constantly re-assigned from one master to another at the caprice of the authorities, and being subjected to all the hardest labour and discipline of the slave without any adequate remuneration, and without even the privilege which is accorded to the slave of purchasing his own freedom."

"The treatment which these poor creatures receive at the hands of their masters is, generally speaking, of the very worst kind. They are cheated out of their wages, and are subjected to every species of punishment. They are sold, or rather they are transferred from one master to another for a consideration generally amounting to from 170 to 204 dollars, and terrible abuses are committed with the friendless "Emancipado," such as reporting him dead, whereas he has been substituted

for a defunct slave. The Government regulations, which are framed with a view to prevent such imposture, are not complied with, a douceur to the nearest police officer being all that is required to cancel the requirements of the law!"

SPAIN (CUBA).

In transmitting with my despatch No. 11, of 28th July 1871, a copy of the form of agreement under which the "Emancipados" are being contracted, by way of "providing them with the means of gaining their livelihood," as the boards for the protection of freed men understand the 13th Article of Moret's law, I had occasion to report, and again do so in abstract, that by these contracts which are made to appear as the voluntary act of the Emancipado, he engages to work for a term of years, varying from three to six, in labour of every description, and subjects himself without reserve to whatever treatment may be observed at the place where he is employed, and to all the regulations regarding persons of his class.

His master is bound to pay him a small stipulated sum, seldom exceeding ten dollars a month (whereas the ordinary wages or hire of field slaves is \$30 to \$35) and to provide him with a daily ration of eight ounces of jerked beef and 2½ lbs. of sweet potatoes, yams, or other nutritious food, besides medical attendance when he is sick, and with two suits of clothes, a woollen shirt and a blanket every year.

Under these contracts the "Emancipado" may be truly styled a paid labourer, but he is nevertheless virtually a slave for the time being, and will be treated as such, more or less kindly, or more or less harshly, according to his master's disposition.

The condition of the "Emancipado" has been somewhat bettered by the law of 4th July 1870, but as shown by these contracts, he will be really continued in a modified sort of slavery until he dies, for he will be contracted over and over again by the "Board of Protection," which has taken the place of the Government, and as with the class known as "Emancipados," so will it be with all those who are designated by Moret's law as "libre," "liberto," and "ingenuo" ("free," "freedman," and "ingenuous").

A slave owner can grant free papers to his slave, and from the moment he does so, the former slave is as free as any white man. Upon what principle then does the Spanish Government make such a marked difference between a slave so liberated, and a slave emancipated in the manner prescribed by the law of 1870? If the former is entirely free to take care of himself, why should the latter not be so likewise? It is because the system of slavery is so deeply rooted in Cuba, and the Spanish pro-slavery party is so powerful, that the Government was either afraid to propose a more complete measure, or it was deceived into passing an Act which left the door open to a stupendous fraud.

As will be seen from this report, the "Juntas Protectoras de Libertos," or boards for the protection of freed men, are charged with the execution of the 13th Article of the Law of 1870, and this has been misinterpreted in such a manner as to establish the "Emancipado" system over again on a larger scale.

I consider that if the Spanish Government was determined to carry out a proper and correct registry of the slave population in Cuba to day, it could be done simultaneously with that of the free coloured people without much difficulty, of course excepting that portion of the island held by the insurgents.

With such a registry, properly kept up afterwards, and the abolition of all these "Boards of Protection," leaving the poor "Emancipados" entirely free, and granting full and unconditional freedom to all children born since 4th July 1870, or rather the 17th September 1868, on their attaining a certain age, the gradual extinction of slavery might be easily effected, that is, if the Spanish Government could not be induced to fix a date for the total cessation of that institution at an early period, which would after all be far to be preferred.

By the statement which was published in the Havana Gazette of 14th August last, and transmitted in my despatch No. 7, of 1st September, the total number of persons who had acquired their freedom under the provisions of the law of 4th July 1870 amounted to 50,046, of which—

22,355 were born after 4th July 1870.  
10,458 were born after 17th September.  
13,740 had completed their 60th year.  
3,192 were "Emancipados."

301 obtained freedom for services.

The statement excludes the city and district of Havana, regarding which no information is given. I do not place any dependence upon these figures, and I am inclined to believe them to be considerably under the reality or what they ought to be for the reasons stated in another part of



SPAIN (CUBA). this report. The incredibly small number of "Emancipados," shows how true all my remarks have been regarding these poor creatures.

I shall in conclusion give an example how the law is administered in this island.

By a royal decree dated 29th September 1866, (see p. 73 of this Appendix), and published here on the 15th November following, any man, woman, or child held in slavery in Cuba or Porto Rico, is declared free the moment he sets foot in the peninsula, or comes within its maritime jurisdiction.

A similar benefit is accorded to any slave who accompanying his master, or sent by him, arrives in any foreign country where slavery does not exist.

By a Government decision published 19th June 1874, it is stated to be a principle in law that a slave who has been set free, cannot be reduced again to slavery, and that if a judge or any authority declares the freedom of a slave improperly, they may be held liable for the indemnity which may be due to the former owner, but the free papers of the slave cannot be revoked.

Such being the law on the subject, the following case occurs:

Alfredo Cepero, a boy, was set free, after some judicial proceedings owing to a family dispute, by a Judge's order, and by the payment of \$200, which was the price at which he was duly appraised. His free papers were made out on the 25th September 1872, by the Notary Public D. Juan Andreu.

On the 30th July 1874, the boy accompanied his mistress, Dña Ana Cepero, to Spain, remained there some months and returned with her to Havana.

The former owner, or part owner, Don Manuel Cepero, claimed the boy as his slave, and on the 13th May 1875 (last year) the "Audiencia," or Supreme Court here, declared all the proceedings of the court of first instance illegal, and condemned Alfredo to be given up as a slave to Don Manuel Cepero!

I quote this case because it is a most glaring one.

I have, &c.

JOHN V. CRAWFORD,  
British Consulate General, Acting Consul General  
Havana, 23rd March 1876. and Commissary Judge.

Enclosure No. 1. in Mr. Crawford's Report.

TABLE showing the POPULATION of the ISLAND of CUBA at various Periods, according to Official data, commencing with the Census of 1774.

Year.	Whites.			Coloured Population.						Total Coloured Population.	Grand Total.
				Free.			Slaves.				
	Males.	Females.	Total.	Males.	Females.	Total.	Males.	Females.	Total.		
1774	55,576	40,864	96,440	16,152	14,695	30,847	28,771	15,562	44,333	75,180	171,620
1792	72,299	61,260	133,559	25,211	28,941	54,152	47,424	37,166	84,590	138,742	272,301
1817	130,519	109,311	239,830	58,885	55,173	114,058	124,324	74,821	199,145	313,203	553,033
1827	168,653	142,398	311,051	51,962	54,532	106,494	183,290	103,652	286,942	393,436	704,487
1830	—	—	332,352	—	—	112,365	—	—	310,978	423,343	755,695
1841	227,144	191,147	418,291	75,703	77,135	152,838	281,250	155,245	436,495	589,333	1,007,624
1846	230,983	194,784	425,767	72,651	76,575	149,226	201,011	122,748	323,759	472,985	898,756
1849	245,695	211,438	457,133	79,623	84,787	164,410	199,177	124,720	323,897	488,307	945,440
1858	328,065	261,712	589,777	84,421	90,853	175,274	220,999	143,254	364,253	539,527	1,129,304
1860	343,953	288,844	622,797	91,942	97,906	189,848	224,076	152,708	376,784	566,632	1,184,429
1861	468,107	325,377	793,484	113,746	118,687	232,433	218,722	151,831	370,553	602,986	1,396,470
1867	—	—	764,750	—	—	225,938	—	—	379,523	605,461	1,370,211

Havana, 23rd March 1876.

JOHN V. CRAWFORD,  
Acting Consul General.

Enclosure 2. in Mr. Crawford's Report.

El Libro De Los Sindicos De Ayuntamiento Y De Las Juntas Protectoras de Libertos.

[To be found in the Foreign Office Library.—H. Howard.]

Inclosure 3, in Mr. Crawford's Report.

REGULATIONS RESPECTING SLAVES, of November 14th, 1842.

Havana, 14th November 1842.

Art. 1. It shall be the duty of every owner of slaves to instruct them in the principles of the Catholic Apostolic Roman Church, in order that they may be baptised, if they should not have been so already, and in case of necessity, shall assist them with the holy water, it being certain that every one may do that in such circumstances.

Art. 2. The instruction to which the preceding article refers, shall be given them at night, after ending of labour, and in continuation of the act they shall be made to repeat the rosary, or some other devout prayers.

Art. 3. On Sundays and full holidays, after fulfilling religious observances, the owners or persons intrusted with estates shall be allowed to employ the negroes of them for the space of two hours in cleaning the houses and offices; but not for more time, nor to occupy them in the labours of the estate, except it may be in the times of gathering or in other duties which do not admit of delay, and in these cases they shall work as in days of labour.

Art. 4. They shall take care under their responsibility that the slaves already baptised who are of age necessary for that, the sacraments be administered when the Holy Mother Church has directed it, or it may be necessary.

Art. 5. They shall take the greatest care and diligence possible in making them understand the obedience they

owe to the constituted authorities, the obligation of reverencing the priests, of respect to white persons, of conducting themselves well with people of colour, and of living in good harmony with their companions.

Art. 6. The masters shall give regularly to their field slaves two or three meals each day, as may appear best to them, so that they be sufficient to maintain them, and rest them from their fatigues; it being understood that they regulate for daily aliment and of absolute necessity for each individual, six or eight plantains, or their equivalent in sweet potatoes, yams, yucas, or other alimentary roots, eight ounces of flesh or salt-fish, and four ounces of rice, or spoon meat or flour.

Art. 7. It shall be their duty also to give them two suits every year, in the months of December and May, composed each of a shirt and trowsers of duck or russia, a cap or hat, and a handkerchief; and in December there shall be added, alternately one year, a shirt or jacket of woollen, and the other year, a blanket to wrap themselves up during the winter.

Art. 8. The negroes newly born or small, whose mothers go to the labours of the estate, shall be fed with very light articles, as soups, broths, milk, or other like, until they are beyond milk time and teething.

Art. 9. While the mothers shall be at work, all the little ones shall be in a house or habitation, which it shall be their duty to have in all sugar and coffee estates, which shall be under the care of one or more negresses that the master or major-domo may believe necessary, according to their number.

Art. 10. If they should fall sick during the milk age, it shall then be the duty to nourish them at the breasts of the mothers themselves, separating these from the labours or tasks of the field, and applying them to other domestic occupations.

Art. 11. Until they complete the age of three years they shall have shirts of cotton, in that from three to six they may be of duck; to the females from six to twelve shall be given shifts or large shirts, and to the males from six to fourteen shall be provided also trowsers, following after those ages the order of the rest.

Art. 12. In ordinary times the slaves shall work from nine to ten hours daily, the master regulating these as to him may appear best. In the estates during croptime or gathering, the hours of labour shall be sixteen, arranged in a manner to proportion them two hours of rest in the day and six in the night for sleeping.

Art. 13. On Sundays and full holidays, and the hours of rest on the days after labours, the slaves shall be permitted to employ themselves within the estates in manufactures or occupations, that may yield to their personal use and benefit, to enable them to acquire a peculium, and obtain for themselves liberty.

Art. 14. Male slaves above sixty years or less than sixteen, shall not be obliged to work by task, neither the females; nor shall any of these classes be employed in work, not conformable to their sex, age, strength, and vigour.

Art. 15. The slaves who from their advanced age or infirmity are not in a state for labour, shall be maintained by their masters, and they shall not concede them their liberty to release themselves from them; unless it be they are provided with peculium sufficient for the satisfaction of justice under the hearing of the Procurator Syndic, that they may be able to maintain themselves without other assistance.

Art. 16. On every estate there shall be a secure place appropriated for the deposit of instruments of labour, the key of which shall never be confided to any slave.

Art. 17. On going to work, there shall be given to each slave the instrument he may have to use in the occupation of the day, and as soon as he returns it shall be taken from him, and shut up in the deposit.

Art. 18. No slave shall go from the estate with any instrument of labour, and still less with arms of any kind, unless it be he may be accompanying the master or major-doAo or their families, in which case he may carry a cutlass, and no more.

Art. 19. The slaves of one estate shall not be able to visit those of another, without the express consent of the masters or major-domos of both, and when they have to go to another estate or to go from their own, they shall carry a written license from their own master or major-domo, with the marks of the slave, date of the day, month, and year, mention of the place to which they are destined, and period for which it has been granted.

Art. 20. Every individual, of whatever class, colour, or condition he may be, is authorised to detain a slave who is found out of the house or grounds of his master, if he does not present the written license which he ought to bear, or presenting it, it turns out that he has varied notoriously the tract or direction of the place to which he ought to journey, or that the time is exceeded for which it was granted; and he shall conduct him to the nearest estate, whose master shall receive and secure him, giving notice to the master of the slave if he shall be of the same district, or to the pedaneo that he notify to whom it may be right in order that the fugitive may be taken by the person to whom he may belong.

Art. 21. The owners or major-domos of estates shall not receive any gratification for fugitive slaves apprehended or delivered to them by virtue of the disposition in the preceding article, in consideration of its being a service which proprietors ought reciprocally to lend, and redounding to their private benefit.

Other apprehenders shall be remunerated by the master of the slave with the quota of four dollars, assigned by the capture in the regulation respecting runaways.

Art. 22. The master shall have further to satisfy the costs of maintenance, the cure, if it shall have been necessary to do it, and what further provide, the same regulation respecting runaways.

Art. 23. The masters shall permit their slaves to divert and recreate themselves honestly on holidays, after fulfilling the religious observances, but without leaving the estate, nor joining themselves with those of other estates, and doing so in an open space, and in view of the masters themselves, the major-domos, or overseers, until sunset, or toll of oration, and no longer.

Art. 24. The strictest vigilance is very particularly charged on masters and major-domos that they prevent any excess of drink, and the introduction in the diversions

of the slaves of another estate and of others, free men of **SPAIN (CUBA)**, colour.

Art. 25. The masters shall take the greatest care to construct for the unmarried slaves spacious habitations on a dry and ventilated place, with separation for the two sexes, and well closed and secured with keys, in the which shall be kept a light raised high all the night; and such means being permitted, they shall have a detached habitation for each married couple.

Art. 26. At the hour of retiring for sleep (which on the long nights shall be at eight, and the short at nine), there shall be passed a roll-call of the slaves, in order that none be left out of their habitation, except the watchers, of whom one ought to be appointed to watch that all keep silence, and give information immediately to the master or major-domo of every movement of their companions, of people who come elsewhere, or of any other particular circumstance that may occur.

Art. 27. There shall also be in every estate a place closed and secured with a proper division for each sex, and other two besides for cases of contagious diseases, where the slaves who fall sick shall be assisted with medical advice in grave cases, and by male or female nurses in lighter ills, in which they will only need common remedies; but always with good medicines, adequate nourishment, and the greatest cleanliness.

Art. 28. The sick, if it be possible, shall be placed in separate beds, composed of a straw mattress, mat, pillow, coverlid, and sheet, or on a scuttle which shall lend the relief sufficient for the cure of the individual placed on it, but always raised.

Art. 29. It shall be the duty of masters of slaves to avoid the illicit intercourse of both sexes, promoting marriages; they shall not prevent their marrying with those of other masters, and shall provide the married with a living together under the same roof.

Art. 30. To obtain this living together, and that the married may fulfil the ends of matrimony, the woman shall follow the husband; the master of this buying her for the price in which it may be agreed on for her, and if not, by just valuation by skilful persons of both sides, and a third in case of disagreement; and if the master of the man shall not be willing to make the purchase, the master of the woman shall have right of action to buy the man. In case that neither master of the one or other shall be disposed to make the purchase incumbent on them, the married couple shall be sold to a third.

Art. 31. When the owner of the husband buys the woman, he ought also to buy with her the children that she may have under three years of age, by reason of that according to right, until they complete that age, it is the duty of the mothers to nurse and bring them up.

Art. 32. Masters shall be obliged by the laws to sell their slaves when they cause them bad treatment, or commit on them other excesses contrary to humanity and the reasonable conduct with which they ought to treat them.

The sale in these cases shall be for the price in which skilful persons of both parts shall value them, or the authorities, in case that one of them shall refuse to make a nomination, and a third on disagreement, when it shall be necessary; but if there should be a purchaser willing to take them without valuation for the price which the master requires, the authorities shall not prevent the sale being made in his favour.

Art. 33. When the masters sell their slaves for their convenience, or by their own will, they shall be at liberty to do so for the price they may agree on, according to the greater or less estimation in which they may be held.

Art. 34. No master shall be able to resist the coartacion of his slaves, always that they exhibit at least 50 dollars on account of their price.

Art. 35. The slaves, coartados, shall not be sold at a higher price than that fixed on them at their last coartacion, and subject to this condition, they shall pass from purchaser to purchaser. However, if the slave should wish to be sold against the will of his master, without just ground for that, or shall give reason for the transfer by his bad conduct, the master shall be able to add to the price of the coartacion, the costs of the Alcabala, and the fees of the writing which the sale may occasion.

Art. 36. The benefit of coartacion being peculiarly personal, the children of mothers, coartados, shall not enjoy part in it, and so they may be sold as others wholly slaves.

Art. 37. The masters shall give freedom to their slaves the moment that they have ready the price of their value

**SPAIN (CUBA).** lawfully acquired, which price, in case of the interested parties not agreeing among themselves, shall be fixed by a skilful person named by the master on his part, or in his default by the judge, another chosen by the Syndic Procurator-General on the representation of the slave, and a third chosen by the said judge in case of disagreement.

Art. 38. The slave who shall discover any conspiracy contrived by any other of his class, or by free persons, for the overturning of public order, shall gain his freedom, and moreover a reward of 500 dollars.

If the denouncers are many, and they present themselves at once to make the denunciation, or in a manner to leave not the least doubt that the last who presented themselves could have no idea of the conspiracy being already denounced, they shall all gain their liberty, and the 500 dollars of gratuity assigned shall be divided among them pro rata.

When the denunciation shall have for object to reveal a talking together, or the project of some attempt by a slave or free man against the owner, his wife, son, parents, administrator or mayoral of the estate, the owner is recommended to use generosity towards the servant or servants who have so well fulfilled the duties of faithful and good servants, on account of its so much interesting them to offer a stimulus to fidelity.

Art. 39. The price of liberty, and the reward to which the first paragraph of the preceding Article refers, shall be satisfied from the fund which shall be formed from the fines exacted for the infraction of these regulations, or any other of those belonging to the Government.

Art. 40. The slaves shall also obtain their liberty when it shall be left them by will, or any other mode lawfully justified, and proceeding from an honest and laudable motive.

Art. 41. The slaves are bound to obey and respect, as fathers of a family, their owners, major-domos, mayorals, and other superiors, and perform the tasks and labours which may be assigned them, and he who shall fail in any of these obligations may be and ought to be punished correctionally by whoever is principal in the estate, according to the quality of the defect or excess, with confinement, fetters, chain, bolt, or stocks, where they shall be put by the feet, and never by the head, or with stripes, which may not exceed in number 25.

Art. 42. When the slaves commit excesses of greater consideration, or for some fault for whose punishment, or as warning, the correctional punishment of which the preceding Article treats are not sufficient, they shall be secured and brought to justice, in order that by hearing of the master if he does not deliver them up for the damage, or with that of the Syndic Procurator, if he should deliver them up, or it should not be wished to follow up judgment, it be proceeded on according to that which may be right; but in case the master shall not have indemnified or yielded up the slave for the injury, and this be condemned for satisfaction of damages and losses to a third party, it shall be the duty of the master to be responsible for them, without preventing that to the delinquent slave shall be applied corporal punishment, or any other kind his default may merit.

Art. 43. Only the masters, major-domos, or mayorals, shall be able to chastise correctionally the slaves, with moderation, and the punishments which are provided: and whoever else shall do it without the express command of the master, or against his will, or shall cause him other hurt or damage, shall incur the penalties established by the laws, following up the case at the instance of the master, or, in his default, at the instance of the Syndic Procurator as protector of slaves, if the excess be not one of those affecting public justice, or officially, if it were of this last class.

Art. 44. The master, the person in charge, or dependent of the estate who shall fail to comply with, or shall infringe any one of the directions contained in this Code, shall incur the first time the penalty of from 20 to 50 dollars; for the second, from 40 to 100; and for the third, from 80 to 200; according to the greater or less importance of the Article disobeyed.

Art. 45. The fines shall be paid by the owner of the estate, or person who shall be guilty of the omission or infraction, and in case of his not being able to pay it, for fail of the amount, he shall suffer a day of imprisonment for each dollar of what constitutes the fine.

Art. 46. If the faults of the masters, or persons charged with governing the slaves in an estate shall be for excess in the correctional punishments causing the slaves grave contusions, wounds, or mutilation of member, or other great injury, besides the pecuniary penalties recited,

criminal proceedings shall be instituted against him who caused the injury, at the instance of the Procurator Syndic, or officially to impose the becoming punishment on the crime committed; and the master shall be obliged to sell the slave, if he shall remain fit for work, or to give him his liberty if he be left unfit, contributing a daily quota, which the justice shall ordain, for maintenance and clothing while the slave shall live, to be paid monthly in advance.

Art. 47. The fines shall be appropriated in this form, a third part of the amount to the court or pedaneo who imposes them, and the remaining two thirds to the fund which is to be formed in the political government of each district, for the cases of which the Article 38 treats; for which object they shall be delivered under the receipt of the secretary of that district.

Art. 48. The lieutenant-governors, justices, and padaneos will take care of the punctual observance of these regulations, and they shall inevitably be responsible for their omissions or excesses.

#### Inclosure 4 in Mr. Crawford's Report.

##### OBLIGATIONS OF THE MASTERS OF EMANCIPADOS.

1. The master shall take care to have the emancipado instructed in the tenets of our holy religion, so that, if he has not already done so, he may receive the sacrament of baptism, remembering to give him the same name under which he was assigned, and to enter in the parish register his number, and where he came from; presenting a copy of the entry to the bureau of emancipados in the Government Secretary's office.

In case of the serious illness of the emancipado, the master will take care to administer to him, at least, the water of succour.

2. The master must lodge and maintain the emancipado with sufficient and wholesome food, giving him two complete suits of clothes every year.

3. In case of an emancipado giving birth to a child, the master will transmit to the Government Secretary's office a copy of the baptismal entry, in which the name, number, and precedence of the mother must be expressed. Should the child die previous to baptism, the water of succour shall be administered to it, the death to be reported to Government; and if the death occurs after baptism, it must be reported to the district captain of police, so that he may take the necessary inquiry on the subject.

When the master takes out the protection paper of the mother, he must report at the office where it is granted whether the emancipado has had any child during the six months, so that it may be included; and if she has any child which has attained or is about to attain the age of eight years, he must take out a separate cedula, and must apply to the Government for the assignment of said child, even although the mother's assignment may not have elapsed.

4. If any emancipado, assigned in this manner, is missing from his domicile without permission, written notice thereof must be given to the police of the district, so that the flight being cleared up he may be sought for, and captured.

If the emancipado is paid for, the master must state whether he is willing to continue his payments to Government so as to retain his right to the negro after he is caught, and should he not wish to do so, he must return the documents of assignment and the cedula.

Should the runaway emancipado be an apprentice, he shall be sent, after he is caught, to work for a month on the public works, at the place of his domicile. Upon every repetition of this offence he shall be punished in the same manner for two months.

The same punishment besides the loss of his wages during all the period of his flight and punishment, shall be applied to the journeyman negro who runs away.

A certificate of the time during which a runaway negro has been under punishment shall be furnished to the master, so that a proportionate sum may be deducted from his payment to Government.

If the emancipado gives himself up spontaneously to his master after his flight, and his master has not already given him up, his master must forthwith take him back, but if otherwise, then he must be delivered up to the Government.

5. The master must report to the district police officer the illness of any emancipado, and in case of death he must immediately report it to that officer, so that the body may be identified and a proper inquiry made into the circumstances.

The master must pay the expenses of illness and of burial, and the doctor's certificate as well as the burial certificate, must be attached to the proceedings.

6. The master who retains an emancipado in his possession over the time of assignment will incur for this fact alone a penalty of from 100 to 500 dollars, without prejudice to further punishment which the law may inflict in cases of forcible detention of their persons.

7. The disciplinary jurisdiction which the masters may exercise upon the emancipados permits them to inflict, when necessary, the following penalties :—

1. Stocks, irons, or arrest from one to ten days.
2. Loss of wages during the same period. The first may be imposed without the second, but the second never without the first.

Shall be punished :—

1. Act of insubordination to the masters or heads of the establishments, or to any delegate of the master.
2. Refusal to work, or want of punctuality in working out their tasks.
3. Insults not amounting to bodily injury.
4. Running away.
5. Drunkenness.
6. Infringement of the master's rules of discipline.
7. Any offence against good breeding amounting to a crime.
8. Any other deed done with malice.

Any other offences which the emancipados commit, and which, without being crimes, the master does not consider sufficiently punished with the appliance of his attributions, must be notified to the Government for its decision.

The payment of the sums due to the Government for each emancipado must be half-yearly in advance.

If the first week of each six months passes over without payment being made the party shall be notified, and if he does not pay up during the following week he will incur a fine equal to the sum due in the fortnight which has elapsed.

If he allows a month to pass without payment he shall be made to pay the salary of the emancipado for the said month, besides a fine of as much more, and the emancipado shall be taken away from him.

Inclosure 5 in Mr. Crawford's Report.

I.—DECREE of 29th September 1866.

Extract from "Madrid Gazette" of 1st October 1866.

(Translation.)

*Representation to Her Majesty.*

MADAM,

THE experience of many years had already shown that the law of the 2nd March 1845, for the suppression of the slave trade, was entirely inefficient for the accomplishment not only of that which the opinion of honourable men justly demanded, but also of all that which your Majesty, faithfully seconded by all those who have had the high honour of being your responsible counsellors, with such anxiety to achieve.

The Project of Law presented to the Cortes on the 19th of February of this year for the suppression and punishment of the slave trade, was produced by the necessity of remedying with more energetic measures the evil the extirpation of which even the best propositions had as yet failed to accomplish.

The opposition to the substantial part of its provisions served to show in a clearer light how great was the esteem in which was held the principal thought of that which was proposed for a law.

Notwithstanding, on account of an unfortunate accident, the work, already finished and perfected by the wise help of the co-legislative bodies, was not put in a condition to be submitted for the sanction of your Majesty.

The project having been passed in the Senate, having also been passed in the Congress, with slight differences, which differences did not in any way alter the general meaning of the law, or the fixed basis of its humane and moral purpose, and which were approved by the Upper House, and a Mixed Committee having been appointed, whose report was also passed and approved by the Senate, the Congress without doubt did not approve it only because on the motion of one of the deputies it was observed that the number of members present was not sufficient for the passing of laws.

It can well be affirmed that if legally the want of an Act (in the present case certainly not one of great signification) hinders the project from being considered as definitively passed, morally it has received the most solemn approval, and it is also at the present time morally the expression of the opinions of the country legitimately represented, as it is also of those of the Government, as well as of the lively desires of your Majesty, in favour of the complete extinc-

tion of the odious traffic, known by the not less odious name **SPAIN (CUBA).** of the slave trade (trata).

It would be difficult to cite a similar fact; that such an accumulation of well-considered dispositions, which have the great authority of having been discussed and voted by the Cortes, should notwithstanding be wanting in the solemn character which is necessary to it, to render without any further extraordinary declaration its observance obligatory, as all the circumstances of the present times exact.

In view of these circumstances, and if it were only necessary to adopt energetic measures to be carried out in the Antilles, the Government would at once have considered that it was possessed of sufficient power to propose to your Majesty whatever might have been considered most convenient; and although, in just deference to the opinions of the co-legislative bodies, the general formula of the precepts, which they first voted, and which afterwards the Mixed Committee decided upon unanimously, would have been recapitulated without any variation, the Government would not have considered that in doing this, it was in any way overstepping the limits of its legitimate powers.

But while wishing to pay this tribute of well-merited consideration to the decisions of the Parliament, it is nevertheless manifest that they would become incomplete and even impossible of realisation, if that which it is necessary to carry out in the Peninsula, and the repeal of the Law of March 2nd, 1845, were to be omitted from them. It is necessary therefore, at any cost, to carry into effect that which was morally and in reality voted by the Cortes.

No vacillation is possible, in the face of the urgency and peremptory necessity of aiding, with a vigorous hand, the extirpation of so unworthy and reprobated a commerce, which protects and overshadows so much perversity and corruption, and contains in its essence so many perils to the peace and quietude of the monarchy, and to the sustaining and guaranteeing of all those interests which, under the shadow of that monarchy, are to be preserved and to be made to prosper, and to overcome every kind of obstacle.

The Government, having in its favour and in support of the justice and sincerity of its propositions, concerning that which relates to the Peninsula, the already well-known opinion of the legislators, considers that it ought not to delay any longer the application and execution of that which the Senate and the Congress have in fact agreed upon, and intrinsically have definitely approved of, although it may be necessary to make extraordinary the form of enforcing obedience.

If, on the contrary, fearful of an obstacle more of form than essentially effective, and in the actual circumstances of little importance in itself, as being the result of merely accidental and fortuitous causes, it should not be prompt in acting and in taking an energetic initiative, that would be a fault, of which there would be every reason to ask a strict account, and with justice the Government would incur censure as having been excessively negligent.

The opportunity then has arrived that your Majesty should immediately, and on the present occasion, see fit to order that, that which was established for the suppression and punishment of the slave trade in the Report of the Mixed Committee of the Congress and the Senate, which was definitely voted on the 11th of July of the present year, shall be carried out in all its integrity.

With reference to that which concerns the Antilles, there is nothing which is not perfectly legal in that which is proposed to your Majesty with reference to the Peninsula, the Government gladly assumes all the responsibility of the act, for if at any time it may be accused of having exacted obedience to legislative measures which had not gone through the last form, to which respect for regulations opposed itself, it will always be able to answer (an answer, justifying itself by pointing out that which is actually going on in the world) that, if it took anything from rights it was to save them, not to break through them; it was not to disturb the country, but to leave its interests in quiet; it was not to stifle and bury under the weight of a blind and arbitrary decision, the clamourings of public opinion, but to realize its just desires, and to carry into the practice of the government of our colonies, and into the action of the tribunals, with all the haste which is exacted by every-day occurrences, the result of the very legitimate and laudible aspirations of all those men who sincerely interest themselves for the prosperity and good fortune of our dominions beyond the seas.

Madam, your Minister of the Colonies, shielded by these reasons and by facts, the exactness of which it is not possible to doubt, and confiding in the fact that in proposing the execution of this measure, he is supported by the authority of the already well known decision of the representatives of the people, that he is fulfilling the high duty,

SPAIN (CUBA). bringing about a moral end of great importance, and freeing the State from grave disputes, does not hesitate in submitting to the Royal approbation of your Majesty, in accordance with the Council of Ministers, the Decree authorizing the observance and fulfilment of that which is ordered in the Project of Law aforesaid, which was definitely voted by the Senate on the aforesaid date, on the 11th of July of this year.

Madam, your, &c.

ALEJANDRO CASTRO.

Madrid, September 29, 1866.

*Royal Decree.*

HAVING before me the reasons expressed by the Minister of the Colonies, and in accordance with the opinion of the Council of Ministers, I decree the following:—

Art. 1. For the suppression and punishment of the slave trade, after the publication of the present Decree in the Peninsula and in the colonies, all the dispositions of the subjoined Project of Law, which in consequence of the Report of a Mixed Committee of the Congress and of the Senate, was definitely voted on the 11th of July of the current year, are to be observed by the tribunals and proper authorities of the respective territories.

Art. 2. The Government will give a proper account to the Cortes of this measure, in so much as refers to its execution in the Peninsula, and to the fulfilment of the treaties in force.

Given in the Palace, on the 29th of September 1866.

(Signed by the Royal Hand.)

The Minister of the Colonies.

ALEJANDRO CASTRO.

II.—PROJECT OF LAW, approved by the CO-LEGISLATIVE BODY, for the REPRESSION and PUNISHMENT of the TRAFFIC in NEGROES, referred to in the Decree of 29th September 1866.

To the Congress of the Deputies.

THE Senate, taking into consideration the motion of Her Majesty's Government, has approved the following

PROJECT OF LAW.

CHAPTER I.—*Of the Crimes which are the subject of this Law and of their Penalties.*

Art. 1 constitutes as crimes for the effects of this law:—

1st. The armament of vessels and any other operation in them in order to design them for the traffic in negroes, as well as the voyage of those vessels to the coast of Africa, whatever flag they may show.

2ndly. The acquisition of fresh negroes out of the Island of Cuba, Porto Rico, or those adjacent, and their transportation to these islands or to any other place.

3rdly. The introduction of the said negroes into the islands referred to, or the presence in the waters of their jurisdiction of vessels with cargoes of fresh negroes.

Art. 2. The following shall be considered as perpetrators of the crime:—

1st. The owners, outfitters, consignees, captains, supercargoes, mates, and boatswains of the vessels which are destined or which shall be destined for the traffic in slaves.

2ndly. The owners of the cargoes and the capitalists on whose account the slaving expeditions may be made.

3rdly. The individuals of the crew of the vessels who on being captured should be found in the conditions expressed in Article 20.

Art. 3. The following shall be considered as accomplices:—

1st. Those who either previously to or simultaneously with the Penal Act may have taken part in the armament or other operations referred to in the first number of Article 1, respecting vessels destined or which might be destined for the traffic in negroes.

2ndly. Those who co-operate in the perpetration of the crime on the continent of Africa, or in the colonies of the Gulf of Guiana, or in the islands of Cuba, Port Rico, of those adjacent to them, by watching the coasts, giving notices to favour the abstraction of the negroes, or assisting by any other means, direct or indirect, in the success of the enterprise.

Art. 4. The following shall be considered as concealers:—

1st. Employés, of whatever class or rank, who, having information of the armament or preparation of vessels destined for the traffic, or of any of the Acts mentioned in Article 1, do not give timely notice to the authorities.

2ndly. All those who, after the landing in the islands

of Cuba or Port Rico has taken place, conceal the fresh negroes, favour their introduction on to the estates, procure them false documents of inscription, facilitate their sale, or become possessed of them in any way whatever.

3rdly. The owner, tenant, or administrator of an estate in the islands of Cuba, Porto Rico, or those adjacent to them, whereon shall be found one or more negroes whose inscription in the register is not duly proved, unless the exception mentioned in the second number of Article 19 be pleaded and established.

4thly. The foremen and overseers of the same estates, if they should not have given information to the nearest authority of the introduction of the fresh negroes within 24 hours of its having taken place.

Art. 5. The armament and the other operations referred to in the first number of Article 1, in regard to vessels which are destined or which might be destined to the traffic in negroes, and the departure of the said vessels from Spanish ports for Africa, shall be punished with the penalty of forced labour for the shorter term and a fine of from 20,000 to 40,000 crowns.

Art. 6. The acquisition of fresh negroes without the islands of Cuba or of Porto Rico, for the purpose of introducing them into the said islands, and the transport of those negroes to any place, shall be punished with forced labour for the longer term, and a fine of 1,000 crowns for each negro, and in no case shall this fine be less than 60,000 crowns.

Art. 7. The presence of vessels with a cargo of fresh negroes in the jurisdictional waters of the islands of Cuba, Porto Rico, or those thereto adjacent, and the introduction therein of the said negroes, shall be punished with the penalty of forced labour for the longer term, and a fine of 2,000 crowns for each negro, on board the vessel or disembarked, but in no case shall the amount of the said fine be less than 100,000 crowns.

Art. 8. The amount of the fines shall be exacted from those who are answerable for the crime in the proportions to be determined by the tribunals.

The perpetrators shall always be responsible for their respective shares, and, besides, for those of the accomplices and concealers, saving the reciprocal reimbursement among them for their respective responsibilities.

The accomplices shall be conjointly responsible among themselves, and subsidiarily for the shares of the perpetrators and concealers.

The same rule shall apply in the case of the latter in regard to their shares and those of the perpetrators and accomplices of the crime.

Art. 9. The following shall be punished with death:—

1st. The captains, mates, supercargoes, and boatswains of the slaving vessels which make armed resistance on the coast of Africa, on those of Cuba, or Porto Rico, or on the high seas, to the ships of war charged to pursue them.

2ndly. The said captains, mates, supercargoes, and boatswains of vessels which land their crews to obtain or bargain for fresh negroes, or to protect or effect their introduction, and which make armed resistance to the forces of the ships of war, which go on shore to prevent the abstraction of the negroes, or to the public force on the coasts, or in the interior of the islands of Cuba, Porto Rico, or those thereto adjacent.

Art. 10. The seamen and the other individuals of the crews of the slaving vessels, not included in the preceding Article, shall be punished with imprisonment for life in the cases to which the said Article refers, if there should be bloodshed in the resistance, and if not with temporary imprisonment.

Art. 11. When it shall be found on capturing a slaving vessel that there has been a mortality among the fresh negroes on the passage caused by a want or great scantiness of food and water, from the supply having been inadequate to the number of negroes taken, or arising from infection or asphyxia produced by the disproportion of the number of negroes on board to the capacity of the vessel, or by other causes which ought to have been foreseen and could have been prevented, the persons named in the first number of Article 9 shall be punished with penal servitude or temporary imprisonment, according to the number of the deceased and the other circumstances of the case. In the application of this punishment the tribunals will proceed according to their judicious criterion, which is determined in the Penal Code in regard to rash imprudence.

Art. 12. Acts of violence against the fresh negroes, resulting in homicide, or injuries more or less severe, as well as any other punishable harm unnecessary to accomplish the abstraction, or to effect the security of the said negroes

in the power of those who have charge of them, shall be punished as crimes connected with the penalties assigned in the Code.

Art. 13. The perpetrators, accomplices, and concealers of the crimes to which this law refers, shall suffer the penalties which it appoints, subject to the provisions in section 1, chapter iv, title 3 of the first book of the Penal Code.

Art. 14. The personal punishments imposed in accordance with this law shall be undergone in the Spanish prisons out of the Antilles, and shall be inflicted with the proper accessories, and in conformity with the rules of the Penal Code. If the condemned should not possess property to satisfy the pecuniary penalties, he shall suffer correctional imprisonment out of the Antilles by way of substitution and amends, reckoning 3 crowns for every day of imprisonment, but so that it shall never exceed two years.

Any one condemned to four years' imprisonment, or to other more serious punishment, shall not suffer this stress.

Art. 15. Besides the penalties appointed in the previous Articles, the slaving vessel, with all the Articles and valuables found on board of it, shall be confiscated:—

1st. When the capture of the ship shall have been made in the ports of the Peninsula, or of the Islands of Cuba or Porto Rico, or of the possessions in the Gulf of Guinea, in a state of construction, preparation, or armament wholly or for the most part complete, but before it has set sail.

2ndly. When the capture shall have been made by Spanish ships of war in the Mediterranean Sea, or in those of Europe beyond the Straits of Gibraltar, extending to the north of the parallel of 37° north latitude, or to the eastern part of the meridian, situated at 20° west of Greenwich.

In other cases of capture made by Spanish ships of war on the high seas, the captured vessels shall be taken to the Havana, or to Sierra Leone, as the case may be, for the purposes stipulated in the Convention concluded with Great Britain in 1835.

Art. 16. The following shall be considered as aggravating circumstances for the purpose of applying the severest degree of punishment:—

1st. The perpetrator, accomplice, or concealer of the crime being a public functionary, always provided that he is not included in the fourth number of Article 2, nor in the first number of Article 4.

2ndly. Resistance to the authorities or to the armed force, after the landing of the fresh negroes has taken place.

3rdly. The other circumstances which may deserve this character, according to the Penal Code.

Art. 17. Those circumstances shall be considered as extenuating which may deserve this character according to the Penal Code.

Art. 18. The application of the penalties, in regard to aggravating or extenuating circumstances shall be made in accordance with the provisions in the 2nd section, chapter iv, title 3, of the first book of the Penal Code.

Art. 19. The mates, supercargoes, boatswains, mariners, and the rest of the crews of the slaving vessels shall be exempt from the penalties assigned in Articles 9 and 10 when, at sight of the ships of war which are lawfully pursuing them, they disobey the orders of their chiefs by refusing to take part in the armed resistance, and by facilitating their own capture.

The same individuals and the captains shall be exempt from all punishment if they give information of the preparation or armament of the vessel to the authorities of the place where it is going on, or to the Spanish Consuls in foreign ports, or to the Governors of Fernando Po and its dependencies, or to the Agents of the Administration in the Islands of Cuba and Porto Rico.

They who give information shall receive 30 per cent. of the fines mentioned in Articles 5, 6, and 7.

Art. 20. The following shall be likewise exempt from punishment:—

1st. The owners of the slaving vessels if they prove that the vessels were employed in the Trade without their knowledge.

2ndly. The owners, tenants, or administrators of estates in the Islands of Cuba or of Porto Rico, or those adjacent, on to which fresh negroes have been introduced, if they prove that the introduction took place for the benefit of others, and without their knowledge.

This exception shall not be allowable if the owner, administrator, or tenant should have been on the estate since the negroes came upon it.

CHAPTER II.—*Of the Proceedings and of the Jurisdiction in the Actions brought on account of the Crimes mentioned in this Law.* SPAIN (CUBA).

Art. 21. The following shall be considered as proofs of the crime:—

1st. The writings, agreements, or mercantile correspondence between capitalists, owners, outfitters, consignees, captains, supercargoes, or boatswains, for the construction, careening, preparing, or arming vessels intended for the Traffic in fresh negroes, or instructions or undertakings to make the voyage to Africa for this purpose, or the landing of the said fresh negroes on the coasts of Cuba, Porto Rico, or the adjacent islands.

2ndly. The contracts, in whatever form, for procuring and engaging with the mariners and crews of vessels intended for the Negro Trade.

Art. 22. Vessels in which any of the following signs are found shall be considered as intended for the Trade, unless the contrary be proved:—

1st. Hatchways with open net-work, or grated hatches, instead of hatchways closed with planks as usual in merchant-vessels.

2ndly. Partitions or divisions in the hold or on deck in greater number than is required for vessels intended for lawful trade.

3rdly. Planks in store or artfully prepared to form a second deck, false platform, or between-deck for slaves.

4thly. Chains, fetters, and handcuffs.

5thly. A quantity of water in butts, casks, cisterns, pipes, barrels, or other vessels, more than what is necessary for the consumption of the crew of the vessel in its character of a merchantman, and if it should be a sailing-vessel any furnace for distilling sea-water, upon which a boiler of large dimensions could be placed.

6thly. An extraordinary number of water-barrels or other casks for containing liquids, unless the captain should produce a certificate from the Custom-house of the place whence he has come, showing that sufficient securities have been given by the owners of the vessel that the said quantity of barrels or casks will be only employed to hold palm oil or other articles of lawful commerce.

7thly. A quantity of mess-kettles or tubs larger than that required for the use of the crew of the vessel in its character of a merchantman.

8thly. A boiler of an extraordinary size, and of greater magnitude than what is required for the use of the crew of the vessel in its character of a merchantman, or more than one boiler of extraordinary size.

9thly. An extraordinary quantity of rice, Brazil flour, manioc or cassada, commonly called maize flour, larger than what may probably be required for the use of the crew, always provided that the rice, flour, or maize is not entered in the manifest as part of the cargo for trading.

10thly. The total or partial want of the books and other documents required by the Commercial Code and the Registration Orders, provided always that the vessel, from the place where it may have been seized, or from other circumstances, excites suspicion of its being engaged in the Negro Trade.

These circumstances shall not be considered as signs if the captain, owner, or outfitter proves that at the time of its seizure the vessel was intended for some legal adventure.

Art. 23. The slaving vessels which may be captured by the Spanish cruisers in the seas mentioned in the Convention concluded with Great Britain, June 28, 1835, shall be taken to the proper Mixed Tribunal, in the manner and for the purposes stipulated in the said Convention.

If the said vessels should be captured in the jurisdictional waters of the Island of Cuba, Porto Rico, or those adjacent thereto, they shall be placed at the disposal of the respective Superior Civil Governors, together with the captured negroes and those in charge of them, for the purposes mentioned in Article 26.

Art. 24. If the captured vessels should be taken to the Mixed Tribunal of the Havana, and should there be declared lawful prize, the Spanish Judge President or Vice-President, who forms part thereof, shall send the persons taken in the vessel, who may be Spanish subjects, with a literal and certified copy of all the documents, to the Regent of the Royal Audience Court, in order that the proper judge may take proceedings for the investigation and punishment of the crime in accordance with this law. If the captured vessel should be acquitted by the Mixed Tribunal, the Spanish Judge, Arbitrator, or Deputy shall send a literal and attested copy of the proceedings to the Superior Civil Governor of the Island of Cuba, who shall immediately forward it to the Government.

Art. 25. If the slaving vessel should have been taken to the Mixed Tribunal of Sierra Leone, and have been

**SPAIN (CUBA).** declared by it lawful prize, the Spanish Judge, Arbitrator, or Deputy who forms part thereof shall send the persons taken, who may be Spanish subjects, with a literal and attested copy of the documents, to the Regent of the Royal Audience Court of the Canaries, for the purposes mentioned in the preceding Article.

If the Mixed Tribunal of Sierra Leone should pronounce sentence of acquittal, the Spanish Judge, Arbitrator, or Deputy shall send a literal and attested copy of the proceedings to the Governor of the Canary Islands, who shall immediately forward it to the Government.

Art. 26. All the authorities, governmental, military, naval, and judicial, of whatever class or rank, upon receiving information that the crime of introducing negro slaves is in the very act of commission, shall immediately resort to the place where it is going on, in order to pursue and apprehend, as the case may be, the negroes and those who have charge of them, claiming for this, if it should be necessary, the aid of the public force and drawing up the first accounts of the result.

This crime is understood as being in the very act of commission when the negroes are captured in the jurisdictional waters of the Island of Cuba, Porto Rico, or those adjacent, or at the time of their landing, or while going all together or in groups to the estates where they are to be concealed, or at the time of their entering those estates, and even after they are there, if this be within the seventy-two hours next following the landing, or within twenty-four from their entry on to the same estates; but subject in the last two cases to the provision in the first prescription of Article 31.

Art. 27. A special Council, under the presidency of the respective Supreme Civil Governor, or the authority to whom he may delegate it, shall declare whether the negroes captured in the very act are fresh ones or not. If this declaration be in the affirmative, the Governor shall deliver those who had charge of the negroes, the vessel, the effects, and the instruments of the crime to the proper Tribunal, in order that it may proceed to the investigation and punishment thereof.

This resolution shall be delivered clearly without form of judgment and without appeal, but after hearing the interested party, if he should request it.

The declaration of the Council shall be published in the official periodicals of the respective islands.

Art. 28. The Council mentioned in the preceding Article shall be composed of nine persons chosen by lot from ninety proprietors permanently nominated for this service by the Superior Civil Governor.

The organization of this Council, and its mode of proceeding, shall be determined by the Regulations. In case of equality, the Governor shall have a casting vote.

Art. 29. The following shall take cognizance, in first instance, of the actions which are brought for transgression of this law; and they shall decide, when necessary, as to the freedom of the captured negroes if the crime has not been in the very act of commission:—

1st. The Governor of Fernando Po, assisted by his professional Legal Assessor, when the persons such as capitalists, owners, or outfitters of vessels engaged in the Slave Trade, or when the slaving vessel should be constructed, prepared, careened, or armed, wholly or partially, on the coasts of the Colony, or captured within its jurisdictional waters.

2ndly. The Chief Magistrates ("Alcaldes Mayores") of the Islands of Cuba and Porto Rico, in their respective districts, or the senior of them if there should be two or more, when the circumstances mentioned in the preceding paragraph intervene; or if the vessel should be captured in the jurisdictional waters of the said islands, or if the landing of fresh negroes should take place in the territory under their command, or the negroes should be introduced on to the estates included within their jurisdiction.

3rdly. The Senior Chief Magistrate ("Alcalde Mayor") of the Havana, in the case referred to in Article 23.

4thly. The Judge in First Instance at Las Palmas, in the Grand Canary, in the case of Article 24.

5thly. The Judge in First Instance in the Peninsula and the adjacent islands, or the senior of them if there be two or more, in whose jurisdiction the persons, such as capitalists, owners, or outfitters reside, who engage in the Slave Trade; or if the slaving vessel should be constructed, careened, prepared, or armed, wholly or in part, on the coasts of the territory of their respective command, or when the vessels captured in the seas referred to in the second paragraph of Article 14 should be brought thereto.

Art. 30. If two or more Judges of those mentioned in the preceding Article should simultaneously commence

the investigation of criminal act in any of its various manifestations or indications, it will be understood that they do it by way of precaution, until the definitive competency of their jurisdiction be determined in the following order:—

1st. That of the territory where the capture of the negroes and those having charge of them took place;

2ndly. That of the district on the shore of which the capture of the slaving vessel was made;

3rdly. That of the one to the shores or ports of which the captured vessels may be taken in the cases referred to in the second paragraph of Article 28 of this Law;

4thly. That of the place where the vessels intended for the negro traffic are constructed, careened, prepared, or armed;

5thly. That of the domicile of the capitalists and owners of the cargo of fresh negroes;

6thly. That of the domicile of the owners, outfitters, or consignees of the vessels intended for the trade in slaves;

7thly. That of the domicile of the captains, officers, and crews of the said vessels.

Art. 31. The cognizance in Second Instance of the causes mentioned in Article 28 shall be by the Audience Court of the Canaries, when the Governor of Fernando Po takes cognizance in First Instance; and by the respective Audience Courts, when the Chief Magistrates or District Judges decide in First Instance according to the provision in the said Article 28.

Art. 32. For the discovery, proof, verification, and punishment of these crimes the courses prescribed by the common laws shall be adhered to, subject, however, to the following directions:—

1st. When the crime of introducing fresh negroes is detected "in the very act," and in order to capture them, it may be necessary to enter upon the estates, the functionaries authorised to take the first steps in the proceedings may so enter and take possession of the delinquents, although they may not have jurisdiction for the cognizance of such causes; but they must be accompanied by two inhabitants, who may bear witness to their acts.

2ndly. When the crime referred to in the preceding paragraph is not detected "in the very act," it is only the Judge in the cause who can make the investigation on the estates in order to find out whether the delinquents are staying there, and whether there are any negroes illegally reduced to servitude.

3rdly. Entry is not to be made on the estates by armed force, except when the owner or his representative refuses to allow entrance upon them.

4thly. The Judges and the tribunals shall pay attention to the provisions in Rules 44 and 45 of the Provisional Law for the execution of the Penal Code.

5thly. No petition shall be admitted except when the sentence at the first examination imposes the penalty of death on any of the accused.

Art. 33. When the fines mentioned in Articles 5, 6, and 7 are imposed, and the cause should have originated in denunciation or private accusation, the denouncers or accusers shall receive 33 per cent. of the amount of the said fines.

Art. 34. The authorities and public functionaries, of whatever order and class, who may show negligence in the fulfilment of the obligations imposed on them by Articles 4, 25, and 28 of this Law, or who may not afford to other authorities the aid which they require of them for the discovery and proof of the crimes which the said law punishes, shall be officially corrected by suspension from employment and pay for the term of six months, and upon relapse by dismissal from their posts, without in any case affecting the criminal responsibility which they may have incurred.

Art. 35. The notary or clerk who may certify any writing or public instrument for a slave not inscribed in the census, or in contravention of the provisions of this law, besides incurring the responsibility prescribed in the common laws, and in the second number of Article 4 of the present, shall be condemned to lose his office, and the caducity and reversion thereof shall be declared if it has been alienated.

Art. 36. In the investigation and punishment of the crimes referred to in this law, no other than the ordinary right shall be admitted, whatever may be the special right which the accused enjoy.

Art. 37. The law of March 10, 1845, for the repression of the slave trade is repealed.

All previous provisions made for the same purpose are also repealed, in so far as they may not be conformable with this law.

CHAPTER III.—*Of the Enrolment and Census of the Slaves.*

Art. 38. In order that the negroes who may be introduced in contravention of this law may at no time be considered slaves, the Government will make arrangements for a general enrolment and the formation of a census of all the slaves existing in the Islands of Cuba and Porto Rico.

The slaves who are enrolled and inscribed in the census can never be the objects either of judicial or administrative investigations as to their derivation or their introduction into the island.

The men of colour who are not enrolled and inscribed shall, from this fact alone, be considered as free, and no proof shall be admitted to the contrary.

Art. 39. The enrolment shall be effected by means of ocular inspection of the slaves themselves by the functionaries charged with this service, on the days appointed by the authorities.

The Government, taking into account the means of execution which it has at its disposal, shall arrange to have this operation performed simultaneously in the greatest number of towns and estates that may be possible, and in every case so that only the slaves belonging to the establishment of each estate may be enrolled thereon.

Those who have to make the enrolment shall take a separate account of the slaves who are fugitives on the day when the lists are collected, according to the declarations made by the owners.

Art. 40. The census of the slaves shall be made out by districts, with a separate register for each slave, showing:—

1st. The ordinal number which is to be given in each of those enrolled in the district.

2ndly. The name, the exact description, and the particular marks of each slave, as shown by the roll.

3rdly. A short abstract of the deeds and contracts relative to the civil condition of the slave, or which terminate, transmit, or modify in any way, perpetually or temporarily, the authority over him, or the free disposal of him.

Art. 41. When the enrolment is finished, none can be enrolled for the first time except slaves born after its date, men of colour who have passed for free men but are declared slaves by executive sentence, and those who, having been fugitives at the time that the rolls were made out, have since been recovered by their masters. In this last case the inscription shall not be made except by reason of an order from the superior Civil Government after instituting proceedings in which the declaration of the flight of the slave made by the owner at the time of the enrolment shall be proved.

Art. 42. No deed or contract relative to the authority over the slave shall be valid or take effect until it is inscribed in his particular register.

Art. 43. The owner of the slaves or his representative who shall commit any fraud in making out the lists or enrol more slaves than belong to him shall be punished with imprisonment for the longer term, and a fine of 1,000 crowns for every individual he has improperly enrolled.

The owner of the slaves shall be subsidiarily responsible for the fine when the crime has been committed by his manager or representative.

Art. 44. The public functionary or Government delegate charged with the enrolment who shall commit or consent to any fraud in making out the lists, or shall enrol more slaves than he has himself seen and counted, shall suffer the punishment of temporary imprisonment, and a fine of from 1,000 to 4,000 crowns.

If he shall omit to enrol any slave brought before him he shall pay a fine equal to the value of the slave.

The slave who is not enrolled on this account cannot be so afterwards, and will remain free, if his master does not demand his enrolment within the thirty days following that on which he receives the certificate or schedule of inscription.

Art. 45. The registrar charged with the compilation of the census shall suffer the punishment of temporary imprisonment, and a fine of from 3,000 to 6,000 crowns:—

1st. If he inscribe therein any slave who has not been properly enrolled.

2ndly. If within the four days following that on which he receives the information, he does not cancel the inscription of a slave who is dead or has been made free.

3rdly. If he falsifies the inscription by making it unlike the respective enrolment.

4thly. If he should issue certificates or schedules of inscription, fictitious or not agreeing with the entries in

his office as to the part necessary to prove the identity of the person of the slave. SPAIN (CUBA).

If the registrar shall fail to inscribe any slave legally enrolled, or to enter in his register any deed or contract of transference or separation of authority over that slave, he shall pay a fine equal to his value and one-half more; and in the first case the provision in the last paragraph of the preceding Article shall be applicable, but reckoning the term of thirty days from the time when the owner receives the document or the schedules of his slaves.

If he commit any other fault not included in the preceding paragraphs, he shall be administratively corrected by a fine of from 200 to 600 crowns, and the indemnification of the damages and injuries if there should be any.

Art. 46. The owners of the slaves who die, or their managers or representatives, the doctors who attend them in their last illness, and the clergymen who sanction the burial of the said slaves, shall give information of their death to the registrar and to the authorities within the next twenty-four hours, in the form prescribed by the regulations; and if they do not do so, they shall incur the punishment of forced labour for the lesser term, and a fine of from 1,000 to 2,000 crowns.

Art. 47. A special regulation will determine the time and form of the enrolment, its periodical rectification, the organization of the census offices, the mode of compiling the census, and the manner of communicating it; and this regulation will provide for all the other arrangements necessary for the execution of this law.

And the Senate passes it on with the necessary documents to the Congress of Deputies, for the purposes prescribed in the Constitution.

Palace of the Senate, April 20, 1866.

(Signed) THE DUKE DE LA TORRE,  
President.  
JUAN DE SEVILLA,  
Senator, Secretary.  
THE DUKE DE TAMAMES,  
Senator, Secretary.

III.—REGULATIONS for applying DECREE of 29th September 1866.

Ministry of the Colonies.

Royal Decree.

(Translation.)

In consideration of the reasons pointed out to me by the Minister of the Colonies, having heard the full Council of State, and in accordance with the Council of Ministers;

I hereby approve the annexed Regulations for the execution of my Decree of the 29th September, 1866, concerning the suppressing and punishment of the Slave Trade, constituted into a law by the law of May 17 of the present year.

Given at the Palace on the 18th June 1867.

(Signed by the Royal hand.)

The Minister of the Colonies,  
(Signed) CARLOS MARFORI.

Regulation, approved by Royal Decree of to-day's date, for the application of the Law concerning the Suppression and Punishment of the Slave Trade.

CAP. I.—*Of the Junta of Captures.*

Article 1. According to the dispositions of Article 28 of the Law, the Superior Civil Governors of the Islands of Cuba and Porto Rico shall proceed to the designation of the ninety proprietors who are to draw lots for the formation of the Junta.

Art. 2. The requisites for designation are:

1. To be a Spaniard of more than twenty-five years of age.
2. To be domiciled in the respective Island.
3. To hold lauded property in the said Island.

Art. 3. The following persons cannot be designated:—

1. Those in Holy Orders.
2. Those who may have been prosecuted as authors, accomplices, or concealers in any of the cases provided against by Article 1 of the Law.
3. Those who may have been administratively punished, after the institution of proceedings, and for the causes treated of in the previous number.
4. Public and municipal employes.
5. Persons belonging to the active army and navy, and those who may have to do with the administration, health, and laws and regulations of the same.
6. Persons actually undergoing prosecution by law.
7. Persons sentenced to severe or correctional punishments, or their equivalents, even after having fulfilled their sentence.



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8. Those who, by judicial sentence, may be subjected to the vigilance of the Authorities.

9. Persons condemned to disability by the tribunals of justice.

10. Those who may be under a judicial interdict.

11. Bankrupts, and those who may have suspended their payments, or whose property may be under intervention.

12. Persons under judicial compulsion as debtors to the funds of the State, or of the Municipalities, and declared debtors to the same.

Art. 4. The above-mentioned Authorities shall, previous to the designation of the ninety proprietors mentioned in Article 28 of the Law, form a list of persons uniting in themselves the conditions established by Article 2 of this Regulation. From amongst the persons included in that list the Superior Civil Governors shall select the ninety proprietors, who must bring forward their excuses, if any, within the term of fifteen days. Should they not do this, or if, having done so, their excuses should not be of the nature of those specified in this Regulation, they shall be enrolled, and they shall form part of the Junta when it falls to their lot.

Should the excuses brought forward turn out to be admissible, the Superior Civil Governors shall make a fresh designation, and communicate it to the interested parties, in the manner established in this Regulation, until the number shall be complete, as settled by the Law.

Art. 5. The following may be excused:—

1. Persons of more than sixty years of age.

2. Persons chronically ill.

3. Persons domiciled at more than 10 leagues from the respective Capital.

Art. 6. The selected proprietors who, during the year in which the lists remain in force, may find themselves in any of the cases mentioned in Article 3, shall not be able to exercise their functions until the cessation of the cause which incapacitates them.

Art. 7. When the number of the incapacitated proprietors amounts to a third part of the whole number, the Superior Civil Governor shall proceed to the designation of a like number of proprietors, in the manner established in Article 4.

Art. 8. In the month of January of each year, the list of the ninety proprietors eligible for the formation of the Junta shall be revised, excluding those who may find themselves in any of the cases mentioned in Article 3 of this Regulation, and those who may bring forward any of the excuses enumerated in Article 5.

For the replacing of the excluded proprietors, the Superior Civil Governors shall designate others, in the manner settled by Article 4.

Art. 9. During the time of revision of the lists, those of the previous year, in the condition in which they may be at the end of December, shall serve for the formation of the Junta.

Art. 10. The Junta shall be presided over by a "Ministro" or by the "Fiscal" of the respective "Audiencia," designated in each case by the Superior Civil Governor out of three persons proposed by the "Regente."

Art. 11. An official of the Secretary's Office of the Department of the Superior Civil Governor, also nominated in each case by the said Superior Civil Governor, shall perform the duties of Secretary.

Art. 12. The drawing of the lots shall take place in the presence of the Superior Civil Governor and of the President of the Junta, and shall be performed by the Secretary of the same, who shall draw up the proper corresponding legal document.

It shall be done by means of balls; each one carrying the name of one of the ninety proprietors.

The Secretary shall extract the balls, and read the names, which shall be verified by the Superior Civil Governor and by the President.

Art. 13. At each extraction fifteen persons shall be drawn; of whom the first nine shall compose the Junta, and the remaining six shall act as substitutes.

Art. 14. The persons designated by lot shall be obliged to attend at all the sessions. Should any one fail to do so, he shall be liable to a fine of from 50 escudos to 200 escudos, should he not, in the opinion of the President, show just cause for his absence.

The substitutes shall, in order fixed for them at the drawing, supply the places of those members of the Junta who, on account of objection being made to them or any other cause, shall fail to attend at the sessions.

Those members or substitutes who may fail to attend at any of sessions shall cease to form part of the Junta.

## CAP. II.—Of the Administrative Procedure.

Art. 15. The administrative military authorities of Marine, the Judicial authorities, and the Commissioners of Ships of War, who may capture or receive information of the capture of any cargo of slaves, in the cases mentioned by Art. 26 of the Law, shall immediately proceed to place the negroes in a place of safety, and, as a measure of precaution, to imprison, separately and without communication, each one of their conductors, should they have been taken with them, and they shall at the same time give orders for the safe keeping of the vessel in which they may have been captured.

Art. 16. So soon as a capture takes place the authorities which commence the proceedings shall cause a legal document to be drawn up, authorised by a notary, and, in default thereof by two eye-witnesses; for the substance of which document the steps taken in obedience to the previous Article shall be made use of, and in it shall succinctly be set forth:—

1. The name of the said authorities and of the functionaries accompanying them.

2. The numbers and nature of the public force assisting them.

3. The number of negroes captured, giving in detail their description and distinguishing marks, the dress worn by them, the language they speak (should it be known), and any other circumstances which may serve to determine the place from which they come, and their civilization.

4. The name, nationality, and domicile of each one of the conductors captured.

5. The place of capture.

6. All the circumstances of the capture, and particularly whether resistance was made, or attempted to be made, to the intimations of the authorities or to the public force. The document shall be signed by the authorities and functionaries accompanying them, by the Commissioner and officers of the public force, and by all the bystanders who know how to write.

Art. 17. Immediately, and also before a notary, or, in default thereof, with the testimony of eye-witnesses, the said authorities shall take separate depositions of each one of the conductors of the slave expedition who may have been captured.

The document and depositions shall be sent in original and by special courier to the Superior Civil Governor of the respective Colony.

Art. 18. The captured negroes and their conductors shall in like manner be sent to the said Superior Civil Governors in secure custody.

Art. 19. The Superior Civil Governor, as soon as he shall have received the document and record of subsequent proceedings, shall request the Regente of the Audiencia to make the necessary nomination of three individuals, in order that he may appoint the President of the Junta, and he shall designate the official of the Secretary's office of the Department of the Superior Civil Governor, who is to act as Secretary of the said Junta.

Art. 20. The nomination as President shall, on the same day and through the Regente, be communicated to the person chosen, who shall at once present himself before the Superior Civil Governor, in order to proceed to the drawing of lots for the members of the Junta, according to Art. 12 of this Regulation, and to fix the day and hour of his installation.

Art. 21. The result of the drawing of lots shall be at once communicated to the proprietors designated by the same.

At the same time they shall be informed of the day and hour of the meeting of the Junta, which shall also be announced to the public by the usual means.

Art. 22. Between the publication of the said announcements and the meeting of the Junta at least eight days shall elapse, which term can be prolonged should the time not be sufficient to allow of the arrival of the captured negroes and conductors at the capital.

Art. 23. From the time of the publication above-mentioned until the day before the meeting of the Junta the claims of ownership of the captured negroes can be presented at the Secretary's Office of the Department of the respective Superior Civil Governor.

Those claims can only be founded on the fact that the negroes are runaway slaves, or that they were being taken from one part of the island to another, or out of the same, with the permission of the authorities, and with all other established formalities.

With the claims shall be handed in the tickets of registration of each slave, the permission for their removal or

transport given by the proper authorities, and all other documents necessary to prove the condition of slavery. The Secretary's Office of the Department of the Superior Civil Governor shall, at the foot of each one of those documents, certify its validity and legitimacy.

Art. 24. When the term fixed by the previous Article shall have expired, no claim or document of any sort can be admitted.

Art. 25. On the day fixed for the meeting of the Junta, and three hours before the time of the commencement of the sessions, the Superior Civil Governor shall hand over to the President the document relating to the capture, with the record of the steps taken and the claims presented.

Art. 26. The sessions of the Junta shall be public. The President shall conduct the discussion, and only through him can questions be put to those who may appear before the tribunal.

For the preservation of order he shall have all the power which for that purpose is given to the presidents of ordinary courts, and he shall have at his disposal such public force as may be considered necessary.

Art. 27. On that day, and at the hour fixed for the meeting of the Junta, the President shall declare the Session to be open, and the Secretary shall read the nomination of the President, the document relative to the drawing of lots, mentioned in Article 12 of this Regulation, and his own nomination.

Art. 28. Immediately afterwards, the President shall proceed to receive the oaths of the members of the Junta and of the substitutes.

This oath must be made by each person separately, and in the following form:—"I swear to take cognizance of the matter, for which I have been called, in strict conformity to the depositions in force for the suppressing and punishment of the slave trade."

Art. 29. The oath having been taken, the President shall invite the representatives of the parties to bring forward the grounds of objection that they may have to the members of the Junta and the substitutes.

The number of objections shall be limited, so that the Junta may never be composed of less than nine members.

The right of objection shall be exercised half by those claiming the ownership of the negroes, and half by the negroes or their representatives. If the number of members or substitutes objected to be uneven, the negroes or their representatives may object to one more than those objected to by the persons claiming their ownership.

Those who may have the right of objection shall, by common consent or by majority, designate the members or substitutes with reference to whom they may wish to exercise it.

The Junta shall decide openly concerning the objections, after having heard the objecting party and the President.

Art. 30. The causes for objection shall be those established by law respecting ordinary judges.

Art. 31. The captured negroes, as well as the conductors and the persons claiming ownership, may be represented before the Junta by lawyers.

Should the negroes not know how to speak Spanish, they shall be represented by the Senior "Promotor Fiscal" of the respective capitals.

Art. 32. The Secretary shall at once proceed to read the documents of capture, the record of the subsequent steps taken, and the certified documents which may have been presented, relative to claims. This having been disposed of, the Court shall proceed to examine the captured negroes, and to take the depositions of the same, of their conductors, of those who may have presented claims, and of the witnesses who may appear. The examination shall be undergone and the depositions made by each person separately, to which end all persons appearing before the Court shall be kept in custody in separate rooms within the same building in which the Junta holds its sessions.

Only when the Junta may consider it necessary for the clearing up of any fact can two or more deponents be examined at once.

Art. 33. The discussion shall have for sole subject the matters of fact resulting from the documents of capture, from the record of steps taken, from the claims presented, and from the examinations and depositions of the persons appearing before the court.

The representatives of the parties, and also the "Promotor Fiscal," shall only take part in the discussion, to beg the President to demand the explanation or proper amplification of the depositions made, and they shall, under no circumstances, make speeches for the prosecution or defence.

Art. 34. Cognizance having been taken of the matter, the President shall give a resumé of the debate, and declare it at an end. SPAIN (CUBA).

The Junta shall at once retire to an adjoining room to deliberate, the court officials, the negroes, and their conductors remaining in court.

Art. 35. The deliberation shall always take place on the same day, and shall only bear upon the facts resulting from the document of capture, the record of subsequent steps, the claims, the ocular inspection of the captured negroes, and the depositions of the parties and witnesses.

The sentence shall be decided upon by an absolute majority of votes, and its forms shall be, the Junta is of opinion that the captured negroes are free, or that the Junta is of opinion that the captured negroes are slaves belonging to Mr. \_\_\_\_\_.

When some of the captured negroes are free, and some are private property, in the sentence of the Junta, the civil condition of each one of them shall be properly and separately set forth.

Art. 36. The deliberation being finished, the President shall give information of the report of the Junta to the Superior Civil Governor, so that he may make the proper declaration, according to that which is ordered in Article 27 of the Law.

Art. 37. The Secretary shall draw up a record of each session, setting forth all incidents, and in the last one he shall insert the report of the Junta *verbatim*.

These records shall be signed by the President, the members of the Junta, and the Secretary, and shall be sent by the President to the Superior Civil Governor, who shall make the corresponding declaration, which shall be published in the official periodicals on three consecutive days, a certified copy being sent to the Government Headquarters by the first post.

Should the Superior Civil Governor dissent from the opinion of the Junta, he shall communicate to the Government the reasons on which he bases his declaration.

Art. 38. Should the Superior Civil Governor declare the negroes to be slaves, he shall at once order them to be handed over to their owners, and shall immediately liberate their conductors.

Art. 39. Should he declare the negroes to be free, the captured conductors, and the ship, effects, and instruments of the crime shall be placed at the disposal of the competent Judge, to whom shall be sent literal testimony of the proceedings in the capture, of the acts of the Junta, and of the subsequent declaration, so that, according to that which is ordered in Article 27 of the Law, he may institute the proper criminal suit.

The Superior Civil Governor shall also move the Promotor Fiscal of the Court, through the Fiscal of the Royal Audiencia, to whom he shall communicate the data, and give proper instructions for the better exercise of the public service.

### CAP. III.—Of the procedure of Ordinary Tribunals.

Art. 40. The ordinary Tribunals, the only Courts which can take cognizance of the suits instituted in consequence of the administrative declaration which may have been made in the manner set forth in the previous Articles, shall limit themselves to judging the criminal responsibility of the accused parties, and shall under no circumstances pronounce opinion concerning the civil condition of the negroes, or make any declaration as to the non-existence of the crime.

Art. 41. The confiscation and sale of the ships captured can only be declared on pronouncing the final sentence condemning those implicated in the perpetration of the crime.

Art. 42. The breaking-up and sale of the vessel can, however, be previously decreed when, the liberty of the negroes having been administratively declared, the preservation of the vessel may become impossible, or her remaining in the ports may be the cause of grave prejudice.

In that case the breaking-up and sale shall be ordered by the Superior Civil Governor in view of a document setting forth the report of the proper marine authorities and of the Judge or Court taking cognizance of the suit, the latter issuing report after having heard the Ministerio Fiscal; the marine authorities shall show cause for the breaking-up and sale, and the Judge or Court shall say whether the preservation of the vessel be necessary for the institution of the proceedings or not.

The State shall indemnify the owners of the ship sold, should the final sentence not declare the confiscation.

SPAIN (CUBA).

Art. 43. The Governors and Lieutenant-Governors, as soon as they receive information of the committing of any of the acts mentioned in Article 1, and in paragraph 3, Article 4 of the Law, which may not come within the case provided against by Article 26, shall give immediate information of the fact to the respective Alcalde, Mayor, and shall proceed to take necessary steps to prove the criminal act, and the responsibility of the delinquents, taking into custody, if necessary, the persons of the same, and the living evidence of the crime ("cuerpo del delito").

Art. 44. If the living evidence consists of negro slaves ("bozales"), who may be inside a building, and if seventy-two hours shall have passed since the landing of the same or twenty-four since their entrance into the building, the Governor or Lieutenant-Governor shall confine himself to watching the approaches to the farm; he shall give information of the case to the chief Alcalde, in order that he may proceed to the necessary investigation, and, as a preventative measure, and without entering the building, he shall take the proper steps to prove the entrance or existence of the negroes in the same.

Art. 45. The Chief Alcalde, accompanied by a notary, or by two witnesses, shall proceed without delay to examine the building, and to take the necessary steps to investigate the existence of the crime.

Art. 46. The Governors and Lieutenant-Governors shall lend the Chief Alcaldes the aid of the public force which they may have at their orders, and shall accompany them in the examination of the building. Should the owner of the same, or his representatives, refuse to allow an entrance, the Governor or Lieutenant-Governor shall, at the request of the Chief Alcalde, use force. In that case the armed force shall enter the building, and shall perform such preventive acts as may be ordered by the Chief Alcalde.

Art. 47. The negroes recognized as slaves ("bozales"), or suspected of being so, shall be placed in the power of the respective Governor or Lieutenant-Governor, who shall be answerable for their safe custody, and shall hold them at the disposal of the Chief Alcalde for the institution of the proceedings. When the suit shall pass to the Court of Appeal, they shall be conducted in safe custody and placed in the central depôt of the respective capital.

Art. 48. The Chief Alcaldes shall come to an understanding with the respective Governor or Lieutenant-Governor for the purpose of obtaining the aid of the police or of the public force. Should the urgency of the case be such that it would cause inconvenience to wait for the decision of that functionary, the Chief Alcaldes may have direct recourse to the Commissioners of the said force, to the Commissaries or members of the Police Force, to Captains or Lieutenants of Detachments, and to the District Commissaries; but they shall give immediate information of the same to the Governor or Lieutenant-Governor.

Art. 49. As soon as the Chief Alcaldes shall receive notice of any of the infringements of the law referred to in Article 43 of this Regulation, they shall go in person with the Promotor Fiscal to the place where the infringement shall have been committed, and they shall proceed with the greatest activity to the instituting of the Sumario.

Art. 50. When the Chief Alcalde shall present himself in the place where the Administrative Authorities are taking proceedings, the latter shall hand over to him the record of the steps which they may have taken, and shall show him officially all the data and information which up to that time may not have received proof.

Art. 51. When the Chief Alcaldes commence proceedings, they shall give information of the same to the Superior Civil Governor and to the Regente of the Royal Audiencia, to whom they shall also give fortnightly information of the state of the suit.

The Promotores shall have the same duties as above to perform with reference to the respective Fiscales as to the commencement of these suits, and as to all steps with which they may have to do in virtue of their office.

Art. 52. The Superior Civil Governors, the Regentes, and the Fiscales of the Royal Audiencias shall, by the first post, send to Government Head-Quarters a copy of the communications respectively made to them by the Chief Alcaldes and Promotores.

Art. 53. Should the Regentes or Fiscales gather from the communications mentioned in Article 51 that there are defects or uncalled-for delays in the progress of the suits, they shall without loss of time communicate the same to Government Head-Quarters, and this communication shall not interfere with the adoption by them of such measures as may come within the range of their respective disciplinary and administrative faculties.

Art. 54. The Fiscales of the Royal Audiencias of Havanna and Porto Rico shall always represent the public service in the suits instituted on account of transgressions of the law, and this duty can, under no circumstances, be confided to the Deputy Fiscales, except in case of absence or illness.

CAP. IV.—Of the Official Registration, Civil Registration, and Register-Tickets of Slaves.

Art. 55. The General Official Registration ordered to be made in the Islands of Cuba and Porto Rico by Article 38 of the Law, shall be effected at such time as the Government may fix.

Art. 56. The Commissaries and Overseers of Police, the Captains and Lieutenants of Detachments in the Island of Cuba, and the District Commissaries in that of Porto Rico, accompanied by persons designated by the respective Governors or Lieutenant-Governors, shall, simultaneously and at the time which the Government may appoint, proceed, according to the previous Article, to form exact lists of the slaves within their jurisdiction.

Art. 57. In those lists shall be noted down, with all due distinction and clearness, the names of the persons registered, their sex, nation, age, if known, and if not, the age they look; the name of their parents, if known; their condition, the name of their wives and children, if they have them; the work they perform, their personal marks, the name, profession, and domicile of their owners; and lastly, their position of limited slavery (coartado), should it exist, and a short *resumé* of the acts and contracts relating to the civil condition of the slave, or extinguishing, transferring, or modifying in any way whatever, perpetually or temporarily, his ownership or free disposal.

Art. 58. If at the time of forming the list any claims should be pending, or should be made concerning the civil condition of any one of the negroes presented, a corresponding note shall be made, for the purpose of including him in the census, in case he should be declared to be a slave.

Should these claims be presented at the time of the formation of the Register, the Commissary or Legal Officer charged with that duty, shall at once give information to the District Judge, sending him at the same time a minute description of the negro, in order that he may be forced to take cognizance of the claim as the law directs.

Art. 59. The persons charged with forming the lists shall, separately, and in the manner prescribed in Article 57, also take information respecting those slaves who may be fugitive on the day that the lists are made, and also respecting those who may be working out any sentence in any of the prison-establishments of the two islands.

Art. 60. The Governors of the penal establishments will cause a list to be made of the slaves who may be in their custody, setting forth in that list, besides the circumstances required by Article 57 of this Regulation, the reason of their imprisonment, the duration of their sentence, and how much of it still remains to be worked out.

Art. 61. Only those slaves who may present themselves to the functionaries charged with the formation of the lists can be registered, and the said functionaries shall be responsible for the exactness of the personal marks which they may note down.

Art. 62. The commissaries, legal officers, and the helpers accompanying them, shall sign all the lists in their jurisdiction, and the slave-owners, or their representatives, shall sign those which concern them personally.

Art. 63. When the registration has been completed, the commissaries and legal officers shall send the original lists to the Governor or Lieutenant-Governor of the district, keeping in their possession certified copies of the same.

Art. 64. The Governors or Lieutenant-Governors shall order, that in view of the said lists, there be made, in alphabetical order, two schedules of the slaves existing within their jurisdiction. In the first, the names of the slaves shall serve as the key; and in the second, the names of the owners.

These schedules shall be sent to the Superior Civil Governor ten days after the receipt of the lists in the department of the Governor or Lieutenant-Governor.

Art. 65. By means of the lists there shall be formed in every capital of district a register book of slaves. Those books, which shall be numbered and signed on every sheet by the Administrator of Revenue, shall be distributed throughout the offices of that branch of the public service, a receipt being given for them, setting forth the number of sheets which they contain. The sheets shall be divided like those of a banker's cheque-book; they shall be

according to the model which the Superior Civil Governor may approve, and shall be so disposed that on one half of each sheet can be drawn up the certificate, with the number of order, corresponding to the registration of each slave, and on the remaining half can exist a duplicate of the said certificate, which may serve as a proof.

This register shall be under the charge of a public functionary, named by royal order, and proposed by the Superior Civil Governor; the salaries to be paid to these officials shall be fixed in a separate disposition.

Art. 66. When the schedules mentioned in Art. 64 of this regulation shall have been made, the Governors and Lieutenant-Governors shall endorse the original lists sent in by the commissaries and legal officers, and shall hand them over to the registrar, which functionary shall place them in the archives in proper order, and shall have the keeping of them, being responsible for their preservation.

Art. 67. When the registration has been concluded, only the following individuals can be included in it, and entered in the register:—

1. Slaves born subsequently.
2. Those finding themselves in the position provided for in Article 58 of this regulation, whose claims may be disallowed.
3. Those finding themselves in the position provided for in Article 59, who may be apprehended.
4. Slaves coming from Porto Rico to Cuba, and *vice versa*.
5. Those coming from another place under the jurisdiction of the same island.

The inclusion in the list and register can only take place by order of the Superior Civil Governor in the 3rd and 4th cases, and by order of the respective Governors or Lieutenant-Governors in the 1st, 2nd, and 5th cases. When the order proceeds from the Superior Civil Governor, the registrar shall receive it through the Governor or Lieutenant-Governor of the district.

Art. 68. In order to procure inclusion in the cases mentioned in the previous Article, it shall be necessary to present, in the first case, the certificate of baptism of the infant, and a certificate of the civil condition of its parents, or at least of the mother, should the father not be known.

In the second, testimony of the final sentence declaring the state of slavery of the person to be inscribed.

In the third, proof of the identity of the slave and the titles of ownership, or testimony of the sentence, should it be a question of one released from confinement.

And in the fourth and fifth, the registration and register ticket coming from the island or other starting point, and the permission of the administrative authorities of the same for the removal.

Art. 69. Slave-owners, or their administrators and representatives, and those functionaries or notaries, or clerks, who, by reason of their office, may obtain knowledge of the limitation or emancipation of any slave, shall, within four days, give information of the same to the Governor or Lieutenant-Governor of the district.

The owners and the parish priest shall, within the same space of time, give information of the deaths, marriages, and births of slaves.

The same duty shall be imposed upon the seller and purchaser of a slave, and upon the notary who authorises the contract.

Within the same space of time owners shall give notice of the removal of slaves to the Governor or Lieutenant-Governor of the district in which they are registered, and to the Governor of the district to which they are going; this duty is also incumbent on the owners of negroes who may be removed from the Island of Porto Rico to that of Cuba, and *vice versa*.

Owners will also, within four days, give notice to the respective Governor or Lieutenant-Governor of the escape of any of their slaves, sending them at the same time full description of the same and their register tickets. These documents shall be returned to the owners, should the slave be recaptured.

Art. 70. The Governors and Lieutenant-Governors shall at once send the notices mentioned in the previous Article to the persons in charge of the register, in order that within three days they may make the proper alterations in the same. The registrar who shall allow that time to go by without making the proper registrations, shall incur the penalties set forth in Article 45 of the Law.

Art. 71. Those men of colour who may not be registered or noted down in the manner ordered by the Articles from 56 to 62 of this regulation shall be considered free men, and can never be reduced to slavery at any time or for any cause.

Art. 72. The general registration shall be revised yearly in the first fifteen days of the month of January, on which date the lists must be rectified and ready, and the schedules of the districts sent to the Superior Civil Governor according to the dispositions of the Articles from 52\* to 64 of this regulation.

The alterations which may result from the above operation shall be compared with and proved by the alterations made in the census during the previous year, to which end the said schedules shall be accompanied by a short and succinct account of the causes which may have occasioned the said alterations.

Art. 73. All slaves of both sexes must be provided with a register ticket, which will be obtained by the owner in the form established by the present dispositions.

Art. 74. The register tickets shall contain all the details mentioned in Article 57 of this Regulation.

Art. 75. The register tickets shall be good for one year, and must always be renewed in the month of January. Those of the previous year shall be valid for the time necessary for their removal in the said month. The Superior Civil Governors can, however, when they think fit, order the annulling of the old tickets, and the issue of new ones, which in that case shall be given gratis.

Art. 76. The register tickets shall be rural or urban. Both shall be distributed by the Governors or Lieutenant-Governors.

Art. 77. For each rural ticket 40 centimes of escudo shall be paid, and 2 escudos for each urban ticket.

Art. 78. The rural tickets are intended for slaves attached to sugar-factories, tobacco-plantations, cotton plantations, coffee plantations, indigo plantations, farms, cattle-farms, breeding establishments, apiaries, and estates or places of labour, and for the persons employed on the same. Town tickets are intended for all slaves not included in the above recapitulation.

Art. 79. Tickets issued to slaves under 12 years of age, over 60, or physically incapable of work, shall be given gratis.

These circumstances shall be respectively improved by the presentation of the baptismal certificate, or of a doctor's certificate.

Art. 80. In cases in which the age of slaves cannot be proved with the certificate of baptism, instead of that document the slave himself shall be presented; the want of the baptismal certificate may in doubtful cases also be supplied by showing the writing of ownership.

Art. 81. The register ticket is a sufficient document to allow slaves to be moved from one point to another of any of the places within the jurisdiction of the island.

Art. 82. Should slaves go out of the jurisdiction of the place where the tickets shall have been issued, the tickets shall be presented to the Governor or Lieutenant-Governor within three days, under a penalty of a fine of 50 escudos for each slave; the said official shall proceed to issue fresh tickets without loss of time.

Art. 83. For the moving of slaves from one jurisdiction to another a transit-pass shall be required, and on each ticket a note shall be made by the Commissary, or Police, or the Captain of the District.

Art. 84. Each Governor or Lieutenant-Governor shall give to the Superior Civil Governor of the Island a weekly account of the slaves who may have left his jurisdiction and have passed to another, stating the jurisdiction to which they have gone, and at like intervals and separately they shall also give account of those who may have entered their jurisdiction, stating that from which they come.

Art. 85. The captains and masters of coasting steamers and sailing vessels shall not take slaves on board without the previous presentation of their tickets, under a penalty of a fine of 20 escudos for each one.

Art. 86. No writing of sale of slaves shall be drawn up without previous presentation of their tickets. The Notary transgressing this order shall incur a fine of 50 escudos for each slave.

Art. 87. The owner or slave-holder who within the time specified shall not have furnished his slaves with the register-ticket, shall incur a fine of 600 escudos for each one.

Art. 88. The absence of the ticket shall be sufficient cause for the detention and depositing of the slave.

Art. 89. Of the detention and deposit mentioned in the previous Article, notice shall be given to the owner should he be known, and when the latter claims the slaves, he

\* Sic, query 62.

**SPAIN (CUBA).** must present the register-ticket, or justify its loss. Should the owner not be known, the detention and place of deposit shall be minutely announced by publishing an advertisement on three consecutive days in the official newspaper of the Government of the Island of Cuba, and in the private newspaper, or newspapers of the district in which the arrest may have been made. Under any circumstances the slave shall be at once set to work, and the respective municipality shall take the produce thereof as a compensation for expenses.

Art. 90. When three months shall have passed and the detained slave shall not have been claimed, fresh announcements shall be made on three consecutive days, and when three more months shall have passed and no claim shall have been made, the slave shall be declared free.

Art. 91. The payment of the duties established by Article 77 shall be made by means of stamps, which, spoiled in the usual manner, shall be stuck on the respective ticket. The Superior Civil Governor is hereby authorised to adopt, in accordance with the general direction of admonition, the necessary dispositions for the fulfilment of that which is established in the preceding sentence.

Art. 92. In the month of February yearly the Slave Register Books shall be collected and placed among the archives of the Royal Audiencia.

Art. 93. The Superior Civil Governor of each Island shall, on the day which the Government may fix, as to the present year, according to Article 55, and by the last post of the month of February in succeeding years, send a general alphabetical schedule of registered slaves, specifying their sex, condition, age, whether under 12 years of age or over 60, and the occupations to which they are dedicated.

These schedules shall be accompanied by a Report on the effects of the registration, the difficulties in the way of its perfect and complete realisation, and the means of overcoming them. There shall also be sent copies of the notes which, according to this regulation, must be sent to the Superior Civil Governors, by the Governors, and Lieutenant-Governors.

Art. 94. The Superior Civil Governors are hereby authorised to issue the necessary orders for the fulfilment of this Regulation, to resolve any doubts that may arise, and to take measures in any case not provided against; this to be done subject to the approval of the Supreme Government.

Approved by His Majesty,  
Madrid, June 18, 1867. (Signed) MARFORI.

#### Inclosure 6 in Mr. Crawford's Report.

DECREE of 28th September 1870, embodying the EMANCIPATION ACT or LAW of 4th July 1870, known as "MORET'S LAW."

His Excellency the Regent of the kingdom communicates to me under date 4th July last the following law, decreed and sanctioned by the Cortes.

Don Francisco Serrano y Dominguez, Regent of the Kingdom by the will of the Sovereign Cortes, to all who may see and understand these presents, greeting: the Constituent Cortes of the Spanish nation, in the exercise of its sovereignty, decrees and sanctions the following:—

Art. 1. All children of slave mothers, who may be born after the publication of this Decree, are declared free.

Art. 2. All slaves born since the 17th September 1868, up to the publication of this Law are acquired by the State, in consideration of the payment of 125 pesetas (25 dollars) to their owners.

Art. 3. All slaves who may have served under the Spanish flag, or who may have in any way assisted the troops during the present insurrection in Cuba, are declared free. Remain likewise recognised as such all those who may have been declared free by the Superior Government of Cuba, in the exercise of its powers. The state will indemnify the owners the value of these slaves if they have remained faithful to the Spanish cause; if they should belong to insurgents, there will be no room for indemnity.

Art. 4. Slaves who on the publication of this Law may have completed their 60th year are declared free, without indemnity to their owners. The same boon will be enjoyed by those who in future reach that age.

Art. 5. All slaves who for any reason belong to the state are declared free. Those, likewise, who under the designation of "emancipados," may be under the protection of

the state, shall immediately enter into the full exercise of their rights as free men.

Art. 6. The liberated by agency of the Law, who are spoken of in Articles 1 and 2, shall remain under the patronage of the mother's owners previous to the indemnity prescribed in Article 11.

Art. 7. The patronage referred to in the preceding Article imposes on the patron the obligation of maintaining his wards, of clothing them, of assisting them when sick, and of giving them primary instruction and the education necessary for following an art or trade. The patron acquires all the rights of a tutor, besides availing himself of the labour of the freeman, without any retribution up to the age of 18 years.

Art. 8. Upon the freed man reaching the age of 18 he shall earn the half of the wages of a free man, according to his class and trade. Of these wages, one half shall be thereupon paid to him, the other half being reserved to create a fund for him in the form which posterior resolutions determine.

Art. 9. Upon completing 22 years the freed man shall acquire the full enjoyment of his rights, the patronage ceasing, and his fund shall be delivered to him.

Art. 10. The patronage shall also cease—

1. By marriage of the freedman; when in the case of women it takes place after the age of 14 years; and in the case of men, after the age of 18.
2. By proved abuse of the patron in punishment, or by neglect of the duties imposed upon him in Article 7.
3. When the patron prostitutes or may favour the prostitution of the freed one.

Art. 11. The patronage is transferable by all means recognised by law and renounceable through just reasons. Legitimate or natural fathers who are free may recover the patronage of their children by paying to the patron an indemnity for the expenses he has incurred on behalf of the freedman. Posterior regulations will fix the basis of this indemnity.

Art. 12. The superior civil Governor will furnish, in the term of one month after the publication of this Law, the lists of the slaves who may be comprised in Articles 3 and 5.

Art. 13. The freed man and free referred to in the preceding Article shall remain under the protection of the state, merely to protect them and to provide them with the means of gaining their livelihood, without in any way restricting their liberty. Those who prefer returning to Africa will be taken there.

Art. 14. The slaves referred to in Article 4 can remain with their masters, who will in such case acquire the character of patrons. When they may have chosen to continue with their patrons, it shall be optional for their patrons to recompense them or not; but in every case, and especially in that of physical impossibility of maintaining themselves, the patron shall be under the obligation of feeding, clothing them, and assisting them in sickness, and he shall likewise have the right of employing them in labour proportionate to their condition. Should the freed man refuse to meet his obligation of working, or should he create confusion (disturbance) in the patron's house, the authorities will decide what is to be done after hearing the freed man.

Art. 15. Should the freed man voluntarily leave the patronage of his former master, the latter's obligations contained in the preceding Article will cease.

Art. 16. The Government will provide the means required for the indemnities which the present Law will originate by a tax upon those who remaining still in service (slavery) may be comprised between the ages of 11 and 60.

Art. 17. The crime of cruelty, proven and chastised by the Courts of Justice, will bring about, as a consequence, the liberty of the slave who may have been the sufferer.

Art. 18. All concealment which hinders the application of the benefits of this Law will be punished according to Part XIII. of the Penal Code.

Art. 19. Shall be considered free all those who may not appear inscribed in the Census taken in the Island of Porto Rico on the 31st December 1869, and in that which ought to be concluded in the Island of Cuba on the 31st December 1870.

Art. 20. The Government will dictate a special regulation for the carrying out of this law.

Art. 21. The Government will present to the Cortes, when the deputies from Cuba may have been admitted in them. The project of the law is indemnified emancipation of those

who remain in service (slavery), after the planting of this law. In the meantime, until this emancipation is carried out, the punishment of flogging, authorised by cap. 13 of the regulations of Porto Rico and its equivalent in Cuba, is suppressed.

Neither may be sold separately from their mothers children under 14 years of age, nor slaves who are united in matrimony.

By resolution of the constituent Cortes it is communicated to the Regent of the Kingdom for its promulgation as law.

Palace of the Cortes, June 23, 1870.

(Signed)

MANUEL RUIZ ZORILLA, President.	} Deputy Secretaries.
MANUEL DE LLANOS Y PERSI,	
JULIAN SANCHEZ RUANO,	
FRANCISCO JAVIER CARATALA,	
MARIANO RUIZ,	

Therefore, I command all Courts, Justices, Commanding Officers, Governors, and other authorities, both civil and military and ecclesiastical, of every class and degree.

San Ildefonso, July 4, 1870.

(Signed)

FRANCISCO SERRANO.  
SEGISMUNDO MORET Y PRENDERGAST.  
The Colonial Minister.

And having opportunely omitted its publication for the want of the regulation spoken of in Article 20, and having now received the bases upon which said regulation will be drawn up, I have ordered the fulfilment of the said law, for which purpose it is inserted in the "Official Gazette," that it may be duly carried out.

Havana, September 24th, 1870.

(Signed) CABALLERO DE RODAS.

No. 2.—CONSUL-GENERAL CRAWFORD to the EARL of DERBY.

MY LORD, Havana, 4th March 1876.  
I HAVE the honour of transmitting herewith to your Lordship a copy and translation of General Jovellar's edict of the 15th ultimo, regarding "Emancipados," by which your Lordship will perceive that the law of 4th July 1870, for the gradual abolition of slavery in Cuba, has been misinterpreted to the detriment of that unfortunate class, and that, as is admitted in the preamble of the Governor-General's edict they have been sent to the Government depôts for runaway slaves, and have been obliged to contract themselves by the very boards, or "juntas," appointed for their protection.

The Governor-General might have also added that these contracts have been sold to the highest bidder, and that the ("juntas protectoras de libertos") boards for the protection of freedmen are only local slave trading committees under the authority of the Government.

The Edict itself is by no means satisfactory, and indeed its fourth Article authorises the holders of those Emancipados, who are still deprived of their rights, to retain them on the condition of paying to the Government Treasury the regulation amount or quota, so that in point of fact, the Emancipado may remain enslaved for life. It is a most shameful evasion of the proper spirit of the Law of 4th July 1870.

If Spain is in earnest as regards the question of slavery, why does she not order the immediate and unconditional freedom of the poor Emancipados?

I have, &c. &c.,

JOHN V. CRAWFORD,

The Right Honourable Acting Commissary Judge.  
Earl of Derby,  
&c. &c.

Inclosure in Mr. Crawford's Despatch of March 4 1876.

GENERAL JOVELLAR'S EDICT regarding "EMANCIPADOS." Havana, 15th February 1876.

(Translation.)

Having noticed that the Government Circular, of 22nd April 1873, regarding "Emancipados" has been interpreted in divers ways by some of the district boards for the protection of freedmen, whilst others confound the Emancipados with the freedmen (libertos); and the Law of 4th July 1870, referring to them only in the second paragraph of its fifth Article in order to declare that they shall at once enjoy the rights of those born free (ingenuos),

it being also ordered by Article XIII. that they are to remain under the protection of the State, said protection being limited to furnish them with the means of earning their livelihood without in any way interfering with their liberty; and whereas owing to this erroneous interpretation the said boards send the "Emancipados" to the Government depôts and force them to contract, or to submit themselves to their patronage, which is contrary to the spirit and letter of the said Law of 4th July 1870. The consultation addressed to this Government by the Central Board for the Protection of Freedmen, on the 18th of October last, having been considered, in conformity therewith, and coinciding with what has been proposed by the Government Secretary's Department, I have resolved:—

1st. The negroes called "Emancipados" according to the second paragraph of Article V. of the Law of 4th July 1870, were placed on the same footing as the free-born (ingenuos), and had the right, and may like the latter, enter into such contracts regarding their own persons as best suits them; nevertheless those who have contracted any legal compromise are bound to fulfil it.

2nd. As a consequence of the foregoing declaration the said "Emancipados" must not be sent to the depôts. Those now there are only to be detained the time indispensably necessary for their identification.

3rd. Whenever the "Emancipados" consider themselves wronged, they can appeal to the ordinary courts for justice, without prejudice to their right of soliciting the protection referred to in Article XIII. of said Law.

4th. In order to legalise the situation of the emancipados who are at present deprived of the rights which were conceded to them (and it appearing by the records of this Government that there are some in this case because their respective patrons have not declared their situation, or have not presented these "emancipados" for the purpose of providing them with their corresponding papers) repeating what is ordered, the holders of these negroes will continue paying to the revenue the appointed quotas or portion of their hire for all the time they keep them in this state, without prejudice to the responsibility that they may incur by so doing, reserving to the "emancipados" their right to claim from said holders what may be due.

5th. Governors and Lieutenant Governors will facilitate free papers to those "emancipados" who may not have any, reporting to this Government General, so as to record the same and to notify the Revenue, taking special care to identify their persons before granting said free papers, for which purpose they will apply to this Government for the required data.

6th. This Decree will be published in the Official Gazette, that it may become known and be punctually observed.

(Signed) JOAQUIN JOVELLAR.

Havana, 15th February 1876.

No. 3.—CONSUL-GENERAL CRAWFORD to the EARL of DERBY.

MY LORD, Havana, 5th April 1876.

I HAVE the honour of transmitting herewith to your lordship a translation of the regulations issued by the Spanish Government, on the 5th of August 1872, for carrying out the law of 4th July 1870, known as Moret's Law, for the gradual abolition of slavery in the Islands of Cuba and Puerto Rico.

These regulations were never published in the Gazette here, and I only saw them, for the first time, at page 106 of the book referred to in my Despatch No. 7 of 23rd ultimo, which book was published very recently for the guidance of the "Boards of Protection of Freedmen."

By these regulations, the "Emancipados," "Libertos," or freedmen of every description, are placed under the control of the "Juntas" or "Boards of Protection," and, as I have already stated in my report of 23rd March, the freedom of the slaves under the law of 4th July 1870, is entirely illusory, and what is really being carried out here is a new "emancipado" system on a sweeping scale.

I need not weary your lordship with a description of that horrible system, for it has already formed the subject of lengthened correspondence in the volumes that have been written by Her Majesty's Consular officers and Commissioners here during the last thirty years.

Between the so-called "Boards for the protection of freemen," and the "Board of Colonization," the negroes and the unfortunate Chinese are, and will be, reduced to the condition of perpetual slavery, for they will be hired out on contract after contract until they become worthless

SPAIN (CUBA).

SPAIN (CUBA). or until they die, and will be a source of speculation and wealth to those whose duty it should be to protect them against every species of imposition and wrong.

I have expressed this, in conversation, to General Jovellar only two days ago, but I fear that His Excellency has so much urgent business on his hands that he cannot pay much attention to such matters at present.

With the highest, &c. &c.,

JOHN V. CRAWFORD.

Acting Consul-General and Commissary Judge.

The Right Hon.  
Earl of Derby, &c. &c.

Inclosure in Mr. Crawford's Despatch of 5th April 1876.

REGULATIONS for carrying out the LAW of 4th July 1870 for the GRADUAL ABOLITION OF SLAVERY.

CHAPTER FIRST.

*Boards of Protection.*

Art. 1. In fulfilment of the 13th and other articles of the law which refer to patronage, a board for the protection of freedmen, under whose protection all those declared free by the provisions of the said law shall be placed, shall be established in each jurisdiction of the island of Cuba, and in each civil district of Porto Rico.

Art. 2. The jurisdictional boards shall be composed of the Governor or Lieutenant-Governor of the jurisdiction in Cuba, of the municipal council of the district in Porto Rico, say the president and the first syndic of the municipal council of the capital, or of the only one there happens to be; of four members, two of them not slave owners; of four substitutes, two of them also not slave owners: in cases of illness, absence, or other impediment; and of a secretary without vote. The substitution of members shall be made in such manner that in no case shall there be less than two of them not slave owners.

Art. 3. The office of member of these boards shall be gratuitous, and cannot be declined except by persons over 60 years of age, or who may have some physical impediment:—

Cannot be members.

- 1st. Foreigners who are not naturalized.
- 2nd. Minors.
- 3rd. Persons who cannot read or write.
- 4th. Military men and civil servants in active service.
- 5th. Persons who have suffered severe penalties.
- 6th. Persons who by order of a court are under the surveillance of the police.
- 7th. Persons who may have been at any time condemned for infraction of the regulations regarding slavery or of the law for the suppression of the Slave Trade.

The term of office shall be for two years, half the members to be renewed every year, the two members and the two substitutes who are to be relieved at the end of the first year to be determined by lot.

Art. 4. In order to appoint the jurisdictional boards the Governors or Lieutenant-Governors in Cuba, and the Mayors of the chief towns in Porto Rico, will draw up a list of the 16 largest tax-payers of the jurisdiction, whether they are resident in it or not, half of them not slave owners, so that the Superior Civil Governor may select the four members of said boards. In following years the list shall comprise only eight persons combining similar conditions so that the superior authority may select the two who are to replace those retiring.

Art. 5. The jurisdictional boards being constituted with the two official members mentioned in Article 2, and the four members elected according to Article 4, shall proceed to propose eight resident taxpayers half of them not slave owners, so that the Superior Civil Governor may select the four substitutes required. For the subsequent yearly renewals of half the substitutes, the boards will only propose four taxpayers who combine the requisite conditions, so that the superior authority may select two of them. The boards may not pass any resolution without half the members plus one are present.

Art. 6. The attributes of the jurisdictional Boards are—

1st. To watch over the fulfilment of the obligations imposed on the patrons by the 7th Article of the law regarding the freedmen comprised in Articles 1 and 2, as far as the state of culture and the conditions of locality may permit in each case, and in consonance with the labours they may have to perform in town or in the country.

2nd. To see that due payment is made of the wages which the 8th Article of the law assigns to freedmen who have completed 18 years, intervening in the fixing the amount of said wages, and recovering the moiety destined to form a fund for them. In order to estimate the salary of the freedmen, the moiety assigned to them shall be in proportion to what free men earn according to their class and trade.

3rd. To see that the termination of the patronage on the freedmen attaining 22 years of age, be duly carried out according to the 9th Article of the law.

When the patronage ceases by reason of any of the three causes expressed in the 10th Article of the law, the boards will have under their protection the married couples, alluded to in the first part of that Article, until the man comes of age, and will see, without violence to their wishes, that they remain with the wife's patron as labourers.

4th. To assist the freedmen comprised in the 3rd and 5th Articles of the law, and those not under patronage, taking care that the contracts they make are as favourable to them as possible, as well as to the development of agriculture, and the requirements of public order.

5th. To exercise all the duties of guardianship according to law over the freedmen under 22 who are not under patronage, and over those who, being also under 22, may have claims against their patrons, representing them in and out of court through persons they may name for that purpose.

6th. To interfere with their necessary approval in the terms and acts of transfer of patronage, as also in those which have for object the recovery of the patronage of free parents over their children, and to approve the indemnity which may be considered just, as provided for further on.

7th. To keep registers of the persons whose protection is confided to them, and of the changes they may undergo in their condition and place of residence, noting separately those who are under patronage and those who are free labourers.

8th. To take care, according to the 14th Article of the law, that the patrons fulfil their obligations towards the freedmen over 60 years who remain in the houses and plantations of their former masters, and to interfere in the disputes which may arise between them.

9th. To deposit in the public savings bank at Havana and at St. John, Porto Rico, or their branches, in the name of each of the interested parties, the sums collected for the formation of their fund.

10th. To take cognizance of the renunciation of the patrons, admitting those founded upon reasons which the boards may consider just and proved, taking care however that the renunciation does not involve the separation of any child under 14 from his slave mother. Such a separation must likewise never be permitted in cases of transfer of patronage.

11th. To order the change of patronage, after giving a hearing to the patron, when the minor who exhibits some extraordinary qualification demands, personally or through a third party, to change his occupation whenever this entails his removal to another place where the patron cannot discharge his duties, or when the patron refuses his consent to the desired change.

12th. To form the polls, lists, and registers which may be required to carry out the law, or are provided for in these regulations, doing all that is ordered in them regarding said documents.

13th. To propose the nomination of Secretary and other necessary officers who shall be appointed by the Governors and Lieutenant-Governors in Cuba, and by the Mayors in Porto Rico, with the Superior Civil Governor's sanction.

14th. To make out the list of the employés of the jurisdiction, fixing their salaries and that of the Secretary, submitting it for approval to the Superior Civil Governor, who will consult the opinion of the Central Board before granting his sanction.

15th. To decide all questions which may arise regarding admission or exclusion from the lists of freedmen.

16th. To adjust and settle all questions arising between patrons and clients, and all others that may occur with reference to the appliance of this regulation, observing the mode of procedure pointed out in Article 18.

Art. 7. In the event of the parties in dispute not agreeing to the decision of the jurisdictional Boards, they will have the right, within the term of thirty days, of appealing to the Central Board, which will decide the question definitively.

Art. 8. He who feels himself aggrieved by the decisions of the Central Board, which are imperative, can seek redress against them in the civil and administrative courts of law.

Art. 9. The mode of procedure in such cases will be regulated by the existing legislation as regards adminis-

trative appeals; and by the rules laid down in Chapter 24, First part of the Common Civil Law now in force in Cuba and Porto Rico.

Art. 10. Slaves who may be declared free under the 17th Article of the Law, shall remain under the care of the Boards of Protection, who will act in regard to them in the same manner as these regulations prescribe for the others, especially in Section 4 of Art. 6.

Art. 11. The jurisdictional Boards of Protection may delegate their powers for each district in their jurisdiction to one or other of the persons comprised in the proposal referred to in Article 5, including a substitute also, both being residents of the district; and their appointments, on being proposed by the Boards, will be made out by the Governor or Lieutenant-Governor in Cuba, or by the Mayor in Porto Rico, under the sanction of the Superior Civil Governor. These delegates and substitutes will act always under the authority of the Boards, so that the latter alone will decide and determine any question which may arise, the delegates and substitutes being limited to carry out their orders.

Art. 12. Persons invested with such offices, will be considered as public officers with administrative attributions, and will be subject to the corresponding administrative and judicial responsibility. Said offices shall also be honorary, and may not be renounced except in cases where the resignation of members is legal.

Art. 13. The Central Board of Protection shall reside in the capital, and shall be composed of the Superior Civil Governor, as President; of a Vice-President named by him; of the first Syndics of the City Council; of 16 members, half of them not slave owners, selected by the Superior Civil Governor from among the 150 largest ratepayers of the whole island, be they residents of the capital or not; of 16 substitutes, eight of them not slave owners, for cases of absence or illness, and of a Secretary proposed by the Board and appointed by the Superior Civil Governor. This authority may delegate the duties of President in special cases to any person he thinks fit.

The substitution of the permanent members must be made in such manner that there shall never be less than eight of them not slave owners.

Art. 14. As soon as the Board is constituted, it will make out a list of 32 ratepayers, residing in the capital, so that the Superior Civil Governor may select the 16 substitutes which are required to replace the permanent members.

Art. 15. This Board will be renewed by halves every year, those retiring at the end of the first year to be determined by lot. The renewals of permanent members will be made by appointment of the Superior Civil Governor conformably to Article 13, and those of the substitutes conformably to Article 14. The office of member cannot be resigned except in the cases foreseen in Article 3. Persons comprised in any of the cases No. 1 to No. 7 of said Article 3 cannot be members.

Art. 16. The attributes of the Central Board are:—

1st. To form the general register of slaves.

2nd. To make out the lists and registers of freedmen in the whole island, which may be required or which may be ordered to be made in future under the previous sanction of the Superior Civil Governor; the general summary of said lists and register to be published in the Gazette of the capital.

3rd. To take cognizance of and decide the appeals made against the decisions of the jurisdictional Boards, and any consultations the latter may make.

4th. To give the necessary instructions to the jurisdictional Boards, taking care that they fulfil punctually the duties imposed upon them by these regulations.

5th. To lay before the Minister for the Colonies, through the Superior Civil Governor of the island, anything which may be considered necessary for the better carrying out of the law, and for removing difficulties which might produce perturbation or evil for the slaves or freedmen as well as for their masters or patrons.

6th. To keep a proper account of the sums which each of the jurisdictional Boards collect for the moiety of the wages which is to form the fund of the freedmen.

7th. To propose to the Superior Civil Governor, for his approval, the appointments of the Secretary and other employes who may be indispensable, their salaries, and the estimate of office expenses.

8th. To make out a general account of the expenses of all the jurisdictional Boards, and to see that their accounts are properly rendered, so as to send them in to be passed by the audit office.

Art. 17. In order to raise the funds required for the indemnities mentioned in the law, and to cover the

estimates of expenses of all the Boards of Protection, the Central Board, after calculating and ascertaining the total amount, will propose to the Superior Civil Governor of the island the tax which ought to be levied upon the slaves comprised between the ages of 11 and 60. The Superior Civil Governor will transmit said proposal, with his report, to the Minister for the Colonies, so that he may determine what he considers best.

Art. 18. The Superior Civil Governor, after consulting the Central Board and the Council of Administration in Cuba, or the Provincial Deputation in Porto Rico will dictate the regulations which must be followed by the Central Board, the Jurisdictional Boards, and by the delegates of districts, in their various protective duties, and in their relations with the Superior Civil Government, their prescriptions being strictly in accordance with those of the Law of 4th July 1870, and with those contained in these regulations.

Art. 19. Slaves who have served under the Spanish flag during the insurrection in the Island of Cuba, and who afterwards continue in active service, will not be under the care of the Boards of Protection while they remain as freedmen in that condition, of which fact the Superior Civil Governor will give notice to the Jurisdictional Board to which the freedman belonged as a slave. A similar notice will be given to the Board when they leave the military service. The preceding dispositions do not include minors, who, in all that does not refer to military matters, ought to be protected by the respective Boards.

Art. 20. Freedmen who from their bad disposition show an aversion to labour, or prove incorrigible, ought to be abandoned by the Boards they belong to, and with the approval of the Central Board, these Boards will withdraw their protection, reporting to the authority for its government, and for whatever steps it may consider proper.

Art. 21. Freedmen who, by virtue of the dispositions of the 3rd Article of the Law, are subjects of indemnity to their former owners, will not receive cedulas as such until their condition has been looked into, so as to fix the amount of indemnity by the Board of Protection of the jurisdiction to which they belonged as slaves. The Boards will take care that this examination and valuation are made immediately, so as not to delay for a moment the declaration of freedom and the delivery of the corresponding cedula.

Art. 22. The appraisalment of the value of individuals subject to indemnity shall always be made before the respective jurisdictional Board by two appraisers, one named on behalf of the Public Treasury in each case that occurs, and another by the person to whom the indemnity is due, or by his representative. In the event of disagreement between the appraisers, the Board will appoint a third in dispute, and will decide the amount of indemnity as in the preceding case. All proceedings regarding the same person must be gone through at one and the same time, the appraisements ordered by the Boards being submitted to the approval of the respective Treasury officer.

Art. 23. Those who still in military service reside incorporated as soldiers in another jurisdiction shall present themselves, by leave of their officers, to the Local Board, so that the indemnity due for them may be determined, due notice being given to the former master of the freedman, or his agent, in order that he may name an appraiser to appear on his behalf at the act of appraisalment, which act will be verified whether the party interested is present or not.

Art. 24. When the owner or his representative fail to attend the Board after hearing the appraiser on behalf of the Public Treasury and another named by the same Board, will fix irrevocably, and with the approval of the respective revenue collector or officer, the amount of the indemnity. The decision that is come to shall be notified to the owner or his representative, and shall be communicated to the Board of protection of the jurisdiction to which the freedman belonged when a slave.

Art. 25. Owners, whose slaves have been killed or have died of their wounds in active service under the Spanish flag after the law was published in the Madrid Gazette, and before these regulations were put in force, are entitled to the indemnity treated of in the 3rd Article of the Law, and shall receive by virtue thereof the sum of 1500 pesetas for each slave.

Art. 26. The indemnities which are to be paid by free legitimate or illegitimate fathers or parents who claim the patronage of their children who are comprised in the first



SPAIN (CUBA).

and second Articles of the Law, shall be regulated so that they represent the difference between the expense which the patron has incurred for maintenance and teaching of the freedman, and the value of the services which the latter has rendered gratuitously to the patron.

## CHAPTER SECOND.

*Regarding the Registry, Lists and Registers commended to the Central and Jurisdictional Boards of Protection, and issue of Cedulae to the Freedmen.*

Art. 27. Shall be only considered slaves, those who as such are inscribed in the general census made respectively in the islands of Cuba and Porto Rico by the Central Board of Protection. The said census shall be considered as conclusive as long as it is in accordance with the dispositions contained in the Law of 4th July 1870, and with the instructions issued by the Minister for the Colonies for its execution and fulfilment.

Art. 28. The Jurisdictional Boards will keep a special register of those born after 4th July 1870 the date on which the said law was published. In this register, besides the particulars necessary for the general registry of slaves, and which may be applicable to them, shall be entered the name, profession, and domicile of the patron who is to exercise the rights of tutor over them.

Art. 29. Those born of mothers who are under patronage according to law, shall be opportunely included in the register referred to in the preceding Article.

Art. 30. Claims regarding the application of the benefits of the law to individuals whose names may have been omitted in the census or registry can be brought forward at any time. Claims to be excluded will only be admitted if presented before the expiry of 30 days counted from the publication of the lists formed in the respective jurisdictions, it being understood that these claims will not affect the responsibilities which ought to be exacted in accordance with previous dispositions.

Slaves not comprised in the census made in the island of Porto Rico on the 31st December 1869 a prior date to that of the publication of the Law, although registered on the 31st December 1837, shall be considered as free, but the indemnity which is due to their owners will be paid to them when the Cortes concedes them that right.

Art. 31. The Superior Civil Governor will order the Jurisdictional Boards of Protection through one of their members, to issue with all speed, if they have not already done so, the respective cedulae to the freedmen over sixty years of age, as well as to the patrons of those who are under age. The member delegated will make a record of the delivery, which will be signed by him, by the patron, or his representative, and two witnesses.

Art. 32. The same formalities will be observed as regards the delivery of cedulae of those born after 4th July 1870.

Art. 33. The census treated of in Article 19 of the Law will not prejudice nor will it prevent in any way the responsibilities and rights consigned in the Decree, having same force as a law, of 29th September 1866, and in the Regulations of 18th June 1867.

Art. 34. The Boards of Protection, comparing the said Law of 1866 with the general census of slavery will strive to exclude from the latter all those who were not included as slaves in the former, with no other exception than those born afterwards up to the date on which by Law they ought to be free.

Art. 35. Said Boards will also make a register of all persons declared free by virtue of the Law of 4th July 1870.

Art. 36. The proof of the services referred to in Article 3 of said Law is recommended to the Boards of Protection, so that they may take steps with the authorities to liberate the slave. The Superior Civil Governor will give the final decision, according to his prudent judgment, appeal against such decision being reserved to parties who believe themselves wronged.

## CHAPTER THIRD.

*Concerning the Patronage.*

Art. 37. The freedmen who have been born after the 17th September 1868, and those who may be born in future shall remain under the patronage of their mothers owner. Those (as per the 14th Art. of the Law) who may have completed their sixtieth year, and do not prefer their liberty, shall likewise remain under patronage.

Art. 38. The rights conceded by our laws to tutors over minors shall be exercised by the patrons as regards the freedmen representing them in law.

Art. 39. The freedmen owe obedience and respect to their patrons as to their parents, and may not, without their consent, buy, sell, cede, or give away anything under penalty of defeasance.

Art. 40. The patronage is transferable by all the means recognised in law, and renunciable for just causes, according to Art. 11 of the Law. Neither the transfer nor the renunciation can be made if it would cause the separation of the "liberto" under 14 years of age from his mother.

Art. 41. The patrons are under the obligation of maintaining their clients, of clothing them, and taking care of them when ill, and of instructing them in the principles of religion and good morals, inculcating them with a liking for work, submission and respect for the laws, and with love for their neighbour, and with the desire of paying the expenses incurred in baptizing and burying them. These duties of the patron refer only to the freedmen comprised in the 1st and 2nd Articles of the Law.

Art. 42. They must also give their clients the necessary instruction for carrying on a trade or profession, dedicating them to that for which they show the most fitness or inclination as soon as they reach puberty. The zeal displayed by the patrons in this respect will be considered as a special and meritorious service.

Art. 43. The patron, as a just remuneration for the duties imposed upon him by the foregoing articles, and for the expenses incurred for account of the freedman, has the right of benefiting by his work without any wages until he reaches his 19th year.

Art. 44. From the age of 18 to 22 the patron will pay to the freedman the moiety of the wages of a free man according to his class and trade, bearing in mind when fixing the quota of wages, what is enjoined in the second section of Article 6. This wage will be divided into two parts, one of which will be given to the freed man, and the other half to the Board of Protection of the jurisdiction in order to form the freedman's fund.

Art. 45. The patron of every minor who may not have given him the instruction required for carrying on a trade or profession as far as the state of culture of the country and the conditions of locality may permit, and in keeping with the work of the "liberto" in rustic and town labours, will be obliged to pay said minor from the ages of 18 to 22 the entire wages corresponding to a freeman, whenever this omission is owing to the fault or negligence of the patron.

Art. 46. When the freedmen of 60 have chosen to remain in the house or on the property of their former masters the latter will acquire the character of patron.

Art. 47. In the event of the freedman or his former master refusing to fulfil the respective obligations imposed upon them by the 14th Article of the Law, the Board of Protection, after hearing both parties, will take proper steps to see these obligations carried out, and will endeavour to procure work for the freedman according to circumstances.

Art. 48. The Board of Protection will take special care not to contract the "libertos" for labours which are not similar to those they may have been used to, keeping on the plantations those who may be there, but without restricting their liberty.

Art. 49. It is the duty of patrons to punish the faults which the "libertos" may commit. The Superior Civil Government, after hearing the Central Board of Protection, will determine by a regulation the punishments which the patrons may inflict.

## CHAPTER FOURTH.

*Regarding the manner of effecting the shipment of the "libertos" comprised in the 3rd and 5th Articles of the Law.*

Art. 50. Upon the "freedmen," comprised in the 3rd and 5th Articles of the Law, receiving their cedulae, they shall be consulted by the Board from which they receive said cedulae, regarding their desire to return to Africa. At the same time their answer shall be recorded on the lists to which they belong, and on the cedulae which are given to them. The right of election which is conceded to these "freedmen" shall be only exercised once, and within the seventy days following the date on which the "Cedula of liberty" (free paper) is delivered to them.

Art. 51. Those who desire to return to Africa, shall remain thenceforth at the disposal of the Board of Protection of the jurisdiction until all those in the jurisdiction who decide likewise being collected together, the Superior Civil Governor, being made aware of their number and circumstances, may determine their being taken to the port of shipment decided on.

Art. 52. Being collected together at the port of shipment, the emigrants destined for a given place shall be taken on board the vessel which is to convey them, the captain receiving them from the local authority as delegate of the Superior Civil Governor, the record of the shipment which must contain the names of the emigrants being made out in triplicate. Each copy of this record will bear the signature of the local authority, of the commandant of marine, or of the harbour-master, and of the master of the vessel. The latter will keep a copy until his mission has been accomplished, and the other two copies will be transmitted to the Superior Civil Governor, one being for the Government Office, and the other for the Colonial Office. Certified copies shall also be sent to the Chief Justice and the Attorney-General of the island.

Art. 53. The emigrants may embark their private effects

and money, and also the tools which may belong to them, to the order of the master of the vessel. SPAIN (CUBA).

Art. 54. The emigrants shall be taken to the place in Africa, which may be determined by the superior authority according to the instructions given him by His Majesty's Government, the necessary measures being adopted for proving the delivery of the emigrants at the place of disembarkation.

Art. 55. As soon as the emigrants land at the place to which they are bound, they shall remain at complete liberty.

Art. 56. The Superior Civil Governors of the Islands of Cuba and Porto Rico will submit to the Colonial Office the doubts which may occur regarding the application of the law and of these regulations whenever their resolution calls for a legislative or gubernative measure; transmitting in like manner for the approval of the Supreme Government any dispositions which they may think fit to issue for the exact execution of the one or the other.

Given at San Sebastian the 5th day of August 1872.

AMADEO.

The Minister of the Colonies.

EDUARDO GASSET Y ARTIME.

### SPAIN (PORTO RICO).

CONSUL PAULI to the EARL OF DERBY.

British Consulate, Porto Rico,  
April 26th, 1876.

MY LORD,

THE Official Gazette of the 18th instant publishes a notice to all the Alcaldes of the Island, that on the 20th instant all libertos now under contract are entitled to their civil rights, and are to be provided with a cedula, for which they will have to pay one peseta, about ten pence; the reason given for making any charge is, that by so doing they will be placed on a more perfect equality with their fellow-subjects who have never been subjected to slavery, and who have to pay for their cedula.

A long circular is also published containing advice to those now entering on their civil rights, and directing the Alcaldes to impress upon them the necessity of complying with all the obligations of society, and appealing to the owners of estates on which the libertos had been contracted, to continue to find them work, and to allow them to use the houses which they now inhabit for the present; at the same time Alcaldes are reminded that by Law of the 22nd March 1873, Article 7, these men will not obtain their political rights until the 22nd March 1878.

The Law of Abolition has so far been strictly complied with in letter, and it remains to be seen if the spirit of the Act be also carried out. I have no reason to doubt this, but in the same Gazette an order is given to all Alcaldes, local authorities, guardia civiles, and police in general to apply with the greatest rigour the Vagrant Act of April 15th, 1874.

This Act, although to a certain extent necessary in consequence of the disposition to idleness of many of the inhabitants, contains some articles describing those who will be considered vagrants, which appear to me liable to abuse.

Clause 1 states—

That all those who have no income, lawful profession, or lucrative and known occupation are vagrants.

Clause 2—

Those having lawful occupation who do not devote themselves habitually to work will be in the same category.

Clause 3—

Also those who gain wages by regular labour, but who frequent in working hours cafés, taverns, or other places of recreation.

The punishment is not very severe; for the first offence the person has to appear before the local authority, and is admonished; for the second offence, eight days' labour on public works; and for the third, fifteen days, and a fine of fifty pesetas; in default of payment one day's forced labour for every five pesetas of fine.

We are also promised a new project of law, which has been sent to Madrid for approval, viz., "For regulating the relations between Capital and Labour."

I will continue to keep your Lordship informed on these matters, and report on the condition of the freedmen throughout the island, as soon as I am able to visit the vice-consular districts.

I have, &c.

The Right Honourable  
The Earl of Derby,  
&c., &c.,  
Foreign Office.

W. B. PAULI,  
Consul.

[For treaties and laws relating to slavery in the Spanish possessions see also page 73 of this Appendix.]

### SWEDEN AND NORWAY.

MR. ERSKINE to the EARL OF DERBY.

Inclosure in Mr. Erskine's Despatch of March 6th, 1876.

GENERAL BJÖRNSTJERNA to MR. ERSKINE.

(Copy.)

M. LE MINISTRE, Stockholm, March 2, 1876.

EN réponse à votre office en date du 29 du mois passé, j'ai l'honneur de vous informer que le trafic des nègres est défendu en Suède par l'ordonnance du 7 Janvier 1830, et en Norvège par l'ordonnance du 24 Janvier 1827, et que selon le § 9 de ces deux ordonnances, un esclave regagne sa liberté aussitôt qu'il arrive sur le territoire Suédois ou Norvégien. La législation n'a pas prévu le cas qu'un esclave cherche refuge sur un navire Suédois ou Norvégien.

Veuillez, &c.

J. J. U. BJÖRNSTJERN.

The Honourable  
E. M. Erskine, C.B.,  
&c. &c.

MY LORD,

Stockholm, March 6, 1876.

IN obedience to the instructions contained in your Lordship's despatch of the 25th ultimo, I applied to General Björnstjerna for information as to the Swedish and Norwegian law and practice in regard to fugitive slaves, and have now the honour to inclose a copy of a note I have received from his Excellency in reply.

I have, &c.

The Earl of Derby,  
&c. &c.

E. M. ERSKINE.

SWEDEN AND  
NORWAY.

## TRIPOLI.

## TRIPOLI.

Consul-General F. R. DRUMMOND-HAY to the  
EARL OF DERBY.

British Consulate General,  
Tripoli, Barbary,

My LORD,  
March 30th, 1876.

IN compliance with your Lordship's instructions, conveyed in Mr. Lister's despatch, of the 29th ultimo, directing me to report on the status of slaves in this country, I have the honour to report that the number of domestic slaves has greatly decreased during the last twelve years. There are no statistics on the subject, but from all the information I have been able to gather, as well as from personal observation, I should say that the number in the whole province at the present time does not exceed 10,000. Formerly almost every Arab who possessed a tent of his own had one or more slaves, whereas now Turkish officials, Arab chiefs, and those in comparatively comfortable circumstances, are the only slave proprietors, the wealthiest Turk not having more than five or six, male and female, and the great majority of Arabs only one or two.

There has, moreover, been a considerable improvement in the treatment of slaves by their masters. Cases of cruelty are much less frequent than formerly, whilst the slaves are better dressed and fed than was the case many years ago.

The decrease in the number of domestic slaves is attributable to the discouragement to slavery generally, by the pressure brought to bear on the Sublime Porte by Her Majesty's Government, and the consequent orders on the subject to the Valis of the province, as also to the comparative facility with which, of late years, slaves have been enabled to obtain their manumission from the local authorities, through the intercession of this Consulate; whilst the anxiety of slave owners to prevent their slaves from applying to this Consulate for that purpose has induced them to treat them better, and thus make them more contented with their lot.

Although nominally the local authorities profess to be ready to manumit any slave applying directly to them, the instances in which they have done so are extremely rare. When a slave does make such an application, his master invariably at once charges him or her with theft, or upon some other pretext obtains his imprisonment, from which he is not released until, either by threats or

cajology, he has been induced to return to his former master. This artifice is almost invariably resorted to even when the slaves seek the good offices of this Consulate.

The local authorities, and the Mussulman population generally, look upon slavery as a necessary and lawful institution, and therefore the whole tendency of the popular mind, and of the action of the authorities, is to discourage applications for freedom, and to defeat all efforts to abolish slavery.

It not unfrequently happens that even slaves who have obtained their manumission, are kidnapped and resold into slavery in the interior, or concealed near the coast, and exported clandestinely, and these abuses are often connived at by those in authority. The connivance, however, of officials in such cases has to be bought, and the expense, and trouble, and feeling of insecurity now attending the possession of slaves, all tend to discourage the inhabitants from purchasing them. Domestic slavery would before long become extinct were it not constantly fed by fresh importations from the interior, which, though on a much smaller scale than formerly, still continue.

There are no efficacious measures in progress for the eventual emancipation of slaves. The imperial firmans, and vizerial orders, on the subject would, no doubt, have proved effectual in completely crushing both the traffic in slaves, and in course of time domestic slavery itself, had they been honestly carried into execution, but they have become virtually dead letters; and the only care of the authorities has been to keep up an appearance of wishing to abolish the trade, whilst, in reality, preventing any too rapid progress being made in that direction. No instance has ever come to my knowledge in which the local authorities have spontaneously made a seizure of newly imported slaves, or inflicted any punishment on slave dealers. On the whole, however, as I have stated, much good has been done, and considerable progress made towards the mitigation of the evils attending slavery in this country, and its gradual and ultimate extinction.

I have, &c.

The Right Honourable F. R. DRUMMOND-HAY.  
the Earl of Derby,  
&c. &c.

[For treaties and laws relating to slavery in Tripoli see also page 85 of this Appendix.]

## TUNIS.

## TUNIS.

CONSUL-GENERAL WOOD to the EARL OF DERBY.

My LORD,  
Tunis, 14th March 1876.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch, of the 29th of February 1876, instructing me, in compliance with the request of the Royal Commission appointed to inquire into the question of fugitive slaves, to furnish your Lordship with a report on the status of slaves in the Regency of Tunis, and especially as to any measures in progress for their emancipation.

In reply, I beg respectfully to state that, pursuant to the declaration made by Ahmet Bey, in 1846, at the recommendation of Her Majesty's Government, slavery has been abolished by law in this Regency, in consequence of which the slave market has been suppressed; and although there may still exist one or two individuals who bring slaves clandestinely into the country by way of the Sahara, or across the borders between Tripoli and Tunis, yet, so far as I am aware, they are unknown to the local authorities.

By the XXXVII. Article of the General Convention between the Governments of Great Britain and Tunis, signed on the 19th of July 1875, the declaration of 1846 was renewed by His Highness the Bey, "who especially engages to cause the said declaration, abolishing for ever slavery in the Regency, to be obeyed and respected, and to use his utmost efforts to discover and punish all persons within his Regency who contravene or act contrary thereto."

The declaration, therefore, of the late Ahmet Bey has now assumed the character of an International engagement on the part of His Highness Sidi Mohammed Essadok Bey, and constitutes the more recent and stringent measure for emancipation.

I may be permitted to observe that, in virtue of the declaration obtained by Great Britain, it has been the

invariable rule of Her Majesty's Consulate General to procure the manumission papers of all slaves, whether male or female, who take refuge in it. It has, moreover, obtained the emancipation of slaves who were secretly brought overland or by sea into the country, without ever experiencing any difficulty on the part of the Tunisian Government.

Under these circumstances, and in the presence of the facilities which slaves have to procure their freedom, the natives have acquired the conviction that the holding of slaves is an insecure property, particularly males, who, not being confined in houses, can personally apply to the Consulate for their emancipation. The natives are, therefore, little disposed to purchase a property of which they may be dispossessed at any moment.

Owing to the exclusiveness of the harem it is difficult to state the number of female slaves who are employed as domestics in private houses; but there is reason to believe that their number is limited, inasmuch as only rich individuals can afford to purchase them, now that the difficulty and risk of introducing them into the Regency has enhanced their price.

The nomad Arabs probably possess a few slaves as labourers, but, as a general rule, there are no slaves who are compelled to work in the fields. With regard to their status, the female slaves in private houses are treated as members of the family. They are clothed and married when of age; and it is customary, though it does not follow as a right, to give them their freedom upon their marriage; and as, according to Mahomedan religion, every person born a Musulman is free, the offsprings of such marriages cannot be sold into slavery. I have had only one case of this description brought to my knowledge, but although the father, mother, and child belonged to an Arab whose tribe was in the interior, the Tunisian Govern-

ment had them brought to Tunis, at my request, and furnished them with their manumission papers.

Be it by report, tradition, or otherwise, slaves are perfectly well aware that by applying to, or taking refuge in, the British Consulate, they can obtain their manumission papers from the local authorities, for which only a fee of five shillings is charged by the notary who draws them up, and to which is affixed the Bey's seal.

It being a somewhat difficult task to dispose of the emancipated female slaves, the Consulate hands them

over to a very respectable negro chief, who is responsible for their persons, and who either procures husbands or employment for them.

TUNIS.

To the Right Hon. Earl of Derby,  
&c. &c.

I have, &c.  
RICHARD WOOD.

[For treaties and laws relating to slavery in Tunis see also page 84 of this Appendix.]

## TURKEY.

TURKEY.

## No. 1.—SIR HENRY ELLIOT to the EARL OF DERBY.

MY LORD, Constantinople, 24th March 1876.  
IN forwarding to me a copy of your Circular of the 25th ultimo to Her Majesty's representatives abroad, upon the question of fugitive slaves, your Lordship directed me to furnish any information that might be useful to the Royal Commission appointed to inquire into the subject.

Considering how frequently it occurs in this country that slaves take refuge at Her Majesty's Consulates, the instances in which controversy respecting them has arisen with the Turkish authorities have been extremely rare.

The difficulty is to act in accordance with what is due to the dictates of humanity without allowing the Consulates to be regarded as asylums for runaway slaves.

The Turkish law or practice respecting slaves is, however, so humane, that in cases of hardship it can almost always be invoked with success, and the Consuls by unofficial representations to the local authorities generally obtain their emancipation, if it can be shown that they have just cause for complaint. When difficulties do occur, the case is referred to me, and I act according to the particular circumstances.

A large proportion of the runaway slaves are the least deserving of their class, who, having committed some offence are endeavouring to escape punishment, and I should not consider myself justified in desiring a Consul to retain at the Consulate a slave who had left his master without some legitimate cause. If, on the other hand, a slave escapes from a dealer, who is himself violating the law of the empire which forbids the traffic, I do not hesitate to give him protection till his certificate of freedom is granted, for the engagement taken by the Porte to prohibit slave trading is, I conceive, a sufficient justification of this course.

The Earl of Derby,  
&c. &c.

I have, &c.  
HENRY ELLIOT.

## No. 2.—SIR HENRY ELLIOT to the EARL OF DERBY.

MY LORD, Constantinople, March 24th, 1876.  
I HAVE had the honour to receive your Lordship's instructions to report upon the status of slaves in Turkey, and upon any measures which may be in progress for their emancipation.

Their status, although depending at least as much upon custom as upon absolute law, is perhaps as favourable as it is susceptible of being made, the slavery being purely domestic, and no prejudice being felt against them, either on account of their condition or their colour.

The white Circassian slaves are regarded as being in a different social position from the negroes, though I am not aware of any distinction in their legal rights.

They usually, while young, receive sufficient education to qualify them to become inmates of the larger harems, either as wives, concubines, or superior domestic servants, and many are adopted into families where there may be no children.

The Sultan's wives, as they are called, though not strictly entitled to that name, are invariably selected from this class, which also furnishes wives to many of the highest dignitaries of the Empire.

The position of the concubines is not one of degradation,

as with us, and is indeed incorrectly designated by that term, for their children are legitimate and born free, inheriting on equal terms with the children of acknowledged wives.

It is the almost invariable custom to give them their freedom before a child is born, but till this is done they are liable to be sold by their master.

This is, however, rarely resorted to in the better harems, and the women whom it is not wished to retain in them generally receive a dowry, and a marriage is found for them.

The negro slaves of both sexes are employed as the domestic servants in the Turkish houses, and, as a rule, are kindly treated, although, being subject to the caprice of their master or mistress, many cases of harshness or cruelty must occur, for which the law affords them insufficient redress.

The Mahometan religion inculcates humane treatment of slaves, and recommends that they should be manumitted at the end of seven years, and this rule is very commonly followed, although it does not appear that it can be claimed as an absolute legal right.

No measures are in progress for their emancipation, but the feeling is gradually becoming general that the employment of free persons is more desirable, and the number of slaves is daily diminishing, although by no means so rapidly as it ought if the law for the suppression of the traffic were fairly enforced.

This it never will be as long as any demand for slaves remains; for there is nothing in the institution itself which is repugnant to the public feeling of the country.

I know many Turks who would be glad if there were no more slaves in the country, but none who consider that there is anything wrong in keeping men in slavery.

They know nothing of the horrors of the slave trade, and they compare the position of the negro, when domiciled in their own families, with what it would have been if he had remained in his own country.

There, they say, he would have continued a savage and a heathen, while here he has been raised to the condition of a civilised man, with a belief in a God, and a faith in a religion which they hold to be the true one.

As long as the slave trader is regarded as a man acting illegally, but not as guilty of an act reprehensible in its own nature, he will find the means of carrying on the traffic.

With the custom of emancipating slaves after a certain duration of service, and the recognition as free of all children born of parents of whom either is free, slavery would be nearly extinct in a comparatively short period of years, if the prohibition of the traffic were to be rigidly enforced; but of this I confess I see little prospect, and I do not even believe it to be within the power of the Government effectually to put a stop to it.

The passage of slaves intended for sale through Malta, where certainly no disposition exists to connive at the trade, shows the difficulty of defeating the contrivances of the dealers.

In Turkey those difficulties are much greater; for slaves are not only bought by professional dealers, but also in no inconsiderable numbers by private individuals, who pass them as members of their households, and afterwards dispose of them quietly.

The Earl of Derby,  
&c. &c.

I have, &c.  
HENRY ELLIOT.

TURKEY  
(RED SEA).

TURKEY (RED SEA).

MR. WYLDE to the EARL OF DERBY.

British Consulate, Jeddah,  
26th March 1876.

MY LORD,

I HAVE the honour to report that during a visit that I made to the ports of Yembo and Souakim, I had some few opportunities of making inquiries regarding the slave trade.

I find that at the former place there are a good many imported in buglas from the usual depôt, the African coast; these slaves find their way up to Medina, where there is a good market for them, a small portion of the number however, is consumed by the Bedouins, who use them to work in their date gardens.

There is no secret made of the traffic, and the Governor of Yembo, however willing he might be to put a stop to the public mode of carrying it on, would be powerless to do so, as he has no force whatever at his disposal.

At El Wedje there is no demand for slaves.

At Souakim, where I stopped only four days, private business did not allow me to make as many inquiries as I should have wished, and to visit the place of the embarkation of the slaves, which is some five miles south of the town.

However, from conversations I had with some native merchants, and the doctor, and postmaster Mr. Formighis, an Italian gentleman in the Egyptian service, I was led to believe that the officials are perfectly aware of the enormous exportation that takes place, and derive a pecuniary benefit from the same. I think Mr. Formighis' letter, an extract from which I enclose, bears out my testimony as to the extent of the traffic.

On the morning of my departure from Souakim, a bugla crowded with slaves left the place of embarkation that I mentioned before, and two others were half loaded, waiting till the arrival of another batch, which was shortly expected.

It was estimated that these three vessels would take away at the least 500 slaves. The bugla that left a few hours before the departure of the "Medina," the steamer in which I was travelling arrived near Jeddah before we did, having made a very quick passage, namely, 170 miles under the 24 hours.

At Jeddah, although the slave market is still closed, the sale of human beings goes on in some private houses adjoining the old market. The town is absolutely full of fresh run slaves; these could not have entered within the walls without the knowledge of the officials.

I have also the honour to report to your Lordship that the Turkish steamers "Cherif Rasan" and "Malakoff," bound for Constantinople, left there with numbers of slaves, and that no steps were taken to conceal them on board the vessels.

I have, &c.

H. B. WYLDE,  
H. B. M's. V. Consul.

The Earl of Derby,  
&c. &c. &c.

Inclosure in Consul Wylde's Despatch of March 26,  
1876.

Extract.

M. FORMIGHIS to MR. WYLDE.

MONSIEUR,

Souakim, 21/3/76.

\* \* \*

L'exportation des esclaves est toujours la même et en vaste échelle.

\* \* \*

Agrez, &c.  
G. C. FORMIGHIS,  
Deputé Secrétaire Agent, &c. &c.

TURKEY  
(SALONICA).

TURKEY (SALONICA).

VICE-CONSUL J. G. BLUNT to the EARL OF DERBY.

Salonica, April 15th 1876.

MY LORD, I HAVE the honour to inclose herewith, for the information of your Lordship, a copy of a despatch which I have this day addressed to Her Majesty's Ambassador at Constantinople reporting a recent case of slave traffic at this place.

I also inclose a copy of the letter which I addressed on the subject to the Pasha of Salonica.

I have, &c.

J. E. BLUNT.

The Right Honourable  
the Earl of Derby,  
&c. &c.

Enclosure I in Vice-Consul Blunt's Despatch to the  
Earl of Derby.

VICE-CONSUL BLUNT to SIR HENRY ELLIOT.

Salonica, April 15th, 1876.

SIR, I HAVE the honour to transmit herewith, inclosed for the information of your Excellency, a copy of a letter which I addressed on the 13th instant to the Pasha of Salonica respecting 12 young slaves who were brought to Salonica by the Austro-Hungarian Lloyd's Company's Steamer "Neptune."

From the inquiries I have made, it appears that these slaves were put on board the "Neptune" at the Dardanelles as domestic servants of the person who had charge of them, and that the commander of the "Neptune" did not suspect that he was conveying slaves in his vessel.

From all I hear, there is no doubt that slaves are occasionally imported here and at other ports in my consular district, but I cannot yet state whether the Ottoman authorities connive at their introduction.

These slaves are brought in small numbers at a time in an underhand way, in order to avoid suspicion; sometimes the dealer represents them as his wives, relatives, or adopted children, but generally he passes them off as his servants; once landed they are hurried into the interior to be secretly sold. In the same way, slaves are also introduced into Theassaly and Macedonia by the steamers of other foreign companies. I cannot say, nor do I think, that their commanders intentionally connive at the subterfuges which are employed by the slave dealers in their nefarious traffic; but I think that the evil would diminish if the commanders and agents of the Austro-Hungarian "Lloyd's," French "Messagerie's Maritimes," and "Fraissinet père et fils," and Italian "Trinacreas" steamers were authorised to exercise more supervision in respect of young slaves which are carried in their vessels under the system I have pointed out.

They might be instructed to report to their respective Consuls any suspicious case which calls for an inquiry, and the Consul would then apply for such inquiry to the proper authority.

In conclusion I beg leave to add that the present instance of slave traffic was brought to my knowledge by a British subject, who was passenger on board the "Neptune," the steamer that conveyed the slaves in question to this place.

I have, &c.

J. E. BLUNT.

His Excellency  
The Right Honourable  
Sir Henry Elliot, G.C.B.

Inclosure 2 in Vice-Consul Blunt's Despatch to the Earl of Derby.

VICE-CONSUL BLUNT to the PASHA of SALONICA.

EXCELLENCE,

Salonique, le 13 April 1876.

IL est de mon devoir de porter à la connaissance de votre Excellence qu'on a débarqué à Salonique Mardi le 11 de ce mois, du bateau à vapeur le "Neptune," de la compagnie du Lloyd Austro-Hongrois, arrivé ici le même jour, douzes jeunes personnes, donc 8 filles d'Abyssinie, 1 garçon de Tripoli de Barbarie, et 3 filles de Circassie, et que ces douzes personnes furent immédiatement expédiées dans l'intérieur à Caraféria et Vodina pour y être vendues.

D'après les renseignements qui m'ont été donnés, il paraît que le propriétaire de ces personnes, qui est un marchand d'esclaves établi à Salonique, les avait embarquées à Dardanelles ou à Constantinople, à bord du

"Neptune" comme des passagers, domestiques, appartenant à sa suite, et de cette manière il a réussi à échapper à la surveillance de messieurs les officiers du Lloyd Austro-Hongrois.

En portant ces faits à la connaissance de votre Excellence, veuillez me permettre d'exprimer l'espoir qu'elle prendra les mesures nécessaires pour empêcher la vente des douzes individus en question; et pour faire punir les personnes coupables de contrevention aux dispositions des firmans impériaux empêchant la traite des esclaves.

Agréez, etc.

Son Excellence

Mehmed Refaât Pacha,

Vali du Vilayet de Salonique.

J. E. BLUNT.

[For treaties and laws relating to slavery in the Ottoman Dominions see also page 83 of this Appendix.]

TURKEY  
(SALONICA).

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UNITED STATES OF AMERICA.

U. S. OF  
AMERICA.

SIR EDWARD THORNTON to the EARL OF DERBY.

MY LORD,

Washington, February 23, 1876.

I HAD the honour to receive on the 25th instant your Lordship's telegram desiring me to report upon the law and practice of the United States with regard to fugitive slaves for the information of the Royal Commission which has been recently appointed to inquire into that matter.

I take it for granted that this instruction refers only to the law and practice which have prevailed since the abolition of slavery in this country. Before that time there is little doubt that a slave who should have taken refuge on board of an United States man-of-war in the port of a country where slavery prevailed would have been restored to his master by the officer in command.

But since the abolition of slavery it is quite the contrary. I cannot, however, discover that there is any law or practice upon the subject in the United States. I am assured by the best authorities that there is no law, and, on application to the Secretary of the Navy, he informs me that he is not aware of any instructions upon the subject having been issued by his department to naval officers, or of any case having been reported with respect to a slave

who had taken refuge on board of an United States man-of-war, and whose restitution had been demanded by the authorities of the country in which the slave's master resided.

Mr. Robeson, however, gave it as his opinion, and every one to whom I have spoken upon the subject concurs in that opinion, that at present no officer would for a moment think of giving up a slave who had taken refuge on board of his vessel, in order that he might return to his condition of slavery. It is thought possible that cases may have occurred since the abolition of slavery where slaves have so taken refuge, and where the officers in command have not met the question directly, of either giving them up, or refusing to do so, but have evaded it by ignoring the presence of such persons on board altogether. But I am convinced that at present no officer in command of an United States vessel of war would give up a slave who had taken refuge on board of his ship, unless assured that he would not return to a condition of slavery.

I have, &c.

The Right Hon. the  
Earl of Derby,  
&c. &c.

EDWARD THORNTON.

## PAPERS FURNISHED BY THE FOREIGN OFFICE.

## LIST OF PAPERS.

No. 1.	
RECEPTION OF FUGITIVE SLAVES ON BOARD BRITISH SHIPS OF WAR IN FOREIGN TERRITORIAL WATERS.	
Case of Surrender of a Slave secreted on board Her Majesty's ship "Romney" at Havana. (See p. 170 of this Appendix) -	1837
Case of Slaves (André and Jacob) and (José and Francisco) taken from a Slave Ship when captured by Her Majesty's ships "Grecian" and "Fawn," and transferred to Her Majesty's ship "Crescent," at Rio. (See pp. 149 and 150 of this Appendix) -	1841-5
Case of a Slave who escaped to Her Majesty's ship "Conflict" at Bahia. (See p. 171 of this Appendix) -	1851
Case of Slaves taken from a Slave Ship when captured by Her Majesty's ship "Sharp-shooter" off the Busios Islands. (See p. 150 of this Appendix) -	1851
Circular Instructions as to Slaves taking Refuge on British Ships of War. (See p. 172 of this Appendix) -	1856
Case of Fugitive Slaves on board Her Majesty's ship "Daphne" at Mozambique. (See p. 177, <i>et seq.</i> , of this Appendix) -	1869
Case of Fugitive Slaves on board Her Majesty's ships "Nymph" and "Dryad;" and seizure of Dhows at Majunga, Madagascar (See p. 175, <i>et seq.</i> , of this Appendix) -	1869
Cases of Reception of Fugitive Slaves on board Her Majesty's ship "May Frere," B.M., and British vessels generally (Persian Gulf) (See pp. 165-167 of this Appendix) -	1874
Cases referred to:	
Her Majesty's ship "Hugh Rose" at Bushire. (See p. 165 of this Appendix) -	1872
Her Majesty's ship "Magpie" at Bushire. (See p. 166 of this Appendix) -	1871
Case of Fugitive Slaves which came on board Her Majesty's ship "London" off Pemba, and were landed at Zanzibar at their own request. (See p. 160 of this Appendix) -	1876
No. 2.	
RECEPTION OF FUGITIVE SLAVES ON BOARD BRITISH SHIPS OF WAR ON THE HIGH SEAS.	
Cases in the Persian Gulf in 1874. (See Parliamentary Paper, Slave Trade, No. 1, 1876, p. 163 of this Appendix.)	
No. 3.	
SEIZURE OF SLAVES BY BRITISH NAVAL OFFICERS IN FOREIGN COUNTRIES.	
Case of Seizure and Removal of Mozambique Slaves by an Armed Party of Her Majesty's ship "Nymph" in 1869. (See p. 175, <i>et seq.</i> , of this Appendix.)	
Cases of Slaves seized by Her Majesty's ships and surrendered by Decrees of Consular Court of Zanzibar in 1874 and 1875. (See p. 156 of this Appendix.)	
List of Slave Cases decided in the Consular Court of Zanzibar during the year 1875, showing how the Slaves were disposed of. (See p. 162 of this Appendix.)	
No. 4.	
RECEPTION OF FUGITIVE SLAVES AND OTHERS ON BOARD BRITISH MERCHANT VESSELS.	
Case of Refuge afforded to Malagassy Labourers on board British Barque "Aurora," at Réunion, in 1866.	
Case of Refuge afforded to Slave belonging to King Archibong on board a British Merchant Vessel, at Fernando Po, in 1870.	
	No. 5.
	PROTECTION TO SLAVES AT BRITISH EMBASSIES AND MISSIONS ABROAD.
Instructions to British Consuls in Brazil in 1856. (See pp. 172-174 of this Appendix).	
Case of certain Tunisian Soldiers who took refuge on board a British Schooner at Sfax, Tunis, in 1870.	
	No. 6.
	PROTECTION TO, AND MANUMISSION OF, SLAVES AT BRITISH CONSULATES ABROAD.
Case of the Protection of a Negro Boy taking refuge at the British Consulate at Tunis -	1843
Case of Slaves freed by Vice-Consul at Larnaca, Cyprus -	1857
Case of a Negro who escaped from French Guiana and took refuge at the British Consulate at Boston, United States, and who was sent to England, and ultimately forwarded to Sierra Leone at the expense of Her Majesty's Government -	1859
Case of Slaves freed at the British Consulate at Alexandria, by agreement with Turkish authorities -	1865
Views of Her Majesty's Government on the General Question (State Papers, vol. 59, p. 1,034). (See p. 151 of this Appendix) -	1868
Case of Slaves taking refuge at British Consulate at Cairo, and refusal of the Treasury, as a rule, to pay for their maintenance -	1871
Case of a Slave from a Harem who took refuge at the British Consulate at Monastir in 1871, but subsequently returned to her master -	1871
Case of a Slave freed at the British Vice-Consulate at Damascus -	1872
Case of Slaves seeking refuge in British Vice-Consulate at Rhodes. Disapproval of Expenditure for their support, but consent of Lord Granville to pay if owners refuse -	1872-3
Case of Slaves freed by British Consular Agent at Mansourah, Egypt. Circular instructions to Consuls issued by Mr. Vivian as to course to be pursued towards Slaves seeking protection at British Consulates, and consequent Manumission -	1873
	No. 7.
	PROTECTION TO SLAVES ON GROUND OF VIOLATION OF TREATY.
Cases in Brazil in 1851. (See p. 151 of this Appendix.)	
	No. 8.
	DOMESTIC SLAVERY IN FOREIGN COUNTRIES.
Instructions to Commissions -	1819
Slavery in Turkey. (See p. 152 of this Appendix) -	1840
Slavery in Texas, &c. -	1843
Instructions to Naval Officers. Bound Volume, Part 2, p. 99, § 394; p. 100, § 401 -	1865
Instructions to Naval Officers -	November 6, 1869
Instructions to Consul in Madagascar -	May 16, 1870
East Indies Station Orders -	1871
Sir P. Francis to Sir H. Elliott. Turkey. (F.O. Paper, No. 2,583). (See p. 152 of this Appendix) -	August 12, 1870

## No. 9.

## LAWS OF FOREIGN COUNTRIES ABOLISHING SLAVERY.

See "A Chronologically arranged Statement of the Measures taken by different Nations for the Abolition of the Slave Trade."

In Instructions to Naval Officers, 1865, p. 131.

See also Index to Hertlet's Treaties, vol. 12, p. 142, and subsequent Decrees, a list of which is annexed.

For opinion of Dr. Livingstone, in June 1866, respecting Slavery among the Arabs. See State Papers, vol. 59, p. 1,022.

## BRAZIL.

- Decree. Sept. 15, 1869. Prohibiting the Sale of Slaves under certain conditions.
- " Sept. 28, 1871. Emancipation of Slaves.
- " Nov. 11, 1871. Instructions for execution of Article VI. of Decree of September 28, 1871.
- " Dec. 1, 1871. Regulations for execution of Article VIII. of Decree of September 28, 1871.
- " Nov. 13, 1872. Regulations for execution of Decree of September 28, 1871.

For status of slaves in Brazil, see Regulation of November 13, 1872.

## EGYPT.

- Vizirial Letter. Jan. 9, 1865. } See Turkey. Firmans.  
" March 19, 1865. } &c. F.O. Paper,  
" " " " } No. 2,583.

## MADAGASCAR.

- Treaty. June 27, 1865. Articles XVI. and XVII.  
Notice to British Subjects. 1874.
- Proclamation. Oct. 2, 1874. Emancipation of all Mozambique Slaves introduced into Madagascar since 1865.

## PERSIA AND PERSIAN GULF.

- Order. Turkey. Feb. 1, 1847. } See Turkey. Firman's. F.O.  
" March 12, 1847. } Paper, No. 2,583.  
" June 17, 1874. }
- Engagement with Arab Chiefs. Persia. June, 1848.
- Firman. " August, 1851.
- Agreement. " March 4, 1857, Article XIII.
- Treaty. " "

- Convention. Maritime Truce. June 1, 1843, Hertlet's Treaties, Vol. IX., p. 618.
- " " " May 4, 1863, Hertlet's Treaties, Vol. IX., p. 1006.
- Act of Parliament. { Engagement } 13 & 13 Vict. c. 84. } Hertlet's Treaties, Vol. VIII., p. 802.  
" { with Arab } August 1, 1840. }

N.B.—In 1873 the Chiefs of the Persian Gulf renewed their Treaty Engagements. See Parliamentary Paper No. 1,549, pp. 93-97, Sir B. Frere's Mission.

## PORTUGAL.

- Treaty. July 3, 1842.
- Add. Art. Oct. 23, 1842.
- Convention. July 18, 1871.
- Decree. April 29, 1868. Abolishing Slavery in Portuguese Dominions at the end of a period of 20 years.
- " Feb. 25, 1869. Abolishing Slavery.
- " April 29, 1875. Freedom of "Libertos" at end of one year after publication of Decree in each Colony.
- " Dec. 20, 1875. Regulations. Execution of Law of April 29, 1875.
- Law. Feb. 3, 1876. Abolishing Slavery in St. Thomas and Princes.

For Status of Slaves in Portuguese Colonies, see Regulations of December 20, 1875.

For Status of Slaves at Mozambique, see Consul Elton's No. 14, of July 21, 1875.

## SPAIN.

- Decree. Sept. 29, 1866. Spain. Punishment and Suppression of the Slave Trade.
- " " " " " Emancipation of Slaves coming from Cuba or Puerto Rico on landing in countries where no slavery exists.
- " Dec. 27, 1868. Cuba. Cuban Insurgent Government. Emancipation of Slaves.
- " Feb. 26, 1869. " Cuban Revolutionary Junta at Camaguey abolishing Slavery.
- Edict. April 16, 1869. " Landing of Slaves.
- Decree. July 29, 1869. " Abolishing office of Registrar of Slaves in Cuba.
- " Sept. 21, 1869. " Free Papers to certain Emancipated Slaves belonging to Insurgents.
- " May 14, 1870. " Emancipating certain Slaves.
- " June 1, 1870. " "
- Law. { June 23, 1870. } Spain. Abolishing Slavery.
- Edict. { July 4, 1870. } Cuba. Manumission of certain Slaves.
- Decree. Sept. 13, 1870. " " "
- " Oct. 7, 1870. " " "
- " Oct. 27, 1870. " " "
- Regulations } Aug. 5, 1872. { Cuba and } Abolition of Slavery.  
respecting } Puerto Rico  
Law. } "
- Law. March 22, 1873. Puerto Rico " "
- Regulations } Aug. 7, 1874. " " "  
respecting } "
- Law. }

For Status of Slaves in Cuba and Puerto Rico, see Mr. Wyld's Memorandum of April 15, 1872, and Slave Trade Papers, No. 3, 1875.

## TRIPOLI AND TUNIS.

- Firman, March 1857.
- Vizirial Letter, March 1858. } See Turkey, F.O. Paper,  
" Nov. 17, 1858. } 2,583.  
" Oct. 19, 1859. }  
" June 3, 1869. }
- Treaty with Tunis, July 19, 1875. Abolition of Slavery.

## TURKEY.

See Collection of Firmans, Vizirial Letter, &c., 1847, 1872.

For Status of Slaves in Ottoman Dominions, see Sir P. Francis' Despatch to Sir H. Elliot, of August 12, 1870. (F.O. Paper, 2,583.)

## ZANZIBAR.

- March 22, 1868. Prohibiting Traffic in Slaves during the Monsoon.
- Jan. 20, 1869. Notice.
- April 24, 1869. Proclamation of Rao of Kutch.
- March 19, 1870. Notice.
- July 18, 1871. Memorandum on Treaties with Zanzibar.

For Status of Slavery, see:—  
Sir Bartle Frere's Report, May 29, 1873.  
Treaty June 5, 1873.  
Treaty July 14, 1875.  
Memorandum: Dr. Kirk, Somali and African Coast.  
Ordinance, No. 18, 1865: Contracts for Services, Mauritius and Seychelles.  
See also Memorandum on Treaties, &c. p. 73 of this Appendix, and Reports from Her Majesty's Representatives Abroad, p. 94 of this Appendix.

## No. 10.

## FREEDOM OF SLAVES IN BRITISH COLONIES.

- Cases of Fugitive Slaves from Danish to British West Indian Colonies. (See p. 153 of this Appendix - 1829
- Cases of the brig "Enterprise," an American vessel, driven into Bermuda by stress of weather, having slaves on board - 1835
- (See Printed Book. Reports, Commissions of Claims, Great Britain and United States, 1863, p. 332.



- Danish and Dutch Proposals for Mutual Restitution of Fugitive Slaves. (See p. 153 of this Appendix) - - - 1834-1841
- Case of the "Creole," an American vessel driven into Nassau, by stress of weather, having slaves on board who had committed murder at sea - 1842
- Case of a Black Slave who had landed, with his Turkish master, at Corfu, but refused to continue his journey with him - - - 1857
- Case of the Fugitive Slave, Anderson, who had fled into Canada, charged with having committed murder in the United States - - - 1860

## No. 11.

## CONVEYANCE OF DOMESTIC SLAVES by BRITISH SUBJECTS DECLARED ILLEGAL.

- Instructions to British Cruisers on West Coast of Africa, June 7 - - - - 1859

## No. 12.

## BRITISH SUBJECTS PROHIBITED from holding SLAVES.

- Case of Slaves employed by Consul Sunley at the Comoro Islands in 1861, and his consequent removal from the Service in 1865.

## No. 13.

## REMOVAL OF SLAVES from one COLONY to ANOTHER, and COASTWISE.

- If instances of this kind should be required they will be found in the State Papers:—
- Vol. 41, Index p. 248.
- Vol. 47, Index. Slave Trade.
- Vol. 47, p. 948.
- Vol. 48, p. 1,087.
- Vol. 52, p. 670-674.
- Vol. 53, p. 1,322-1,330.
- Vol. 54, p. 420-422.
- Vol. 55, p. 1,130-1.

## No. 14.

## BRITISH SUBJECTS held in SLAVERY.

- Cases of a person alleged to be a British Subject held in Slavery in Cuba, in 1843.
- Views of Her Majesty's Government on the general question.

## No. 15.

## COMPENSATION paid by BRITISH GOVERNMENT for SLAVES REMOVED from AMERICA in 1814.

- Case of Interpretation of Article I. of the Treaty of Ghent, of December 24, 1814.
- Treaty. Great Britain and United States. Ghent. December 24, 1814. State Papers, vol. 2, p. 357.
- Convention. Great Britain and United States. October 20, 1818. State Papers vol. 6, p. 3; vol. 20, p. 428.
- Opinion of Emperor of Russia as Arbitrator. April 22, 1822. State Papers, vol. 11, p. 781.
- Convention. Great Britain and United States. July 12 1822. State Papers, vol. 11, p. 772.
- Convention. Great Britain and United States. November 13, 1826. State Papers, vol. 14, p. 460.

## No. 16.

## RECEPTION OF POLITICAL REFUGEES on board BRITISH SHIPS OF WAR and MAIL PACKETS.

- Case of a Colonel in the Spanish Army received on board one of Her Majesty's ships of war - 1843-4
- Case of claim of the Spanish and Portuguese Governments to take their respective Subjects out of mail contract steamers in their own waters. (See p. 154 of this Appendix) - 1844
- Case of Entertainment of Sicilian Refugees on board one of Her Majesty's ships during the Bombardment of Messina - - - 1849

- Cases of Entertainment of Italian Refugees on board Her Majesty's ships at the request of Her Majesty's Representatives at Naples - 1849
- Case of the Blockade of the Sicilian Coast and the Reception of Sicilian Refugees on board Her Majesty's ships.

Extent to which a British ship of war in a Foreign Port is entitled to receive on board and shelter the subjects of a Foreign Government. (See p. 154 of this Appendix) - - - 1849

- Case of Reception of Italian Refugees on board one of Her Majesty's ships of war - 1851

- Case of Reception of Political Refugees on board of Her Majesty's ships of war. Printed correspondence. (See p. 155 of this Appendix) 1860

- Case of asylum afforded to Refugees on board ships of war in Greece - - - 1862
- (See State Papers, vol. 58, p. 1,609.)

- Case of refusal to receive Peruvian Refugees on board Her Majesty's ships of war - 1849

- Case of Removal of Passengers from Mail Packets by the Officers of Peruvian men-of-war - 1865-6

- Case of Reception of Peruvian Refugees on board one of Her Majesty's ships of war - 1866

## No. 17.

## RECEPTION OF POLITICAL REFUGEES and OTHERS at BRITISH MISSIONS and CONSULATES.

- Complaint as to harbouring Political Refugees at Her Majesty's Legation at Madrid - - 1848

- Grant of Asylum to Political Refugees at the British Consulate at St. Domingo - - - 1849

- Refusal to surrender a Refugee at Her Majesty's Consulate at Tabreez, Persia - - - 1851

- Complaint of Persian Government as to indiscriminate Asylum granted to Refugees in British Consulate at Tabreez - - - 1853

- Asylum to Political Refugees at Her Majesty's Consulate at St. Domingo - - - 1855

- Asylum to Political Refugees at Her Majesty's Consulate at St. Domingo - - - 1857

- Case of the forcible removal of a Political Refugee from the Spanish Consulate at St. Domingo - 1857

- Question as to right of granting Asylum at the British Consulate at Tabreez and other British Consulates in Persia - - - 1858

- Monte Videan Circular as to Political Refugees in Foreign Missions - - - 1858

- Reception of Political Refugees at the British Consulate-General at Guayaquil, Equator - - 1860

- Question respecting the Protection of Refugees in British Consulates in Hayti - - - 1865

- Question respecting the Protection of Refugees in British Consulates in Dominica - - - 1866

- Question of right of Foreign Missions in Peru to grant Asylum to Refugees - - - 1867

- Case of Claim for Protection at a British Consulate in Dominica, on account of a personal misunderstanding with the Government - - 1870

- Question respecting Asylum in Foreign Missions in Spanish-American countries - - - 1870

- Question respecting the grant of Asylum to Refugees by Her Majesty's Ministers and Consuls - 1873

- Case of Refugees at Porto Plata, Dominica, and the violation of the British Consulate - - - 1873

- Agreement of Diplomatic Corps at Port au Prince to grant Protection in a Legation, only in cases where life is in imminent danger - - - 1876

- Grant of Asylum in Her Majesty's Legations and Consulates - - - - -

Memorandum (A.S.G.) May 3, 1870.

Memorandum (E.H.) January 24, 1873.

Admiralty Circular, March 1, 1869.

## No. 18.

## RECEPTION OF ENGLISH REFUGEES and OTHERS on board BRITISH SHIPS OF WAR.

- Cases in Portugal in 1848.
- Case of Refugees on board Her Majesty's Ship "Howard," at Santiago, in 1849.

(See also Case cited in No. 16, Political Refugees.)

## No. 19.

## RECEPTION of FUGITIVE CRIMINALS on board BRITISH SHIPS OF WAR.

Instructions to Consuls, July 28, 1825.  
Cases at Naples in 1849.  
To Admiralty (General Instructions), August 4, 1849.

## No. 20.

## RECEPTION of FUGITIVE CRIMINALS on board BRITISH MERCHANT VESSELS.

Instruction to Consuls, 1868.

## No. 21.

## TREATIES RELATING TO THE SLAVE TRADE AND SLAVERY.

For Treaties with States other than uncivilized African States; and Treaties with uncivilized African States:—  
See Vol. Instructions to Naval Officers, 1865.

## TREATIES NOT INCLUDED IN ADMIRALTY INSTRUCTIONS OF 1865.

Morocco.	Treaty.	July 28, 1760.	Article XVIII.	} From "State Papers," Vol. L, Part 1.
Tunisia.	"	April 8, 1791.	" IX.	
"	"	Oct. 5, 1662.	" XIII.	
Tripoli.	"	Aug. 30, 1716.	" XIV.	
"	"	Oct. 18, 1662.	" XI.	
"	"	March 5, 1675-6.	" XI.	
"	"	July 19, 1716.	" XVII.	

Treaty.	Muscata.	Sept. 10, 1822	-	-	F.O. No.
Add. Arts.	Cameroons.	May 31, 1839	-	-	463
Convention.	United States.	Jan. 6, 1869	-	-	264
Mem., E. H.	Zanzibar Treaties.	June 3, 1870	-	-	579
Ratification.	Old Calabar, Add. Art. of 1855.	Jan. 31, 1871	-	-	522
Agreement.	Duke Town, Old Calabar.	April 25, 1871	-	-	1382
Convention.	Portugal.	April 26, 1871	-	-	580
Renewal of Engagements.	Persian Gulf.	July 18, 1871 (and Instructions)	-	-	581
Engagement.	Johanna.	1873	-	-	1549
Treaty.	Maculla.	March 8, 1873	-	-	562
Engagement.	Muscata.	April 7, 1873	-	-	568
Treaty.	Zanzibar.	April 14, 1873	-	-	560
Engagement.	Shuhr.	June 5, 1873	-	-	561
Treaty.	Tunis.	Nov. 17, 1873	-	-	573
Firman, &c.	Turkey.	July 19, 1875	-	-	586
Treaty,	Zanzibar.	1847-1873	-	-	2583
		July 14, 1875	-	-	587

## AFRICA (East Coast).

Agreement.	Habr Owl.	Somalia.	Feb. 6, 1827.	Hertslet's Treaties, Vol. XIII.
Treaty.	Tajoura.	Island of Mussa.	Aug. 19, 1840.	" "
Deed of Sale.	Zaila.	Island of Aubeid.	Sept. 3, 1840.	" "
Treaty.	Oulakeer.	—	Oct. 1855.	" "
Engagement.	Habr Owl.	Somalia.	Nov. 7, 1856.	" "
Agreement.	Brava.	—	Nov. 21, 1866.	" "

## AFRICA (West Coast).

Treaty.	Bonny and Andony.	Dec. 22, 1846.	Hertslet's Treaties, Vol. XIII.
Agreement.	Abbeokuta.	May 23, 1858.	" "
Treaty.	Acassa.	Sept. 3, 1863.	" "
"	Onitaha.	Oct. 12, 1863.	" "
"	Aboh.	Oct. 13, 1863.	" "
Agreement.	Bonny.	Jan. 7, 1865.	" "
"	—	Dec. 7, 1867.	" "
Additional Articles.	Cameroons.	Jan. 6, 1869.	" "
Agreement.	Bonny.	Jan. 20, 1869.	" "
Ratification of Additional Articles.	Old Calabar.	Jan. 18, 1855.	" "
"	—	April 25, 1871.	" "
Agreement.	Duke Town, Old Calabar.	April 26, 1871.	" "

[From "Hertslet's Treaties," vol. xiii., now in course of publication].

These Treaties relate to Commerce, as well as to the Slave Trade.

See also Memorandum on Treaties, &c., p. 73 of this Appendix, and Reports from Her Majesty's Representatives Abroad, p. 94 of this Appendix.

## No. 22.

## TREATIES providing for the STATUS of MAIL PACKETS in FOREIGN HARBOURS.

See Cases of Refugees on board Mail Packets in No. 16.  
Also Treaty with France of September 24, 1856, and Treaty with Belgium of February 17, 1876 (Parliamentary Papers),

## No. 23.

## ACTS OF PARLIAMENT RELATING TO SLAVE TRADE AND SLAVERY (NOW IN FORCE).

5 Geo. IV. c. 118.	June 24, 1824.	Abolition of punishment of Death for Piracy.
7 Will. IV. & 1 Vict. c. 91.	July 17, 1837.	"
6 & 7 Vict. c. 98.	Aug. 24, 1843.	"
8 & 9 Vict. c. 122.	Aug. 8, 1845.	" Aberdeen Act," Slave Trade, Brazil.
15 & 16 Vict. c. 26.	, 1852.	Seamen Deserters not being Slaves.
27 & 28 Vict. c. 24.	June, 23, 1864.	Bounties, Naval Agents, &c.
33 Vict. c. 2.	April 19, 1869.	Repeal of "Aberdeen Act." Brazil.
36 & 37 Vict. c. 59.	Aug. 5, 1873.	East African Courts.
36 & 37 Vict. c. 88.	" "	Slave Trade Consolidation.

## No. 24.

## BOOKS OF REFERENCE.

Hertslet's "State Papers," Vols. i to lix.  
Hertslet's Treaties, Vols. i to xii.  
Slave Trade Instructions, 1865.  
General Instructions to Her Majesty's Consular Officers, 1868.  
Wheaton's International Law (Dana).  
Report. Commissioners of Claims. Great Britain and United States, 1853.  
Catalogue. Foreign Office Library. Printed Books.  
Catalogue. Board of Trade Library.  
Bandinel on the Slave Trade, 1842.  
Cases and Opinions on Constitutional Law. Forsyth.

[See also List No. 32.]

## No. 25.

## CIRCULARS.

Circular to Slave Trade Commissioners, February 20, 1819.  
Only Vessels carrying Slaves for the purpose of Traffic to be detained.  
Circular to Consuls. Fugitive Criminals on board Ships of War. July 28, 1825. See No. 9.  
Circular to Consuls, December 31, 1843.  
Notice to British Subjects. Lagos. July 23, 1853.  
State Papers, 44, 1,225.  
First Circular to Naval Officers, July 31, 1875. Withdrawn.  
Second ditto, December 5, 1875.  
Admiralty Circulars A., B., C., January 1876.

[See Parliamentary Paper, Slave Trade, Nos. 1 and 2, 1876, pp. 163-190 of this Appendix.]

## No. 26.

## INSTRUCTIONS TO CONSULS and NAVAL OFFICERS.

Instructions to Commissioners, 1819.  
Instructions to Naval Officers, 1865. 8vo. Page 99, § 394.  
Instructions to Consuls, 1863. Bound volume.  
Instructions to Naval Officers, November 6, 1869 - } See Parliamentary Papers, Slave Trade, No. 1, 1876, pp. 163-190 of this Appendix.  
East Indian Station Order, 1871 - }

(See also Circulars, List No. 25.)



PAPERS selected by the COMMISSIONERS for insertion in the APPENDIX to this REPORT.

1.—RECEPTION OF FUGITIVE SLAVES ON BOARD BRITISH SHIPS OF WAR IN FOREIGN TERRITORIAL WATERS.

1. CASE of SLAVES taken from a slave ship when captured by Her Majesty's ship "GRECIAN," and transferred to Her Majesty's ship "CRESCENT" at Rio.

MR. HAMILTON to the EARL OF ABERDEEN.—  
(Rec. Dec. 12.)

MY LORD, Rio de Janeiro, October 19, 1843.  
I HAVE the honour to inclose a copy of a communication made to me by the Brazilian Government, renewing a demand made to Mr. Ouseley in the month of July 1840,—a demand respecting which Mr. Ouseley does not appear to have acted, at least there are no indications to that effect in the archives of this Legation,—for the liberation of a slave, by name André, claimed as the property of a Brazilian subject, Senhor Antonio José Gomes Moreira, the said slave having belonged to the crew of the "Maria Carlota," Portuguese slave ship, when captured by the "Grecian" in 1839.

I likewise send a copy of my answer, and of a communication from the officer commanding the "Crescent" receiving ship, respecting the individual in question, showing him to be still on board the "Crescent."

But Lieutenant Donellan has also stated to me that this negro is his right-hand man; and that his removal from the "Crescent" would prove an irreparable loss, from the great assistance he affords as an interpreter, and through his general usefulness and good conduct; and that he has not gone on shore once since his removal to the "Crescent," from the apprehension of falling into the hands of his late master.

Your Lordship may be of opinion, perhaps, that he is a fit subject to receive at the hands of Her Majesty's Government the same bounty which I have been authorized to extend to another African who is the property of Senhor Gonzalez da Luz.

For the documents substantiating the claim of Senhor A. J. G. Moreira, I beg reference to the note of Senhor Lopes Gama, to Mr. Ouseley, of 7th July 1840.

I have, &c.

HAMILTON HAMILTON.

The Earl of Aberdeen, K.T.

(Inclosure.)—SENHOR LOPES GAMA to MR. OUSELEY.  
(Translation.)

Palace of Rio de Janeiro, July 7, 1840.

THE undersigned, of the Council of His Majesty the Emperor, Senator of the Empire, Minister and Secretary of State for Foreign Affairs, has to address himself to Mr. W. G. Ouseley, Her Britannic Majesty's Chargé d'Affaires, for the purpose of forwarding to him the annexed petition of Antonio José Gomes Moreira, a merchant of this place, in which he claims his slave, by name André Angola, who having run away from his service, went and entered on board of the barque "Maria Carlota," which was captured by the English squadron, and condemned by the Mixed Brazilian and British Commission; the said slave having been transhipped to the British prison-ship "Presiganga," where he is at present.

The undersigned, therefore, begs that Mr. Ouseley will intercede with the Commander of the British Forces in this port, to the end that he, in reference to the documents annexed to the above-mentioned petition, may order the restitution of the slave now claimed, as appears to be just.

The undersigned, &c.

CAETANO MARIA LOPES GAMA.

W. G. Ouseley, Esq.

THE EARL OF ABERDEEN to MR. HAMILTON.

SIR, Foreign Office, February 27, 1844.  
I REFERRED to Her Majesty's Advocate-General your despatch of the 19th October last, on the subject of

the demand made by Senhor Antonio J. Gomes Moreira, for the restitution of a negro named André, now on board Her Majesty's ship "Crescent," at Rio Janeiro.

It appears from the report of the Queen's Advocate, that if the negro André proved to be, according to the law of Brazil, the property of Senhor Moreira, the latter has a right to demand possession of him wherever he can find him, within the jurisdiction of Brazilian courts of law; and, consequently, that if André were to land at Rio de Janeiro, or elsewhere within the Empire of Brazil, the claim of Senhor Moreira could not properly be resisted; but that, inasmuch as the right of the owner to the slave revives only upon the return of the latter to the country of his former servitude, and Senhor Moreira himself states, "that the jurisdiction of the Empire does not reach so far," as is requisite for effecting the object of Senhor Moreira, Her Majesty's Government cannot properly comply with his demand.

You will embody the substance of this despatch in a note to the Brazilian Government.

I am, &c.

HAMILTON HAMILTON, Esq.

ABERDEEN.

MR. HAMILTON to the EARL OF ABERDEEN.—  
(Rec. May 5.)

MY LORD, Rio de Janeiro, March 12, 1844.

OF the three papers laid before you in the present despatch, the two first consist of a note from the Minister of Foreign Affairs and my answer, respecting the slave André, now on board Her Majesty's ship "Crescent," whose liberation is demanded by his owner Senhor Antonio Jose Gomes Moreira; the third, relating not only to the same André, but also to another negro, by name Jacob, claimed by the Brazilian subject Vicente Thomas dos Santos as his property, the said negro Jacob having been one of the crew of the Portuguese slave bark "Maria Carlota" at her capture in May 1839, and being at present on board the "Crescent."

The demand for the delivery of André was the subject-matter of my despatch of the 19th of October last; and I look anxiously for your Lordship's decision, whether Her Majesty's gracious protection is to be extended to him, as in similar cases of the negroes Jose and Francisco, the property of Senhor Antonio Gonzalez da Luz.

As concerns the slave Jacob, this, I believe, is the first time any claim on his account has been reported to your Lordship, although a requisition for his liberation was addressed to Mr. Ouseley, then in charge of this Mission, shortly after the capture of the "Maria Carlota."

The documents which attest the property of Senhor Vicente Thomas dos Santos in the negro Jacob, appear perfectly satisfactory on that point; and I request to be honoured with your Lordship's instructions as to the disposal of him. All the circumstances of his case are parallel to those of André.

I have, &c.

HAMILTON HAMILTON.

The Earl of Aberdeen, K.T.

THE EARL OF ABERDEEN to MR. HAMILTON.

SIR, Foreign Office, August 9, 1845.

I HAVE referred to the proper law officer of the Crown your despatch marked Slave Trade, No. 2, of this year, and its enclosures, and your despatch marked Slave Trade, No. 10, of this year, and its enclosures, containing your correspondence with the Brazilian Government with reference to their demand that two negroes, named respectively André and Jacob, should, on the grounds stated in the communications from the Brazilian Minister, be given up by Her Majesty's Government to the Brazilian subjects claiming those negroes as their property, or that, in lieu thereof, an indemnity proportionate to the value of those negroes as property should be paid by Her Majesty's Government to their former owners.

I have now to acquaint you that Her Majesty's Government consider it to be proper, under the circumstances of the case, to accede to the request for payment of the value of the above-mentioned negroes as slaves.

You will communicate to the Brazilian Government the decision of Her Majesty's Government in respect to those

negroes, and after having ascertained their value, and agreed thereupon with the Brazilian Government, you will pay the amount to them for the benefit of the former owners of the negroes, drawing for the same upon the Lords of Her Majesty's Treasury, at 30 days' sight, in sterling money at the exchange of the day, and accompanying your bill by a letter of notice enclosing a certificate of the exchange.

I am, &c.  
ABERDEEN.

MR. HAMILTON to the EARL OF ABERDEEN.

British Legation, Rio Janeiro,  
November 11, 1845.

MY LORD,  
I HAVE the honour to forward receipts by the late owners of the two African blacks, André and Jacob, for the money—say one conto of reis each—which they had respectively consented to receive from Her Majesty's Government as the value of these negroes as slaves, and as compensation for a certain period of service by these negroes which had been lost to their said owners by the detention of the negroes on board Her Majesty's ship "Crescent" since their capture in the Portuguese slaver "Maria Carlota."

I have recommended these two liberated Africans to remain in the "Crescent" till a convenient opportunity may offer for removing them to some one of Her Majesty's colonies in the West Indies.

I have, &c.  
HAMILTON HAMILTON.

2. CASE of SLAVES taken from a slave ship when captured by Her Majesty's ship "FAWN," and transferred to Her Majesty's ship "CRESCENT," at Rio, 1842-3.

The EARL OF ABERDEEN to MR. HAMILTON.

SIR, Foreign Office, June 3, 1842.

I HAVE received your despatches, marked Slave Trade, No. 19, of the 24th December 1841, and No. 8, of the 22nd February 1842, respecting demands made to you by the Government of Brazil that you would interfere with Her Majesty's naval authorities, in order that the slaves captured on board a slave vessel by Her Majesty's barque "Fawn" might be delivered up to their owner, who is said to be a Brazilian subject, named A. Gonzalves de Luz.

In the note from M. Aureliano, covering the petition from the alleged owner of these slaves, they are represented to have been sailors on board the Portuguese ship "Dois de Marco."

In your despatch, No. 19, enclosing a copy and translation of that note, you observe that the name "Dois de Marco" was, as you presume, given erroneously for that of the "Dois de Fevereiro."

You have omitted, however, to transmit to this office a copy or translation of the petition from the owner of those slaves, which had formed an enclosure in the note of the 5th November 1841 from M. Aureliano to yourself, and which was an essential document in this case.

It is true that M. Aureliano requested that you would return the petition to him, but in the note in which that request is made he did not object to your retaining a copy of it. Indeed, the perusal of it is necessary, in order to attain information of some material facts of the case. At present Her Majesty's Government are not aware by whose authority the slaves in question were taken from the vessel in which they are alleged to have served as sailors, and whether they remained at Rio or were taken to Demerara, to which latter place it appears that the "Dois de Fevereiro" was carried for judgment, and in whose care they now are.

In the absence of further information, the papers which you have transmitted have been laid before Her Majesty's Advocate-General for his opinion, whether, according to the circumstances therein set forth, the answer which you returned to the demand made by the Brazilian Minister appears to be proper; and, furthermore, what is the course which ought to be pursued by Her Majesty's authorities in dealing with negro slaves, crews of slave vessels, in cases where the vessels are tried by the Mixed Commissions in foreign countries, and in cases where the vessels are tried in a British colony.

The Queen's Advocate has reported that he cannot undertake to say that the answer given by you in this

case is warranted by the terms of the Convention between this country and Brazil. For the first article of the instructions annexed to the additional Convention of the 28th July 1817 provides "that negro servants or sailors " that may be found on board the said vessels cannot in " any case be deemed a sufficient cause for detention;" and the seventh article, which provides for the condemnation of the vessel and cargo, is confined to the slaves who may be on board as objects of commerce; and it does not appear that any part of the Conventions provides for the liberation of the slaves forming part of the crew, or for the mode in which they are to be dealt with either by Mixed Commissions in foreign countries or in a British colony.

Therefore, in any further discussion which may arise upon this case, and in any question which may hereafter occur concerning the points adverted to in the Queen's Advocate's report, you will take care to keep in view the stipulations of the treaty as referred to by that officer; and in any case submitted by you to the consideration of Her Majesty's Government you will be careful to transmit to Her Majesty's Secretary of State copies and translations of every document which may have been communicated to you containing information upon the case.

I am, &c.  
ABERDEEN.

The EARL OF ABERDEEN to MR. HAMILTON.

SIR, Foreign Office, December 13, 1842.

I HAVE received your despatch marked Slave Trade, No. 43, of the 20th September last, on the subject of two negro sailors found on board of the slave vessel "Dois de Fevereiro," and who, after the capture of that vessel, were placed on board Her Majesty's ship "Crescent," and who have been claimed as slaves by a Brazilian subject, by name Senhor Antonio Gonsalves de Luz.

It appears that one of the negroes in question, named Francisco, is now a free man at the Cape of Good Hope, and that the other is still on board the "Crescent," together with 11 other negroes who from time to time have, under similar circumstances, been placed in that vessel from on board captured slavers, have been treated as free men, and been led confidently to trust to the British Government that they shall not again be reduced to slavery.

It is impossible that Her Majesty's Government can be instrumental in reducing these men again to a slavery from which they have thus been relieved; but if M. de Luz can show that he became lawfully possessed of the services of these two persons, Her Majesty's Government, under the peculiar circumstances of the case, may be disposed to grant to him a sum of money as compensation for the loss of those services.

I am, &c.  
ABERDEEN.

The EARL OF ABERDEEN to MR. HAMILTON.

SIR, Foreign Office, December 19, 1843.

I HAVE received your despatch, No. 17, of the 22nd June last, upon the subject of Joze and Francisco, negro slaves seized on board the "Dois de Fevereiro" slave vessel, and forming part of the crew of that vessel, and I have to authorize you to draw upon the Lords Commissioners of Her Majesty's Treasury a bill, at 30 days' sight, for a sum in sterling money equal in value to 1,600 milreis, as the amount of compensation to be allowed to M. de Luz for the negro slaves in question, such bill to be accompanied by a letter of advice, addressed to me, with vouchers as to the rate of exchange at Rio de Janeiro at the time it was drawn, and with a receipt from M. de Luz in full compensation of his claims upon the two negroes referred to.

I am, &c.  
ABERDEEN.

3. CASE of SLAVES taken from the slave ship "PIRATINIM" when captured by Her Majesty's ship "SHARPSHOOTER" off the Busios Islands.

This was a demand for restitution of slaves taken in the Brazilian vessel "Piratanim" on voyage from Bahia to San Sebastian.

Refused on the grounds stated in the following extract of the despatch from Lord Palmerston to Mr. Hudson:—

(Extract.)

LORD PALMERSTON to MR. HUDSON.

"SIR, Foreign Office, October 17, 1851.

"With regard to the demand made by the Brazilian Government for the surrender of the negroes taken in the "Piratinim" in order that they may be delivered over to their alleged owners, I have to observe that as it is perfectly clear and certain that a portion of the negroes who were found on board the "Piratinim" were newly imported negroes, and it is to be presumed that the presence of such newly imported negroes on board will have rendered the vessel liable to condemnation as a vessel engaged in the slave trade, and that the Creole slaves who formed part of the cargo of this vessel will in such case have become forfeit to the British Crown, and in consequence thereof will be entitled to freedom, and therefore must be sent to a British colony where they may be able to enjoy that freedom in security.

"It is also to be observed that all the slaves found on board this vessel, excepting the 27 Creole slaves born in Brazil, and one slave said to have been imported 30 years ago, and who may therefore be held to have been legally imported, were introduced into Brazil since the passing of the law of the 7th November 1831, by the provisions of which all negroes brought into Brazil after that date were declared to be *ipso facto* free, and it would be impossible for Her Majesty's Government to order that persons who are legally entitled to freedom, and who have by any means whatever come within the power of officers of the British Crown, shall be delivered up in order to be consigned to slavery.

"With respect to the disposal of the negroes captured on board the "Piratinim," and placed on board the "Crescent," I have to instruct you to take the proper steps for causing them all to be sent to a British colony, unless any of the Creoles among them should positively prefer remaining in Brazil.

"PALMERSTON."

## II.—PROTECTION TO, AND MANUMISSION OF, SLAVES AT BRITISH CONSULATES ABROAD.

### VIEWS OF HER MAJESTY'S GOVERNMENT ON THE GENERAL QUESTION.

MR. EGERTON to CONSUL READE.

SIR, Foreign Office, August 28, 1868.

I AM directed by Lord Stanley to acknowledge the receipt of a memorandum prepared by you and dated the 13th instant, calling the attention of Her Majesty's Government to the difficulties with which Consuls in Egypt have to contend when they are called upon to assist refugee slaves in obtaining their liberty, and inclosing copies of a correspondence which passed between you and the Prefect of Police at Cairo, regarding the illegal imprisonment of a slave whose liberty you had demanded.

I am, in reply, to state to you that Lord Stanley is not aware of the existence of any treaty or other engagements which would give Her Majesty's Government the right to interfere with the status of domestic slavery in the Turkish dominions, or to demand the manumission of any slave who may take refuge at a British Consulate. It is no doubt true that on the demand of Her Majesty's consular officers in Turkey and Egypt numerous slaves who have sought their protection have, from time to time, been liberated, and the list which accompanies your memorandum of slaves who have been liberated by the Egyptian authorities on your application within the last two years, numbering nearly 100, would seem to prove that there is no disinclination on the part of those authorities to attend to any well-founded applications that may be made to them on behalf of refugee slaves.

Under these circumstances Lord Stanley is not prepared to authorise any official representation to the Egyptian Government in the sense suggested in your memorandum; and his Lordship would, on the contrary, recommend that, except in well-authenticated cases of cruelty on the part of masters towards their slaves, when considerations of humanity might justify their interference, the official action of British consular officers should be limited to preventing,

as far as practicable, the importation of slaves into the Egyptian territories, and to procuring the manumission of such as may have been illegally imported.

I am, &c.

Consul Reade.

E. C. EGERTON.

## III.—PROTECTION TO SLAVES ON GROUNDS OF VIOLATION OF TREATY.

VISCOUNT PALMERSTON to MR. HUDSON.

SIR, Foreign Office, July 5, 1851.

I HAVE received and laid before the Queen your despatch of the 12th of May last, inclosing a copy and translation of a note dated the 26th of April last, which you received from M. Paulino de Souza, in reply to the note which, in compliance with the instructions contained in my despatch of the 8th of November 1850, you addressed to him on the 18th of February last, proposing to the Brazilian Government the establishment of a Mixed Commission at Rio de Janeiro, which should be empowered to investigate the cases of negroes suspected of being illegally held in slavery in Brazil, and to declare whether such negroes are or are not free.

I observe that Senhor Paulino, in his reply to your note, merely states that the Brazilian Government, in common with those of all other independent nations, execute their own laws in their own country, and will cause them to be executed by means of their own tribunals and authorities; that they cannot, therefore, allow the creation of a Commission wherein foreign judges shall have votes and exercise jurisdiction within the empire; and that the creation of such a Commission being the principal object of the proposed Convention, it cannot be admitted; and I perceive that Senhor Paulino has accordingly declined to enter into any examination or discussion of the Convention which you submitted to him upon this matter, and that he has sent back to you the draft which you proposed to him.

I have now to instruct you to say to Senhor Paulino, in reply, that the functions which Her Majesty's Government wish to see performed by the Mixed Commission which they have proposed to the Brazilian Government would consist, not in trying and sentencing Brazilian subjects for a breach of the Brazilian laws against slave trade, but simply in determining whether negroes who might be brought before such a Commission were entitled to be free, as having been introduced into Brazil in violation of a Convention by which Brazil bound herself and remains bound to Great Britain to prevent the introduction of slaves into the Brazilian empire.

The fact of an immense number of slaves having been introduced into Brazil after the conclusion of, and in violation of, the stipulations of that Convention, is not disputed by the Government of Brazil; and the right of Her Majesty's Government to claim that such slaves shall be restored to freedom is equally undeniable.

It is moreover to be observed, that the Convention which Her Majesty's Government have proposed to Brazil for establishing a tribunal competent to investigate the cases of such persons would not establish any new principle. On the contrary, it would merely give a new operation to a principle which was admitted by Brazil in the Convention of 1826, and was acted upon and in force in Brazil from 1831 to 1845.

It is evident that the functions of such a Mixed Commission as Her Majesty's Government now propose, in affirming and decreeing the inherent freedom of a negro on Brazilian territory, would be perfectly analogous with the functions of the Commission which, from 1831 to 1845, possessed and exercised the right of affirming and decreeing the inherent freedom of a negro found on board a Brazilian ship, which by international law is considered Brazilian territory.

The negroes whose freedom was decreed by that Mixed Commission between 1831 and 1845 were actually in Brazilian territory when their cases were adjudged by that Commission; and if a Mixed British and Brazilian Commission sitting at Rio de Janeiro has been acknowledged to be competent, without violating any international principle, to sit in judgment upon a negro who was at the time in Brazil, and to declare such a negro to be a free man, and by such declaration to deprive his pretended owner of all right or title to him, what essential difference could it make in point of principle, whether such negro was brought illegally into Brazil a month before, or had been brought thither several years before; or whether he was landed in Brazil by the boats of a cruiser employed in suppressing the slave trade, or by the boats of a vessel engaged in carrying on that traffic?

If, indeed, there is any essential difference in point of principle between these cases, that difference consists in this, that the negro who has been landed many months or several years before, by the boats of a slave ship, and who has since his landing been subject to the miseries of illegal slavery, has endured a heavier wrong than the negro who has been recently landed by the boats of a cruiser from a captured slave ship; and such a man is therefore more urgently entitled to that remedy and protection which the sentence of the Mixed Court would afford him.

J. Hudson, Esq.

I am, &c.  
PALMERSTON.

#### IV.—DOMESTIC SLAVERY IN FOREIGN COUNTRIES.

##### 1. SLAVERY IN TURKEY.

*Slavery Difficulties Forty Years Ago.*

VISCOUNT PALMERSTON TO VISCOUNT PONSONBY.

Foreign Office,  
November 9, 1840.

MY LORD,

WITH reference to the several despatches which I have addressed to your Excellency upon the subject of slavery and the slave trade in the Ottoman Dominions, I have to acquaint you that it has been suggested to Her Majesty's Government, that the present moment would be a favourable opportunity for an endeavour to obtain from the Sultan some engagement for the suppression of the slave trade.

Her Majesty's Government are well aware of the deep root which the system of slavery has taken in the social organization of all Mahomedan countries, and that the object in view must therefore be most difficult of attainment, but Her Majesty's Government feel such intense anxiety to see the slave trade extinguished in every part of the world, that they are unwilling to let pass any occasion which might afford them the slightest hope of being able even to mitigate this evil in any country in which it prevails.

I have therefore to desire that you will take an opportunity of sounding the Turkish Government upon this subject, and of endeavouring to ascertain whether some arrangement might not be made between Great Britain and Turkey for restricting, if not for entirely abolishing, the Turkish slave trade.

You might represent to the Turkish Government that the continued support of Great Britain will for some years to come be an object of great importance to the Porte; that this support cannot be given effectually unless the sentiments and opinions of the majority of the British nation shall be favourable to the Turkish Government; and that, as the whole of the British nation unanimously desire, beyond almost anything else, to put an end to the cruel practice of making slaves, nothing could tend more certainly to inspire the British nation with favourable sentiments towards Turkey than the concurrence of the Porte in some measure calculated to put an end to the slave trade as far as the Ottoman Dominions are concerned; while, on the other hand, the continuance of that trade will be calculated to weaken the interest which upon other grounds the British nation feels in the welfare and prosperity of Turkey.

PALMERSTON.

VISCOUNT PONSONBY TO VISCOUNT PALMERSTON.

Therapia, December 27, 1840.

MY LORD, (Received February 8, 1841.)

"I HAVE paid the greatest attention to your Lordship's general instructions on the subject of slavery in Turkey, with the hopes of arriving at some result that would afford a chance of attaining in any degree the object your Lordship so earnestly desires to accomplish. I have mentioned the subject, and I have been heard with great astonishment, accompanied with a smile, at a proposition for destroying an institution closely interwoven with the frame of society in this country, and intimately connected with the law, and with the habits, and even the religion, of all classes of the people, from the Sultan himself down to the lowest peasant.

"The Sultans, for some centuries past, have never married, and the Imperial race is perpetuated by mothers who are slaves.

"In all other families, slaves may be, and often are, the mothers of legitimatised children, who are in all respects as much esteemed as those of legal wives.

"The admirals and generals and ministers of state in great part have been originally slaves. In most families a slave enjoys the highest degree of confidence and influence with the head of the house.

"To carry what your Lordship desires into execution, it will be necessary to limit the law of succession to the Crown, and alter the policy that has so long guided the Sultans in that respect, and also to change fundamentally the political and civil institutions, and laws, and the domestic arrangements of the people. Universal confusion would, perhaps, be the consequence of such violent changes, and, probably, those persons intended to be most benefited by them would be the greatest sufferers.

"The slaves are generally protected against ill-treatment by custom and the habit of the Turks, and by the interests of masters and their religious duty, and perhaps slaves in Turkey are not to be considered worse off than men anywhere else who are placed by circumstances in a dependent situation; whilst, on the other hand, they may attain, and constantly do enjoy, the highest dignities, the greatest power, and largest share of wealth of any persons in the empire.

"I think that all attempts to effect your Lordship's purpose will fail, and I fear they might give offence if urged forward with importunity. I was asked 'What would the English Government think of the Sublime Porte if it was to call upon the Sovereign of England and the people of England to alter the fundamental law of their country, and change its domestic habits and customs in order to please the taste of the Turks?'

"I could perceive, in spite of the good-humoured politeness with which this question was asked, that there was something like wounded feeling in the speaker.

"The Turks may believe us to be their superiors in the sciences, in arts, and in arms, but they are very far from thinking our wisdom or our morality greater than their own.

"PONSONBY.

"The Right Hon. Viscount Palmerston, G.C.B."

##### 2. SIR P. FRANCIS TO SIR H. ELLIOT.

SIR, Constantinople, August 12, 1870.

I HAVE the honour to acknowledge the receipt of your despatch of the 8th instant. Your Excellency desires my opinion as to the present state of the law in the Ottoman dominions in respect of the slave trade in this country and of slavery.

In the first place, however, I will refer to the statement made by Mr. Consul Cumberbatch to the effect that the law strictly prohibits slavery except in the case of prisoners of war.

This statement is, in my opinion, not correct. Slavery is an admitted institution in the Ottoman dominions, sanctioned by the Moslem religion and laws.

Slaves may be acquired not only in war, but the children of slaves are slaves. Slaves may also be acquired by purchase. Inasmuch as the law allows a master to sell slaves, it follows that their purchase is legal. The erroneous idea that slavery is illegal here has arisen, partly, I think, from the language held on various occasions by high Ottoman functionaries. Thus, on 5th February 1868, Fuad Pasha, in replying to an address of the Anti-Slavery Society, is reported to have said that the Government of the Sultan adhered, "with its whole heart," to the anti-slavery principle announced by the Society, and added, "Slavery is an institution which has disappeared little by little from the great portion of the civilized world." "It was also abolished in Turkey from the day that the first beams of civilization penetrated into that country, and it tends more and more to disappear from our customs. "The principle of the Mahometan religion constitutes their liberation an act of justice, and cannot but facilitate the effects of the idea of civilization."

If Fuad Pasha is here correctly reported, he evidently made a statement calculated alike to please and mislead the philanthropic public. But it is nevertheless obvious, if the whole of his address is considered, that, notwithstanding the plausible language he used, slavery is not, according to his showing, abolished in Turkey, nor has it been abolished since. Again, on the 20th June 1867, the Viceroy of Egypt said, in answer to an address through Nubar Pasha, "Slavery is a horrible institution," and he desired to see it extinguished, but it could not be done in a day. . . . "The civilization and progress in Egypt depend upon its abolition," &c. Such language is calculated to affect the popular mind so as to induce the belief that slavery is obnoxious to the Government in this country, or, at least, barely tolerated, whereas it seems to me that the anti-slavery views existing in this country are only simulated

by the Turks, and their expressions of liberal opinions are only repetitions of the sentiments of others, and foreign to their own ideas. They are the expressions of the few who, mixing with Europeans, echo, though but not honestly, the civilized views of others on this subject.

The fact, however, that such language is held (though, I fear, chiefly in deference to the Christian elements surrounding Turks), affords some evidence that the present is a transition state, which, nevertheless, is a very different thing from a total conversion to anti-slavery principles.

Again, persons may be excused to some extent in supposing that slavery is opposed to the laws of the country from the fact that certainly in Egypt, and, I believe, in Turkey, too, if a slave escapes to a foreign Consulate, the Consul can send to the local authorities a demand for the paper of freedom for the slave, who is accordingly made a free man.

I never could discover that there was any legal authority for this privilege so accorded to Consulates; but of the fact that large numbers of slaves are so liberated there can be no doubt. This circumstance may be interpreted by the sanguine and charitable as a proof that *vis-à-vis* Christian Governments the Ottoman authorities are desirous of proclaiming their disapprobation of the institution. But, at any rate, it affords conclusive evidence that there exists now no such institution as slavery and a certain admitted process of giving slaves freedom.

Again, Ethem Pasha, in his letter to Lord Stratford de Redcliffe, on January 29th, 1857 (Hertslet, X., 1014, Resolutions relative to the Abolition and Prevention of the Slave Trade), after commenting on the cruelty of the slave trade in negroes, says:—"The Sublime Porte is desirous of giving effect as soon as possible to a praiseworthy desire" (the total suppression of the trade) "so much in harmony with the dictates of humanity;" indeed as a preliminary to the acceptance of the principle of the abolition of negro slavery, the Sublime Porte has issued suitable instructions, &c. Here we find an undertaking, if the translation is correct, that the Ottoman Porte was about to accept the principle "of the abolition of slavery." But I am not aware that during the last thirteen years any steps have been taken in this direction. The same paper, however, positively forbids the negro slave trade. The Pasha says:—"The definite resolution has been adopted of abolishing the negro slave trade altogether," &c. The slave trade here mentioned (looking at the context), I think, must mean only the importation of slaves into the country, not the sale by one private owner to another.

Then follows the resolution of the "suitable punishment" of slave-traders. In January 1857, the firman to the Pasha of Egypt and all other Pashaliks south of Constantinople, was issued forbidding the slave trade from Egypt, &c. (Hertslet, X., 1057.) Further, at page 1078, sales of slaves by auction and the public slave market are prohibited, but not sales by private contract. I do not know of any prohibition against the trade in white slaves—Circassians and Georgians; and seeing that the Sultan and Pashas recruit their harems from these sources, one would hardly expect that hypocrisy would go so far as for them to engage to abolish that traffic which their wives also carry on for profit.

I think, on the two questions before me, therefore, that the proper inference is—1. That slavery is still a legal institution in Turkey, in spite of vague professions of a desire to abolish it; 2. That the negro slave trade is illegal, though tolerated; 3. That slaves may be sold by private contract, but not by auction or publicly; and 4. That the white slave trade has never been prohibited.

I made a long report last year to Her Majesty's Government as to how the laws on slavery were observed, and I therefore have confined myself here to answering your Excellency's questions as to my view of the law.

I have, &c.

P. FRANCIS.

## V.—FREEDOM OF SLAVES IN BRITISH COLONIES.

### 1. CASES OF FUGITIVE SLAVES FROM DANISH TO BRITISH WEST INDIAN COLONIES, 1829.

The EARL OF ABERDEEN to COUNT DE MOLTKE.

Foreign Office, August 24, 1829.

THE undersigned had the honour to receive the note, addressed to him under date of the 11th of May last, by the Count de Moltke, &c., upon the construction given to an Act of the Imperial Parliament, the effect of which is to

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prevent the restitution of fugitive slaves who arrive in the British West Indian colonies from colonies belonging to any foreign State.

His Majesty's Government have taken into their serious consideration the representation made by the Count de Moltke, with a sincere desire, if possible, of preventing the evils arising to the Danish West Indian colonies from this application of the Act in question.

The law officers of the Crown, however, who have been consulted upon this matter, have given it as their confirmed opinion, that the enactments of the statutes of this realm make it unlawful for the Governor of a British colony, or any other person, either to send a fugitive slave out of the colony, or to deal with him in the colony as a slave.

The Colonial Department of His Majesty's Government are very sensible of the numerous inconveniences which have arisen from the existing law on this subject; and the undersigned has the satisfaction to be able to announce to the Count de Moltke that it is in contemplation to propose to Parliament, in the ensuing Session, some measure by which these inconveniences may be removed or mitigated.

In the meantime the most rigid instructions will be given to the Governors of His Majesty's colonies to discourage, to the utmost of their power, every attempt which the slaves in the Danish islands may make to effect their escape to the British colonies.

The undersigned, &c.

### 2. DANISH AND DUTCH PROPOSALS FOR MUTUAL RESTITUTION OF FUGITIVE SLAVES.

VISCOUNT PALMERSTON to SIR H. WYNN.

SIR, Foreign Office, May 10, 1834.

HIS Majesty's Government have had under consideration the proposition for mutually restoring British and Danish fugitive slaves.

His Majesty's Government admit the force of the observations made on this subject by the Minister of Denmark. In order, however, to meet the wishes of the Danish Government, as expressed in M. Krabbe's note, it would be necessary that a change should be made in the existing laws of this country, because the Executive Government of England has not, at present, any power to deliver up a slave in any English colony, in order that such slave may be conveyed away from that colony and restored to his former master.

Whilst slavery was legally recognized in the British West India colonies, a law granting such power might perhaps have been proposed with success; but after the enactments which the Legislature has recently passed on the subject of slavery, it cannot be expected that Parliament would consent to the proposition.

Parliament would not for an instant listen to a proposal that foreign slaves, who had found their way to Great Britain, should be delivered up to their former masters.

But when the measure of emancipation now actually in progress shall have been carried into full effect, there will, with respect to slavery, be no difference between these colonies and the mother-country.

It would, therefore, be as fruitless to propose to Parliament a delivering-up of slaves in the colonies as in Great Britain.

Under these circumstances, His Majesty's Government feel that they cannot properly enter into negotiation for the arrangement which is urged by the Danish Minister on this subject; and I have to direct you to make a communication to the Danish Government to that effect.

I am, &c.

PALMERSTON.

Sir H. W. W. Wynn.

The EARL OF ABERDEEN to M. DEDEL.

Foreign Office, December 31, 1841.

THE undersigned, &c. has the honour to acknowledge the receipt of the note which was addressed to him, on the 22nd ultimo, by M. Dedel, &c., complaining of the language used by the press and the public in British Guiana, in inciting the negroes of the Dutch colony of Surinam to revolt, and of the conduct pursued in British Guiana towards fugitive slaves arriving there from Surinam.

M. Dedel is aware that the British colonial authorities have no control over the public press; at the same time Her Majesty's Government has no hesitation in expressing to M. Dedel its regret that publications tending, in the opinion of the Netherlands Government, to encourage insubordination in a colony belonging to His Majesty should have emanated from the press in British Guiana.



M. Dedel is also aware that, by the law of England, all slaves arriving in any one of Her Majesty's colonies become free; and Her Majesty's Government would consider it imperative on the authorities of the colony to afford to such individuals the protection of that law.

The undersigned requests M. Dedel will assure the Government of His Netherlands Majesty that Her Majesty's Government will readily inquire into and punish all encouragement given by its colonial authorities to disturbances in a Dutch colony, and will signify its strong disapproval of the conduct of those authorities in any case in which it shall appear that they, having power to interfere and to prevent such proceedings, should have neglected to do so; but the undersigned begs at the same time to draw the attention of M. Dedel to the circumstance that, in the present case, there does not appear to have been any such neglect; and Her Majesty's Secretary of State for the Colonies, to whom the subject has been referred for consideration, has intimated his opinion that if, under these circumstances, the British Government were to express to the colonial authorities the disapprobation suggested in M. Dedel's note, it would convey a censure upon those authorities which is not called for.

The undersigned is desirous to testify his respect for the wishes of the Government of the Netherlands by any act which the British Government can properly take to remedy the evils complained of in M. Dedel's note; but, in the state of things here referred to, there appears nothing to warrant Her Majesty's Government to adopt the measure suggested by M. Dedel.

M. Dedel. The undersigned, &c.  
ABERDEEN.

#### VI.—RECEPTION OF POLITICAL REFUGEES ON BOARD BRITISH SHIPS OF WAR AND MAIL PACKETS.

##### 1. CASE OF CLAIM of the SPANISH and PORTUGUESE GOVERNMENTS to take their respective Subjects out of Mail Contract Steamers in their own Waters, 1844.

VISCOUNT CANNING to the SECRETARY to the ADMIRALTY.

SIR, Foreign Office, March 20, 1844.  
I HAVE laid before the Earl of Aberdeen Sir J. Barrow's letter of the 9th instant, from which it appears that the Lords Commissioners of the Admiralty wish to know what line of conduct should be pursued by the commanders of the hired vessels which convey the mails between this country and the Peninsula, if it should happen that the authorities of Vigo should attempt to remove from any of those vessels a Spanish subject who may have embarked at Lisbon, being provided with a Portuguese passport, countersigned by the British, French, and Belgian Legations at Lisbon.

In answer to the above inquiry, I am directed by Lord Aberdeen to acquaint you, for the information of the Lords Commissioners of the Admiralty, that there is no stipulation in the existing treaties between this country and Spain which can be deemed sufficient to debar the Spanish Government from exercising the right which, in his Lordship's opinion, appertains to that Government of claiming its own subjects when they may be found in a Spanish port as passengers on board vessels hired to convey the mails between this country and the Peninsula.

I am also to state to you, for the information of their Lordships, that the directions contained in Lord Howard de Walden's letter to Lieutenant Hemsworth, of the 29th ultimo, appear to Lord Aberdeen to have been judicious.

I am, &c.  
CANNING.

##### 2. CASE of the BLOCKADE of the SICILIAN COAST and the RECEPTION of SICILIAN REFUGEES on board Her Majesty's ships.

Extent to which a British ship-of-war in a Foreign Port is entitled to receive on board and shelter the Subjects of a Foreign Government, 1849.

SIR W. PARKER to MR. J. PARKER.

SIR, "Caledonia," at Malta, July 19, 1849.  
I REQUEST you will lay the accompanying copy before the Lords of the Admiralty of a letter and its

enclosures which I have received from Captain W. F. Martin, of the "Prince Regent," on the subject of refugees being received on board under the protection of Her Majesty's flag, in the existing state of the Kingdom of the Two Sicilies. I have conveyed my sentiments to Captain Martin in a letter, of which a copy is enclosed, and I request their directions, if I have therein differed in any point, from the wishes of Her Majesty's Government.

I have, &c.

W. PARKER,  
Vice-Admiral.

CAPTAIN MARTIN to SIR W. PARKER.

H.M.S. "Prince Regent,"  
Naples, July 12, 1849.

SIR, I HAVE the honour to state to you that Mr. Temple yesterday applied to me to receive on board Her Majesty's ship "Prince Regent" three Neapolitans, who are apprehensive of being arrested for some alleged political offence, and having so received them, to convey them in the "Prince Regent's" boat to the French packet, when she is about to quit the anchorage on her way to Malta.

I consented to take these men; but I mentioned at the time to Mr. Temple that I did not consider that I had any right to protect men so circumstanced if they were demanded by the constituted authorities, that is, when flying from the laws of their country; and I do not believe that I have the legal right to do it, nor that at a British anchorage, a corresponding act, done by a foreign man-of-war, would be tolerated by us.

I afterwards reflected that the French packet would be in quarantine, and that if the "Prince Regent's" boat was observed to go alongside of her, I should incur a great risk of being also placed in quarantine.

I, therefore, wrote a note to Mr. Temple, of which the enclosed, No. 1, is a copy, to which I received an answer, of which No. 2 is a copy, which I answered by No. 3.

Mr. Temple also enclosed me a letter of yours to Lord Napier, dated 25th September 1848, and numbered 46. He considers that letter as strictly in point on the present occasion, but I do not think it is.

When that letter was written the country was in a state of anarchy; two recognized belligerent parties existed in it, and a civil war was raging, and then a neutral might fairly afford a shelter for the unfortunate of either party; or considering Sicily as separate from Naples, then they were to each other foreign countries, and there is, therefore, no analogy between that case and the present one; you were then saving a Sicilian from his Neapolitan enemy, and not a native from the laws of his own country. The country is not now in a state of warfare; one Government only exists, and its authority is undisputed; therefore I do not believe that any foreign vessel of war can, within the waters of this country, legally interpose between a suspected offender and the laws he is supposed to have violated; still I should at all times consider it right to assist political refugees in every way short of compromising my neutrality, or of prejudicing Her Majesty's service in any way, such as subjecting the ship to quarantine.

I have, &c.

W. F. MARTIN,  
Captain.

CAPTAIN MARTIN to the HON. W. TEMPLE.

H.M.S. "Prince Regent,"  
July 13, 1849.

MY DEAR SIR,

I BEG to thank you for sending me Sir W. Parker's letter, which I herewith return. I certainly do believe that we incur very great risk of having quarantine imposed on us by sending a boat alongside a vessel that is in quarantine after the health officers have left her.

I do not think that Sir W. Parker's letter treats of a case analogous to the one I have supposed; if I did it would be my business instantly to adopt it for my guidance. I need hardly assure you that I shall try very earnestly to conduct the service in the manner most agreeable to you, and it will occasion me much concern when I feel I have not the power of complying with your wishes.

I am, &c.

W. F. MARTIN,  
Captain.

P.S.—I beg to add that I have given orders for forwarding the three men to the French packet as you wished, and as it was arranged yesterday.

The HON. W. TEMPLE to CAPTAIN MARTIN.

MY DEAR SIR,

Naples, July 12, 1849.

If you consider that the putting a person on board of the French steamer in quarantine after the health officers have quitted it would subject your ship to be placed in quarantine, of course it would be highly inexpedient to incur such risk by receiving the persons on board of the "Prince Regent" whom I mentioned to you. I must beg leave, however, to differ entirely with you, as to your right of affording protection to Neapolitan subjects who might seek, under the British flag, protection for political causes, and who have not been guilty of any criminal or immoral offence.

Such protection has, I believe, always been granted when the persons have found their way on board, although there might be some doubt whether it would be right to carry them on board from shore in an English boat; and I enclose to you a despatch, addressed by Sir W. Parker to Lord Napier, relating to a case in point, in which you will see the Admiral's opinion upon the subject, with which I entirely agree. Indeed I should consider the delivery of any person under the British flag to the authorities of any other country, unless they gave sufficient proof that the person was justly charged with a criminal and not merely a political offence, as derogatory to the dignity of that flag; and in the present case the offence for which the person is persecuted is for having done that which at the time was perfectly legal, but which now, by virtue of no law, but by the arbitrary decision of the police, is stated to be an offence.

I have, &c.

W. TEMPLE.

SIR W. PARKER to CAPTAIN MARTIN.

SIR,

"Caledonia," Malta, July 18, 1849.

I HAVE to acknowledge the receipt of your letter, No. 20, of the 12th instant, in reply to which I am of opinion that any communication with a vessel in quarantine after the health officers have left her would subject the ship making such communication to quarantine, if the health officers, on an arbitrary view of the transaction, were disposed to impose a sanitary restriction. You should avoid taking any person from the shore in the boats of Her Majesty's ships, unless the party has peculiar claims, connected with English privileges, which on a recommendation from Her Britannic Majesty's Minister might justify the act.

You cannot, however, err in receiving for protection any individuals whose lives or freedom may be endangered, for any act purely political, provided Her Majesty's Minister applies to you in writing, that they may receive the protection of the British flag, and in such terms as will attach the responsibility of the measure to his Excellency. It would be derogatory to our flag to deliver up any individual who may have been admitted on board for protection under such circumstances, but I think you would be bound to quit the anchorage with Her Majesty's ship, if required to do so by the Government of the country, on the grounds of your having on board any political offender of the nature adverted to.

I have, &c.

W. PARKER,  
Vice-Admiral.

MR. ADDINGTON to the SECRETARY to the ADMIRALTY.

SIR,

Foreign Office, August 4, 1849.

I HAVE laid before Viscount Palmerston your letter of the 30th of July last, requesting, by direction of the Lords Commissioners of the Admiralty, his Lordship's opinion on a question which has recently occurred at Naples, as to the extent to which British ships of war in a foreign port are entitled to receive on board and shelter the subjects of a foreign Government who may be apprehensive of being persecuted if they remain on shore.

Viscount Palmerston directs me to request that you will acquaint the Board of Admiralty that his Lordship is of opinion that it would not be right to receive and harbour on board a British ship of war any person flying from justice on a criminal charge, or who was escaping from the sentence of a court of law. But a British man-of-war has always and everywhere been considered a safe place of refuge for persons of whatever country or party who have sought shelter under the British flag from persecution on account of their political conduct or opinions; and this protection

has been equally afforded, whether the refugee was escaping from the arbitrary acts of a monarchical Government, or from the lawless violence of a revolutionary Committee.

There seems to be nothing in the present state of affairs at Naples or in Sicily which ought to make a British ship of war stationed in a Neapolitan or in a Sicilian port an exception to the general rule; and therefore, although the commander of such ship of war should not seek out or invite political refugees, yet he ought not to turn away nor to give up any who may reach his ship and ask admittance on board. Such officer must of course take care that such refugees shall not carry on from on board his ship any political correspondence with their partisans on shore, and he ought to avail himself of the earliest opportunity to send them to some place of safety elsewhere.

Viscount Palmerston sees no reason, however, why the fact of a British officer having exercised this act of usual hospitality should entitle the Government of the country to order him out of the port, if the interests of Her Majesty's Service should require that he should remain there.

SIR W. PARKER to the SECRETARY to the ADMIRALTY.

"Caledonia," at Malta,

September 1, 1849.

SIR,

I BEG to acknowledge the receipt of Captain Hamilton's letter, No. 311, of the 13th ultimo, transmitting Viscount Palmerston's opinion relative to the reception of foreign refugees in Her Majesty's ships, and herewith enclose, for the information of the Lords, &c., a copy of the directions which I have consequently given to the senior officers who are stationed at foreign ports on this station.

I feel it right to explain to their Lordships that in my former instructions to Captain Martin, transmitted in my letter, No. 218, which I am glad to find have had the approval of their Lordships, I desired him to obtain in writing the name of any individual whom Her Majesty's Minister might wish to be received on board, because several foreigners have presented themselves as applicants for protection upon very slight, or greatly exaggerated, grounds of apprehension; and some who have been received and entertained for several days, on being desired to take advantage of any favourable opportunity of quitting the place, instead of doing so, have quietly relanded in open day, and remained unmolested; indeed it would appear that a few have, in reality, sought shelter for the comfortable subsistence which they experienced on board.

As the captains or commanding officers have no means of ascertaining whether the declared alarms of the foreigners who ask refuge are justly founded, I deemed it expedient that Her Majesty's Minister's recommendation in behalf of all for whom he desired protection should be made in writing; and the opinion which I gave to Captain Martin, that he would be bound to quit the port, if required to do so by the Government of the country, was grounded on the first part of Lord Eddisbury's letter of the 13th June last to Mr. Parker, in which he states that "every sovereign state has, in the absence of any treaty stipulations to the contrary, a right to exclude from its harbour foreign ships of war, unless when they may be driven in by distress."

I hope the orders I have now given will meet any future case, and the approval of their Lordships.

I have, &c.

W. PARKER,  
Vice-Admiral.

### 3. CASE of RECEPTION of POLITICAL REFUGEES on board Her Majesty's Ships of War.

Printed Correspondence, 1860.

MR. ELLIOT to LORD J. RUSSELL.—  
(Received March 29.)

MY LORD,

Naples, March 23, 1860.

As I perceive that a discussion has taken place in the House of Lords with regard to the reception of political fugitives on board Her Majesty's men-of-war, it is right that I should inform your Lordship that, to the best of my belief, no such person has been received during the last six months.

Although the newspapers announce the arrival of the fleet, Her Majesty's ship "Orion" is the only ship at present at Naples, and in the conversations I have had with Captain Frere I have expressed the opinion that it would be extremely undesirable to give out that political refugees could find a refuge on board his ship; but that in the event of such a person presenting himself he ought to be guided by the circumstances of the particular case.

In the present excited state of Sicily an announcement that political refugees could find a safe asylum on board Her Majesty's ships would possibly be nearly sufficient to produce an outbreak; but, on the other hand, it must be recollected that while a Government and its agents are persecuting individuals in defiance both of law and justice, the persons flying from the police may fairly be considered as somewhat in the same position as those who are escaping from the lynch law of a mob, and I doubt whether any captain would drive back into the fangs of his pursuers a person who had once got on board and appealed for protection.

As far as I have ascertained, the captains of Her Majesty's ships have acted with the utmost prudence and discretion, and when asked, as some have been, whether they would grant an asylum to political refugees, their reply has been that their sole duty was the protection of British interests.

I have, &c.  
HENRY ELLIOT.

MR. HAMMOND to the SECRETARY to the  
ADMIRALTY.

SIR, Foreign Office, March 29, 1860.  
I AM directed by Lord J. Russell to transmit to you a copy of a despatch from Her Majesty's Minister at Naples, as to the question of the reception on board Her Majesty's ships of war of such political refugees as might fly thither for refuge; and I am to request that, in laying this despatch before the Lords Commissioners of the Admiralty, you will move their Lordships to inform Lord John Russell, at their earliest convenience, of the nature of the general instructions issued by the Admiralty for the guidance of the officers of Her Majesty's naval service in this respect.

I am, &c.  
E. HAMMOND.

The SECRETARY to the ADMIRALTY to MR. HAMMOND.  
—(Received March 31.)

SIR, Admiralty, March 31, 1860.  
IN reply to your letter of the 29th instant, requesting to be informed, in the nature of the general instructions issued for the guidance of the officers of Her Majesty's ships, as to the reception on board of such political refugees as might fly thither for refuge, I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of Lord John Russell, that no precise instructions on the subject have ever been issued for the general guidance of officers in the reception of political refugees; nor does it appear to my Lords to be expedient to lay down general regulations, which could rarely be sufficient under all the various contingencies which may arise. It must therefore be necessary to rely on the judgment and discretion of officers in command, according to the circumstances of each individual case.

The last instruction on the subject appears to have been issued in accordance with the directions contained in a letter from Mr. Addington of the 4th of August 1849, conveying the opinion of Lord Palmerston in reference to the state of affairs at that time existing at Naples; and my Lords have no reason to doubt that a sound discretion will be exercised by the several officers in command, who are at all times enjoined to avoid all possible cause of offence to the authorities of the ports which they may visit, and to respect the established rights, customs, and regulations of such places. Their principal duties must be, undoubtedly, to afford protection to British subjects and to British interests; and any shelter which might be afforded to political refugees must, upon grounds of humanity, be exceptional in every instance.

I am, &c.  
C. PAGET.

VII.—SLAVES SEIZED BY HER MAJESTY'S SHIPS, AND AFTERWARDS SURRENDERED BY DECREES OF THE COURT OF ZANZIBAR.

CASE No. 5 OF 1874.

"MAKOOMBO BWANA," captured by H.M.S. "THETIS," 19th June 1874; restored in CONSULAR COURT at ZANZIBAR, 26th June 1874.

THE ground of seizure was the presence on board of a slave boy who stated that he was being taken from Zanzibar against his will to be sold at Pemba; but this at the trial was positively denied by the boy's owner, who declared that he had sent him, not for sale, to his (the owner's) brother, who had an estate at Pemba.

In the absence of positive evidence that the slave was intended for sale, Captain Prideaux, the Acting Consul, decreed both the vessel and the slave to be restored, and condemned the captors in costs, but not in damages.

The following is a copy of the letter of Captain Prideaux reporting the case:—

CAPTAIN PRIDEAUX to the EARL OF DERBY.—  
(Received July 31.)

MY LORD, Zanzibar, June 26, 1874.  
I HAVE the honour to transmit to your Lordship copy of a Decree of Restitution passed in this Vice-Admiralty Court in the case of a dhow of the burthen of 8·6 tons, captured by the second cutter of Her Majesty's ship "Thetis," between Pangani and Intangato, on the 19th instant.

From the affidavit put in by the capturing officer, Sub-Lieutenant H. J. Target, and from the other evidence adduced, it appears that the second cutter and gig of Her Majesty's ship "Thetis" were beating to the southward when they observed a small dhow running down the coast to the northward. On boarding this vessel, no papers were found except a bundle of closed private letters, addressed to the Governor, the Khazee, and other persons residing in Pemba. The crew and passengers (consisting of two men and a negro lad) were separately interrogated, and all asserted they were free, with the exception of one boy who owned to being a slave, and alleged, according to the interpreter's statement, that he had been sent from Zanzibar to be sold to a man at Pemba, and further, that he was being taken there against his will. On this Sub-Lieutenant Target considered that he was justified in detaining the dhow, and bringing her in as a prize to Zanzibar.

On closely examining the boy in Court, it was proved beyond a doubt that he was a slave, and was being conveyed to Pemba against his will, but he stated that he did not know for what purpose he was sent there. The master of the dhow, who had been entrusted with the charge of the boy, also stated that he knew nothing of his destination, but that he would be claimed on arrival at Pemba. The boy's owner, an Arab of respectability, and brother of one of the principal Kazees of Zanzibar, denied most positively that he had been forwarded to Pemba for sale, and asserted that he had sent him to his brother, who had an estate there. A few hoes and other articles used on the plantations, which were found on board the dhow, seemed to lend colour to this statement.

However strong the presumption might be, I had no actual evidence before me that the boy was intended for sale, and was, therefore, forced to release the dhow and to restore the slave to his owner. But I considered that Sub-Lieutenant Target, in acting on the statement of his interpreter, was fully justified in detaining the dhow; and, although I have decreed costs of suit against the seizers, on the principle that Her Majesty's ships in such cases must be held responsible for consequences ensuing from the conduct of their interpreters, yet, looking to the difficulties which exist in the way of procuring a respectable trustworthy class of men for this work, I would respectfully urge upon your Lordship that the Lords Commissioners of Her Majesty's Treasury be moved to exercise the discretion vested in them under section 15 of the Act 36 & 37 Vict. c. 88, and pay the costs which have been awarded against Captain Ward and the vessel under his command. I may further express my opinion that, although the dhow may have suffered some little loss from her detention, yet the circumstances of the case were altogether so suspicious, and the owner of the slave could have so easily produced some written evidence in support of his statement that the boy was not transported to Pemba for sale, that I think she is

deserving of no consideration at the hands of Her Majesty's Government.

In connection with this case a question suggests itself, which, to the best of my knowledge, has never been authoritatively decided. It is agreed in the 1st Article of the Treaty between Her Majesty and the Sultan of Zanzibar, dated the 5th June 1873, that the "export of slaves from the coast of the mainland of Africa, whether destined for transport from one part of the Sultan's dominions to another, or for conveyance to foreign parts, shall entirely cease." And the words "transport or conveyance of slaves" which occur in the last clause of that Article, must, I submit, according to the ordinary rules of legal interpretation, be held to apply to the kind of transport or conveyance defined at the beginning of the Article. Is, therefore, a vessel seized while engaged in the transport or conveyance of slaves, even if proved to be for sale, from the Island of Zanzibar, which forms no part of the "coast of the mainland of Africa," to that of Pemba, liable to forfeiture? It is evident that this question is of considerable importance, and I trust that I shall receive from your Lordship explicit instructions with reference to it.

In conclusion, I should state that I did not consider the fact of the slave proceeding to Pemba against his will was in any way relevant to the issue, as the point is neither touched on in the treaty of last year or in any previous treaties with Zanzibar, and until the contrary is decided, I presume it must be held that a master has full control over the movements of his slave, and that he can temporarily delegate his power to others, as in this case, to the master of the dhow.

I have, &c.  
W. F. PRIDEAUX.

Inclosure in Case No. 5 of 1874.

DEGREE.

In the Vice-Admiralty Court of Zanzibar.

Our Sovereign Lady the Queen, against the Zanzibar vessel named "Makombo Bwana," whereof Kiemchana is master and Benhadi bin Nasir is owner, her tackle, apparel, and furniture, and also against our male slave, named Farajalla, seized as liable to forfeiture by Arthur Thomas Target, a Sub-Lieutenant in Her Majesty's navy, in charge of the second cutter of Her Majesty's ship "Thetis." Before William Francis Prideaux, Esquire, Judge in the Vice-Admiralty Court at Zanzibar, on the 25th day of June 1874.

APPEARED personally Thomas le Hunte Ward, Esquire, a captain in Her Majesty's navy and commanding Her Majesty's ship "Thetis," and produced the sworn declaration hereunto annexed, which set out the circumstances under which a Zanzibar vessel named the "Makombo Bwana," whereof Kiemchana is master and Benhadi bin Nasir is owner, of the description and dimensions specified in the annexed certificate of admeasurement, was seized between Pangani and Intangato on the 19th of day June 1874, by the aforesaid Sub-Lieutenant Arthur Thomas Target, I, the said Judge, having heard the evidence and examined witnesses on both sides, having found no proof that the above-mentioned vessel was engaged in the slave trade in contravention of treaties existing between Great Britain and Zanzibar, do adjudge the said vessel free of the above charge, and do order her to be returned to her owner, and the said male slave, Farajalla, to be released and returned to his master; and do further condemn the seizers in costs of suit, acquitting them of all claims for damages, compensation, demurrage, or other expenses that have arisen or may arise by reason of the said seizure.

In testimony whereof I have signed the present Decree, and caused my seal of office to be affixed thereto, this 26th day of June 1874.

W. F. PRIDEAUX,  
Judge of the Vice-Admiralty  
Court at Zanzibar.

CASE No. 2 OF 1875.

Dhow, name unknown, captured by H.M.S. "RIFLEMAN," 29th December 1874; restored in the CONSULAR COURT at ZANZIBAR, 1st January 1875.

In this case there were three slave boys working as sailors on board the dhow, who were understood to have stated, on the dhow being boarded, that they were on board against their will, had never received wages, wished to be free, and did not know what was to be done with them. But on their being examined in the Consular Court they did not repeat these statements, and as there was no evidence to show that they were intended for sale, the slaves as well as the vessel were ordered to be restored; and the captors were condemned in costs, but not in damages, there having, in the judgment of the Court, been reasonable ground for the seizure.

The following is a copy of Captain Prideaux's letter reporting the case:—

CAPTAIN PRIDEAUX to the EARL OF DERBY.  
(Received February 10th.)

MY LORD, Zanzibar, January 4, 1875.

I HAVE the honour to forward to your Lordship copy of a Decree of Restitution, passed in this Vice-Admiralty Court in the case of a dhow captured by the boats of Her Majesty's ship "Rifelman," on the 29th December 1874.

It appeared from the affidavit of Lieutenant William Henry Black, that, on the above date, while at anchor off Sindo Island, he observed a dhow coming from the southward, which, on being boarded, was found to have no papers or colours. Three men were also discovered on board, who declared that they were slaves, and that they were there against their will; that they had never received any wages; that they wished to be free; and that they did not know what their ultimate destination would be. The vessel was therefore seized and brought to Zanzibar for adjudication.

On investigation it was clearly proved that the three slaves had been handed over to the master of the dhow for service as sailors, and there was no evidence whatever to show that they were intended for sale. One of the boys said that although he had not before served in that particular dhow, he had been to sea in another one some time ago, whilst another boy asserted that he had made three voyages. None of them made the statements before the Court which were referred to by Lieutenant Black in his affidavit.

The case, therefore, broke down, and a decree of restitution was given. Nearly every dhow in these seas is worked by slaves hired out for service by their masters, and if the practice were forbidden, trade would at once come to a standstill. After a short time the slaves become to all intents and purposes in the position of free men, as explained by Dr. Kirk in his letter No. 77, dated 12th July 1873.

Lieutenant Black was chiefly induced to seize this vessel by observing that the three boys were, as he thought, too young to work this dhow of 27 tons, but it is well known that, when required, the passengers are always expected to lend a hand. In the dhow in question, besides the three slaves and the master, there were four passengers, who were always called on to assist when necessary. Under the circumstances, however, I would respectfully submit to your Lordship that the Lords Commissioners of Her Majesty's Treasury might be called on to remit the costs of the case, the dhow having been seized under reasonable presumption of her participation in the slave trade.

I have, &c.,  
W. F. PRIDEAUX.

Inclosure 1 in Case No. 2 of 1875.

In the Vice-Admiralty Court at Zanzibar.

DEGREE.

Our Sovereign Lady the Queen against a dhow or native vessel, name and nation unknown, whereof Soodi is master and owner, the tackle, apparel, furniture, and cargo, and also against three male slaves seized by William Edward Black, Esquire, a Lieutenant in Her Majesty's navy, and in command of a cutter and whaler of Her Majesty's ship "Rifelman." Before William Francis Prideaux, Esquire, Judge in the Vice-Admiralty Court at Zanzibar, on the 1st day of January 1875.

APPEARED personally the said William Edward Black, and produced the sworn declaration hereunto annexed, which set out the circumstances under which a dhow or native vessel, name and nation unknown, whereof Soodi was master and owner, of the description and dimensions specified in the annexed certificate of admeasurement, and containing three male slaves, was seized off Sindoo Island, in the dominions of His Highness the Sultan of Zanzibar, on the 29th day of December 1874, by the above-mentioned officer. I, the said Judge, having heard the evidence and examined witnesses on both sides, having found no proof that the said dhow or native vessel was engaged in the illegal transport of slaves, do adjudge the said vessel free of the above charge, and do order her to be restored to her owners and the said three slaves to be released; and I do further condemn the seizors in costs of suit, acquitting them of all claims for damages, compensation, demurrage, or other expenses that have arisen or may arise by reason of the said seizure.

In testimony whereof I have signed the present decree and caused my seal of office to be affixed thereto this 1st day of January 1875.

W. F. PRIDEAUX,  
Judge of the Vice-Admiralty Court,  
Zanzibar.

CASE NO. 20 OF 1875

Dhow "TOWA-TOWA," captured by H.M.S. "THETIS" 13th July 1875; restored in CONSULAR COURT at ZANZIBAR 15th July 1875.

THE dhow was seized by the boats of the "Thetis," off the Island of Zanzibar, the statements of a slave found on board having led the captors to suspect that the vessel was engaged in the slave trade.

On cross-examination in Court the slave's evidence broke down, and, no proof of slave trading remaining, the Court decreed both the vessel and the slave to be restored, condemning the captors in costs, but not in damages.

The following is a copy of the letter of the Acting Consul-General reporting the proceedings:—

ACTING CONSUL-GENERAL SMITH to the EARL OF DERBY.—(Received August 24.)

MY LORD, Zanzibar, July 15, 1875.

I HAVE the honour to forward, for your Lordship's information, a copy of a Decree of Restitution (with necessary documents), passed by me in the case of a dhow named "Towa-Towa," which was captured by the boats of Her Majesty's ship "Thetis," on the night of the 13th instant.

The original evidence of the slave on board the dhow in question, which led to the detention of the dhow by the officer in charge of the boats, completely broke down under cross-examination; and there was no proof whatever that the dhow was engaged in the slave trade.

The circumstances attending the case, however, were of a suspicious nature; and with the evidence of the slave boy on board were, in my opinion, quite sufficient to warrant the apprehension of the dhow. I, therefore, awarded no compensation to the nakoda or owner, who, with the passengers, suffered but only slight inconvenience, and merely condemned the seizors in the costs of the trial.

I have, &c.  
C. B. EUAN SMITH.

Inclosure in Case No. 20 of 1875.

DECREE.

In the Court of Her Britannic Majesty's Consul-General at Zanzibar, Vice-Admiralty Jurisdiction.

Our Sovereign Lady the Queen against an Arab dhow named "Tua-Tua," whereof Baraka is master, and Abdulla bin Saleh owner, her tackle, furniture, and apparel; and also against one male slave named Rehan, seized as liable to forfeiture by Lieutenant W. P. A. Ogle, in command of two boats of Her Majesty's ship "Thetis." Before me, C. B. Euan Smith, Esquire, Judge in Her Britannic Majesty's Consular Court at Zanzibar, on the 15th day of July 1875.

APPEARED personally the said Walter Percival Acton Ogle, and produced the sworn declaration hereunto annexed, which set out the circumstances under which the above-mentioned dhow, of the dimensions specified in the annexed certificate of admeasurement, was seized off Manga Pani, in the Island of Zanzibar, on the 13th day of July 1875, by the officer above named. I, the said judge, having heard the evidence, and examined witnesses on both sides, having found no proof that the said dhow was engaged in the illegal slave trade, do adjudge the same to be free of the above charge, and do order her to be restored to her owner, and the said Rehan to be released, condemning the seizors in the costs of this suit; but acquitting them of all blame, and of any damages or compensation that may arise by reason of the said seizure.

In witness whereof I have signed this decree, and caused my seal of office to be affixed thereto, this 13th day of July 1875.

C. B. EUAN SMITH,  
Her Majesty's Officiating Consul-General  
and Judge.

CASE NO. 21 OF 1875.

Dhow, name unknown, captured by H.M.S. "LONDON," 25th July 1875; condemned in the CONSULAR COURT at ZANZIBAR 2nd August 1875.

IN this case the seizure was made by the boats of the "London" on information given by four slaves, who said that they had escaped from the dhow, which had landed a cargo of slaves. The landing of the slaves was admitted by a man and a boy who were found alone in the dhow, but it was found at the trial in the Consular Court that the four slaves, who had come off to the "London's" boats and given the information, had not formed part of the slaves so landed, but were "runaways" from an estate near which the dhow had disembarked her cargo. The Court condemned the vessel, but decreed the four slaves to be restored to their owners.

The following is a copy of the Acting Consul's Despatch reporting the case:—

ACTING CONSUL-GENERAL SMITH to the EARL OF DERBY.—(Received September 28.)

MY LORD, Zanzibar, August 14, 1875.

I HAVE the honour to forward, for your Lordship's information, copy of a Decree of Condemnation, with necessary documents, passed by me in the case of a dhow, name unknown, captured by the boats of Her Majesty's ship "London" on the 25th July 1875, and heard in Court on the 2nd August 1875.

From the evidence produced in Court it was proved that while Lieutenant Percy Hockin, of Her Majesty's ship "London," was cruising off Pemba with the boats of Her Majesty's ship "London" on the 22nd July, he was informed that a dhow, painted in a peculiar way, had run a cargo of fifty-five slaves on the 20th instant at Fundo Island. On the 23rd July he observed a canoe coming out of Fundo Gap with one man on board, who said that he was a slave who, with three others waiting on the beach, had escaped from a dhow, which had landed fifty-five slaves at Fundo Island on the 20th July. Mr. Hockin embarked these four slaves, who told him that the dhow had gone to Kohani, whither he proceeded to search for her, but without success. He, however, continued his search on the numerous creeks and inlets in the neighbourhood, and on the 25th discovered the dhow, which was painted in a most peculiar manner, concealed in a creek a little to the north of Kohani. The slaves at once recognized the dhow as the one in which they had been transported, and a boy and a man being discovered on board her admitted the fact that she had run a cargo of fifty-five slaves on the 20th July.

It was ascertained that the owner and nakhoda of the dhow was a man named Sudi, but he never appeared, though he was said to live close to the spot where the dhow was captured, and where the boats of Her Majesty's ship "London" remained for two days before finally burning the dhow on the evening of the 27th July.

The case against the dhow was clearly proved in Court, and there was no defence. I accordingly passed a Decree of Condemnation against her, finding also that her destruction by burning was a necessary measure.

With regard, however, to the four slaves picked up by Lieutenant Hockin, they were claimed by the Regent for

their Arab masters, from whom it was stated they had run away some time previously. This they also admitted, stating that they had gone to Pangani and re-embarked there on the dhow in question to come to Pemba. I, therefore, ordered their restitution to their lawful owners.

I have, &c.

C. B. EUAN SMITH.

Inclosure in Case No. 21 of 1875.

DECREE.

In the Court of Her Majesty's Consulate-General at Zanzibar, Vice-Admiralty Jurisdiction.

Our Sovereign Lady the Queen against a dhow or vessel, name unknown, whereof one Sudi was said to be master and owner, her tackle, furniture, and apparel, and also against four male slaves seized as liable to forfeiture by Lieutenant Percy Hockin, R.N., of Her Majesty's ship "London." Before C. B. Euan Smith, Esquire, Judge in Her Majesty's Consulate-General Court at Zanzibar on the 2nd day of August 1875.

APPEARED personally the said Percy Hockin, and produced the sworn declaration hereunto annexed, setting out the circumstances under which a dhow or native vessel, of the description and dimensions specified in the annexed certificate of admeasurement, was seized in a creek off the Island of Pemba, on the 25th day of July 1875, by the officer above named.

I, the said Judge, having heard evidence on both sides, having found sufficient proof that the vessel at the time of her arrival at the said Island of Pemba was engaged in illegal slave traffic, do adjudge the said vessel, her tackle, furniture, and apparel to have been lawfully seized and to be forfeited to our Sovereign Lady the Queen, and do condemn the same accordingly; and I declare that the destruction of the dhow by the seizors was inevitable under the circumstances, and I approve thereof; and it having been clearly proved that the four male slaves who were seized by the said Lieutenant Percy Hockin, and produced before me in this case, had run away from their master, and were not intended for sale, I hereby decree the restitution of each and every of them to their lawful owner.

In testimony whereof I have signed the present decree, and have caused my seal of office to be affixed thereto the 2nd day of August 1875.

C. B. EUAN SMITH,  
Her Majesty's Acting Consul-General,  
Judge.

CASE NO. 26 OF 1875.

Dhow "MAROMBE," captured by H.M.S. "London," 13th August 1875; restored in the CONSULAR COURT of ZANZIBAR 16th August 1875.

In this case the dhow was seized on the ground that there were on board five slaves, four females and one boy.

At the trial it was found that the vessel belonged to the Wali or Governor of the Island of Chole, whose sister and daughter were returning in her to Zanzibar, where their husbands lived, and that all the five slaves were domestic slaves in attendance on their Arab mistresses.

The Court decreed restitution of vessel, cargo, and slaves.

The following is a copy of the Consul General's letter reporting the proceedings:—

ACTING CONSUL-GENERAL SMITH to the EARL OF DERBY.—(Received September 28.)

MY LORD, Zanzibar, August 20, 1875.

I HAVE the honour to forward, for your Lordship's information, copy of a Decree of Restitution passed by me in the Vice-Admiralty jurisdiction of the Consul-General's Court here, on the 16th August 1875, in the case of a dhow named the "Marombe," seized by the boats of Her Majesty's ship "London" on the 13th August 1875.

It was proved in evidence that Sub-Lieutenant Target, of Her Majesty's ship "London," boarded this dhow, which was sailing with a full cargo of cocoa-nuts and fifty-three female passengers, in addition to her crew, from the Island of Monfia to Zanzibar, off Ndégé Point, about sixty miles from Chole, her port of departure in Zanzibar. Sub-Lieutenant Target found four female slaves and one boy slave on board, who did not give a sufficiently satisfactory

account of themselves, and he therefore considered himself justified in detaining the dhow in question, and bringing her to Zanzibar. The whole of the other passengers declared they were free, many of them being in attendance on Arab ladies of rank who were on board the dhow.

On examination, however, of the five slaves who were produced by the prosecutors as proving the culpability of the dhow, I found that they were simply domestic slaves in attendance on their Arab mistresses, in capital condition, and all speaking Swahili perfectly. With the exception of one they all declared that they were on the dhow by their own free will, and much wished to return to their mistresses; and one alone said she was travelling on the dhow against her free will. This was the only evidence adverse to the dhow; but this witness was not consistent in her statements—she prevaricated and contradicted herself, and it was quite impossible that I should convict the dhow on an unsupported statement of this nature. She had been embarked in attendance on her mistress, and had, by her own showing, made no sort of objection to the procedure, and it was not even pretended that there was an intention of selling her or any other of the slaves or passengers on board the dhow. In addition to this there was no sort of attempt at concealment on the part of any of the people connected with the dhow. She belonged to an influential Arab at Monfia, who was sending his family to Zanzibar; she was duly expected here, and it was evident had nothing to do with the slave trade. The irregularity in her name being different to that which was originally written in her Arab pass was explained to my satisfaction; and though her papers were four years old, that is a common occurrence among Arab vessels, whose owners and nakhodas often consider it unnecessary to get them renewed.

It was evident that, through fear, the slaves had not told their true story when they were taken by Lieutenant Target on board the boats of Her Majesty's ship "London;" their Arab mistresses had also been afraid to claim them at the time; and this, and the fact of so many women on board exciting his suspicion, caused Lieutenant Target to detain the dhow. I considered that he was on the whole justified in so doing, and therefore, while awarding a Decree of Restitution of the slaves, dhow, and cargo, have protected the seizors against any claims arising for damages for loss or detention.

I have, &c.

C. B. EUAN SMITH.

Inclosure in Case No. 26 of 1875.

DECREE.

In the Court of Her Majesty's Consulate-General at Zanzibar, Vice-Admiralty Jurisdiction.

Our Sovereign Lady the Queen against an Arab dhow named "Marombe," whereof Farahan is master, and Salim-bin-Saeed owner, her tackle, furniture, apparel, and cargo, and also against one male and four female slaves, seized as liable to forfeiture by Sub-Lieutenant Henry William Target, of Her Majesty's ship "London." Before me, C. B. Euan Smith, Esquire, Judge in Her Majesty's Consular Court at Zanzibar, on the 16th day of August 1875.

APPEARED personally the said Sub-Lieutenant Henry William Target, and produced the sworn declaration hereunto annexed, which set out the circumstances under which the above-mentioned dhow, of the dimensions specified in the annexed certificate of admeasurement, was seized off Ras N'dege, on the 13th day of August 1875, by the officer above named. I, the said Judge, having heard the evidence, and examined the witnesses produced on both sides, having found no proof that the said dhow was engaged in the illegal slave trade, and it having been clearly proved to me that the said one male and four female slaves were domestics accompanying the families to which they belonged, and not being transported for sale or against their will, do decree the restitution of the said dhow, with her tackle, apparel, furniture, and cargo, and also the said slaves to their lawful owners, condemning the seizors in the costs of this suit, but acquitting them of any claims for compensation or damages that may be brought against them by reason of this seizure.

In witness whereof I have signed the present decree, and have caused my seal of office to be affixed thereto, this 16th day of August 1875.

C. B. EUAN SMITH,  
Her Majesty's Consul-General  
and Judge.

## CASE NO. 27 OF 1875.

Dhow, name unknown, captured by H.M.S. "LONDON," 9th August 1875; condemned in the CONSULAR Court at ZANZIBAR 21st August 1875.

In this case the dhow was seized by the "London's" boats on information given by one of her crew, and confirmed by a passenger found on shore, and the truth of which was ultimately admitted by the nakhoda, that she had shortly before loaded seven slaves belonging to the owner of the dhow. The nakhoda and two other men, her crew, being found to be also slaves of the same owner, were seized and carried to Zanzibar.

The Court condemned the dhow as having at the time of her capture been engaged in the slave trade. The nakhoda and her crew were also condemned as forfeited, not as having been intended for sale or conveyed in the dhow against their will, but on the ground that they "were clearly proved to be the property of her owner, and employed by him in their unlawful traffic."

The following is a copy of the Acting-Consul's despatch:—

ACTING CONSUL-GENERAL SMITH to the EARL OF DERBY.—(Received September 28.)

MY LORD, Zanzibar, August 23, 1875.  
I HAVE the honour to forward, for your Lordship's information, the copy of a Decree of Condemnation, with necessary documents, passed by me in the case of a dhow, name unknown, which was captured by the boats of Her Majesty's ship "London," on the 9th day of August 1875, and tried in the Vice-Admiralty side of the Consular-General's Court at Zanzibar, on the 21st of August, on the charge of being concerned in the illegal traffic of slaves.

From the evidence sworn to in Court, it appears that on the evening of the 9th August, Lieutenant Percy Hockin, of Her Majesty's ship "London," cruising off Pemba, observed a dhow making for Tongoni Gap, which altered her course and pulled in towards the shore immediately she saw the English boat. Lieutenant Hockin, however, boarded the dhow and found four people on board, of which the nakhoda and two men were slaves, belonging to the owner of the dhow, an Arab, named Ali bin Esa Maskari; the other being a free man, a passenger. The dhow was found to smell very strongly, as if it had but lately been occupied by negroes, and there was a considerable quantity of cooked Indian corn and cassava root lying about the deck, with a number of mats rolled up and put away in a corner. The general appearance, in short, leading to the belief that the dhow had but lately disembarked a number of slaves.

On examining the crew, one of them confessed that they had lately run slaves, namely, two men, four women, and a boy; and this man conducted Lieutenant Hockin to the place where the slaves had been landed, on a sandy beach some three miles to the north of Tongoni Gap. Lieutenant Hockin landed at the spot, with three men and an interpreter, and proceeded to a village some distance inland, where he found another man who had been a passenger in the dhow, and was recognized by his original informant. This man also confessed that seven slaves had been landed shortly before from the dhow in question, which slaves he said belonged to an Arab of Pangani, named Ali bin Essa Maskari, and which had been taken into the bush when they just heard the arrival of Lieutenant Hockin at the village. Lieutenant Hockin was, however, unable to trace those slaves. He was compelled to burn the dhow, as she was quite rotten, and it was impossible to bring her back to Zanzibar against the monsoon; and he was, in my opinion, quite justified in so doing.

The case against the dhow was clearly proved in Court by overwhelming evidence, and there was no attempt at a defence. I accordingly decreed her condemnation, as well as the forfeiture of the three slaves found on board, who were clearly proved to be the property of her owner, and employed by him in this unlawful traffic; and I have requested the Arab authorities that they will seize and punish the man in question as speedily as possible.

I trust that my proceedings may meet with your Lordship's approval.

I have, &c.  
C. B. EUAN SMITH.

## Inclosure in Case No. 27 of 1875.

## DECREE.

In the Court of Her Majesty's Consul-General at Zanzibar, Vice-Admiralty Jurisdiction.

Our Sovereign Lady the Queen against the native dhow or vessel, name unknown, whereof one Hamis was master, her tackle, furniture, and apparel, and also against three male slaves seized by Lieutenant Percy Hockin, of Her Majesty's ship "London," as liable to forfeiture. Before C. B. Euan Smith, Esquire, Judge in the Court of Her Majesty's Consulate-General at Zanzibar, on the 21st day of August 1875.

APPEARED personally the said Lieutenant Percy Hockin, and produced the sworn declaration hereunto annexed, setting out the circumstances under which the above-mentioned dhow, of the dimensions specified in the annexed certificate of admeasurement, was seized by the said officer, off the Island of Pemba, on the 9th day of August, 1875. I, the said Judge, having heard the evidence and examined witnesses on both sides, having found sufficient proof that the said vessel, at the time of her capture, was engaged in illegal slave traffic, do adjudge the same, with her tackle, furniture, and apparel, and also the said three male slaves, to have been lawfully seized, and to be forfeited to our Sovereign Lady the Queen, and do condemn the same accordingly; approving at the same time of the course pursued by the seizers in the destruction of the said vessel.

In testimony whereof I have signed the present decree, and have caused my seal of office to be affixed thereto, this 21st day of August 1875.

C. B. EUAN SMITH,  
Her Majesty's Officiating Consul-  
General. Judge.

VIII.—FUGITIVE SLAVES WHICH CAME ON BOARD H.M.'s SHIP "LONDON," OFF PEMBA, AND WERE LANDED AT ZANZIBAR AT THEIR OWN REQUEST, 1876.

1. DR. KIRK to the EARL OF DERBY.

H.M. Political Agency and Consulate-General,  
MY LORD, Zanzibar, January 10, 1876.

I HAVE the honour to acquaint your Lordship that yesterday I received a notice from Captain J. B. Sullivan, of H.M.S. "London," that one of his boats had brought down five fugitive slaves who came off in a canoe from a place near Chak Chak, in Pemba, stating that their master beat them, and they wanted to be free.

Captain Sullivan having asked me what course he ought to pursue, I have directed him to take his orders from the senior naval officer present, and to follow whatever instructions of the Lords Commissioners may now be in force.

I have at the same time advised Captain Ward, the senior naval officer, that, as the case of a fugitive slave does not fall within the limits of my Admiralty jurisdiction, thus preventing me from decreeing freedom by an act of Court, I am of opinion that the proper course for Captain Sullivan to follow will be to give to each fugitive slave a formal certificate to the effect that he was landed from on board one of H.M. ships, and is thereby free.

This certificate I shall countersign and seal in attestation, and should the slave's freedom be questioned, and attempt be made to re-enslave him, shall bring the case before His Highness, and use my official influence in the matter in any way your Lordship may think fit to direct.

This course I have deemed it expedient to follow, pending the issue of fresh instructions to supersede those lately cancelled and withdrawn with reference to fugitive slaves.

I may here explain further, that in the present case the receipt of the slaves on board of the boats became matter of necessity, and that they were during the passage from Pemba afloat under the British flag outside the territorial waters of Zanzibar.

I trust that the course in this matter now followed may meet with your Lordship's approval.

I have, &c.

JOHN KIRK,  
H.M. Agent and Consul-General.  
To H.M. Principal Secretary of State  
for Foreign Affairs,  
&c. &c. &c.

2. MR. LISTER to DR. KIRK.

SIR, Foreign Office, February 26, 1876. I HAVE laid before the Earl of Derby your despatch, No. 15, of the 10th ultimo, respecting five fugitive slaves who had come off in a canoe from a place near Chak Chak, in Pemba, stating that their master had beaten them, and that they wished to be free, and who had been brought down to Zanzibar by one of the boats of H.M.S. "London."

I am now directed by his Lordship to state to you that he must await fuller information before giving an opinion as to the course pursued in this instance.

I am, &c.  
T. V. LISTER.

dated 5th December 1875, and shall be guided thereby in dealing with any similar cases that may arise in future.

I have, &c.

JOHN KIRK,  
H.M. Agent and Consul-General,  
Zanzibar.

The Earl of Derby,  
&c. &c.

Inclosure in No. 3.

CERTIFICATE.

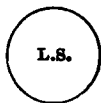
This is to certify that the bearer \_\_\_\_\_, who states that he has been a slave belonging to \_\_\_\_\_, residing at Pemba, did on the \_\_\_\_\_ 1876 deliver himself up on board H.M.S. \_\_\_\_\_ under my command, then cruising for the suppression of the slave trade, and did claim the protection of the English flag.

This certificate is granted on \_\_\_\_\_ having made application to be landed in the Zanzibar dominions.

Given on board H.M.S. \_\_\_\_\_ at Zanzibar.  
the \_\_\_\_\_ day of \_\_\_\_\_ 1876  
\_\_\_\_\_, Captain,  
H.M.S.

Approved,

Captain and Senior Officer.



3. DR. KIRK to the EARL OF DERBY.

H.M. Political Agency and Consulate-General,  
MY LORD, Zanzibar, February 2, 1876.

HAVING reference to the course followed in dealing with fugitive slaves who had escaped to the boats of H.M.S. "London" off the Island of Pemba, as reported by me in No. 15 of the 10th ultimo, I have the honour to state that the certificate given three slaves on their begging to be landed on the African coast was eventually modified so as to contain simply a statement of their case, leaving their status open by the omission of the words that "they were thereby free," as stated by me in writing to your Lordship.

I annex copy of the certificate granted to each on being landed, as he was by his own request, on the coast of the mainland at Bagamoyo.

Since the above occurred I have received from Captain Sullivan, of H.M.S. "London," copy of the Admiralty Instruction on the subject of Fugitive Slaves, No. 51 M.,

Registered at British Consulate-General.

Book of Consular Acts, No. \_\_\_\_\_ of 1876.



## IX.—SLAVE CASES decided in the CONSULAR COURT of ZANZIBAR during the Year 1875.

No.	Name of Prize.	Name of Captor.	Date of Capture.	Date of Adjudication.	Sentence.	No. of Slaves.	Tonnage.	Disposal of Slaves.
1	"Salamuty" -	"Rifleman" -	1874. Dec. 29	1875. Jan. 1	Forfeiture	1	116·6	Not reported.
2	Name unknown	Do. -	" "	" "	Restitution	3	27·1	Do.
3	Do.	Do. -	" 19	" 2	Forfeiture	1	15·3	Do.
4	"Sunda Mali" -	"London" -	1875. Jan. 3	" 4	Do.	6	25·78	Do.
5	Name unknown	Do. -	" 2	" 14	Do.	None	73·50	Do.
6	"M'bao" -	Do. -	" 9	" 26	Restitution	1	46·	Do.
7	"Tanga" -	Do. -	" 24	" 24	Forfeiture	None	23·13	Do.
8	"Conda" -	Do. -	" 29	Feb. 17	Compensation for the dhow.	3	84·48	Do.
9	"Salama" -	Do. -	Feb. 26	" 26	Forfeiture	48	42·225	Do.
10	Name unknown	Do. -	" 24	March 5	Do.	1	12·24	Do.
11	"Salama" -	"Rifleman" -	March 10	" 19	Do.	12	208·33	Do.
12	"AmanetUllah"	Do. -	" 5	" "	Do.	None	95·2	Do.
13	Name unknown	"London" -	" 23	" 24	Do.	1	29·93	Do.
14	Do. -	"Thetis" -	Jan. 29	April 14	Do.	1	192·65	Do.
15	Do. -	Do. -	" "	" "	Do.	None	109·77	Do.
16	Do. -	Do. -	Feb. 5	" "	Do.	Do.	160·17	Do.
17	"Huripersad"	"London" -	April 17	" 19	Restitution	1	Not given	Do.
18	Name unknown	"Flying Fish"	May 15	May 25	Forfeiture	40	266·	Handed over to Missionary Bishop at Zanzibar.
19	Do. -	"London" -	June 13	June 21	Do.	16	127·4	Not reported.
20	"Totoa" -	"Thetis" -	July "	July 15	Restitution	None	120·81	Do.
21	Name unknown	"London" -	" 25	Aug. 2	Condemned	Do.	129·59	Restored to owners.
22	"Sahaleh" -	Do. -	" 28	" "	Do.	Do.	86·68	Not reported.
23	Name unknown	Do. -	Aug. 1	" "	Do.	Do.	7·43	Do.
24	"Tude" -	"Thetis" -	July 25	" 3	Do.	2	60·11	Do.
25	"Daramah" -	"London" -	Aug. 4	" 5	Restitution	None	56·31	None.
26	"Marambo" -	Do. -	" 13	" 16	Do.	Do.	130·72	Restored to owners.
27	Name unknown	Do. -	" 9	" 21	Condemned	3	48·96	Not reported.
28	Do. -	Do. -	" 10	" "	Do.	32	94·36	Sent to Rev. W. S. Price, Mombasa.
29	Do. -	Do. -	" 5	" 23	Do.	None	61·62	Not reported.
30	Do. -	Do. -	Sept. 6	Sept. 13	Do.	Do.	90·33	Do.
31	"Sihodiah" -	Do. -	" 4	" "	Restitution	Do.	66·92	Do.
32	No name given	"Thetis" -	-	-	Condemned	247	172·10	Sent to Mr. Price, Mombasa.
33	"Asneem" -	"London" -	Oct. 15	Oct. 18	Do.	None	176·96	Not reported.
34	Name unknown	Do. -	" 23	" 30	Do.	Do.	Not reported	Do.
35	"Simesa" -	Do. -	" 24	" 25	Do.	8	52·87	Do.
36	Name unknown	Do. -	Nov. 2	Dec. 11	Do.	None	Not reported	Do.
37	"Kasumba" -	Do. -	" 3	Nov. 15	Do.	1	Do.	Do.
38	Name unknown	Do. -	" 18	Dec. 10	Do.	None	Do.	Do.
39	"Russia" -	Do. -	" 26	" "	Do.	-	Do.	Do.
40	"Kalahé" -	Do. -	" 29	" 11	Do.	-	68·16	Do.
41	Name unknown	Do. -	Dec. 8	Case pending.	-	-	26·4	Do.
42	Do. -	Do. -	" 23	Dec. 24	Condemned	-	81·27	Do.

## X.—SLAVE TRADE NO. 1 (1876).

CORRESPONDENCE respecting the RECEPTION of FUGITIVE SLAVES on board HER MAJESTY'S SHIPS, presented to both Houses of Parliament by command of Her Majesty, 1876.

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## CORRESPONDENCE respecting the RECEPTION of FUGITIVE SLAVES on board Her Majesty's Ships.

No. 1.

SIR L. MALLET to LORD TENTERDEN.—(Received March 10.)

MY LORD,

India Office, March 9, 1874.

I AM directed by the Marquis of Salisbury to transmit to you, for the information of the Earl of Derby, the accompanying letter and inclosures recently received from the Government of India, relative to the reception, on board Her Majesty's ships of war, and, incidentally, on British vessels generally, of fugitive slaves; and I am to request that, in laying this correspondence before his Lordship, you will invite his attention to the desire expressed by the Government of India to be furnished with the instructions of Her Majesty's Government on the important questions of international law which it involves, and suggest to him whether it might not be expedient to obtain the opinion of the Law Officers of the Crown as to the reply to be given to the reference of the Viceroy in Council.

I am, &amp;c.

LOUIS MALLET.

Inclosure 1 in No. 1.

The GOVERNOR-GENERAL of INDIA in COUNCIL  
to the DUKE of ARGYLL.

MY LORD DUKE,

Fort William, January 9, 1874.

WE have the honour to inclose, for the consideration of Her Majesty's Government, correspondence relative to the reception of runaway slaves on board of British vessels.

2. Our letter, dated 7th January 1874, to the Resident in the Persian Gulf, contains the provisional instructions which we have issued on the subject, together with the reasons on which they are based; but as the question involves important considerations of international law, we refer the correspondence for the final orders of Her Majesty's Government.

We have, &amp;c.

NORTHBROOK.  
R. TEMPLE.  
B. H. ELLIS.  
H. W. NORMAN.  
A. HOBHOUSE.  
E. C. BAYLEY.

Inclosure 2 in No. 1.

The ACTING POLITICAL RESIDENT in the PERSIAN  
GULF to MR. AITCHISON.

Bushire, September 19, 1873.

I HAVE the honour to transmit herewith copies of letters from Major Grant, 1st Assistant Resident, and Captain Guthrie, commanding Her Majesty's despatch vessel "May Frere," B.M., on the subject of a runaway slave who took refuge on board the "May Frere."

2. It has appeared to me that Major Grant was right not to surrender the slave who had gained the "May Frere's" deck. I have informed him accordingly, adding that Commanders of Government vessels should be as far as possible disengaged from receiving domestic slaves on board their vessels.

3. In a letter, dated 17th July 1871, Colonel Pelly sought instructions from the Government of Bombay for his guidance in such cases. In their reply, dated 29th November 1871, the Government of Bombay quoted the opinion of the Honourable the Advocate-General to the following effect:—"The commander of a British ship of war is not bound to receive fugitive slaves on board his vessel; yet if he does receive them they become free. And the commander of a British man-of-war would not only be authorized in refusing to surrender a slave who had found refuge on board his vessel, but would incur very serious legal responsibilities if he in any way attempted to coerce that slave to return to his master." Copies of this correspondence are annexed to facilitate reference.\*

4. So far all seems clear. It is, however, necessary to consider the consequences which would ensue on an excessive exercise, in the Persian Gulf, of the powers vested

in Commanders of vessels-of-war. Nowhere would these be more serious than on the Pearl Banks, where the diving is carried on almost entirely by domestic slaves. An Arab owner may, for example, hire the services of a slave for the season for, say, 100 dollars. If the slave should find an opportunity to run off to a British vessel, one can easily understand the dismay of the master and the general feeling of consternation and disgust that would be caused by a frequent recurrence of such incidents. We should no longer be looked on as the friendly protectors of the maritime Arabs.

5. It seems to me highly advisable that every means should be taken to induce commanders of vessels, whenever practicable, to refuse to receive runaways on board, but this cannot always be done consistently with humanity.

6. I respectfully solicit the orders of Government on the special case now reported, and should be glad of any general instructions Government may be pleased to issue on the whole question raised.

Inclosure 3 in No. 1.

The FIRST ASSISTANT POLITICAL RESIDENT to the  
ACTING POLITICAL RESIDENT in the PERSIAN GULF.

Bahrein, September 3, 1873.

I HAVE the honour to inform you that whilst Her Majesty's despatch-vessel "May Frere" was lying at anchor to the lee of the uninhabited island of Zairkoo, on the night of the 31st August, a slave swam off from one of the pearl fishing-boats lying near and claimed protection. Mr. Guthrie, the officer commanding the "May Frere," referred the question of the propriety of granting the slave the protection he demanded to me; and I gave my opinion that the man, having once been admitted on board, he was entitled to the protection he claimed.

2. In giving this opinion I was guided, not by any definite instructions I had received on these matters, but by the precedent established by Colonel Pelly in the case of three slaves who swam from shore at Bushire to Her Majesty's Marine gun-boat "Hugh Rose" on or about the 15th August 1872. In this case Colonel Pelly instructed Mr. Campbell, the commanding officer of the "Hugh Rose," not to give the slaves up, though their restoration was demanded by their masters, and the ship was lying at the time in a Persian port. The slaves were brought to me at Bahrein, and I, under instructions from Colonel Pelly, sent them by mail steamer to the Commissioner of Police in Bombay.

3. I have no official documents to refer to in this matter, as I acted on a demi-official note of Colonel Pelly's, but I have no doubt that some correspondence on the subject must have taken place between Colonel Pelly and the Commander of the "Hugh Rose" at the time of the slaves having sought protection on board his ship.

4. I trust that my conduct in this case may meet with your approval. I would respectfully suggest that in the present state of the slave trade question it would be satisfactory to have some definite instructions from Government as to what class of slaves are entitled to receive protection on board British ships, as in both the cases mentioned in this letter the slaves who received protection seemed, without doubt, to come under the head of domestic slaves, and if domestic slaves are allowed to receive protection on board every English ship they come across, the owners will be great losers, and the pearl fishing will come to a standstill, as nearly all the divers belong to that class.

Inclosure 4 in No. 1.

The OFFICER COMMANDING the "MAY FRERE" to the  
ACTING POLITICAL RESIDENT in the PERSIAN  
GULF.

Bushire Roads, September 6, 1873.

I HAVE the honour to report the arrival of Her Majesty's despatch vessel "May Frere," B.M., with Major Grant, 1st Assistant Resident, on board, and to report as follows:—

2. Having embarked Major Grant, we left Bahrein on the 27th August last for Shargah; arrived there on the 29th at 5.55 a.m.; left for Debaye at 7.30 a.m., arrived at that place at 8.55 a.m.; left for Aboothabee at 2 p.m., arriving there on the 30th at 10 a.m.; left Aboothabee for Bahrein at 5 a.m.; on the 31st at 6.35 p.m. anchored

\* Inclosures 5 and 6 in No. 1.

under the island of Zukkool on account of bad weather; at 11 p.m. a slave swam on board from one of the 73 pearl boats at anchor there on account of bad weather; Major Grant decided we could not give him up, the slave having once got on board.

On learning this all the pearl boats weighed and put to sea in case it might be a second "Thetis" affair, we having discovered there were slaves on board the boats, or else to give the slaves a long swim for it if they were determined to try their luck and get on board of us.

Under the circumstances, as I was better able to keep the sea than the pearl boats, I thought it was not right to deprive them of their anchorage; I therefore weighed, and as soon as the boats saw me clear of the island they all returned to the anchorage.

We arrived at Bahrein at 5 p.m. on the 2nd instant, having on account of the weather taken 34 hours to do the distance we do in moderate weather in 20 hours.

The foundation of the maritime truce was peace at sea and protection to pearl boats.

Ships arrived on the banks during the season to prevent fights and quarrels in course of time. Rival tribes quarrelling at sea, instead of fighting, went on with their fishing side by side. One party said, "Ha! you well know we are in the dominions of the lord of the seas, and must keep quiet, or else you would not have so much to say, but wait until we get on shore."

The work was so effectually done that there has been no ship sent specially to the banks for years.

But should the trucial chiefs fear a breach among themselves, and require the presence of a ship of war, it would be rather awkward if the cruiser found out that one-third of the boat's crews were slaves, and if he seized them on account of the head money he would be entitled to for them, quoting as precedent "May Frere" carried a slave away from the pearl banks, and he was not given up.

One has actually to see to believe that there is such a large number of fishing boats among the shoals and islands betwixt Aboothabee and Ras-Rekkan.

We left Bahrein at 2 p.m. yesterday, with Major Grant on board, and arrived here at 9 p.m. to-day.

Name of slave, Joah, married; his wife and daughter at Debaye.

Name of owner of slave, Safe; inhabitant of and owner of the boat which belongs to Debaye.

Please what am I to do with the slave?

#### Inclosure 5 in No. 1.

The POLITICAL RESIDENT in the PERSIAN GULF to the SECRETARY to the GOVERNMENT of BOMBAY.

Bushire, July 17, 1871.

WHILE Her Majesty's ship "Magpie" was recently lying at anchor in the inner roads of Bushire two slaves introduced themselves on board.

2. Subsequently I received two letters of reclamation concerning these slaves, the one from the Persian Slave Commissioner, and the other from a British protected subject residing at Bushire.

3. It appeared from the letter of the Persian Slave Commissioner, and from its inclosure, that the slave referred to by him was the property of a Persian subject, and I considered that, under the terms of the documents marginally noted,\* we were precluded by positive agreement interfering directly or indirectly with slaves the property of Persians found within the territorial waters of Persia.

4. Accordingly I communicated with Commander Lodder, Senior Naval Officer of Her Majesty's ships present, and the slave reclaimed by the Persian Slave Commissioner was identified, sent on shore to the Residency, and duly transferred to the Slave Commissioner.

5. But I am requesting the slave agent to consider the slave as under his own surveillance and charge pending confirmation of proceedings by higher authority.

6. As regards the slave reclaimed by the British protected subject it appeared, on inquiry, that the slave was the property of the claimant's sister. I declined to interfere on her account, at the request of a British protected subject.

7. The slave not having been reclaimed by the Slave Commissioner, I caused him to be brought to the Residency and there set at liberty.

8. I trust my proceedings may be approved.

\* Hazeo Mirza Aghasee's letter to Her Britannic Majesty's Charge d'Affaires, dated June 12, 1848.

"The importation of slaves by sea alone is forbidden;" also Slave Convention, dated August 1851, and renewed under Article XIII. of Treaty of Paris, signed March 9, 1837.

9. A few evenings after the above occurrences other slaves came alongside Her Majesty's ship "Bullfinch," whose commander, as it was quite competent for him to do, declined receiving them on board.

10. But it is likely that cases may hereafter occur of slaves seeking refuge on Her Majesty's vessels of war, and I would, therefore, respectfully solicit instructions providing for this contingency.

1st. I presume that, as a general rule, a slave boarding one of Her Majesty's vessels without the limit of territorial waters (*id est*, beyond a sea league from the shore line, and without the line of the King's Chambers) would come under the law of the ship and be free.

2nd. Would the fact of the Persian Gulf being a narrow sea, almost wholly landlocked, give a riparian power territorial or other jurisdiction thereon beyond the distance of a sea league from the shore line, or should the gulf beyond the distance of a sea league from the shore line be considered as the high sea?

3rd. Apart from the provisions of any positive law or Treaty engagement in the case, would a British vessel of war be authorized in refusing to surrender a slave who might have found refuge on board such vessel of war, being at the time of the refugee's boarding her, within the territorial waters of the power reclaiming the slave.

#### Inclosure 6 in No. 1.

The ACTING SECRETARY to the GOVERNMENT of BOMBAY to the POLITICAL RESIDENT in the PERSIAN GULF.

Bombay Castle, November 29, 1871.

I AM directed to inform you that his Excellency in Council has consulted the law officers with reference to the questions contained in your letter of the 17th July last, paragraph 10, and that in their opinion—

1. The commander of a British ship-of-war is not bound to receive fugitive slaves on board his vessel, yet if he does receive them they become free.

2. The Honourable the Advocate-General states that he is not aware that the Persian Gulf has ever been diplomatically treated as a narrow sea. He would be sorry, without higher authority, to say anything which could be construed into an admission of the right of the riparian powers in the Persian Gulf; but if it is to be treated politically as a narrow sea, the legal consequence follows that it belongs to the surrounding territory or territories in as full and complete a manner as a fresh water lake, and that such riparian power has jurisdiction, *ad medium flum aquae*, without any limitation as to the distance of a marine league, in regard to merchant and private vessels.

3. The commanders of British men-of-war would not only be authorized in refusing to surrender a slave who had found refuge on board his vessel, but would incur very serious legal responsibilities if he in any way attempted to coerce that slave to return to his master.

#### Inclosure 7 in No. 1.

The ACTING POLITICAL RESIDENT IN THE PERSIAN GULF to MR. AITCHISON.

Bushire, September 19, 1873.

WITH reference to my previous letter of this date, concerning a runaway slave who took refuge on board the "May Frere," I have the honour to report that I have caused the slave to be sent to Bombay by the British India Steam Navigation Company's steamer "Calcutta" to the care of the Commissioner of Police, whom I have requested to solicit the instructions of the Bombay Government as to his disposal.

#### Inclosure 8 in No. 1.

The SECRETARY TO THE GOVERNMENT OF BOMBAY to MR. AITCHISON.

Bombay Castle, October 17, 1873.

I AM directed to submit the request of his Excellency the Governor in Council that this Government may be informed of the instructions which the Government of India may issue on the Report of the Political Resident, Persian Gulf, dated 19th ultimo, regarding a slave who took refuge on board the "May Frere."

#### Inclosure 9 in No. 1.

MR. AITCHISON to the ACTING POLITICAL RESIDENT IN THE PERSIAN GULF.

Fort William, January 7, 1874.

WITH reference to your letter dated 19th September last, regarding a runaway slave who took refuge on board the "May Frere," I am directed to inform you that as the

questions which you have put involve very important considerations of international law, the correspondence will be forwarded for the instructions of Her Majesty's Government. Meanwhile, until the orders of the Secretary of State are received, I am to communicate to you the views of his Excellency in Council, so far as he is in a position to form a judgment on the question, and these views may be considered as provisional instructions for your guidance.

2. As regards British ships on the high seas, there appears to be little difficulty. Whether the vessel is a national ship or a private one it is subject on the high seas to British law. Persons coming on board are subject to British law also, and slaves taking refuge on board therefore become free.

3. In the case of British vessels lying within the territorial waters of a friendly State where slavery still prevails, the question is more complicated.

4. British vessels so situated, which are not national ships but the property of private owners, are subject to the jurisdiction and law of the State within whose confines they are, at least, to take a restricted view, so far as regards acts done by those on board which affect the peace of the State or the persons and property of its subjects. Under these circumstances the master of a private British ship would not, in the opinion of his Excellency in Council, be justified in refusing to deliver up a runaway slave to his lawful owner or to the authorities of the State on proper demand being made.

5. Vessels of war, on the other hand, have certain privileges within the local jurisdiction of a foreign nation, and although the authorities are not very explicit on the subject, his Excellency in Council apprehends that the same principles would apply to national and public vessels of a peaceful character, and that certain privileges (*e.g.*, in regard to claims against the ship itself, to matters affecting its internal discipline and affairs, and possibly also to service of process on board and the like), would extend to such vessels as well as to men-of-war. But his Excellency in Council is of opinion that these privileges do not, even in the case of vessels of war, operate to set aside the law of the country to the injury of the inhabitants thereof. In the opinion of his Excellency in Council, therefore, Commanders of British national vessels ought, like masters of private British vessels, to give up fugitive slaves when duly demanded.

6. His Excellency in Council is disposed to think that, in the absence of any treaties or understanding with a foreign Power bearing expressly on the subject, the following rules may be provisionally adopted as a safe guide for the treatment of such cases as are likely to occur:—

- (a.) Commanders of ships riding in foreign territory should not receive domestic slaves on board except under urgent circumstances, as, *e.g.*, when a man would be drowned if he was rejected.
- (b.) They should return slaves to their lawful owners or to the public authorities of the place on proper demand being made.
- (c.) Commanders of ships which may be technically on the high seas, but practically are brought into close contact with the owners of domestic slaves, should do what they can to avoid receiving the slaves on board their vessels.
- (d.) If nevertheless, such slaves do come on board, the Commander may exercise a discretion whether to return the slave to his master, supposing proper demand to be made, or to retain him and set him at liberty.
- (e.) Commanders of vessels which are to all intents and purposes on the high seas, should freely receive fugitive slaves on board and set them at liberty on the first convenient opportunity.

7. Applying these rules to the case of the "May Frere" and the slave Joah, the first important question is, where was the ship when the slave came on board? If the island called Zairkoo, and said to be uninhabited, is also, as his Excellency in Council supposes it is, in the nature of a no-man's-land, the ship was for legal purposes on the high seas. Major Grant, therefore, was within his right when he refused to give up Joah, and Joah is now entitled to be set at liberty.

8. Whether there is anything peculiar in the position of the pearl fisheries so as to give them the character of national property does not appear. The questions arising in such a case as that of the "May Frere" may possibly be affected by the status of the fisheries, though probably they would not be.

9. In paragraph 10 of his letter of 17th July 1871, Colonel Pelly has raised a question about the legal position of the Persian Gulf which, if the case is not affected by any negotiations or prior proceedings, does not seem to his

Excellency in Council very difficult to answer. In the opinion of his Excellency in Council a water so large as the Persian Gulf, the shores of which are owned by different nations, should be treated as a high sea at the usual distance from the shore.

## No. 2.

MR. BOURKE to the SECRETARY TO THE ADMIRALTY.

SIR, Foreign Office, April 30, 1875.

A QUESTION has recently been raised by the Government of India as to how far officers in command of Her Majesty's ships are justified in receiving on board fugitive slaves who, escaping from their masters, may claim the protection of the British flag. Such cases, as the Lords of the Admiralty are doubtless aware, are of frequent occurrence on the East Coast of Africa, on the Hadramaut coast, and in the Persian Gulf, and may be divided into three classes:—

First. Where slaves come on board a ship or boat in harbour, or within territorial waters, either to escape from the alleged cruelty of their masters, or to avoid the consequences of their misdeeds.

Secondly. Where the British ship or boat is on the high seas, and the refugee slave, escaping, perhaps, from a dhow also at sea, would be in danger of losing his life were he not received on board.

Thirdly. Where a person has been detained on shore in a state of slavery, and, escaping to a British ship or boat, claims protection on the ground that he has been so detained contrary to treaties existing between Great Britain and the country from the shores of which he escapes, as in the case of territories which, like Oman, Madagascar, and Johanna, are partially free.

The broad rule to be observed in this question appears to be that a fugitive slave should not be permanently received on board any description of ship under the British flag, unless his life would be endangered if he were not allowed to come on board. The reason for this rule is that, were it otherwise, the practical result would be, in the first instance, to encourage and assist a breach of the law of the country, and next to protect the person breaking that law. And a contrary rule would lead to endless disputes and difficulties with the legal masters of slaves; for it might happen, to take an extreme instance, that the whole slave portion of the crews of vessels engaged in the pearl fishery in the Persian Gulf might take refuge on board British ships; and, if free there, their masters would be entirely ruined, and the mistrust and hatred caused in their minds would be greatly prejudicial to British interests.

Such, then, being the general and broad rule, it remains to apply it, so far as possible, to the three classes of cases mentioned above.

In the first class, the slave must not be allowed to remain on board after it has been proved to the satisfaction of the officer in command that he is legally a slave.

In the second, the slave should be retained on board on the ground that, on the high seas, the British vessel is a part of the dominions of the Queen; but when the vessel returns within the territorial limits of the country from a vessel of which the slave has escaped, he will be liable to be surrendered, on demand being made, supported by necessary proofs.

In the third class, a negro might claim protection on the ground that being, by the terms of a Treaty, free, he was nevertheless being detained as a slave. It would then become the duty of the commanding officer to satisfy himself as to the truth of this statement, and to be guided in his subsequent proceedings in regard to such person by the result of his inquiries, and the law which would then affect the case. Those interested in maintaining the slavery of the person claiming his freedom should assist at the inquiry; and in the event of his claim being established, the local authorities should be requested to take steps to ensure his not relapsing into slavery.

It will thus be seen that, as a general principle, care should be taken that slaves are not misled into the belief that they will find their liberty by getting under the British flag afloat, or induced by the presence of a British ship to leave their own ships, if at sea, or their employment, if on shore.

The Earl of Derby has arrived at the opinion above expressed, after consulting the Law Officers of the Crown, and I am directed by his Lordship to request, that in communicating his Lordship's views on this question to the Lords Commissioners of the Admiralty, you will suggest to their Lordships that instructions in this sense should

be issued to the Naval Officers of the East India Squadron, to whose discretion Lord Derby fully trusts for the execution of what may sometimes prove a difficult duty.

I am, &c.  
ROBERT BOURKE.

No. 3.

THE SECRETARY TO THE ADMIRALTY TO MR. BOURKE.  
(Received May 12, 1875.)

SIR, Admiralty, May 11, 1875.  
WITH reference to your letter of 30th ultimo, relative to the reception and retention on board Her Majesty's ships of fugitive slaves claiming the protection of the British flag, I am commanded by my Lords Commissioners of the Admiralty to request that you will inform the Earl of Derby that the instructions based on the above-mentioned letter have been sent to the Commander-in-chief on the East India Station, and that my Lords would be glad to be informed whether the Secretary of State wishes similar instructions to be issued to other foreign naval stations.

I am, &c.  
ROBERT HALL.

No. 4.

MR. BOURKE TO THE SECRETARY TO THE ADMIRALTY.

SIR, Foreign Office, May 21, 1875.  
IN reply to your letter of the 11th instant, I am directed by the Earl of Derby to request that you will state to the Lords Commissioners of the Admiralty that in his Lordship's opinion it would be as well that the proposed instructions to naval officers respecting the reception on board ship of fugitive slaves should be communicated to all the foreign naval stations for the general information of commanding officers.

I am, &c.  
ROBERT BOURKE.

No. 5.

THE SECRETARY TO THE ADMIRALTY TO MR. BOURKE.  
(Received June 28.)

SIR, Admiralty, June 25, 1875.  
WITH reference to your letters of the 30th April last, and 21st ultimo, I am commanded by my Lords Commissioners of the Admiralty to transmit, for the perusal of the Secretary of State for Foreign Affairs, a printed draft of a Circular Order which it is proposed to issue to the commanding officers of Her Majesty's ships on the subject of the reception of fugitive slaves on board the vessels under their command.

2. The Earl of Derby will observe that the Circular has been drawn up in accordance with the proposals contained in your letter of the 30th April, but my Lords would propose, for the consideration of his Lordship, that a paragraph should be added to these instructions to the following effect:—

“In surrendering a fugitive slave, the commanding officer is to exercise his discretion in endeavouring, according to the circumstances of the case, to obtain an assurance that the slave will not be treated with undue severity.”

I am, &c.  
ROBERT HALL.

Inclosure in No. 5.

DRAFT OF CIRCULAR.

(Reception of Fugitive Slave.)

Admiralty, June , 1875.  
MY Lords Commissioners of the Admiralty are pleased to issue the following instructions with reference to the question, how far officers in command of Her Majesty's ships are justified in receiving on board fugitive slaves, who, escaping from their masters, may claim the protection of the British flag.

1. Cases of this kind may be divided into three classes:—

I. Where slaves come on board a ship or boat in harbour, or within territorial waters, either to escape from the

alleged cruelty of their masters, or to avoid the consequences of their misdeeds.

II. Where the British ship or boat is on the high seas, and the refugee slave escaping, perhaps, from a vessel also at sea, would be in danger of losing his life were he not received on board.

III. Where a person has been detained on shore in a state of slavery, and escaping to a British ship or boat, claims British protection on the ground that he has been so detained contrary to treaties existing between Great Britain and the country from the shores of which he escapes, as in the case of territories which, like Oman, Madagascar, and Johanna, are partially free.

2. The broad rule to be observed is, that a fugitive slave should not be permanently received on board any description of ship under the British flag, unless his life would be endangered if he were not allowed to come on board. The reason for this rule is, that, were it otherwise, the practical result would be, in the first instance, to encourage and assist a breach of the law of the country, and next, to protect the person breaking that law. And a contrary rule would lead to endless disputes and difficulties with the legal masters of slaves; for it might happen, to take an extreme instance, that the whole slave portion of the crews of vessels engaged in the pearl fishery in the Persian Gulf, might take refuge on board British ships, and if free there, their masters would be entirely ruined, and the mistrust and hatred caused in their minds would be greatly prejudicial to British interests.

3. Such being the general and broad rule, it remains to apply it, as far as possible, to the three classes of cases mentioned above.

In the first class, the slave must not be allowed to remain on board after it has been proved to the satisfaction of the officer in command that he is legally a slave.

In the second, the slave should be retained on board on the ground that on the high seas the British vessel is a part of the dominions of the Queen, but when the vessel returns within the territorial limits of the country from a vessel of which the slave has escaped, he will be liable to be surrendered on demand being made, supported by necessary proofs.

In the third class, a negro might claim protection on the ground that being by the terms of a Treaty free, he was nevertheless being detained as a slave. It would then become the duty of the Commanding Officer to satisfy himself as to the truth of this statement, and to be guided in his subsequent proceedings in regard to such person by the result of his inquiries, and the law which would then affect the case. Those interested in maintaining the slavery of the person claiming his freedom should assist at the inquiry, and in the event of his claim being established, the local authorities should be requested to take steps to ensure his not relapsing into slavery.

4. As a general principle, care should be taken that slaves are not misled into the belief that they will find their liberty by getting under the British flag afloat, or induced by the presence of a British ship to leave their own ships, if at sea, or their employment, if on shore.

5. A special Report is to be made of every case of a fugitive slave seeking refuge on board one of Her Majesty's ships.

6. The above instructions are also to be considered part of the “General Slave Instructions,” and to be inserted at page 29 of that volume, with a heading of “Receipt of Fugitive Slaves.”

By command of their Lordships.

To all Commanders-in-Chief,  
Captains, Commanders,  
and Commanding Officers  
of Her Majesty's ships  
and vessels.

No. 6.

MR. BOURKE TO THE SECRETARY TO THE ADMIRALTY.

SIR, Foreign Office, July 22, 1875.  
WITH reference to your letter of the 25th ultimo, I am directed by the Earl of Derby to request that you will state to the Lords Commissioners of the Admiralty that his Lordship sees no objection to the addition of the paragraph beginning “In surrendering,” and ending with “undue severity,” to the Circular respecting fugitive

slaves which their Lordships propose to issue to the commanding officers of Her Majesty's ships.

I am, &c.

ROBERT BOURKE.

No. 7.

CIRCULAR No. 33.

Admiralty, July 31, 1875.

(Reception of Fugitive Slaves.)

MY Lords Commissioners of the Admiralty are pleased to issue the following instructions with reference to the question how far officers in command of Her Majesty's ships are justified in receiving on board fugitive slaves, who, escaping from their masters, may claim the protection of the British flag.

1. Cases of this kind may be divided into three classes:—

- I. Where slaves come on board a ship or boat in harbour, or within territorial waters, either to escape from the alleged cruelty of their masters, or to avoid the consequences of their misdeeds.
- II. Where the British ship or boat is on the high seas, and the refugee slave, escaping, perhaps, from a vessel also at sea, would be in danger of losing his life were he not received on board.
- III. Where a person has been detained on shore in a state of slavery, and escaping to a British ship or boat, claims British protection on the ground that he has been so detained contrary to treaties existing between Great Britain and the country from the shores of which he escapes, as in the case of territories which, like Oman, Madagascar, and Johanna, are partially free.

2. The broad rule to be observed is, that a fugitive slave should not be permanently received on board any description of ship under the British flag, unless his life would be endangered if he were not allowed to come on board. The reason for this rule is, that were it otherwise, the practical result would be, in the first instance, to encourage and assist a breach of the law of the country, and next, to protect the person breaking that law. And a contrary rule would lead to endless disputes and difficulties with the legal masters of slaves; for it might happen, to take an extreme instance, that the whole slave portion of the crews of vessels engaged in the pearl fishery in the Persian Gulf, might take refuge on board British ships, and if free there, their masters would be entirely ruined, and the mistrust and hatred caused in their minds would be greatly prejudicial to British interests.

3. Such being the general and broad rule, it remains to apply it, as far as possible, to the three classes of cases mentioned above.

In the first class, the slave must not be allowed to remain on board after it has been proved to the satisfaction of the officer in command that he is legally a slave.

In the second, the slave should be retained on board on the ground that on the high seas the British vessel is a part of the dominions of the Queen, but when the vessel returns within the territorial limits of the country from a vessel of which the slave has escaped, he will be liable to be surrendered on demand being made, supported by necessary proofs.

In the third class, a negro might claim protection on the ground that being by the terms of a treaty free, he was nevertheless being detained as a slave. It would then become the duty of the commanding officer to satisfy himself as to the truth of this statement, and to be guided in his subsequent proceedings in regard to such person by the result of his inquiries, and the law which would then affect the case. Those interested in maintaining the slavery of the person claiming his freedom should assist at the inquiry, and in the event of his claim being established, the local authorities should be requested to take steps to ensure his not relapsing into slavery.

4. As a general principle, care should be taken that slaves are not misled into the belief that they will find their liberty by getting under the British flag afloat, or induced by the presence of a British ship to leave their own ships, if at sea, or their employment if on shore.

5. When surrendering fugitive slaves, commanding officers should exercise their discretion in endeavouring, according to the circumstances of each case, to obtain an assurance that the slaves will not be treated with undue severity.

6. A special report is to be made of every case of a fugitive slave seeking refuge on board one of Her Majesty's ships.

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7. The above instructions are also to be part of the General Slave Trade Instructions, and to be inserted at page 29 of that volume, with a heading of "Receipt of Fugitive Slaves."

By command of their Lordships,

ROBERT HALL.

To all Commanders-in-Chief,  
Captains, Commanders,  
and Commanding Officers  
of Her Majesty's ships and  
vessels.

No. 8.

MR. BOURKE to the SECRETARY to the ADMIRALTY.

SIR, Foreign Office, October 6, 1875.  
WITH reference to the letter addressed to the Admiralty from this Department on the 30th of April last, on the subject of the reception of fugitive slaves on board British ships of war, I am directed by the Earl of Derby to request that you will move their Lordships to give directions that any instructions which their Lordships may have issued on this subject may be suspended until a further communication is addressed to the Admiralty from this Department.

I am, &c.

ROBERT BOURKE.

No. 9.

The SECRETARY to the ADMIRALTY to MR. BOURKE.—  
(Received October 12.)

SIR, Admiralty, October 8, 1875.  
WITH reference to your letter of the 6th instant, I am commanded by my Lords Commissioners of the Admiralty to acquaint you that, in conformity with the Earl of Derby's wishes, the Circular of the 31st July last, relative to fugitive slaves, has been suspended.

I am, &c.

ROBERT HALL.

No. 10.

LORD TENTERDEN to the SECRETARY to the  
ADMIRALTY.

SIR, Foreign Office, November 4, 1875.  
WITH reference to your letter of the 8th ultimo, stating that, in compliance with the Earl of Derby's wishes, the Circular of the 31st of July last, relative to fugitive slaves, has been suspended, I am directed by his Lordship to request that you will state to the Lords Commissioners of the Admiralty that it has been decided by the Cabinet that the Circular should be withdrawn.

I am, &c.

TENTERDEN.

No. 11.

MR. BOURKE to the SECRETARY to the ADMIRALTY.

SIR, Foreign Office, November 23, 1875.  
WITH reference to the letters addressed to the Admiralty from this Department on the 6th of October last and the 4th instant, I am directed by the Earl of Derby to transmit to you, to be laid before the Lords Commissioners of the Admiralty, the accompanying draft of Amended Instructions to be issued for the guidance of the Commanders of Her Majesty's ships of war with reference to the reception of fugitive slaves on board Her Majesty's ships.

I am, &c.

ROBERT BOURKE.

Enclosure in No. 11.

*Instructions for the Guidance of Her Majesty's Ships of War.*

By the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland.

THE following Instructions are to be considered part of the General Slave Trade Instructions, and to be inserted at page 29 of that volume, with the heading of "Receipt of Fugitive Slaves," but they are also intended for



the guidance of Commanders of Her Majesty's ships generally:—

93 A. When any person professing or appearing to be a fugitive slave seeks admission to your ship on the high seas, beyond the limit of territorial waters, and claims the protection of the British flag, you will bear in mind that, although Her Majesty's Government are desirous by every means in their power to remove or mitigate the evils of slavery, yet Her Majesty's ships are not intended for the reception of persons other than their officers and crew. You will satisfy yourself, therefore, before receiving the fugitive on board, that there is some sufficient reason in the particular case for thus receiving him.

93 B. In any case in which, for reasons which you deem adequate, you have received a fugitive slave into your ship, and taken him under the protection of the British flag upon the high seas, beyond the limit of territorial waters, you should retain him in your ship, if he desires to remain, until you have landed him in some country, or transferred him to some other ship, where his liberty will be recognized and respected.

93 C. Within the territorial waters of a foreign State you are bound by the comity of nations, while maintaining the proper exemption of your ship from local jurisdiction, not to allow her to become a shelter for those who would be chargeable with a violation of the law of the place. If, therefore, while your ship is within the territorial waters of a State where slavery exists, a person professing or appearing to be a fugitive slave seeks admission into your ship, you will not admit him, unless his life would be in manifest danger if he were not received on board. Should you, in order to save him from this danger, receive him, you ought not, after the danger is past, to permit him to continue on board; but you will not entertain any demand for his surrender, or enter into any examination as to his status.

93 D. If, while your ship is in the territorial waters of any Chief or State in Arabia, or on the shores of the Persian Gulf, or on the East Coast of Africa, or in any island lying off Arabia, or off such coasts or shores, including Zanzibar, Madagascar, and the Comoro Islands, any person should claim admission to your ship and protection on the ground that he has been kept in a state of slavery contrary to treaties existing between Great Britain and the territory, you may receive him until the truth of his statement is examined into. In making this examination it is desirable that you should be guided in your subsequent proceedings by the result of the examination. In any case of doubt or difficulty you should apply for further instructions either to the senior officer of your division, or the Commander-in-Chief, who will, if necessary, refer to the Admiralty.

93 E. A special report is to be made of every case of a fugitive slave seeking refuge on board your ship.

No. 12.

The SECRETARY to the ADMIRALTY to MR. BOURKE.  
(Received December 23.)

SIR, Admiralty, December 23, 1875.

IN reply to your letter of the 23rd ultimo, transmitting draft of Amended Instructions for the guidance of Commanders of Her Majesty's ships with reference to the reception of fugitive slaves, I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of the Secretary of State for Foreign Affairs, that these Instructions have now been issued in the form of a Circular (copies inclosed) to all Commanders-in-Chief, Captains, Commanders, and Commanding Officers of Her Majesty's ships and vessels.

I am, &c.  
ROBERT HALL.

Enclosure in No. 12.

Circular No. 51.

Admiralty, December 5, 1875.

*Receipt of Fugitive Slaves.*

My Lords Commissioners of the Admiralty are pleased to issue the following Instructions for the guidance of the Commanders of Her Majesty's ships in reference to the receipt of fugitive slaves.

These Instructions are to be considered part of the General Slave Trade Instructions, and to be inserted at page 29 of that volume, with the heading of "Receipt of Fugitive Slaves," but they are also intended for the guidance of Commanders of Her Majesty's ships generally.

93 A. When any person professing or appearing to be a fugitive slave seeks admission to your ship on the high seas, beyond the limit of territorial waters, and claims the protection of the British flag, you will bear in mind that, although Her Majesty's Government are desirous by every means in their power to remove or mitigate the evils of slavery, yet Her Majesty's ships are not intended for the reception of persons other than their officers and crew. You will satisfy yourself, therefore, before receiving the fugitive on board, that there is some sufficient reason in the particular case for thus receiving him.

93 B. In any case in which, for reasons which you deem adequate, you have received a fugitive slave into your ship, and taken him under the protection of the British flag upon the high seas, beyond the limit of territorial waters, you should retain him in your ship, if he desires to remain, until you have landed him in some country, or transferred him to some other ship, where his liberty will be recognized and respected.

93 C. Within the territorial waters of a foreign State you are bound, by the comity of nations, while maintaining the proper exemption of your ship from local jurisdiction, nor to allow her to become a shelter for those who would be chargeable with a violation of the law of the place. If, therefore, while your ship is within the territorial waters of a State where slavery exists, a person professing or appearing to be a fugitive slave seeks admission into your ship, you will not admit him, unless his life would be in manifest danger if he were not received on board. Should you, in order to save him from this danger, receive him, you ought not, after the danger is past, to permit him to continue on board; but you will not entertain any demand for his surrender, or enter into any examination as to his status.

93 D. If, while your ship is in the territorial waters of any Chief or State in Arabia, or on the shores of the Persian Gulf, or on the East Coast of Africa, or in any island lying off Arabia, or off such coasts or shores, including Zanzibar, Madagascar, and the Comoro Islands, any person should claim admission to your ship and protection on the ground that he has been kept in a state of slavery contrary to treaties existing between Great Britain and the territory, you may receive him until the truth of his statement is examined into. In making this examination, it is desirable that you should communicate with the nearest British Consular authority, and you should be guided in your subsequent proceedings by the result of the examination. In any case of doubt or difficulty, you should apply for further instructions either to the Senior Officer of your Division, or the Commander-in-Chief, who will, if necessary, refer to the Admiralty.

93 E. A special report is to be made of every case of a fugitive slave seeking refuge on board your ship.

By command of their Lordships,  
VERNON LUSHINGTON.

To all Commanders-in-Chief,  
Captains, Commanders, and  
Commanding Officers of  
Her Majesty's Ships and  
Vessels.

## APPENDIX.

No. 1.

HER MAJESTY'S COMMISSIONERS to VISCOUNT  
PALMERSTON.—(Received December 15.)

MY LORD, Havana, October 10, 1837.  
We have the honour to inclose copies of a correspondence which has passed between us and Lieutenant Jenkin, commanding Her Majesty's ship "Romney,"

stationed at this place, relative to a negro who had secreted himself on board that vessel, and whom Lieutenant Jenkin had given up to the local authorities.

We have, &c.

J. KENNEDY,  
EDWARD W. H. SCHENLEY.

## Inclosure 1 in No. 1.

LIEUTENANT JENKIN to HER MAJESTY'S  
COMMISSIONERS.

GENTLEMEN,

"Romney," Havana,  
October 5, 1837.

I HAVE the honour to acquaint you with the following occurrence which took place on board Her Majesty's ship "Romney," under my command, on Tuesday, the 3rd of October, in the afternoon:—

A boat, with the parties who had been appointed by the Commission to break up the condemned schooner "Antonica" came on board the "Romney," and, it appears, brought with them a negro, who did not return with the boat, but secreted himself on board this ship. About half-an-hour after the boat had left the ship, it was reported to me that a person was on board who objected to quit the ship.

On my making the necessary inquiry into his situation and condition, I learnt from himself that he was a slave belonging to the Havana, who had escaped from his mistress to avoid punishment, and that he sought protection on board Her Britannic Majesty's ship.

My instructions strictly inculcating that I should cultivate a good understanding with the authorities, and in no way authorising me to afford the sought-for protection, I immediately placed the slave under the charge of an officer, to deliver him over to the authorities of the Havana, from whom I have received a paper acknowledging the receipt of the slave in question.

I have, &amp;c.

CHARLES JENKIN.

## Inclosure 2 in No. 1.

HER MAJESTY'S COMMISSIONERS to LIEUTENANT  
JENKIN.

SIR,

Havana, October 9, 1837.

WE have the honour to acknowledge having received your note dated the 5th instant, informing us of a slave belonging to the Havana having secreted himself on board Her Majesty's ship "Romney," stationed at this port, under your command; and we have no hesitation in expressing our opinion that Her Majesty's Government will approve of your conduct in immediately giving him up to the local authorities, as being at the same time fully in accordance with your instructions, and also as avoiding a dangerous subject of dispute, to entrap you into which it is not improbable that the man was sent by certain persons in this place.

We have, &amp;c.

J. KENNEDY.

EDWARD W. H. SCHENLEY.

## No. 2.

VISCOUNT PALMERSTON to HER MAJESTY'S  
COMMISSIONERS.

GENTLEMEN,

Foreign Office, January 5, 1838.

I HAVE received your despatches to that of the 27th of November last, inclusive.

With reference to your despatch of the 10th October, containing your correspondence with Lieutenant Jenkin, commanding the "Romney" hulk, relative to a negro who had secreted himself on board that vessel, and whom Lieutenant Jenkin had given up to the local authorities, I have to acquaint you that the course pursued by Lieutenant Jenkin in this case appears to me to have been right and proper.

I am, &amp;c.

PALMERSTON.

## No. 3.

VISCOUNT PALMERSTON to SIR G. VILLIERS.

SIR,

Foreign Office, January 6, 1838.

I HEREWITH transmit, for your information, the copy of a despatch and its enclosures, from Her Majesty's Commissioners at the Havana,\* containing their correspondence with Lieutenant Jenkin, in command of Her Majesty's hulk "Romney," upon the subject of a negro who had secreted himself on board that vessel, and whom Lieutenant Jenkin had given up to the proper authorities at the Havana.

I also inclose a copy of the despatch which I have addressed to Her Majesty's Commissioners upon the subject,†

\* No. 1.

† No. 2.

by which you will learn that I approve of the course pursued by Lieutenant Jenkin in this case; and I have to instruct you to communicate these papers to the Spanish Government.

I am, &amp;c.

PALMERSTON.

## No. 4.

SIR G. VILLIERS to VISCOUNT PALMERSTON.—  
(Received February 6.)

MY LORD,

Madrid, January 27, 1838.

I HAVE had the honour to receive your Lordship's despatch of the 6th January of the present year.

I enclose a copy of the note which, in obedience to the instructions contained in that despatch, I have addressed to Count Ofalia respecting the negro slave who had secreted himself on board Her Majesty's ship "Romney" at the Havana.

I have, &amp;c.

GEORGE VILLIERS.

## Inclosure in No. 4.

SIR G. VILLIERS to COUNT OFALIA.

SIR,

Madrid, January 25, 1838.

I HAVE the honour to inform your Excellency that I have received the instructions of my Government to communicate to the Government of Her Catholic Majesty the inclosed papers, forming the correspondence which has taken place respecting a slave who took refuge on board the "Romney," Her Britannic Majesty's receiving ship lying at the Havana.

Your Excellency will find that Lieutenant Jenkin, commanding the "Romney," immediately on learning the fact, sent the slave on shore in charge of an officer with instructions to deliver him up to the authorities, and that he is in possession of a written document from them, proving that his orders were obeyed.

Your Excellency will also perceive that the conduct of Lieutenant Jenkin has been formally approved by Her Britannic Majesty's Minister for Foreign Affairs, Viscount Palmerston, who characterises it as right and proper.

I have, &amp;c.

GEORGE VILLIERS.

## No. 5.

MR. HUDSON to VISCOUNT PALMERSTON.—  
(Received August 13.)

MY LORD,

Rio de Janeiro, July 14, 1851.

I HAVE the honour to transmit to your Lordship the copy of a letter which has been addressed to me by Rear-Admiral Reynolds, Commander-in-Chief of Her Majesty's naval forces on this station, relative to a negro who made his way on board Her Majesty's ship "Conflict" near Bahia, and was subsequently discharged into Her Majesty's receiving ship "Crescent" in this harbour.

Admiral Reynolds having asked my opinion respecting the disposal of this negro, I desired Her Majesty's Consul for this port to determine whether this negro is, or not, an African born. I have the honour to inclose a copy of Mr. Consul Hesketh's opinion upon this point, from which your Lordship will perceive that this negro is an African of the tribe of Mina.

I have therefore the honour to request your Lordship's instructions as to the disposal of this African.

I have, &amp;c.

JAMES HUDSON.

## Inclosure 1 in No. 5.

REAR-ADMIRAL REYNOLDS to MR. HUDSON.

"Southampton," at Rio de Janeiro,  
May 8, 1851.

SIR,

I HAVE the honour to transmit to your Excellency a letter from Commander Drake, relative to a negro (whose name is given as Tom Pepper) having found his way on board the "Conflict" at Bahia.

By the "Sharpshooter" I have received a second letter from Commander Drake, stating that no claimant having appeared for the negro, he had sent him to be discharged to the "Crescent" as a liberated African.

I disapproved of the reception of this person on board

of the "Conflict," but under the circumstances, I shall feel obliged by your Excellency's opinion as to what should be done with him.

I have, &c.  
B. REYNOLDS.

Inclosure 2 in No. 5.

COMMANDER DRAKE to REAR-ADMIRAL REYNOLDS.

SIR, "Conflict," Bahia, March 31, 1851.

I HAVE the honour to inform you that at midnight, on the 13th instant, when Her Majesty's ship under my command was at anchor at Morro de St. Paulo, a negro made his way on board the ship and begged for protection; he states, as far as I can understand, that he has only been seven months in the country.

Having got on board the ship, and the canoe he came in having gone adrift, I did not know what to do with him, and have therefore retained him on board, and await your instructions with regard to his disposal.

I have, &c.  
F. G. DRAKE.

Inclosure 3 in No. 5.

CONSUL HESKETH to MR. HUDSON.

SIR, Rio de Janeiro, July 2, 1851.

IN compliance with your directions, I have been on board Her Majesty's ship "Crescent," and seen the negro there under the name of "Tom Pepper,"

He is an African, and understands more of English than of the Portuguese language, but in truth very little of either; with the assistance of another negro I ascertained that he had been landed at Bahia from the vessel which brought him from Africa, about seven months before he escaped from an estate near Cachoeira called Valencixo, belonging to a man he called "Senhor Chico," and that he is a "Mina" negro.

His looks confirm this statement; he appears about twenty years of age, and is strong and healthy.

I have, &c.  
ROBERT HESKETH.

No. 6.

VISCOUNT PALMERSTON to MR. HUDSON.

SIR, Foreign Office, August 20, 1851.

I HAVE received and laid before the Queen your despatch of the 14th ultimo, in which you request instructions respecting the disposal of a recently imported negro, by name Tom Pepper, who contrived to get on board Her Majesty's ship "Conflict," at Bahia, on the 13th of March last, and who was subsequently placed on board Her Majesty's ship "Crescent."

I have, in reply, to desire that you will instruct Her Majesty's Consul to send this man by the first opportunity to some British Settlement.

I am, &c.  
PALMERSTON.

No. 7.

MR. JERNINGHAM to the EARL OF CLARENDON.—  
(Received April 12).

MY LORD, Rio de Janeiro, March 7, 1856.

I BEG to forward to your Lordship copies of two notes which I addressed, in the month of January last, to Senhor Paranhos, respecting the case of a British subject, Captain Sandys, of an English vessel called the "Danube," who was accused of having enticed away and harboured two slaves, the property of persons residing in Rio de Janeiro.

I made this representation to the Imperial Government in consequence of the application of Mr. Rowland Cox, the consignee of the vessel, who, being under the impression that Captain Sandys had been arrested, was exceedingly anxious to curtail the delay that the imprisonment of this person would occasion in the voyage of the "Danube" to her ulterior destination.

I therefore begged the Imperial Government to hasten the judicial investigation.

However, it appears, after all, that the owners of the slaves having recovered their property through the medium of the police, all further judicial proceedings were dropped; and the "Danube" proceeded on her voyage.

I will not make any remark on the innocence or culpability of the captain in question. He affirmed that these slaves came on board his vessel, and that they would not leave it; and he appears also to have acquainted the "Capitania" of this Port with something of the matter, inquiring at that office, whether any impediment would be put in the way of his leaving Rio, since a police boat had put off to look for a slave who had proceeded on board his vessel and hidden himself unknown to anyone, which his Excellency Senhor Paranhos himself states in his note, copy of which I now beg to forward to your Lordship.

Annexed to Senhor Paranhos' note is copy of a representation of thirty-two slave-owners to the Chief of Police of Rio de Janeiro, complaining against the proceedings of certain English captains (Captain Sandys amongst the rest), who, they state, had attempted to entice away and have even carried off three slaves, the property of persons in this city.

As his Excellency invites Her Majesty's Legation to co-operate with the Imperial Government, as far as it is in its power, to prevent a recurrence of such a violation of the law, I have answered his Excellency in a note, copy of which is herein inclosed, that I would write to Her Majesty's Consuls at the different stations in Brazil, which I have accordingly done, begging of them to warn all captains of British merchantmen against a practice which submits them, if discovered, to very severe legal penalties; and that it would be well, before they received any blacks or mulattoes on board their vessels, to make them produce legal certificates of freedom.

I have, &c.  
WM. STAFFORD JERNINGHAM.

Inclosure 1 in No. 7.

MR. JERNINGHAM to SENHOR PARANHOS.

EXCELLENT SIR, Rio de Janeiro, January 19, 1856.

I was applied to this day by Mr. Rowland Cox, consignee of an English vessel called the "Danube," which brought hither from England materials for the railroad of Pedro II, in consequence of her Captain, named Robert Sandys, being arrested and put into prison just as the ship was proceeding hence on her voyage to her ultimate destination.

It appears that two slaves belonging to some one here went on board the "Danube," by some means or other, and the Captain, wanting to put them away from his ship, the poor creatures refused to leave the vessel.

It seems afterwards that the vessel was searched by the police, and that these slaves were found somewhere hidden up, most likely concealing themselves, from the terror of falling again into the hands of their masters.

The Captain states he reported the fact of slaves being on board his vessel to the "Capitania," and if such be the case, it would seem that the charge of having seduced these slaves away from their masters cannot be brought against him.

In consequence, however, of the arrest of Captain Sandys, the "Danube," which has other engagements to fulfil, has been detained here, and prevented proceeding on her voyage; and I must therefore beg of your Excellency to have the goodness to cause the utmost despatch to be used in the investigation of this case and, if Captain Sandys be found innocent, as he most likely is, to have him immediately set at liberty to resume the command of his ship.

I avail, &c.  
W. S. JERNINGHAM.

Inclosure 2 in No. 7.

MR. JERNINGHAM to SENHOR PARANHOS.

EXCELLENT SIR, Rio de Janeiro, January 23, 1856.

WITH reference to the note which I had the honour to address to your Excellency on the 19th instant, respecting the arrest of a British subject, Captain Sandys, of the "Danube," merchant vessel, for the alleged imputation of having seduced two slaves on board his ship, with the supposed intent of carrying them away, I beg to state that the consignee of the "Danube" in Rio de Janeiro has informed me that the "Danube" left this port with her master, Captain Sandys, on board, and that he has been unable, upon inquiry, to find any trace of his being detained a prisoner.

At the same time I beg to forward to your Excellency copy of a letter which I have received from Mr. Rowland Cox, the gentleman who applied for the assistance of Her Majesty's Legation in this affair. It seems that the order

to arrest Captain Sandys was issued by the Chief of Police, but before it could be put into execution the "Danube" had sailed from Rio de Janeiro for her destination.

I avail, &c.

W. S. JERNINGHAM.

Inclosure 3 in No. 7.

SENHOR PARANHOS to MR. JERNINGHAM.

(Translation.)

Ministry of Foreign Affairs, Rio de Janeiro,  
February 12, 1856.

THE undersigned, &c., had the honour to receive the notes which Mr. William Stafford Jerningham, &c., addressed to him, and dated the 19th and 23rd of last month.

In the former, Mr. Jerningham communicated that the captain of the English vessel "Danube," which had brought materials from England for the railroad "Pedro II.," had been detained and sent to prison when that vessel was about to proceed on her ulterior destination.

Mr. Jerningham mentions the circumstances which could have given rise to that proceeding against the captain in the following manner:—

Two slaves belonging to some one in this city succeeded in introducing themselves on board the "Danube," and the captain, wishing to turn them out, they refused to go.

It appears that after that the police searched the vessel, and those two slaves were found on board in some place where they had hidden themselves, doubtless through the fear of falling again into the hands of their owners.

The captain asserted that he had informed the Captain of the Port of the fact of those slaves being on board his vessel, and, if this were true, he could not be accused of having seduced them from their owners.

In consequence, however, of the imprisonment of the captain, the "Danube," which had duties to perform, was detained, and prevented from proceeding on her voyage.

Mr. Jerningham concluded this note in requesting the undersigned to hasten the necessary investigations, in order that, if Captain Sandys should be innocent, as was thought probable, he might be immediately set at liberty, and be enabled to resume the command of his vessel.

Being better informed by the consignee who had furnished the first information, Mr. Jerningham hastened, in his note of the 23rd January, to acquaint the undersigned that Captain Sandys had not been imprisoned, and that he had gone to sea in his vessel unmolested.

Mr. Jerningham explained this fact, which removed the cause of his application under the supposition that a warrant of imprisonment had been issued, and before it could have been carried into effect the "Danube" had left the port of Rio de Janeiro for her destination.

The undersigned, as soon as he received Mr. Jerningham's first communication, brought it to the knowledge of the Minister of Justice, and the answer which he received from his Excellency on the 30th ultimo confirms in fact, that the supposed imprisonment of the captain of the "Danube" had not taken place; it being therefore believable that the representation of the consignee, to which Mr. Jerningham refers, was chiefly suggested by the apprehension or foreknowledge of the legal proceedings which the captain had subjected himself to.

The following is an abridged narrative of that occurrence, according to the official documents of the Ministry of Justice:—

José Antonio de Oliviera and Thomas Rodriguez complained to the Chief of Police of this capital that two slaves of theirs, named Bento and José, had been seduced by the captain of the English barque "Danube," and were clandestinely sheltered under the promise of being conveyed in her out of the Empire.

However, the Chief of Police, having ordered the Sub-Delegate of the parish of Santa Rita to proceed upon this complaint according to law, the complainants at once desisted from judicial proceedings, contenting themselves with obtaining possession of their slaves, who were taken out of the said barque.

Consequently Captain Sandys, who, according to the confession of the two slaves, was the person who seduced them and afforded them an asylum on board the "Danube," was not prosecuted, and no impediment was placed to his departure. He sailed on the 21st for Acayab, his destined port.

It is not true that Captain Sandys apprized the Captain of the Port that two slaves had taken refuge on board the

"Danube." He went to that station to inquire whether any impediment would be placed to his sailing, and gave as his reason for that apprehension the fact of a boat having gone to his vessel by order of the police to fetch away a slave who had hidden himself on board unknown to any one. The sheltering of the slave was, therefore, already known when Captain Sandys went to the Captaincy of the Port.

The undersigned cannot but call the serious attention of Mr. Jerningham to the annexed extract of a representation which, under date of the 18th instant, several owners of slaves who are employed in the trade of the port of Rio de Janeiro, addressed to the Chief of the Police of this city.

The representers, as Mr. Jerningham will see, complained, and requested that measures might be taken, against the proceedings of some of the captains of foreign merchant vessels, who have attempted and succeeded in inveigling slaves, and taking them clandestinely out of the country.

They make mention, besides the late occurrence with the captain of the "Danube," of other facts of a similar nature—that is, of the disappearance, in December last, of three slaves belonging to José Luiz da Silva, established on the island of Cobras, one of whom, it appears, was taken to Jamaica on board a British brig, and the other two to the Cape of Good Hope on board the English schooner "Kate."

The undersigned trusts that Mr. Jerningham will have no objection, in so far as it may be in the power of Her Britannic Majesty's Legation, to aid the Imperial Government in the investigation and repression of such facts, which, independent of being highly criminal, alarm not only the owners of slaves, but likewise the whole population of this city.

The Imperial Government, who have so much at heart the repression of the Slave Trade, and do not cease instructing their authorities to grant full protection to the free blacks, cannot but protect also the property of Brazilian subjects, in rigorously preventing the seduction in question, the serious consequences of which must be evident to Mr. Jerningham's enlightened judgment.

The undersigned, &c.

JOSE MARIA DA SILVA PARANHOS.

Inclosure 4 in No. 7.

SENHOR DO AMERAL AND OTHERS to the CHIEF OF THE POLICE.

(Translation.)

Rio de Janeiro, January 18, 1856.

THE undersigned come before your Excellency to entreat that measures may be taken to prevent the continuance of attacks which have been made upon property, and which are imminent on private fortunes, from the occurrences which they submit to your Excellency's consideration.

There are persons who inveigle slaves, enticing them from the dominions of their owners, and doubtless with promises of liberty, for the purpose of subjecting them to the harshest slavery, thus offending the rights of property and public conveniency.

Even yesterday, Excellent Sir, two slaves belonging to José da Silva Oliveira, a merchant established on the island of Cobras, and to Thomas Rodriguez, were found hidden under the fore-castle of the English barque "Danube," their owners having been apprised of their being on board that vessel, went for and withdrew them from the hands of their seducer.

Before Christmas, three slaves were missing belonging to José Luiz da Silva, established on the island of Cobras, one of whom, it appears, went to Jamaica in an English brig, and the two others in the English schooner "Kate" to the Cape of Good Hope, which acts, from the fact of two slaves being found yesterday hidden on board the "Danube," are confirmed.

Besides these facts, many others have lately happened, so that all the proprietors of slaves, and particularly those who reside in the neighbourhood of the sea, have constantly the threat hanging over their fortunes of seduction and robbery; and thus they can only confide in the vigilance of the constituted powers of the country, and especially upon the activity and energy with which your Excellency so worthily directs the police of this city.

Wherefore, Excellent Sir, the undersigned bring these facts to your knowledge, in order that you may use every effort in order to prevent their continuance, and to discover the thread of this series of acts, which manifest a fatal tendency against the proprietorship of slaves which,

notwithstanding, form a part of the fortunes of the public, and of private individuals.

Your petitioners will not further occupy your Excellency's attention, their only aim being to bring to your knowledge facts which ought to be examined into for the common welfare of all.

They, therefore, beg your Excellency to take the necessary steps, and, trusting to your customary sense of justice, your petitioners will ever pray.

J. C. DO AMARAL.

(Here follow 32 signatures.)

Inclosure 5 in No. 7.

MR. JERNINGHAM to SENHOR PARANHOS.

EXCELLENT SIR, Rio de Janeiro, March 4, 1856.  
I HAVE the honour to acknowledge the receipt of your Excellency's note of the 12th of February, in answer to the two notes which I had addressed to your Excellency in the month of January upon the subject of the supposed arrest of the captain of the British vessel "Danube," accused of seducing two slaves away from their owners.

As the slaves were seized by the police and conveyed back to their masters, who, according to the report of his Excellency the Minister of Justice, contenting themselves with recovering their property, had desisted from judicial proceedings, Captain Sandys found himself at liberty to proceed on his voyage, which he did, and of course the whole business was terminated: but your Excellency at the end of your note calls my serious attention to an annexed extract of a representation which several slave owners employed in the trade of this city has addressed to the Chief of Police.

This representation complains and requests that measures might be taken against the proceedings of some captains of foreign merchant vessels, who had attempted and succeeded in inveigling slaves, and taking them clandestinely out of this country; and mention is made, besides the alleged case of the "Danube," of that of three slaves being carried off, one in the English brig "Jamaica," and two others by the British schooner "Kate," to the Cape of Good Hope.

I need not go to any length, in answer to your Excellency's observations, and to the above representation, to assure your Excellency that such conduct, if duly proved, cannot but appear highly reprehensible in the eyes of Her Majesty's Legation; for although every free-born Briton ought to abhor and detest Slave Trade and slavery in this enlightened age of progress and civilization, yet, in countries like Brazil, where unfortunately slaves have been imported before the abolition of the Slave Trade still continue to be legal property, we must, in spite of our feelings on the subject of these same laws and regulations, take an especial care not to offend against them; and with a view of endeavouring to prevent a recurrence of complaints, such as have been forwarded in your Excellency's note, I shall communicate an extract of it to Her Majesty's Consul at Rio de Janeiro, and to the other British Consuls in Brazil, instructing them to warn the masters of British merchant vessels against taking away and harbouring slaves who are legally the property of Brazilian subjects, or of persons residing in this Empire.

His Excellency the Chief of Police concludes his note by observing that the Imperial Government, who have at heart so much the repression of the Slave Trade, and do not cease instructing their authorities to grant full protection to free blacks cannot but protect also the property of Brazilian subjects in rigorously preventing their being seduced away.

Her Majesty's Legation hails with pleasure this avowal of the Imperial Government with respect to the Slave Trade, and cannot but agree that it is the duty of Government to protect Brazilian property, but I cannot possibly discover that very great protection is afforded to free blacks in Brazil, if those who are entitled "emancipados" are included in that category; for your Excellency well knows what extreme difficulty Her Majesty's Legation has at times encountered in endeavouring to effect the real manumission of some of this unfortunate class in certain cases; and even now, I am not as yet informed if the British subject, Mr. Craven's, freed slaves are in the enjoyment of their liberty or not, or whether they are at the disposal of that authority, which even persons in this country consider to be an anomaly, the Judge of Orphans.

I avail, &c.

W. S. JERNINGHAM.

No. 8.

The EARL OF CLARENDON to MR. JERNINGHAM.

SIR, Foreign Office, April 30, 1856.

I HAVE received your despatch of the 7th ultimo, respecting the alleged proceedings of certain captains of British merchant vessels in the Brazils, who are stated to have received on board their ships, with a view of carrying them out of the country, some negro slaves, the property of Brazilian subjects; and I have to state to you that I approve the course pursued by you in addressing a despatch to Her Majesty's Consuls in Brazil, instructing them to warn the captains of British vessels of the serious liabilities to which they render themselves subject by such proceedings.

I am, &c.

CLARENDON.

No. 9.

The EARL OF CLARENDON to MR. JERNINGHAM.

SIR, Foreign Office, June 19, 1856.

WITH reference to my despatch of the 30th of April last, approving the Circular despatch addressed by you to Her Majesty's Consuls in Brazil, instructing them to warn the masters of British merchant vessels of the liabilities to which they subjected themselves by harbouring slaves on board their ships, with the view to carry them away, I have to state that as merchant vessels are subject to the law and jurisdiction of the country in whose ports they may be, it was right that warning should be given to the masters of British vessels with regard to this matter; but it should be borne in mind that if a slave were to take refuge on board a British ship of war, it will still, as heretofore, be the duty of the captain to refuse to surrender such slave.

I have, &c.

CLARENDON.

No. 10.

MR. JERNINGHAM to the EARL OF CLARENDON.—  
Received September 8.)

MY LORD, Rio de Janeiro, August 7, 1856.

WITH reference to your Lordship's despatch of June 19, in which your Lordship states, when alluding to a Circular which I had addressed to Her Majesty's Consuls in Brazil, instructing them to warn the masters of British merchant vessels of the liabilities to which they subjected themselves by harbouring slaves on board their ships with the view to carry them away, that although it was right such a warning should be given to the masters of British merchant-men in this matter, if, however, a slave were to take refuge on board a British ship of war, it will still, as heretofore, be the duty of the captain to refuse to surrender such slave, I beg to have the honour to announce to your Lordship that I have sent a copy of your Lordship's despatch to the British Admiral, Commander-in-Chief of Her Majesty's Naval Forces on this station, in order that he may be perfectly informed of the views of Her Majesty's Government upon the point in question.

I have, &c.

WM. STAFFORD JERNINGHAM.

No. 11.

EXTRACT from GENERAL INSTRUCTIONS issued in 1865  
for GUIDANCE of NAVAL OFFICERS employed in the  
SUPPRESSION of the SLAVE TRADE.

IN your intercourse with the natives you will endeavour to conciliate their good-will by kindness and forbearance, and will take care that the officers and men under your command shall do the same.

You will take special care not to offend the prejudices of the natives, and you will make allowance for any jealousy or distrust with which you may be met.

You will impress upon the natives the earnest desire of Great Britain for the improvement of their condition, and will clearly point out to them the distinction between the export of slaves, which Great Britain is determined to put down, and the system of domestic slavery with which she does not claim to interfere.

No. 12.

CONSUL PAKENHAM to the EARL OF CLARENDON.—  
(Received June 5.)

MY LORD,

Tamatave, April 22, 1869.

I HAVE the honour to transmit herewith, for your Lordship's information, the copy of a letter which I have addressed to Commodore Sir Leopold Heath, on the subject of a serious misunderstanding which appears to have occurred between Commander Meara, of Her Majesty's ship "Nymph," and the Hova Commandant of Majunga, on the west coast of Madagascar, respecting the forcible seizure on shore by an armed party from the "Nymph," of certain Mozambique slaves belonging to Malagasy subjects.

The note which I have received on the subject from the Hova Chief Secretary of State is extremely lengthy and difficult of translation, but the substance of it will be found embodied in my letter to Commodore Heath, and by the next mail I trust to be able to send your Lordship a translation of the Chief Secretary's communication.

It would of course be unfair for me to form or express any opinion as regards Commander Meara's proceedings on *ex parte* statements, the more so as I know from experience that the Hova authorities invariably seek to give the most favourable colouring to their own acts, and quite the contrary to those of parties with whom they disagree. Under any circumstances, however, any appearance of the substitution of might for right by British officers in their dealings with the Malagasy could not but prove prejudicial to British interests in Madagascar by raising distrust in the minds of the Hovas.

I venture, therefore, to hope that your Lordship will be pleased to cause instructions to issue, to the effect that differences on land between the commanders of British cruisers and Hova officials be in future referred to me.

As your Lordship will have observed from my despatch of the 10th instant, the Mosambiques detained at Majunga were given up to me by the Queen of Madagascar without any difficulty, and, therefore, a simple reference to me by Commander Meara would have prevented any misunderstanding in the matter.

I beg to inclose the copy of my note in reply to the Chief Secretary's, and shall be glad to receive your Lordship's instructions as soon as convenient relative to my further action in this matter.

I have, &amp;c.

T. C. PAKENHAM.

Inclosure 1 in No. 12.

CONSUL PAKENHAM to COMMODORE SIR L. HEATH.

SIR,

Tamatave, April 9, 1869.

I HAVE the honour to state that I have received a communication from the Hova Government at Antananariva, dated the 22nd (4th April) ultimo, reporting a serious misunderstanding which appears to have occurred between Commander Meara, of Her Majesty's sloop "Nymph," and the Hova Commandant of Majunga on the West Coast of Madagascar.

The following are briefly the facts of the case as submitted to me by the Hova Chief Secretary of State:—

In March last the "Nymph" anchored before Majunga, where Commander Meara and his officers were hospitably received and entertained by the Hova Commandant and officers. Shortly afterwards two Arab dhows were burnt by order of Commander Meara, who at the same time formally demanded the surrender of certain Mozambique slaves lately seized by the local authorities at Majunga, and detained pending a reference to the Hova Government. The Commandant of Majunga stated his inability to deliver up these slaves until he had received the necessary authority from his Government; whereupon a shot was fired from the "Nymph" between the fort and village of Majunga, and an armed party landed who forcibly seized on shore and carried off to the "Nymph" certain Mozambique slaves belonging to subjects of the Queen of Madagascar, old residents in the island, introduced prior to the conclusion of the English Treaty, but not forming part of those lately landed. After the seizure had been made, and the slaves carried on board the "Nymph," the Commandant of Majunga sent officers on board to claim their restitution, and, further, to protest against Commander Meara's proceedings as being contrary to the provisions of the English Treaty; but the slaves were not given up, and the "Nymph" sailed with them on board.

This, Sir, is the version of the affair given by the Commandant of Majunga, to the Hova Government, and trans-

mitted to me by the Chief Secretary of State. But I have not as yet received any report on the subject from Commander Meara, although the acts alleged by the Hova Government were committed in Madagascar, on land, and consequently within my Consular jurisdiction, which in virtue of Her Majesty's Commission, extends over the whole island.

The Hova Government complain of Commander Meara's proceedings, not only as unfriendly but as being in violation of the English Treaty, wherein no right is conceded to the Commanders of British cruisers to land armed parties and seize on shore slaves belonging to Malagasy subjects and lawfully in their possession. On these grounds a formal demand has been made for the immediate restitution of the slaves taken on board the "Nymph."

I shall therefore be glad to receive, as early as convenient, a copy of Commander Meara's account of what really took place at Majunga, in order that I may be in a position definitely to reply to the Hova Government. But, under any circumstances, I beg to submit the desirability, as appears to me, of the Commanders of British cruisers on this station in future addressing me on the subject of any differences they may have with the local authorities at any of the Hova military stations on the coast of Madagascar, before engaging in actual hostilities which might ultimately involve Her Majesty's Government in serious complications. In the case in question a simple reference to me would have removed all difficulties, and enabled Commander Meara to obtain possession of the Mozambique slaves detained at Majunga.

In conclusion, I venture to submit that the slaves alleged to have been taken on board the "Nymph," at Majunga, be detained, pending the decision of Her Majesty's Government as to their ultimate disposal.

I have, &amp;c.

T. C. PAKENHAM.

Inclosure 2 in No. 12.

CONSUL PAKENHAM to the CHIEF SECRETARY of STATE.

SIR,

Tamatave, April 20, 1869.

I HAVE the honour to acknowledge the receipt of your Excellency's letter of 22 Adizaoza (4th instant), complaining of certain proceedings of Commander Meara, of Her Britannic Majesty's sloop "Nymph," when at Majunga at the commencement of last month, and also claiming the restitution of a number of Mozambique slaves, alleged to have been seized on shore, and carried on board the "Nymph" by an armed party from that vessel.

It certainly surprises me to hear that the Commander of any of Her Britannic Majesty's ships of war, whose mission is to co-operate with the Hova Authorities in suppressing the Slave Trade, should have committed any unfriendly act towards the Malagasy. But I am, of course, unable to form or express any opinion on the regularity of Commander Meara's proceedings until I am in possession of his account of what occurred at Majunga.

I beg, however, to state that your Excellency's complaint shall be immediately laid before the Earl of Clarendon, and I venture to assure the Hova Government that it will meet with attentive and impartial consideration at his Lordship's hands.

I have, &amp;c.

T. C. PAKENHAM.

No. 13.

MR. HAMMOND to the SECRETARY to the ADMIRALTY.

SIR,

Foreign Office, June 12, 1869.

I AM directed by the Earl of Clarendon to transmit to you, to be laid before the Lords Commissioners of the Admiralty, the accompanying copies of a despatch and its inclosures from Mr. Pakenham,\* Her Majesty's Consul in Madagascar, having reference to the proceedings of Commander Meara, of Her Majesty's sloop "Nymph," who is reported to have landed an armed party from his ship at the village of Majunga, and to have forcibly seized and carried off some slaves belonging to Malagasy subjects.

I am to state that Lord Clarendon would be glad to be furnished with copies of any reports which may have reached the Admiralty respecting the proceedings of the Commander of the "Nymph," whose conduct appears unjustifiable if the Hova version of his proceedings is correct; and in the event of no accounts having been re-

\* No. 12.

ceived at the Admiralty, I am to request that Commander Meara may be called upon to explain his conduct in this affair.

I am, &c.  
E. HAMMOND.

No. 14.

The EARL OF CLARENDON to CONSUL PAKENHAM.

SIR, Foreign Office, June 14, 1869.  
I HAVE received your despatch of the 22nd of April, relative to the proceedings of the Commander of Her Majesty's sloop "Nymph," who is reported to have landed an armed party from his vessel at the village of Majunga, and to have forcibly seized and carried off some slaves belonging to Malagasy subjects; and I have to acquaint you that I approve the letters addressed by you to Commodore Heath, and to the Hova Chief Secretary of State, respecting this affair.

You will inform the Hova Government that a strict inquiry will be immediately instituted into the proceedings which have given rise to their complaint.

I am, &c.  
CLARENDON.

No. 15.

CONSUL PAKENHAM to the EARL OF CLARENDON.—  
(Received July 5.)

MY LORD, Tamatave, May 6, 1869.  
WITH reference to my despatch of the 22nd ultimo. I have now the honour to transmit, for your Lordship's information, a translation of the Hova Chief Secretary of State's note to me, dated the 4th ultimo, complaining of the proceedings of Commander Meara of Her Majesty's sloop "Nymph," at Majunga, on the West Coast of Madagascar, in March last.

I have &c.  
T. C. PAKENHAM.

Inclosure in No. 15.

The CHIEF SECRETARY OF STATE to CONSUL PAKENHAM.

(Translation.)

Antananarivo, 22nd Adizaoza  
(4th April), 1869.

SIR, THIS is what I have to say to you. I have received a letter from the Governor of Majunga, saying that on the 23rd of Adaro (6th March), 1869, Her Britannic Majesty's vessel "Nymph," commanded by Commander Meara, R.N., arrived at that port. When she was anchored, the Governor sent six officers to visit the Captain, and to ask after the health of Queen Victoria, &c., who, in reply, asked after the health of the Queen of Madagascar, and stated his intention of landing at 4 o'clock, P.M. On landing, he was met by officers (with a band and four palanquins), who were sent by the Governor to receive him and conduct him to the Battery, where he was met by other officers, but the Governor himself, being unwell, was unable to be present. After accepting an invitation to dinner the next day, at 4 P.M. and having visited the Governor, Commander Meara returned to his ship. The following day (Saturday) the Commander came to dinner at the Battery, and was received with the usual honours. After dinner the party went out into the court, and danced, the Commander and one of his officers joining cordially with the Malagasy officers and ladies. Before his departure he invited five officers and ladies to dinner on board, at 1 o'clock P.M. the following day.

Accordingly they went to dinner the following day (Sunday), two guns being fired by Her Majesty's ship as a salute, which was returned by the Malagasy authorities at the Battery. After dinner, Commander Meara stated his intention of sailing the next day (Monday).

That after leaving the port he returned in the evening, when the Governor sent officers to ask the reason of his return. But, before they reached the ship, the captain with thirty soldiers had left, and burned two dhows; after which the captain said, "You have Mozambiques in your possession who were brought here by those dhows, and I have returned to capture them." To which the Malagasy officers replied, "If you meet with Mozambiques upon the high seas, then you yourselves capture them and report it to your Government; but if we meet with those who bring them across the seas to us, then we report to our

Government. Besides, you say that it is 15 days ago that the dhows brought Mozambique slaves here, whereas it is now 20 days ago." The commander then returned to the ship, but soon afterwards three British officers and 20 sailors landed and demanded possession of the Mozambiques. The Hova officers replied, "Twenty days ago the dhows arrived with slaves on board, and we have referred the matter to the Government at Antananarivo, and are awaiting their reply as to what we must do." To which the captain replied, "I will not leave this port without those slaves." "Very well," said the Hova officers, "We must wait till we hear from the Government." "But how many were they?" asked the captain. "We cannot tell," said the Hova officers, "for this is a land full of slaves, and we cannot allow you to count them unless we hear from our Government. We cannot buy slaves coming beyond the seas, and we have already written to Antananarivo to ask what we must do with those who were brought by those dhows." The captain then said, "If you do not give up those slaves by 5.30 p.m., I will do what I ought to do, even if I have to fight for them." To this the Hova officers replied, that as to his fighting, he himself knew what he should do. But the words of the Treaty said there should be no fighting between the English and Malagasy for ever more. The captain again asked, "Will you give up those slaves or no?" The Hova officers again repeated that they had referred the matter to their Government. "Then," said the captain, "I go; but at midnight I will act."

When the captain had returned to his ship he fired one gun with ball between the fort and Majunga.

The following day (Tuesday) the captain landed again and seized the slaves of the "ombalahivelo" (blacks), and had them conveyed on board. The Governor then sent to ask his reason for seizing the subjects of Ranavalona—hereditary property—and ordered their return, lest the Treaty, which says that no subjects of the Queen of Madagascar can be taken across the seas on board English vessels without a passport, should be broken. "I take them," replied the captain, "because they are slaves; they cannot be returned to you. As regards the cannon that was fired from the ship, it was to test the range of my guns. Tell the Governor that I intend leaving to-morrow morning at 6 o'clock, for I am censured by you as injuring the Kingdom (of Madagascar)." He then returned to his ship.

On the following morning (Wednesday), at 5 o'clock, the Governor sent his officers to the ship, who, having arrived on board, said to the captain, "Return those persons you have taken without permission, for this is the word of the Treaty between the two Governments, viz.: 'The subjects of the Queen of Madagascar cannot be taken beyond the seas without receiving a passport from such (Malagasy) as are authorized to grant it. Again, British sailors who escape from their respective ships to Madagascar must be delivered up to the Consul (British) or the captain of the vessel from which they escaped, if found, Hova authorities doing their utmost to find them.' Therefore, do not carry away those persons you have seized, lest you break this Treaty." To this the captain replied, "What you say is perfectly true. But those persons are in trouble; they are slaves; and they are Mozambique slaves; therefore I retain them." "If you are right in seizing them, where is your commission for so doing, that we may have it in our possession?" asked the officers. At this the captain got angry, and said, "I give you my commission?"

This is the difference that took place between the Hova officers of Majunga and Commander Meara, and then he set sail.

This, therefore, is what I have to say to you: We are grieved at what Commander Meara has done, at his firing with ball at our town, and at his seizing by violence the subjects (mainhmolaly—hereditary slaves) of the Queen of Madagascar, and taking them on board his ship, thus breaking the Treaty of Friendship that exists between us, which ought not to be done, for we, wishing this friendship to be firm, have ordered all the Governors to observe well the Treaty. It grieves us very much therefore, that after our Governor had observed the Treaty, and had seized the Mozambiques, our land should still be fired at with ball, without permission, and that Commander Meara was so enraged. The letter that I wrote to you on the 6th of Adizaoza (19th March) 1869, and which has not yet been answered, is proof that the Governor had followed the Treaty. Command, therefore, your officers that they do nothing to break the Treaty, nor do anything that may injure the friendship that has hitherto existed between us; for it is not right that your officers or ours should not observe well the Treaty which we wish to be kept inviolate.

As for those slaves seized by Commander Meara, we trust that you will order them to be returned. We expect you to do this, for it was not according to the Treaty, Article IX.

God bless you. May you live long and be happy, saith your friend.

RAINIMAHARAVO.

No. 16.

MR. HAMMOND to the SECRETARY TO THE ADMIRALTY.

SIR, Foreign Office, July 7, 1869.  
WITH reference to my letter of the 12th ultimo, I am directed by the Earl of Clarendon to transmit to you herewith a copy of a further despatch from Her Majesty's Consul in Madagascar,\* inclosing a copy of a note addressed to him by the Hova Chief Secretary of State, complaining of the proceedings of Commander Meara, of Her Majesty's ship "Nymph," in landing a party from his ship at Majunga, and carrying off from thence certain slaves stated to have been brought thither from Mozambique.

I am, &c.  
E. HAMMOND.

No. 17.

THE SECRETARY TO THE ADMIRALTY to MR. HAMMOND.  
(Received October 13.)

SIR, Admiralty, October 12, 1869.  
I AM commanded by my Lords Commissioners of the Admiralty to transmit to you, for the information of the Earl of Clarendon, the accompanying copy of a despatch from Commodore Sir L. Heath, relative to the misunderstanding which has arisen between Commander Meara, of Her Majesty's sloop "Nymph" and the Hova Government.

I am, &c.  
VERNON LUSHINGTON.

Inclosure in No. 17.

COMMANDER SIR L. HEATH to the SECRETARY TO THE ADMIRALTY.

SIR, "Forte," Aden, September 22, 1869.  
WITH reference to the papers inclosed in your letter of the 16th June 1869, on the subject of a misunderstanding between Commander Meara, of Her Majesty's ship "Nymph," and the Hova authorities at Majunga in Madagascar, I beg you will inform their Lordships that upon receiving Mr. Pakenham's complaint I immediately called upon Commander Meara for an explanation, and in the meantime I obtained at the Seychelles the sworn deposition of the slaves said to have been forcibly carried off from Majunga.

2. I shall probably not receive Commander Meara's reply before Christmas, and I think it will be more convenient to their Lordships that I should await its receipt, and thus be able to forward the whole case, than that I should now forward what is at present incomplete. I may state, however, that I am satisfied that a very considerable portion of the complaint made is altogether unfounded.

3. Her Majesty's ship "Dryad" is *en route* to Tamatave, and I have inserted the following paragraph in the sailing orders of Commander Colomb, dated 16th July 1869:—

"You are to proceed to Tamatave and place yourself in communication with Mr. Pakenham, Her Majesty's Consul for Madagascar. It appears from a communication from that gentleman that there has been some misunderstanding between Commander Meara of the "Nymph" and the Commandant at Majunga. - I have applied to Commander Meara for a report, and you are, if the subject should spring up in any official conversation with the Hova Ministers, to assure them of my wish to carry out strictly the conditions of our Treaty, and not to exceed the powers granted to us under it, but you may mention at the same time that from the number of dhows captured on the coast within the last year, it is clear that the Madagascar slave trade is carried on very largely, and I trust they are doing, and will continue to do, all that in them lies to suppress it."

I have, &c.  
L. G. HEATH.

\* No. 15.

No. 18.

INSTRUCTIONS, dated November 6, 1869, issued for the guidance of NAVAL OFFICERS employed in the SUPPRESSION of the SLAVE TRADE.

THE attention of the Lords Commissioners of the Admiralty having been called to serious irregularities and mistakes committed by officers commanding Her Majesty's ships employed in the suppression of the slave trade on the east coast of Africa, their Lordships are pleased to issue the following Order:—

It is not intended by this Order to alter the Slave Trade Instructions, which are now furnished to Her Majesty's ships, but merely to point out and explain to officers, in the most marked manner, certain provisions of the Instructions which on some occasions have been misunderstood or neglected, and to bring to the notice of officers the provisions of the recent Statute 32 & 33 Vict. c. 75:—

1. As to what vessels are liable to capture.

Articles 50, 51, and 388.

The 50th Article of the General Instructions gives the general rule, as follows:—

"If in the course of the search you are satisfied that the vessel is engaged in or equipped for the slave trade, and that she is subject to your authority, you will proceed to detain her."

The 51st Article gives ancillary rules:—"You will be justified in concluding that a vessel is engaged in or equipped for the slave trade:—(1.) If you find any slaves on board. (2.) If you find in her outfit any of the equipments herein-after mentioned." (Then follows an enumeration of the equipments taken from the Statute 2 & 3 Vict. c. 73. s. 4.)

In construing the words in this Article, "if you find any slaves on board," reference must be had to the general scope of the Instructions, and particularly to the language of the preceding Article, which speaks of the vessel being "engaged in or equipped for the slave trade."

Slave trade must for this purpose be carefully distinguished from slavery; with which, as existing in foreign States, or on board foreign ships, not being in British territorial waters, Her Majesty's Government does not claim, either by Treaty or otherwise, to interfere.

As a fact, slavery, as a legal institution, exists in several States (amongst them Zanzibar) with which Great Britain has Treaties for the suppression of the slave trade. The mere finding, therefore, of slaves on board a vessel will not justify an officer in detaining her, if there are other circumstances which show that these persons are slaves by the law of the country from which the ship has sailed, or to which she belongs, and that they are not being transported for the purpose of being sold as slaves.

Thus, for instance, where the slaves found on board are very few in number, are unconfined, and appear to be on board for the purpose of loading or working the ship, or attending upon the master or the passengers, and there is no other evidence that the vessel is engaged in or equipped for the slave trade.

It is quite otherwise where the slaves are found crowded and chained together, and are obviously being carried as cargo to be sold as slaves.

Between these two classes of cases there are intermediate cases, some of a doubtful character.

It must rest with the officer to distinguish to what class any particular case belongs, by a careful consideration of all the circumstances: bearing in mind always this, that it is his duty to detain the vessel, if he is reasonably satisfied that she is engaged in or equipped for the slave trade, but not otherwise.

Officers must further observe, that by the 388th Article of the Instructions, a right is reserved to the subjects of the Sultan of Zanzibar of transporting slaves within certain limits therein specified. That right, however, has, by a special order of the Sultan, dated 1863, been waived during the months of January, February, March, and April.

No. 19.

THE SECRETARY TO THE ADMIRALTY to MR. HAMMOND.

SIR, Admiralty, November 23, 1869.  
I AM commanded by my Lords Commissioners of the Admiralty to send you, herewith, for the information of the Earl of Clarendon, copy of a letter from Commodore Sir L. Heath, dated 1st November, with copies of its enclosures, being a correspondence with the Governor of



Mozambique, relative to some negroes who came off to the "Daphne" at Mozambique.

I am, &c.  
VERNON LUSHINGTON.

Inclosure 1 in No. 19.

COMMODORE SIR L. HEATH to the SECRETARY  
TO THE ADMIRALTY.

SIR, "Forte," Suez, November 1, 1869.  
CAPTAIN SULLIVAN having returned to England, I forward the accompanying correspondence between him and the Governor of Mozambique for their Lordships consideration.

I have, &c.  
L. G. HEATH.

Inclosure 2 in No. 19.

COMMANDER SULLIVAN to COMMODORE SIR L. HEATH.

SIR, "Daphne," Bombay, October 11, 1869.  
I BEG to forward, herewith, a copy of the correspondence between the Governor of the Island of Mozambique and myself, relative to some negroes who came on board this ship at that place, some expressing a wish to be taken from the place, others to escape from a cruel slavery on the coast.

You will observe that he states that the Order abolishing slavery was published only two days before our arrival, though the abolition was decreed by the Portuguese Government in February last, and you will also observe that, while the Governor in his letter calls them "free negroes," in which case they would be perfectly justified in coming on board, yet he adds, that some of them belonged to the inhabitants, and to some Baneans (who are, and who always claim the right to be considered British subjects), and that these persons request that the negroes should be returned to them.

I preferred, however, instead of taking the ground I might have done, in answering that, if they were free they had a free right to come on board, to consider them what I knew, if not all, most of them really to be, slaves belonging either to Arabs in the Arab town or on the mainland over which Portugal has no authority, and only retains her hold of the Island of Mozambique by its isolated position (being a mile from the mainland), and by the terror they keep the negroes in, on whom, whatever the Governor, who has only recently arrived there (the former one having died), may say, the most atrocious acts of cruelty are practised by their masters and owners, with perhaps a few exceptions.

After remaining on board the ship two months (for we had been to no place where we could land them), some of the negroes who were tired of the confinement, or were afraid by our entering the port again, that they would be apprehended or sent on shore, left the ship of their own accord, going to the mainland, beyond reach, or to other ships in port; and others, who expressed a wish to go on shore, I landed, at their own request, informing the Governor afterwards of the fact. Two only remain on board now to be landed at Seychelles or Aden. Some of these negroes were dreadfully marked in the back (by the lash as they informed us), and one of them had a large iron bar 18½ inches long doubled round his leg, and pressing on the bone of the leg so close that it was with difficulty the blacksmith cut it off; this, he said, his master had hammered on his leg for punishment.

I have, &c.  
G. L. SULLIVAN.

Inclosure 3 in No. 19.

THE GOVERNOR OF MOZAMBIQUE to COMMANDER  
SULLIVAN.

M. LE COMMANDANT, Mozambique, le 30 Août, 1869.  
JE vous remercie votre obligeance de vous prêter à conduire ici la melle venue du Portugal, ce qui a été un bon service que vous avez fait à cette colonie.

Je profite l'occasion de votre arrivée à ce port pour vous dire que quelques moments avant votre sortie précipitée le 17 Juillet dernier, j'ai eu un grand regret pour savoir que vous avez accepté à bord de votre navire, pour les emmener, quelques nègres libérés, qui en ont été séduits je ne sais pas par qui, et qui appartenaient à quelques négociants respectables de cette ville, et à quelques "Bomanes" (sic), lesquels m'ont adressé une requête pour que ces nègres sur fussent rendus.

C'était de mon rigoureux devoir d'envoyer à bord immédiatement le Chef de la Police du port pour vérifier le fait, et s'il était véritable pour vous prier de faire débarquer les nègres. Vous avez répondu au Chef de la Police que les nègres étaient libres, et qu'ils s'étaient embarqués librement; et comme le Chef de la Police vous a encore dit que malgré leur état de libres, ils ne pouvaient pas sortir du pays sans ses passeports, parcequ'il était possible que quelqu'un d'entre eux fut criminel, et qu'un navire de guerre d'une nation amie ne devait pas aider à contrevenir les lois du pays où il se trouvait, vous lui avez répondu que les nègres étaient allés vous demander protection, en disant qu'ils étaient des esclaves, et que s'ils retournaient à terre ils seraient châtiés par ses maîtres. Le Chef de la Police du port vous a observé qu'il n'y avait plus d'esclaves dans les colonies Portugaises, et qu'alors vous deviez faire débarquer les nègres, et vous, au lieu de faire cela, vous vous en êtes allé en les emportant.

J'avais l'intention de me diriger directement à vous après que le Chef de la Police m'a fait son rapport, mais votre sortie précipitée ne m'a pas laissé le temps.

Je profite alors de cette occasion pour vous demander où vous avez conduit ces nègres, et j'espère que vous me donnerez toutes les explications nécessaires pour éclaircir ce fait; et même que vous ne continuerez jamais à procéder de cette manière.

Agréé, &c.  
Le Gouverneur-Général,  
FERNANDO DALUTALEAD.

Inclosure 4 in No. 19.

COMMANDER SULLIVAN to the GOVERNOR OF  
MOZAMBIQUE.

"Daphne," Mozambique, August 31, 1869.

YOUR EXCELLENCY,  
IN reply to your courteous letter I beg to inform you that you appear to be labouring under a mistake as to what took place between a person who came on board when we were on the point of leaving the port in July last, and myself. He stated to me that, in a newspaper which he produced, it was stated that some free negroes were on board the "Daphne" trying to leave the island, and that he requested to know if it was true. I told him there were none, when he added that if they were free or not they would require a passport.

I do not know if the person who thus, at the last moment, produced a newspaper as his official document was an official or not, as he was by himself in plain clothes.

The real facts of the circumstances are as follows:—

On arrival here we heard that a panic existed among the slaves on shore, of which Mozambique is full, a slave having been flogged to death in Mozambique town, and that the most frightful tortures were being practised on them, and on inquiring on shore it appeared true, and the accounts not at all exaggerated.

Some negroes came on board this ship, the bodies of whom proved evidently the treatment they had been subjected to. Their statement went to prove that they were slaves stolen from the interior of the country, bought and sold; and their condition, that of nudity and stripes, confirmed their statement, which led me to conclude that some of them might have escaped from the various Arab towns on the mainland.

I beg to assure your Excellency that I have no intention of aiding criminals or committing any breach of the laws of Portugal in this Colony.

I have the honour to inform you that I leave the port this day, and expect to be at Zanzibar on the 20th September, and at Bombay in October, and shall be happy to convey your mails, or anything you may wish to send, to either of those places.

I have, &c.  
G. L. SULLIVAN.

Inclosure 5 in No. 19.

THE GOVERNOR OF MOZAMBIQUE to COMMANDER  
SULLIVAN.

M. LE COMMANDANT, Mozambique, le 31 Août, 1869.

J'AI l'honneur d'accuser votre obligeante lettre datée d'aujourd'hui, en réponse à la mienne d'hier, et en appréciant dûment votre réponse c'est de mon devoir de vous dire que les faits que vous relatez concernant les atroces châtimens que quelques nègres ont soufferts dans cette ville de la part de ses maîtres, je ne prétends pas les affirmer ni les contrarier; mais quand même les faits ci-dessus mentionnés eussent été vrais (ce que non obstant

je me permets de douter, parceque le seul châtimeut qu'on inflige à présent c'est la ferule, et aussi parcequ'il n'y a plus d'esclaves dans nos Colonies, comme il a été décrété par le Gouvernement de Sa Majesté Très Fidèle dans le Décret du 25 Février dernier et publié dans le Bulletin Officiel de la Colonie du 14 Juillet, c'est-à-dire, en avant de votre arrivée), et qu'une plainte vous eusse été adressée vous devez savoir très bien que ce n'était pas à vous à prendre une délibération quelconque, et encore moins à emporter dans votre navire ces nègres; mais vous devriez les faire envoyer à moi pour que je prisse connaissance du fait, et pour adopter les mesures nécessaires selon la loi et l'humanité.

Je vous remercie beaucoup votre offre obligeante de prendre la malle pour l'Europe, mais je ne peux pas me profiter à cause de votre rapide départ. De toute cette affaire je ferais mon rapport, comme je le dois, à son Excellence le Ministre de la Marine et des Colonies du Portugal.

Agréé, &c.  
Le Gouverneur-Général,  
FERNANDO DALUTALEAD.

Inclosure 6 in No. 19.

COMMANDER SULIVAN to the GOVERNOR OF  
MOZAMBIQUE.

"Daphne," Mozambique,  
August 31, 1869.

YOUR EXCELLENCY,

I AM in receipt of your reply to my former letter of this day's date, and am glad to hear from you that it was not with your knowledge or acquiescence that such cruelties have been perpetrated on the negroes in Mozambique.

I beg to remind you that along this coast of Africa, even in the very vicinity of the forts under the Portuguese flag, the English boats, while engaged in the suppression of the slave trade, have often been fired on by the Arabs. I allude more particularly to Angoxa River and the neighbourhood where the Portuguese flag flies, and where a lieutenant and boat's crew were a few years ago taken prisoners and murdered, and subsequently, not far from the same place, a lieutenant and some men of Her Majesty's ship "Lyra" were taken prisoners, and only released by the assistance of a native Chief in the interior.

This conduct of the Arabs, however, the Portuguese I have no doubt have been unable to prevent or redress, and your Excellency must therefore be aware how difficult it is to discover if a slave has escaped from an Arab town, many of which are in the Province of Mozambique, or from the Island of Mozambique.

I, however, have issued orders that in Mozambique Bay and Harbour no negroes are to be allowed to come on board in that way, and since our second arrival those orders have been carried out.

I shall, however, forward the correspondence on this subject to the Commander-in-Chief for the information of the English Government. I have also to add that, as we are about to leave too soon for your mail, Her Majesty's ship "Star," which also proceeds to Zanzibar and Bombay, will be leaving a day or two later.

I have, &c.  
G. L. SULIVAN.

Inclosure 7 in No. 19.

COMMANDER SULIVAN to the GOVERNOR OF  
MOZAMBIQUE.

YOUR EXCELLENCY, Mozambique, Sept. 12, 1869.

IN further reference to the subject of the slaves coming off to the ship on the 17th July last, I have to inform you that there are some on board now who desire to go on shore again, and as I have no object in retaining them, I shall allow them to go.

Some have already left the ship, and probably landed on the mainland, imagining, I believe, that we had returned here for the purpose of giving them up to the authorities.

I have, &c.  
G. L. SULIVAN.

Inclosure 8 in No. 19.

The GOVERNOR OF MOZAMBIQUE to COMMANDER  
SULIVAN.

M. LE COMMANDANT,

J'AI reçu votre lettre officielle d'aujourd'hui dans laquelle vous me ditez que les noirs que vous avez reçu à

votre bord le 17 Juillet dernier, une part avait déjà débarqué et était allé pour le continent, et qu'une autre part désirait aussi venir à terre, et que vous n'aviez aucune objection à faire à son débarquement.

Par conséquent j'ai envoyé à bord de votre navire un de mes aides-de-camp pour recevoir ces noirs, et vous lui avez répondu qu'ils étaient déjà à terre.

Je suis bien aise de savoir que cette affaire ait fini d'une manière si convenable pour vous, et je préviendrais le Gouvernement de Sa Majesté Très Fidèle de cette bonne solution.

Je vous souhaite une bonne voyage dans le retour à votre patrie.

Agréé, &c.  
Le Gouverneur-Général,  
FERNANDO DALUTALEAD.

No. 20.

The SECRETARY TO THE ADMIRALTY to MR. HAMMOND.  
—(Received December 10.)

SIR, Admiralty, December 7, 1869.  
I AM commanded by my Lords Commissioners of the Admiralty to transmit, for the information of the Earl of Clarendon, and for any observations which his Lordship may wish to make thereon, a copy of a letter, and of its inclosures, from Commodore Sir Leopold Heath, dated 24th November, with an explanation from Commander Meara, of Her Majesty's ship "Nymph," in regard to the alleged seizure of slaves at Majunga in March last, which had formed the subject of complaint on the part of the Hova Government.

I am, &c.  
VERNON LUSHINGTON.

Inclosure 1 in No. 20.

COMMODORE SIR L. HEATH to the SECRETARY TO THE  
ADMIRALTY.

SIR, "Forte," Suez, November 24, 1869.

IN my letter of 22nd September 1869, replying to the subject of the supposed misconduct of Commander Meara, of Her Majesty's ship "Nymph," at Majunga in March last, I gave certain reasons for thinking that the complaint was probably exaggerated, and I stated that I would reserve a full report on the subject until I had received Commander Meara's explanation. That explanation has now reached me, and I forward it, together with other correspondence bearing on the subject, for their Lordships information. I trust their Lordships and Lord Clarendon will agree with me in thinking that Commander Meara's conduct was not blameable.

2. The complaints made by the Hova Government, as reported by Mr. Pakenham, are—

(1.) That, upon the Governor refusing to give up the captured negroes, a shot was fired from the "Nymph" between the fort and village, by way of intimidation.

(2.) That an armed party from the "Nymph" landed, and forcibly carried off certain Mozambique slaves.

Commander Meara specifically denies both these allegations. That part of his report which states that the two slaves carried off by him were part of the cargo recently landed is clearly erroneous, but it does not affect the question.

3. The attached copies of reports from Commanders Meara and Colomb that there is evidently no bad feeling towards us at Majunga, and I cannot help thinking that the suggestion in my letter of 16th July to Mr. Pakenham, to the effect that this cargo of slaves would never have been given up by the Hova Government but for the information obtained by the "Nymph," and her return to Majunga on 9th March is correct, and that the complaints made by the Local Governor were made by way of turning the tables, and warding off accusations against himself.

4. Their Lordships will observe that the two Commanders take opposite views as to the sincerity of the Hova Government. The view taken by Commander Meara is supported by the reports made to him of cargoes recently landed, and by the known fact that a large trade was carried on last year, and, so far as I can form a judgment, I am inclined to agree with him.

5. I trust their Lordships will allow me to convey to Commander Meara an intimation that his explanation is entirely satisfactory, and to Commander Colomb their approval of the judicious manner in which he has acted as to the negroes who swam off on board his ship. I trust also that the two men carried off by the "Nymph" may be left at the Seychelles, according to their

wish, expressed to me personally when at that port, and that compensation may be made to their late owner.

I have, &c.

L. G. HEATH,  
Commodore.

Inclosure 2 in No. 20.

COMMODORE SIR L. HEATH TO CONSUL PAKENHAM.

SIR, "Forte," Trincomalee, July 16, 1869.

IN reply to your letter, No. 7 of 1869, I have the honour to inform you that the only official information I have on the subject of the complaint made by the Hova Government, as detailed in your letter, is the annexed extract from Commander Meara's "report of proceedings between 4th January and 27th May 1869."

In his tabular returns the dhows destroyed at Majunga are mentioned, but there is no notice of any slaves having been brought off from the shore, and I am, therefore, at present of opinion that the accusation of the Hova Government must, at least upon that point, be unfounded, but I will now call upon Commander Meara for a more detailed account of what took place.

It will be well known (*sic*), however, to bring to your notice the following dates:—

On 17th February, the Commandant of Majunga reported to his Government the detention of the 196 slaves.

On the 2nd March, the boats of the "Nymph" examined Majunga Bay, but the Commandant made no communication on the subject to her Commandant.

On 9th March, Majunga was revisited at the instance of an informer, and the dhows, after communication with the Commandant, were destroyed.

On the 19th March, the Hova Government made a merit of giving the slaves up to the British Government.

On the 21st March, they complained of Commander Meara's conduct.

Comparing those dates with one another, and knowing from the large number of dhows captured during the past year, that there is a very considerable importation of slaves to Madagascar, I cannot but think that it was the interview between Commander Meara and the Commandant on the 9th March, and not the conscience of the Hova Government which has been the cause of these slaves being given up.

With respect to the latter part of your letter, you will observe that there does not appear, from what has as yet reached me on the subject, to have been any cause for communication with you by Commander Meara.

I have, &c.

L. G. HEATH,  
Commodore.

Inclosure 3 in No. 20.

COMMANDER MEARA TO COMMODORE SIR L. HEATH.

(Extract.)

I THEN proceeded to Nos Sancasse, off which island I captured an Arab slave-dhow on 1st March. After examining Mojanba Bay with boats, I proceeded to Bembatooka Bay, where I remained a few days, but, on leaving on the 8th March, an informer came alongside in a cance, and stated that there were two slave-dhows at Majunga that had landed slaves at that place, so I returned to that anchorage, and informed the Governor that I should be obliged to destroy the slave-dhows, which I accordingly did, having found four.

Inclosure 4 in No. 20.

COMMODORE SIR L. HEATH TO CONSUL PAKENHAM.

SIR, "Forte," Mahé, Seychelles,  
August 14, 1869.

I HAVE the honour to forward, for your information, copies of depositions made before the District Magistrate at this port by two negroes who swam on board the "Nymph" whilst at anchor at Majunga, on the occasion referred to in your letter of the 7th April 1869.

These depositions entirely dispose of that portion of the complaint made by the Government of Madagascar which relates to the landing of armed parties and the carrying off by force of domestic slaves; and it seems to me desirable that the conduct of the Commandant at Majunga, who made a report so contrary to the truth, should not be allowed to pass unnoticed.

With respect to the demand made by the Government of Madagascar for the restoration of the slaves untruly

said to have been carried off by force, and which, I presume, will stand good as to the two men in question, I suggest that you should point out to that Government that every man putting his foot upon English soil becomes *ipso facto* free, and that the deck of a British man-of-war is held constructively to be British territory, and, therefore, these men cannot be restored to their masters, but that, nevertheless, as England wages war against the slave trade only, and does not as yet pretend to interfere with the status of domestic slavery, it is possible that the English Government may, upon your application, grant compensation to the former owners of these two men.

I cannot hope to receive Commander Meara's account of what took place for some time, and I therefore refrain for the present from touching upon the remaining point, namely, the amount of show of force exhibited in the endeavour to persuade the Commandant at Majunga to give up the two cargoes of slaves. I cannot, however, understand why he detained the slaves for orders, but yet made no remonstrance against the destruction of the dhow which had brought them.

I have, &c.

L. G. HEATH,  
Commodore.

Inclosure 5 in No. 20.

INQUIRY held before LOUIS GUSTAVE TROUCHET, Esq., Acting District Magistrate of Seychelles, on the 11th day of August 1869, in pursuance with a request to that effect from COMMODORE SIR L. HEATH, of Her Majesty's ship "Forte."

FEREJD, now residing at Mahé, principal of the Seychelles Islands, on his oath as a Pagan, saith as follows, through the interpretation of Amice Spiro, sworn to interpret the Arab language into French, and *vice versa*:—

I was born at Macao; from Macao I was carried off to Madagascar, having been sold at Soombejee by my own nation to a Malgachi. I have been three years in Madagascar, and my master's name there was Majoowan. I was employed by him as a sawyer; he himself was a dhow builder. He sold the dhows he built; had not many slaves, but his father had. From Madagascar I came here in an English steamer, a man-of-war. I do not know her name. I swam on board of the man-of-war in question before daybreak, and whilst she was at anchor at Majunga, because I was made to work by my master, who never paid me, and ill-treated me besides. A man of the name of Malbrook, in the service of the same man as myself, swam on board together with me. We were not induced by anybody to act as we did. We acted of our own free will. We knew that once on board of an English man-of-war we should be slaves no longer. The man-of-war was not very far from the shore. The hut in which I lived was close to the sea-shore. I never saw any armed party carrying off by force anybody from Madagascar. Malbrook and myself were the only two Africans who came here from Majunga. I have been here four moons.

(Deposed is unable to sign.)

(Interpreter is unable to sign.)

Taken and sworn before me, the undersigned Magistrate, this 11th day of August 1869, after having been duly interpreted to the deponent by the aforesaid interpreter.

G. TROUCHET,  
Acting District Magistrate.

Malbrook, residing at Mahé, principal of the Seychelles Islands, on his oath as a Pagan, saith as follows, through the interpretation of Joseph, sworn to interpret the Mozambique language into French, and *vice versa*:—

I was born in Macao. I was made a slave in my own country, and sold afterwards by an Arab to a man residing at Majunga, whose name is Majoowan. I arrived at Majunga after Ferejd. I cannot say how long I was there. I was employed as a labourer, and my master was trading with Nossi Bé. From Madagascar I came here in an English man-of-war, having been ill-treated by my master. I swam on board one night with Ferejd, as we knew that English had "good hearts." We were the only two slaves who swam on board of a man-of-war at Majunga. The crew of the man-of-war never carried away anybody from Majunga. To my personal knowledge, two dhows were destroyed in the harbour of Majunga; the slaves on board of them had all been landed before the man-of-war arrived.

We were on board the English vessel when these two dhows were burnt.

(Deponent cannot sign.)  
(Interpreter cannot sign.)

Taken and sworn before me, the undersigned Magistrate, this 11th day of August 1869, after having been duly interpreted to the deponent by the aforesaid interpreter.

G. TROUCHET,  
Acting District Magistrate.

Inclosure 6 in No. 20.

COMMANDER MEARA TO COMMODORE SIR L. G. HEATH.  
SIR, "Nymph," Bombay, October 29, 1869.

I BEG to report to you that, during my cruise along the west coast of Madagascar for the suppression of the slave trade, I visited Majunga, Bembatooka Bay, on the 30th of August 1869.

The authorities visited me, and requested me to see the Governor, which I did the following day.

During my conversation with the Governor, I asked him if he had received an answer to the letter which he had forwarded to the Queen of Madagascar, relative to the slaves landed in March last.

He told me that the answer he received was that he was to keep the slaves until he had received further instructions from the capital, and that there were 179 slaves landed, 15 of whom had died very shortly after they were landed, and 26 had died since.

The slaves were distributed about the various houses in Majunga.

The Hova Commandant and his officers were most civil, and presented the ship with a bullock and some poultry.

On arriving in Boyanna Bay, I was informed by two Africans left behind by a dhow, that a dhow had landed slaves at Boyanna Bay ten days before I arrived, and also that another dhow had gone to Majunga with about 120 slaves.

I am under the impression that the Hova authorities connive at the slave trade, and are very much annoyed if anybody gives the English cruisers any information.

During my cruise along the west coast of Madagascar, in the months of August and September, I have met very few dhows, and mostly under French colours.

I have, &c.

EDWARD S. MEARA,  
Commander.

Inclosure 7 in No 20.

COMMANDER COLOMB TO COMMODORE SIR L. HEATH.  
SIR, "Dryad," Mauritius, October 1, 1869.

I HAVE the honour to report that I left Trincomalee in Her Majesty's sloop, under my command, on the 9th of August, and I steamed to the southward of the Basses, in the hope of economising time and fuel. A current sweeping us 170 miles to the eastward in four days only enabled me to cross the line in 86° 30', and perhaps rendered my expenditure of fuel useless.

2. In view of the latter part of my sailing orders, I dropped two boats in Passandava Bay on the 8th September, and two more near Boyanna Bay on the 10th, with directions to cruise for the suppression of the slave trade, and to gather information which might guide my future proceedings. I may state here that all information so collected leads to the inference that the slave trade is at least greatly diminished on the coast in consequence of the action of the Hova Government.

3. I arrived at Majunga on the 11th of September 1869, visited and delivered my letter to the Governor, and was at once informed that the slaves mentioned should be duly given up to me as soon as they could be collected.

4. I had some conversation relative to the proceedings of the "Nymph" mentioned by you; but there did not seem any ill-feeling connected therewith, either on the part of the Governor or population of Majunga.

5. Hospitalities were exchanged between the Governor and myself and officers. The Hovas appeared sincerely desirous of maintaining kindly relations with the English, and honest in their endeavours to carry out treaty engagements.

6. On the 15th we received the first instalment of the slaves, and the remainder on the 18th. I was officially informed that they had been landed from the two dhows afterwards destroyed by Her Majesty's ship "Nymph," but which (as I understood) had been previously captured by the Hova authorities, in accordance with their treaty engagements.

7. Several runaway slaves having escaped to the ship from the town of Majunga and claimed my protection, I temporarily granted it, and the Governor then remonstrating in very proper terms, referring me to a stipulation of the Treaty of 1865, whereby no "subject of the Queen of Madagascar was to be permitted to come on board a British ship without a passport," I said I could not consider a slave to be a "subject" in the terms of the Treaty, and that a British man-of-war was so far English soil that a slave reaching that asylum should be freed. The Governor replied that perhaps I was right, but requested an acknowledgment from me, which I gave him, observing that I should not finally deal with the escaped slaves until I had the opinion of the British Consul at Tamatave.

8. A party of Sacklavar embarked in a dhow which was passing the ship, having drawn their weapons upon an unarmed boat sent to board her. I sent an armed boat to detain her, and the vessel having been stranded and evacuated was brought alongside. The Governor, who was on board at the time, immediately offered to imprison the parties concerned, and sent the master and owner of the vessel to apologise for their proceedings. I thought the dignity of our flag and our right to search were sufficiently indicated by the latter proceedings, so left the question of imprisonment in the Governor's hands, and released the dhow.

9. I sailed from Majunga on the 19th, picked up the boats at Port Dalrymple, and steaming round Cape Ambre, reached this place on the 29th, where the slaves were at once landed.

10. I am of opinion that our time would be wasted in again searching the north-west coast of Madagascar at this season, and I therefore intend to proceed for Tamatave, about the 3rd of October, thence direct to the Jaba Islands, where I hope the suddenness of my descent may enable me to interrupt the traffic between Lamoo and Brava, which I believe to be brisk towards the close of the monsoon; I shall then fall back on Zanzibar for coals and provisions, and carry out the remainder of my orders.

11. The health of the ship's company has been very good since quitting Trincomalee. Mauritius is now fairly healthy, but as there are still fever cases I do not intend to give general leave. I had intelligence of the "Nymph" having visited Majunga ten days before I did, and of the "Daphne" and "Star" being at Mozambique early in September.

12. As, in my opinion, the surrender of these slaves by the authorities at Majunga, however brought about, will have a very important effect in destroying the trade, and as the Governor seems really desirous to meet our views, I have ordered a small expenditure of public money in the purchase of some things of which I know him to be in want, and which I shall transmit to him through the Consul at Tamatave.

I have, &c.

P. H. COLOMB,  
Commander.

Inclosure 8 in No. 20.

COMMANDER MEARA TO COMMODORE SIR LEOPOLD G. HEATH.

SIR, "Nymph," Bombay, October 29, 1869.

WITH reference to your memorandum of the 30th August last, calling upon me to give you a full report of my proceedings at Majunga on the occasion referred to in the letter addressed to you from Mr. Pakenham, Her Britannic Majesty's Consul for Madagascar.

I have to report to you that when I arrived at Majunga, in Bembatooka Bay, on 5th March 1869, I was visited by the authorities of the place, who requested me to see the Governor, which I did, and called on him the same day.

In my conversation with him, I asked him if any slave trade was carried on here; he told me none. I remained at anchor off Majunga until the morning of the 8th March, during which time the officers and myself were hospitably entertained by the Hova Commandant and his officers, which hospitality was also returned by the officers of the ship.

On the evening of the 7th March, when I was about to return from the shore to the ship, a slave was in my gig and begged to be taken off, as he was ill-used by his master. I said I was sorry I could not, and landed him.

At 1 A.M. on the 8th March two slaves came on board; one swam off, and the other came in a canoe by himself; the one who swam off was the one I turned out of my gig; they stated that they were beaten by their masters and ill-fed, and could not remain with them any longer, and claimed my protection, which I gave them.

That morning, at 7 A.M., I proceeded to sea, no one from the shore having come on board to demand these two slaves.

Having proceeded about five miles out of Bembatooka Bay, the two slaves informed me through the interpreter that they had been landed about twelve days ago at Majunga with about 180 more, in two dhows, and volunteered to show me the dhows.

On this information I returned to Majunga and wrote a letter to the Governor, stating that I should be under the painful necessity of burning two dhows that had landed 200 slaves twelve days ago.

I landed with the boats manned and armed, and burnt the dhows pointed out to me by the two slaves, and also by an informer, an Arab, who came forward voluntarily and gave me the same information as the two slaves.

I received no resistance whilst burning the dhows, although the inhabitants were armed with spears and matchlocks.

After having destroyed the dhows I proceeded to the Governor and demanded the slaves according to the Treaty between Great Britain and Madagascar, signed at Tamatave the 31st May, Articles I. and II. He refused to give them up.

I explained to him the Treaty there was between England and Madagascar; he told me he would write to the Queen of Madagascar upon the subject, and asked me to wait until he received an answer.

I asked him how long it would take; he told me two months. I told him my orders prevented me remaining there so long.

Having waited until the 10th March, I proceeded to sea, during which time the authorities came on board and demanded the two slaves that had run away, and also the informer, which I refused. In my opinion they would have put the informer to death if I had given him up, as they speared his clothes while I was on shore with him; he was then under the charge of two of my boats' crew, who got him into the boat as quickly as possible.

With reference to the shot fired from one of the guns of Her Majesty's ship "Nymph," under my command, I beg to state I exercised at general quarters the same evening the dhows were burnt, and one shot was fired at a barren rock to ascertain the distance for practice, the rock being fully one mile to the left of the fort clear of the land, and not anywhere near the village. I had already asked and received permission from the Governor to exercise firing shot and shell, but it coming on dark only one shot was fired.

No armed party was landed after the dhows were burnt, and scarcely any communication was had with the shore, as I was the only person who landed afterwards.

The only slaves taken away in Her Majesty's ship "Nymph" were the two who came on board the first time, and the only other person was the informer, an Arab.

I therefore beg to state that the report of my having fired a shot between the fort and the village is not the case, and also that my having landed an armed party to seize the slaves is also not the case.

Hoping this report will be satisfactory,

I have, &c.

EDWARD S. MEARA,  
Commander.

No. 21.

MR. HAMMOND to the SECRETARY TO THE ADMIRALTY.

SIR, Foreign Office, January 6, 1870.  
I AM directed by the Earl of Clarendon to acknowledge the receipt of your letter of the 7th ultimo, inclosing a letter from the Commander of Her Majesty's naval forces on the east coast of Africa, relative to the complaints preferred against the Commanders of Her Majesty's ships "Nymph" and "Dryad," by the Hova authorities, with regard to their proceedings in carrying off and then liberating certain domestic slaves at Majunga, who swam off to those vessels to escape from their masters, and in destroying certain slave-dhows at the same port, and I am to state to you in reply, for the information of the Lords Commissioners of the Admiralty, that Lord Clarendon conceives that the Commanders of Her Majesty's ships "Nymph" and "Dryad" were not justified in sailing away with the slaves in question in the manner above set forth.

The status of slavery being acknowledged and lawful in Madagascar, the Commander of a British ship-of-war is not borne out in depriving the inhabitants of slaves who are rightfully their property, and the owners of such slaves are plainly entitled to compensation from us for the losses incurred at our hands by their abduction.

If a British cruiser were at sea beyond the territorial jurisdiction of Madagascar, and slaves on shore were to seize a boat to escape to the British ship, the case would be different, and we might then fairly decline to surrender persons received on board under such circumstances; it is, however, impossible to approve the conduct of Her Majesty's officers in cases like the present, the facts of which simply amount to the entry into the waters of a friendly Power of a British ship, and to her depriving the subjects of that Power of their lawful property.

Such a course can, moreover, have no other effect than to indispose the natives and authorities towards us, and would in all probability tend to prevent their carrying out their engagements for the suppression of the slave trade.

The circumstances under which the "Nymph" destroyed the dhows are not stated, but if they were clearly ascertained to be slavers she would be justified in destroying them, if she could not send them to a port of adjudication, and the Commander of the "Nymph" would also be borne out in requiring the slaves to be handed over to him, if, after communication with Her Majesty's Consul at Tamatave, it should appear that the Hova Government and authorities could not ensure the slaves their freedom. No British authority, however, naval or other, would be justified in demanding the surrender of the slaves if they were seized by the Hova authorities, and if the Hova Government undertook to see that they are properly cared for and not again reduced to slavery.

I am, &c.

E. HAMMOND.

No. 22.

THE SECRETARY TO THE ADMIRALTY to COMMODORE SIR L. HEATH.

SIR, Admiralty, January 13, 1870.

IN reply to your letter of 24th November, forwarding a letter from Commander Colomb, of the "Dryad," and Commander Meara, of the "Nymph," explanatory of their proceedings at Majunga, in Madagascar, and the alleged improper seizure of slaves and destruction of slave-dhows, I am commanded by my Lords Commissioners of the Admiralty to transmit, for your information, a copy of a letter from the Secretary of State for Foreign Affairs, dated 6th January,\* expressing the views of Lord Clarendon as to the irregularity of these proceedings.

I am, &c.

VERNON LUSHINGTON.

No. 23.

THE SECRETARY TO THE ADMIRALTY to MR. HAMMOND.

SIR, Admiralty, February 19, 1870.

WITH reference to my letter of the 7th December last, and its enclosures from Commander Colomb, of Her Majesty's ship "Dryad," I am commanded by my Lords Commissioners of the Admiralty to transmit to you the inclosed copy of a communication from Commodore Sir L. Heath, dated 15th ultimo, forwarding a further letter from Commander Colomb, relative to his proceedings on the Coast of Madagascar, and I am to request that, in laying the same before the Earl of Clarendon, you will inform his Lordship that my Lords concur in the remarks made by Sir L. Heath with regard to Commander Colomb's proceedings at Tamatave.

I am, &c.

VERNON LUSHINGTON.

Inclosure 1 in No. 23.

COMMODORE SIR L. HEATH to the SECRETARY TO THE ADMIRALTY.

"Forte," Bombay, January 15, 1870.

FORWARDED for the information of the Lords Commissioners of the Admiralty with reference to my letter of the 24th November 1869.

I have approved of the return of one man to Majunga on the ground that, having (although unwittingly) broken the IXth Article of the Treaty of 1865 by embarking him without a passport, it was right that Commander Colomb should make amends for the act as far as possible.

I have disapproved of Commander Colomb's further proceedings, because I conceive that agents having been mutually appointed under the IVth Article of the Treaty

\* No. 21.

of 1865, a question such as that raised by him should have been dealt with by those agents at head-quarters.

I have, however, no doubt but that good will come from these proceedings, although they may have been irregular.

L. G. HEATH.

Inclosure 2 in No. 23.

COMMANDER COLOMB TO COMMODORE SIR L. HEATH.

"Dryad," Bombay,  
December 31, 1869.

SIR,

IN continuation of my letter of proceedings dated 1st October 1869, left at Mauritius for transmission, I have the honour to report that I left Port Louis in Her Majesty's ship under my command on the 5th October, and arrived at Tamatave on the 8th.

2. I delivered to the Consul there the letter with which you entrusted me, and communicated to him what had passed between me and the authorities at Majunga, requesting him to exercise his powers as a Vice-Admiralty Court for Malagasy Waters, in the matter of the runaways I had then on board.

3. A day being appointed, these men were examined on oath by the Consul in my presence and that of several Hova officers. It turned out that one of five men was a free Malagasy subject, having been born at Maramitz, near Macumba Bay. The remaining four were Mozambique slaves, none of whom had been more than four months in Madagascar, and therefore illegally detained. The fact being proved, the Hova officers admitted the justice of their manumission, and the men were sent to Mauritius in a merchant-ship. As regarded the fifth man, the Consul suggested his return to Majunga, and as I considered it of the greatest importance in respect especially to the previous complaint of the Governor of Majunga to give proof of our respect to the Treaty, as well as of our determination to enforce its provisions, I agreed to return to Majunga and give up the Malagasy subject.

4. I visited the Hova Governor of Tamatave, and was visited by him in return—an unusual courtesy, I understand; but nothing passed between us of a political nature. I left Tamatave on the 15th October, and rounding Cape Ambre on the night of the 19th, reached Majunga on the forenoon of the 21st.

5. In determining to restore the Malagasy subject myself to Majunga, I was guided by a wish that nothing on my side should be wanting to show respect for the Treaty; I was also anxious to make an attempt to put the Governor of Majunga in the wrong, and thereby enable you to make a countercharge, if necessary, to the settlement of the complaint against the "Nymph," or to obtain either the freedom of illegally-held slaves at Majunga, or to depreciate such property in value by making its security doubtful. The Consul's Decree and the deposition of the escaped slaves were the instruments I proposed to employ.

6. With these objects in view, I visited the Governor on my arrival, in company with some of the officers, and informed him in public that four out of five persons who had escaped to me had been freed and sent to Mauritius, and that the fifth, being proved a Malagasy subject, would now be given up to any officer he might depute, on receipt of a written guarantee that he would not be ill-treated. I pointed out I did this in accordance with the Treaty obligations, which I was ordered to carry out most strictly, as well as to report any breaches of it by others. I then handed to him the written opinion of the Consul at Tamatave, telling him that he might read it at his leisure, and would then find the reasons why the four persons had been manumitted. I then said I wished a private interview with him, to which he might bring one of his officers, while I would be supported by the 1st Lieutenant, Mr. Walker.

7. Somewhat surprised, he called the Second Governor, and led the way into another room. I at once opened upon him, charging him and the Hova officers with the knowledge that the poor Mozambiques I took away had been illegally detained at Majunga, and that the town of Majunga abounded in Mozambiques who had been landed and sold in breach of the XVIIth Article of the Treaty of 1865.

8. He made no attempt to deny my first charge; indeed, it was impossible, for I had permitted his officers to examine these five men on board before I took them away. As to my second charge, he said he had been two years Governor of Majunga, and that in his time only two slave-dhows had appeared, and those he had captured, as I knew. I replied, acquitting the Hovas of openly permitting the landing of slaves, and pointed out that it was no use attempting to deny that slaves were secretly introduced into the town, as I held in my hands the sworn depositions of four such slaves. He then admitted that before his

time slaves might have been introduced, and stated that if it was as I said, with reference to very recent introductions, he could only reply he knew nothing of it.

On this admission, I said that, giving him credit for his open suppression of the trade, I required some further proof of his zeal, my faith in which was shaken by the recent events. I then called upon him to notify publicly in the town of Majunga that he would not prevent the escape of illegally-detained slaves to my boats. At first he contested my right to make such a demand, saying that he was present himself at the signing of the Treaty of 1865, and that it was not intended to bear the construction I put upon it; that he was answerable with his head to the Queen of Madagascar, should he in any way contravene the provisions of the Treaty, and that his wish was to carry them out thoroughly. I showed him that he was bound not to let slaves from beyond sea be even "landed," and therefore every such landing was a clear breach of the Treaty: that the Queen had already admitted this reading in ordering him to deliver his captured slaves up to me. After some further arguments and replies, he said he would do what I wished, and would besides call on the slave owners in the town to give all Mozambiques who had been less than three years in Majunga up to me. Further, he promised that if I was not then satisfied, he himself would go round the town with me, or such officers as I might depute, and make a capture of every Mozambique who could not be proved to have more than three years' residence in Madagascar. The wide nature of these promises, and some small objections raised to our boats coming on shore to receive runaways as early as daylight in the morning, led me to suppose that there must be some means of evading them. I therefore directed the interpreter to remain on shore for the night, and to carefully watch all that took place.

9. The result furnishes another instance of the childish cunning usually attending the dealings of the semi-barbarous races with ourselves. The beach was lined with Hova troops all night. At midnight word came down from the fort that all Mozambiques found in the town who had been less than three years in the country should be surrendered to the English in the morning, and recommending those who had such to drive them out into the beach. The town was immediately in an uproar, and in a few hours hardly a Mozambique was to be seen where they had previously numbered thousands. When day broke our boats found, wherever they neared the shore, guards of Hova soldiers in attendance, who in some cases were seen to prevent the approach of Mozambiques.

10. At 4 p.m. I visited the Governor, and publicly, in the strongest terms, upbraided him for his duplicity, and told him he had now given me distinct proof of connivance at breaches of our Treaty. My information was so full regarding what had happened that the Governor and his officers made little or no defence against my charges, and seemed less and less capable of meeting them as the interview proceeded. So soon as I observed them to be thoroughly awake to the position they had placed themselves in, and, I may add, thoroughly frightened, I terminated the meeting, expressing my sorrow that the Hovas should prove themselves so untrustworthy, and my determination to make known their conduct. Declining their customary hospitalities, I then informed them I should sail the next morning. The Governor begged me to stay, begged that I would even stay a day or two longer; but I thought my instant departure would, more than anything else, deepen the impression I intended to produce, and I therefore left at daylight on the 23rd.

11. I trust it will appear to you that although my proceedings in this matter have not produced any immediately tangible results, yet their effects will be as lasting in suppressing the slave trade as though I had made many captures. I have, I think, established the right of Her Majesty's ships to receive and harbour all Mozambique slaves who cannot be proved to be legally held by their masters. I have forced from the Governor of Majunga a sufficiently public admission of the right of illegally imported slaves to escape to us, and have exhibited the Hova authorities in the position of fostering the illegal detention of slaves. Our proceedings immediately created the greatest consternation among the slave-holders of Majunga, who now look upon their property as very insecure. At the same time it will be extremely difficult for the Hova authorities to object to a single act of any one belonging to Her Majesty's ship "Dryad."

12. Being fully persuaded that no slave traffic in the Mozambique channel would take place until December at the earliest, and it being certain that I could not pass up the Coast of Africa from Zanzibar so early as you supposed I should, I considered I best fulfilled your instructions to me in at once proceeding to the Juba Islands on the

chance of falling in with some of that traffic which took place there at the same time last year. I arrived off Kuyhoo on the 30th of October. Here I left two boats under Lieutenant Henn, and proceeded up the coast. Ten miles south of Brava I left two more boats under Lieutenant Walker, and anchored off the town myself on the 1st of November.

13. Here I met Her Majesty's ship "Bullfinch," whose Commander informed me there were orders for me at Zanzibar, and also that there was no slave traffic supposed to be going on in the locality this year.

14. I consequently proceeded south at once, picked up the boats, and arrived at Zanzibar on the 6th November.

15. I found here your orders to await "Cossack's" arrival, which I accordingly obeyed; that ship arrived on the 26th, thus enabling me to sail for Bombay on the 30th, where I arrived on the 31st December, 1869.

I have, &c.

P. H. COLOMB.

No. 24.

The EARL OF CLARENDON to CONSUL PAKENHAM.

SIR, Foreign Office, February 25, 1870.  
I INCLOSE a copy of a report from Commander Colomb, of Her Majesty's ship "Dryad,"\* of his proceedings during his recent visit to Majunga for the purpose of surrendering to the authorities a fugitive slave who had escaped to the "Dryad" on the occasion of her previous visit to that port.

The facts reported by Commander Colomb show that the local authorities have connived at the introduction of slaves on the coast of Madagascar in violation of the stipulations of the Treaty of 1865, and that the Governor, while professing his ignorance of this fact, and his desire to observe in good faith the Treaty stipulations, took every precaution to defeat the inquiry which he had agreed should be made as regards the origin of the slaves in the possession of the natives.

In communicating these facts to the Hova Government, you will state that Her Majesty's Government are well aware that the Treaty is being violated, and that slaves are constantly imported in small numbers at a time along the coast of Madagascar. The only proof that the Hova Government can give of their sincere desire to observe the Treaty is to make a strict inquiry into cases like the present, and to cause the offenders, especially when they are Government officers, to be severely punished.

It should also be publicly notified that the importation of slaves into Madagascar on any pretence is forbidden, and that the Hova Government are determined to punish any person engaged in it, and that they will render no support or assistance to a master in recovering a fugitive slave imported under such circumstances.

I am, &c.

CLARENDON.

No. 25.

The VISCOUNT DE SEISAL to the EARL OF CLARENDON.  
(Received March 8.)

(Translation.)

MY LORD, Portuguese Legation, March 7, 1870.

I HAVE the honour of addressing your Excellency, to acquaint you, by order of His Majesty's Government, with the facts which I am going to state:—

In the middle of July last the English armour-plated sloop "Daphne," Commander G. L. Sullivan, belonging to the naval division of the eastern coast of Africa, being in the port of Mozambique, some freed negroes, to the number of 13 or 15, were taken on board that man-of-war by the crew belonging to it. Notwithstanding the reclamations of the Portuguese authorities, to whom the masters of those freedmen had complained, Commander Sullivan refused to give any satisfaction, going so far as to say, on the first visit of the port captain, that he had no negroes on board. The sloop "Daphne" left Mozambique twice with the said freedmen on board; and it was not until the 11th of September last, the sloop having returned to Mozambique for the second time on the 29th of August, that Commander Sullivan, in consequence of the proceedings taken by the authorities, ordered eight of the blacks to be sent ashore, as five others, eluding the vigilance of the sailors belonging to the sloop "Daphne," had jumped into the sea in the night of the 10th and

swam to His Majesty's sloop "Infante Dom João," where they were taken in.

From the depositions made by the blacks on the 13th and 14th of September last, it appears that they were enticed on board by the promise of being paid for certain services rendered ashore to the crews of the boats belonging to the sloop "Daphne," and that when they got on board they were ordered to go to work. They complain that this was excessive, and that they sometimes received corporal chastisement. They have further deposed, that besides the five who escaped from on board, and the eight who were sent ashore in the barge, there were two more blacks left on board the sloop "Daphne."

At all events, what is shown by evidence is that the negroes were retained on board the sloop against their will, and this fact is proved by some of them having seized the first opportunity of escaping by throwing themselves into the sea by night, at the risk of being devoured by the sharks.

Even if it should be proved, as Commander Sullivan alleges in his despatches to the authorities, that those blacks had taken refuge on board the sloop "Daphne"—an allegation which is not proved—yet for all that, the Commander ought not to have refused to deliver them up on being required to do so by the authorities; instead of which he took them away on board his vessel, contrary to the laws in force in that province, when he weighed anchor and left the port of Mozambique.

I very much regret having to protest to your Excellency against such a proceeding on the part of a superior officer of the British Navy; but it even appears that on another occasion, about a year ago, the same Commander Sullivan committed a similar act of abduction in the said port of Mozambique.

I flatter myself that, in consideration of what I have just had the honour of stating to your Excellency, and of the provisions of Article VIII. of the Treaty of 3rd July, 1842, between Portugal and Great Britain, for the complete abolition of the slave trade, Her Britannic Majesty's Government will be pleased to issue orders so that a case of such seriousness may be duly cleared up.

I avail, &c.

VCT. DE SEISAL.

No. 26.

MR. HAMMOND to the SECRETARY TO THE ADMIRALTY.

SIR, Foreign Office, March 16, 1870.

WITH reference to your letter of the 23rd November of last year, inclosing a correspondence which had passed between the Commander of Her Majesty's ship "Daphne" and the Governor of Mozambique, relative to the abduction on board that ship of several negroes from the colony, I am directed by the Earl of Clarendon to transmit to you herewith a translation of a note from the Portuguese Minister at this Court,\* complaining of the conduct pursued by Commander Sullivan on the occasion, and requesting that an investigation may be made into the matter.

You will perceive that in several important particulars the account furnished of these transactions by Viscount de Seisal differs from that given by Commander Sullivan; that in the inclosed note it is stated, for instance, that the blacks deported were really freed men, and that they were carried to sea against their will, having been enticed on board on false pretences.

The Lords of the Admiralty are aware that, according to the VIIIth Article of the Treaty of 1842, between this country and Portugal, any deviation from the stipulations of the Treaty on the part of a naval officer in itself entitles the Government wronged by such deviation to demand reparation, and that the Government in whose service the officer may be is bound to make a full inquiry into the matter, and I am therefore to request that, in laying these papers before the Lords Commissioners of the Admiralty, you will move them to give effect to the above stipulation by causing the matter to be thoroughly sifted.

It is important that the charges brought against Commander Sullivan of enticing free negroes on board his ship and detaining them against their will should be refuted, and if any depositions were made by the negroes at the time of their reception on board the "Daphne" as to their previous history and their reasons for escaping to the ship, Lord Clarendon would be glad to be furnished with them, or with some corroborative evidence of the correctness of Commander Sullivan's statement that the negroes were

\* Inclosure 3 in No. 23.

\* No. 25.

slaves, bearing marks of ill-usage, who had escaped to a British ship for protection from the tyranny of their masters.

I am, &c.  
E. HAMMOND.

No. 27.

THE SECRETARY TO THE ADMIRALTY to  
MR. HAMMOND.

SIR, Admiralty, March 31, 1870.  
WITH reference to your letter of the 16th instant, relative to the complaint of the Portuguese Minister of the conduct of Commander Sullivan, Her Majesty's ship "Daphne," in taking away negroes in July 1869, at Mozambique, I am commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Clarendon, copy of a communication from this officer, dated 24th instant, further explaining the circumstances under which some slaves were received on board Her Majesty's ship under his command.

2. Their Lordships desire me to state that, if Lord Clarendon considers confirmation of this statement necessary, a Court of Inquiry can be assembled on arrival of the "Daphne."

I have, &c.  
VERNON LUSHINGTON.

Inclosure in No. 27.

COMMANDER SULLIVAN to the SECRETARY TO THE  
ADMIRALTY.

SIR, Flushing, Falmouth, March 24, 1870.  
IN reply to your letter of the 22nd instant forwarding copies of letters from the Secretary of the Foreign Office and from the Portuguese Minister respecting negroes who took refuge on board Her Majesty's ship "Daphne," I beg to state that there were sixteen, not thirteen slaves on board. I am not aware that in my letter I stated, that in reply to the persons who came on board to inquire, I said there were "no negroes" (nor does it appear so in the copy I have), but that there were no "free" negroes on board; and to show that he understood me, he said, that if they were not free negroes, but slaves, they would require passports, though he had just before stated that slavery in the Colony was illegal. I differed with him about the passports being required, and made some remark to the effect that if they were free they would have a right to come on board (but I knew them to be slaves from their own statement); and on subsequently relating the circumstance to Dr. Kirk at Zanzibar, he seemed to think with me, that had they been free they had a right to remain on board.

My inquirer never stated that he was a captain, and being dressed in plain clothes, might, for all I knew at the time, have been the owner of the slaves.

The negroes all positively stated through the interpreters, not only to me but to others on board, that they were slaves, and anxious to escape from the tyranny of their owners, exhibiting the lacerations on their backs, which they declared were inflicted by the lash, and, in one case, an iron bar was coiled round the leg and cut off by the blacksmith. It was not in consequence of proceedings on the part of the authorities that any were sent away from the ship; but owing to some of them having left the ship in the same way many of them came on board (by swimming). I then inquired of the remainder if they wished to go, when some of them said "yes"; others, with more hesitation, said "yes"; but two of them entreated not to be sent on shore, as they feared the consequences, and were retained on board; this was the first time that any had expressed a wish to go on shore, although we had returned to the port once previously. They were never invited or enticed on board; they came of their own accord. Neither were they ever promised payment or retained on board against their will, and the difficulty was to keep them out of the ship after the order was given to allow no more on board; and after trying every means to get on board they would swim off; others pulled alongside in canoes (probably from the Arab towns on the mainland, about two miles' distance, and forming the other side of the harbour) and let the canoes go. There was never any work given them that I am aware of, excepting to help in getting the ashes up, or cleaning their own deck, which negroes (liberated) always did while on board. They were allowed to go on the first intimation to me that they wished to, which was only when, from the time they had been on board (two months), they became tired and

appeared to entertain a fear that they were not to be landed anywhere but kept at sea, but the four or five that left the ship (as most of them came) by swimming had never made any complaint nor expressed a wish previously to leave that I could discover.

There was never any corporal punishment inflicted on them, neither have I any reason to think they were treated roughly by the ship's company, who were invariably excessively kind to all slaves on board, but of course they had to make up their story when they got on shore to escape the consequences of deserting from their owners. It was a constant habit all along the coast for slaves to escape to the ship or boats. One man at Brava swam off against a current when he lay nearly a mile from the shore, and although the Arab Chief wished me to give him up. I refused, and it is more than probable that some escaped to the ship on a former occasion of our being in the vicinity, as they endeavoured to escape to other ships also, and, I believe, to every ship that has been there, but there was no question raised about them at the time; and when, on my return to the Mozambiques, after this last occasion of their coming on board, I gave orders that no more were to be received, they endeavoured to get on board the "Star," but Commander de Kantzow, knowing the correspondence that had taken place and my orders on the subject, would not receive them. They subsequently, I believe, tried to get on board the "Bullfinch."

I must own I felt the difficulty of my position under the circumstances after hearing the statements of the negroes, that they were slaves escaping from the tyranny of their master, which I am still certain was true, and having given them that protection which they asked, I felt bound to continue it to them; but, on the other hand, as the authorities assured me that a Proclamation had just then been issued making slavery illegal in the Colony, I was justified in prohibiting any more negroes from coming on board at that port.

I cannot, however, refrain from adding that whatever the Portuguese authorities may say, slavery exists in the very worst form in that Colony, and that the slavery that exists among the Arabs is as nothing compared with that which exists among them.

The Arabs treat them as one of their family often, but with the Portuguese their lives are practically at the disposal of their owner, who in most cases is a half-caste himself; several instances of cruelty were reported to me by our interpreter, who had been nearly twenty years in our service on that coast, and in confirmation of this statement I would refer you to the narrative of Mr. Young, who was sent in search of Dr. Livingstone. Mozambique is a huge slave market, as Dr. Kirk and others can prove; we always found it filled with negro slaves, and if we had wished it, or given any further encouragement, we might have filled the ship with fugitives, for they might have been seen in crowds on the beach watching their opportunity to escape the vigilance of the police or soldiers; and at this time, as I stated in a former letter, there was a panic amongst them, in consequence, it was said, of a slave having been flogged to death by his master. For further particulars of the slave trade in this part of the coast, I would refer you to my report on the slave trade forwarded to the Commodore, dated October 11, 1869, and, in conclusion, would add that the "Daphne" being on her way home through the Suez Canal, Lieutenant Acklom and others on board can verify these statements on her arrival.

I have, &c.  
GEORGE L. SULLIVAN.

No. 28.

MR. OTWAY to the SECRETARY TO THE ADMIRALTY.

SIR, Foreign Office, April 7, 1870.  
I AM directed by the Earl of Clarendon to acknowledge the receipt of your letter of the 31st ultimo, and its inclosure, relative to the complaint preferred by the Portuguese Government of the conduct of Commander Sullivan, of Her Majesty's ship "Daphne," in carrying away some negroes from Mozambique on board his vessel; and I am to state that Lord Clarendon thinks it advisable under the circumstances that a Court of Inquiry should be held for the purpose of instituting a strict investigation into the case, in accordance with the provisions of the VIIIth Article of the Treaty with Portugal of 1842.

I am, &c.  
ARTHUR OTWAY.



No. 29.

THE SECRETARY TO THE ADMIRALTY TO MR. HAMMOND.  
—(Received April 13.)

SIR,

Admiralty, April 12, 1870.

IN reply to your letter of the 7th instant, in which you inform me that the Earl of Clarendon thinks it advisable that a Court of Inquiry should be held to investigate the complaint preferred by the Portuguese Government of the conduct of Commander Sullivan, of Her Majesty's ship "Daphne," in carrying away some negroes from Mozambique on board that ship, I am commanded by my Lords Commissioners of the Admiralty to request that you will inform the Secretary of State that their Lordships, having carefully examined the Treaty with Portugal, mentioned in their letter, are unable to find that Captain Sullivan's conduct was a breach of any stipulation in the Treaty, or of the Slave Trade Instructions.

My Lords, however, propose to try Captain Sullivan by a court-martial for carrying off Portuguese subjects from Mozambique without passports, contrary to the law of the place, and in defiance of the requisition made upon him by the Governor (such conduct being contrary to the Queen's Regulations), and to add charges for detaining the negroes against their will, and permitting them to be ill-treated.

On these two charges my Lords will have no evidence to offer, except evidence in disproof; but with respect to the first charge, the evidence appears to be complete, except as to the material fact of the law of Mozambique. But before ordering the court-martial, my Lords would be glad to know if evidence can be obtained by your Department and laid before the Court, to show that, by the law of Mozambique, no person, or no such negro as those in question, could leave the Colony without a passport.

I have, &amp;c.

VERNON LUSHINGTON.

No. 30.

MR. HAMMOND TO THE SECRETARY TO THE ADMIRALTY.

SIR,

Foreign Office, April 18, 1870.

I HAVE laid before the Earl of Clarendon your letter of the 12th instant, upon the subject of the court-martial proposed to be held upon Commander Sullivan, of Her Majesty's ship "Daphne," and stating the charges upon which he will be arraigned, in which his Lordship concurs; and with reference to your request to be supplied with evidence as to the law of Mozambique, which is said to prohibit any person, free negro or other, from leaving the Colony without a passport, I am to request that you will inform the Lords of the Admiralty that no evidence upon this point is in the possession of this Department.

Lord Clarendon, however, does not doubt that the law in question has been correctly stated by the Mozambique authorities, and he thinks it unlikely that this point will be disputed by Commander Sullivan.

I am, &amp;c.

E. HAMMOND.

No. 31.

THE SECRETARY TO THE ADMIRALTY TO MR. HAMMOND.  
—(Received April 20.)

SIR,

Admiralty, April 19, 1870.

IN reference to my letter of the 12th instant, relative to the court-martial proposed to be held on Commander Sullivan, of the "Daphne," on the charge of carrying off slaves from Mozambique, and to your reply of the 18th instant, in which you inform me that there is no evidence in your Department as to whether the law of the country prohibits any person, free negro or other, leaving a Colony without a passport, I am commanded by my Lords Commissioners of the Admiralty to request that you will state to the Earl of Clarendon that, although their Lordships have no reason to doubt that the law in question has been correctly stated by the Mozambique authorities, and although the point may not, as suggested by the Secretary of State, be disputed by Commander Sullivan, it appears to my Lords, on the other hand, desirable in a criminal procedure, as trial by court-martial, to admit no "evidence by consent."

2. My Lords would, therefore, suggest that application should be made to the Portuguese Minister to furnish, as he may perhaps be able, the necessary evidence as to the law of Mozambique on the point in question.

3. My Lords request that they may be furnished with an early answer, as the "Daphne" is shortly expected to arrive in England.

I have, &amp;c.

VERNON LUSHINGTON.

No. 32.

CONSUL PAKENHAM TO THE EARL OF CLARENDON.—  
(Received May 10, 1870.)

MY LORD,

Tamatave, October 18, 1869.

I HAVE the honour to submit herewith, for your Lordship's information, copies of the proceedings and my decision in a case of five negroes who took refuge on board Her Majesty's sloop "Dryad" at Majunga last month, referred to me by Commander Colomb on the 13th instant, and which is the first tried before me as Judge in Vice-Admiralty, under the provisions of Her Majesty's Order in Council of the 4th February 1869.

I beg also to transmit the copy of a letter on the same subject, addressed by me to his Excellency the Prime Minister of Madagascar.

The point which I have had to decide involves a very important question of right, viz.:—Whether the Commanders of British cruisers are justified in receiving on board their vessels, in Malagasy waters, slaves escaped from the shore, and in granting to such slaves the protection of the British flag; and I shall, therefore, be glad to learn that my opinion that such right extends only to slaves introduced to Madagascar from beyond the sea since the conclusion of the English Treaty, and not to domestic slaves, is approved by your Lordship and held to be sound in a legal point of view.

Your Lordship will observe that the Acting Lieutenant-Governor of Tamatave, as well as a large staff of Hova officers, were present, at my solicitation, during the investigation, and were thus furnished with an opportunity of objecting, not only to the validity of the proceedings, but also to the value of the depositions taken. They, however, confined themselves to admitting that four of the slaves were, what they represented themselves to be, Mozambiques lately introduced into Madagascar.

I do not, therefore, apprehend that any question can be raised by the Hova Government as to the perfect fairness with which the case has been conducted.

I have, &amp;c.

T. C. PAKENHAM.

Inclosure I in No. 32.

PROCEEDINGS and DECISION in the case of FIVE NEGROES who took refuge on board Her Majesty's sloop "Dryad."

(Extract.)

In Her Britannic Majesty's Court of Vice-Admiralty,  
Madagascar.

In the matter of five escaped slaves received on board Her Britannic Majesty's sloop "Dryad," Commander Colomb, at Majunga.

*Commander Colomb's Report.*

SIR,

"Dryad," Tamatave, October 9, 1869.

I have the honour to inform you that, during my recent stay at Majunga, five Mozambiques, representing themselves to be escaped slaves, found their way on board Her Majesty's ship under my command, and claimed protection, which I granted. The Governor remonstrating in very proper terms, referring me to a stipulation of the Treaty of 1865, whereby no subject of the Queen of Madagascar was to be permitted to come on board a British ship without a passport, I said I could not consider a slave to be a subject in the terms of the Treaty, and that a British man-of-war was so far English soil that a slave reaching that asylum was henceforth free. The Governor replied that perhaps I was right, but requested an acknowledgment from me, which I gave him in these terms:—

"During the stay of Her Majesty's ship 'Dryad' up to date hereof, five (5) slaves escaped from the shore to the ship, and are now detained by me, pending the decision of the Consul at Tamatave.

" P. H. COLOMB,

Commander.

" 'Dryad,' Majunga,  
" September 18, 1869."

2. These slaves being still on board, I have the honour to request you will, in your capacity as Judge of the Vice-

Admiralty Court for Madagascar waters, proceed with the investigation of the case.

P. H. COLOMB,  
Commander.

On the 13th day of October 1869, Commander Colomb was duly sworn to the truth of this report,

Before me,  
T. C. PAKENHAM,  
Her Britannic Majesty's  
Consul for Madagascar.

This case, referred to me for my decision by Commander Colomb, R.N., has been inquired into by me this day, Wednesday, the 13th October 1869, in his presence and that of the Acting Lieutenant-Governor of Tamatave and several Hova officers.

The following facts are established by the Report of Commander Colomb, and the depositions of the men who took refuge on board the "Dryad."

During the recent stay of that vessel at Majunga, on the West Coast of Madagascar, last month, five men, representing themselves to be escaped Mozambique slaves, found their way on board and claimed British protection, and shortly afterwards the Hova Commandant of Majunga requested their surrender, on the plea of their being subjects of the Queen of Madagascar, and their not having been furnished with passports in accordance with terms of the Treaty between Great Britain and Madagascar (Art. IX); Commander Colomb declining to admit this plea, the matter was referred by him to me for my opinion, which I now give.

Considering that it has been proved by the depositions of Morjakibo, Sabouri, Semaquail, and Majan, that the said parties are Mozambiques and consequently not Malagasy subjects, and further that they are slaves illegally introduced into Madagascar from beyond sea, within the last four months, in direct violation of the stipulations of the Treaty concluded with Madagascar on the 27th June 1865 (Art. XVII), I am of opinion that the said Morjakibo, Sabouri, Semaquail, and Majan were entitled to British protection, and that, under the circumstances, Commander Colomb was fully justified in receiving them on board the "Dryad" and refusing to surrender them. I therefore order the manumission of the said parties and their embarkation on board the British barque "Perseverance," about sailing for the Mauritius.

As regards the case of Mahomed, who himself admits that he is a Malagasy subject, I have no alternative but to direct his return to Majunga.

T. C. PAKENHAM,  
Her Britannic Majesty's Consul  
for Madagascar.

Inclosure 2 in No. 32.

CONSUL PAKENHAM to the PRIME MINISTER OF  
MADAGASCAR.

MY DEAR SIR, Tamatave, October 18, 1869.  
WHILST Her Britannic Majesty's sloop "Dryad" was at Majunga last month, five negroes, representing themselves to be escaped Mozambique slaves, found their way on board and claimed British protection, which was granted them by Commander Colomb, pending a reference to me.

The case of these men, which was referred to me by Commander Colomb on the recent arrival of the "Dryad" at Tamatave, was investigated by me on the 13th instant in his presence, and that of the Acting Lieutenant-Governor and several other Hova officers, when it was proved that four of the men who took refuge on board the "Dryad" were Mozambiques introduced into Majunga within the last five months in open violation of the stipulations of the English Treaty (Article XVII), but that one of them was a Malagasy subject. The latter I directed to be returned to Majunga, and the four Mozambiques I manumitted.

It certainly surprises me to find at the very time that flagrant infractions were being committed, the Hova Government, on the information lately furnished by the Commandant of Majunga, should have taken credit to itself for the suppression of the slave trade; and I much fear that the inquiry which is being instituted into the circumstances which gave rise to your Excellency's complaint against the proceedings of Commander Meara, of Her Majesty's sloop "Nymph," will disclose facts tending to give a very different character to those proceedings to that colouring which it has been sought to impart to them.

As a friend, I must advise your Excellency to give your most serious consideration to the infractions of the English Treaty lately committed at Majunga, and to take immediate steps to prevent their recurrence; for your Excellency cannot fail to observe the spirit of good faith in which Her Britannic Majesty's officers carry out the conditions of the Treaty, as evidenced by the return to Majunga of the Malagasy subject who lately took refuge on board the "Dryad."

I remain, &c.  
T. C. PAKENHAM.

No. 33.

THE SECRETARY TO THE ADMIRALTY to MR. HAMMOND.  
SIR, Admiralty, May 10, 1870.

WITH reference to former correspondence on the subject of a complaint preferred against Commander Sullivan, of Her Majesty's ship "Daphne," of having improperly received on board and detained certain negroes belonging to Mozambique, I am commanded by my Lords Commissioners of the Admiralty to acquaint you that the "Daphne" has arrived in England, and is about to be put out of commission; and my Lords are therefore desirous of receiving a reply to their letter of 19th April, requesting that application should be made to the Portuguese Administration for proof of the law of Mozambique on the subject of passports.

I am, &c.  
VERNON LUSHINGTON.

No. 34.

MR. OTWAY to the SECRETARY TO THE ADMIRALTY.  
SIR, Foreign Office, May 12, 1870.

IN reply to your letter of the 10th instant, relative to the proposed court-martial upon the captain of the "Daphne," I am directed by the Earl of Clarendon to state to you, for the information of the Lords Commissioners of the Admiralty, that, on receipt of your letter of the 19th ultimo, his Lordship immediately addressed a note to Viscount de Seisal, requesting him to furnish any evidence in his possession bearing on the law of Mozambique, which is stated to forbid any inhabitant of that colony to leave it without a passport.

No reply having been received from the Portuguese Legation on the subject, it has been ascertained on inquiry that Viscount de Seisal, being in possession of no information upon the subject, has applied to his Government for it, and that he expects shortly to receive an answer, which shall be communicated to you immediately.

I am, &c.  
ARTHUR OTWAY.

No. 35.

THE SECRETARY TO THE ADMIRALTY to MR. OTWAY.  
SIR, Admiralty, May 12, 1870.

I AM commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of the Secretary of State for Foreign Affairs, that a Court of Inquiry has been ordered to assemble at Devonport for the purpose of investigating the facts connected with the proceedings of Captain George L. Sullivan, late of Her Majesty's ship "Daphne," in receiving certain negroes on board that ship at Mozambique last year.

2. My Lords have adopted this course instead of ordering a court-martial at once to try Captain Sullivan on distinct charges, in consequence of the absence of any definite information as to the charges preferred by the Portuguese Government; but charges have been prepared on which Captain Sullivan can afterwards be tried should the evidence obtained at the Court of Inquiry appear to render such a course desirable.

I am, &c.  
VERNON LUSHINGTON.

No. 36.

THE EARL OF CLARENDON to CONSUL PAKENHAM.  
SIR, Foreign Office, May 16, 1870.

I HAVE received your despatch of the 18th of October last, reporting your decision in the matter of some slaves who had escaped from Madagascar and were carried away by Her Majesty's ship "Dryad," and we approve your proceedings in this case. I inclose, for your informa-

tion and guidance, a copy of a letter addressed to the Lords of the Admiralty by my direction on the 6th of January last,\* containing my views upon the points which you have raised.

I was not aware that it could be proved that any of the escaped slaves had been imported into Madagascar in violation of the Treaty, which would doubtless give them a claim to British protection; but I am of opinion that the commanders of Her Majesty's cruisers are not justified, where slavery is legal, in receiving fugitive domestic slaves on board their vessels, or in carrying them away in spite of the local authorities; and in cases where naval officers are made aware that an escaped slave has been imported in violation of the Treaty, it would be better that they should communicate the facts to you, with a view to a proper inquiry being made into the case, than that they should carry off the slave on their own responsibility.

I am, &c.

CLARENDON.

No. 37.

MR. OTWAY to the SECRETARY TO THE ADMIRALTY.

SIR, Foreign Office, May 16, 1870.  
I AM directed by the Earl of Clarendon to transmit to you, to be laid before the Lords of the Admiralty, a copy of a despatch which his Lordship has addressed to Her Majesty's Consul in Madagascar,† relative to the question of naval officers receiving and carrying away escaped domestic slaves on board Her Majesty's ships.

I am, &c.

ARTHUR OTWAY.

No. 38.

THE SECRETARY TO THE ADMIRALTY to COMMODORE  
SIR L. G. HEATH.

SIR, Admiralty, May 19, 1870.  
I AM requested by the Lords Commissioners of the Admiralty to transmit for your information and guidance a copy of a despatch addressed by direction of the Earl of Clarendon to Her Majesty's Consul in Madagascar,† in reference to the question of naval officers receiving and carrying away domestic slaves on board Her Majesty's ships.

2. Lord Clarendon informs Her Majesty's Consul that the commanding officers of Her Majesty's cruisers are not justified where slavery is legal, in receiving domestic slaves on board their vessels, or in carrying them away in spite of the local authorities, and that in cases where naval officers are made aware that an escaped slave has been imported in violation of the Treaty, it would be better that they should communicate the facts to the Consul with a view to proper inquiry being made, rather than they should carry off slaves on their own responsibility.

3. My Lords desire that you will give the necessary instructions to the commanding officers of the ships under your orders, for carrying out the views of the Secretary of State.

I am, &c.

VERNON LUSHINGTON.

No. 39.

THE SECRETARY TO THE ADMIRALTY to MR. OTWAY.—  
(Received May 25.)

SIR, Admiralty, May 23, 1870.  
I AM commanded by my Lords Commissioners of the Admiralty to transmit to you herewith, for the information of the Earl of Clarendon, copy of their Lordships' proposed Minute on the report of the inquiry lately held to investigate the charges preferred by the Portuguese Government against Captain George L. Sullivan, R.N., late of Her Majesty's ship "Daphne;" and I am to request to be informed whether his Lordship concurs therein.

I am, &c.

VERNON LUSHINGTON.

Inclosure in No. 39.

MINUTE.

CAPTAIN SULLIVAN to be informed that their Lordships disapprove of his conduct in not having communicated

\* No. 21.

† No. 36.

with the nearest British Consular Agent with regard to the negroes who came on board the "Daphne," more particularly when their surrender was demanded by a person who visited the ship for that purpose.

Also that my Lords do not consider as satisfactory the answer he gave to the question put to him by that person, whether he had any negroes on board.

Acquaint Foreign Office, sending copies of Admiralty letter of 12th instant (ordering the inquiry); and of the Minutes and Report of the Court, and stating to my Lords that no further steps can be taken in this case, but that they trust that the instructions which have been recently issued with regard to receiving Africans on board Her Majesty's ships on the East Coast of Africa will prevent any proceedings tending to give any cause for complaint on the part of the Portuguese Government.

No. 40.

MR. OTWAY to the SECRETARY TO THE ADMIRALTY.

SIR, Foreign Office, May 31, 1870.  
WITH reference to your letter of the 23rd instant, stating the result of the inquiry into the conduct of Captain Sullivan, of Her Majesty's ship "Daphne," with respect to some negroes whom he carried off from Mozambique, I am directed by the Earl of Clarendon to transmit to you, for the information of the Lords of the Admiralty, a copy of the letter‡ which he has addressed to the Portuguese Minister in the terms of their Lordships' Minute, in which he concurs.

I am, &c.

ARTHUR OTWAY.

No. 41.

THE SECRETARY TO THE ADMIRALTY to COMMODORE  
SIR L. G. HEATH.

SIR, Admiralty, June 7, 1870.  
COMPLAINTS having been made by the Portuguese Government relative to the proceedings of Captain G. L. Sullivan, late of Her Majesty's ship "Daphne," with regard to the carrying away of certain negroes from Mozambique, I am commanded by my Lords Commissioners of the Admiralty to acquaint you that a Court of Inquiry has been held, and that their Lordships have informed Captain Sullivan that they disapprove of his conduct in not having communicated with the nearest British Consular Agent with regard to those negroes who came on board the "Daphne," more particularly as their surrender was demanded by a person who visited the ship for that purpose. Captain Sullivan has also been informed that their Lordships do not consider as satisfactory the answer he gave to the question put to him by the person who demanded the surrender of the negroes, as to whether any such negroes were on board.

2. Inclosed is a copy of the letter addressed by Her Majesty's Government to the Portuguese Government on the subject.‡

I am, &c.

THOMAS WOLLEY.

No. 42.

EARL GRANVILLE to SIR C. MURRAY.

SIR, Foreign Office, October 1, 1870.  
I TRANSMIT to you for your information copies of a correspondence respecting the result of an inquiry into certain proceedings complained of by the Portuguese Government, of Captain Sullivan, of Her Majesty's ship "Daphne," off the coast of Mozambique.  
The particulars of this case will be found at pages 98 to 101 of Class B of the Slave Trade Papers laid before Parliament last Session.

I am, &c.

GRANVILLE.

Inclosure 1 in No. 42.

THE EARL OF CLARENDON to VISCOUNT DE SEISAL.

M. LE MINISTRE, Foreign Office, May 31, 1870.  
WITH reference to the letters which I had the honour to address to you on the 17th of March and 21st ultimo, respecting the proposed Court of Inquiry into

‡ Inclosure 1 in No. 42.

the conduct of Captain Sullivan, of Her Majesty's ship "Daphne," in regard to some negroes whom he carried off from Mozambique, I now beg leave to request that you will be good enough to acquaint your Government with the result of that inquiry as communicated to me by the Lords of the Admiralty.

1st. Their Lordships have disapproved of Captain Sullivan's conduct in not having communicated with the nearest British Consular authority regarding the negroes who came on board his vessel, more particularly when their surrender was demanded by a person who visited the ship for that purpose.

2nd. Their Lordships have informed Captain Sullivan that they do not consider as satisfactory the answer he gave to the question put to him by the person who visited his vessel whether he had any negroes on board.

I trust that His Most Faithful Majesty's Government will agree with that of Her Majesty that the circumstances of the case are sufficiently met by the disapproval of Captain Sullivan's conduct, which has been made known to that officer; and I beg leave to add that instructions have recently been issued to the Commanders of Her Majesty's cruizers on the East Coast of Africa regarding the reception of negroes on board their ships, which will, it is hoped, prevent the recurrence of the proceedings of which your Government have complained.

I am, &c.  
CLARENDON.

Inclosure 2 in No. 42.

VISCOUNT DE SEISAL to the EARL OF CLARENDON.

Portuguese Legation. London,  
June 3, 1870.

MY LORD,

I HAVE the honour to acknowledge the receipt of your Excellency's letter of the 31st ultimo, requesting me to inform the Government of His Most Faithful Majesty that a Court of Inquiry having been instituted to judge into the conduct of Captain Sullivan, of Her Majesty's ship "Daphne," in regard to some negroes whom he carried off

to Mozambique, the Lords of the Admiralty have disapproved of Captain Sullivan's conduct, and that this has been made known to the said officer. Your Excellency further states that instructions have recently been issued to the Commanders of Her Majesty's cruizers on the East Coast of Africa regarding the reception of negroes on board their ships, which will, it is hoped, prevent the recurrence of the proceedings of which His Most Faithful Majesty has complained.

In compliance with your Excellency's request I shall not fail to make known to my Government the contents of your Excellency's letter, and I have no doubt they will be considered as a new proof of the friendly feelings towards Portugal of Her Britannic Majesty's Government.

I have, &c.  
SEISAL.

No. 43.

EXTRACT FROM EAST INDIES STATION ORDERS, 1871.

Art. 147. Her Majesty's Minister for Foreign Affairs has decided that slaves coming on board ships-of-war within the territorial jurisdiction of the country from which they escape, that is to say, within three miles of the shore, should be returned to the owners; but when it appears that slaves coming on board Her Majesty's ships have been recently imported in violation of Treaties, the Commanders of Her Majesty's ships should communicate the facts to the Consul, with a view to proper inquiry being made, rather than carry off the slaves on their own responsibility.

Art. 148. With reference to the course to be pursued in the case of slaves captured by Her Majesty's cruizers who may prove to have been kidnapped within the territories of the Sultan of Zanzibar, Her Majesty's Government is of opinion that slaves in the above category captured within the Sultan's territories or waters should for the future be restored to the proper authorities at Zanzibar; but that slaves captured on the high seas, or without the jurisdiction of the Sultan, ought not to be given up to the Zanzibar authorities.

## PAPERS FURNISHED BY THE COLONIAL OFFICE.

## LIST OF PAPERS.

No.	Page.	No.	Page.
1. Correspondence and Ordinances respecting Domestic Slavery and Fugitive Slaves on the Gold Coast and at Lagos	190	4. Correspondence respecting the condition of Liberated Africans at the Seychelles	203
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## I.—THE ROYAL COMMISSION TO THE UNDER SECRETARY OF STATE, COLONIAL OFFICE.

Royal Commission on Fugitive Slaves,  
8, Richmond Terrace,  
February 28, 1876.

SIR,

I AM directed by his Grace the Duke of Somerset, Chairman of this Commission, to request you to move the Earl of Carnarvon to furnish him with any papers which may be deemed useful to the Commissioners in their present inquiry on the question of Fugitive Slaves, and I have the honour to inclose herewith a copy of the warrant for guidance as to the subjects on which this information is required.

I have, &amp;c.

HENRY HOWARD,

The Under Secretary of State,  
Colonial Office.

Secretary.

## II.—THE UNDER SECRETARY OF STATE, COLONIAL OFFICE, TO THE ROYAL COMMISSION.

Colonial Office, Downing Street,  
9 March 1876.

SIR,

I HAVE laid before the Earl of Carnarvon your letter of the 28th ultimo, in which you request to be furnished with any papers which may be deemed useful to the Royal Commission which has been appointed by Her Majesty to inquire into and report upon the nature and extent of such international obligations as are applicable to questions as to the recognition of Fugitive Slaves by Her Majesty's ships in the territorial waters of Foreign States, and other matter specified in the warrant which you enclose.

Assuming, as Lord Carnarvon does, that the question of the rights and obligations of British ships in Foreign waters with regard to Fugitive Slaves is the only principal question referred by Her Majesty for the consideration of the Commission, his Lordship desires me to request that you will state to the Royal Commission that he possesses no papers relating to that question.

There are, however, two sets of papers which relate to questions arising out of the proximity of British possessions abroad to Slave States, and which he thinks it right the Royal Commission should have an opportunity of considering, if, after becoming acquainted with the general purport of them, they are of opinion that they have any bearing upon their labours.

The first of these sets of correspondence relates (1) to the peculiar jurisdiction in relation to domestic slavery on

the Gold Coast which has been exercised until recently by officers of the British Government; and (2) to the questions which have arisen at Lagos and the Gold Coast upon demands for the rendition of slaves flying from adjacent Slave States, such as Ashanti and Egba.

The second set of correspondence relates to the alleged traffic in slaves carried on between Tripoli and Constantino through Malta, and the charges of laxity in relation thereto, which have been occasionally brought against the Maltese police.

I am, &amp;c.,

ROBERT G. W. HERBERT.

Henry Howard, Esq., C.B.,  
Secretary.

## III.—THE ROYAL COMMISSION TO THE UNDER SECRETARY OF STATE, COLONIAL OFFICE.

Fugitive Slave Commission,  
8, Richmond Terrace,  
9 March 1876.

SIR,

IN reply to your letter of this day's date I am directed by his Grace the Duke of Somerset to state that he thinks it right that the Royal Commission should have an opportunity of considering the two sets of correspondence to which you refer, and that he would be glad if those papers could be presented on Tuesday next at 2 p.m.

I am to add that it would be convenient if, as in the case of the other offices, the Earl of Carnarvon would give permission for some one from the Colonial office to attend the meeting of the Commission on the above-mentioned day to explain the general bearing of the papers.

I have, &amp;c.,

HENRY HOWARD,

The Under Secretary of State,  
Colonial Office.

Secretary.

## IV.—THE UNDER SECRETARY OF STATE, COLONIAL OFFICE, TO THE ROYAL COMMISSION.

Downing Street, 13th March 1876.

SIR,

I HAVE laid before the Earl of Carnarvon your letter of the 9th instant, and in reply I am to acquaint you that his Lordship has instructed Mr. Fairfield of this department to attend before the Royal Commission on Tuesday at 2 p.m.

I am, &amp;c.,

ROBERT G. W. HERBERT.

Henry Howard, Esq., C.B.

## PAPERS selected by the COMMISSIONERS for insertion in the APPENDIX to their REPORT.

## I.—GOLD COAST AND LAGOS.

## DOMESTIC SLAVERY AND FUGITIVE SLAVES.

CORRESPONDENCE AND ORDINANCES  
RESPECTING.

## No. 1. LORD JOHN RUSSELL TO PRESIDENT MACLEAN.

SIR,

Downing Street, 14 July 1841.

I HAVE to acknowledge the receipt of your despatch of the 13th of April last, relating to the proclamation which was issued, under date of the 4th of March last, by the late Governor of Sierra Leone, Sir John Jeremie.

Although that despatch discusses questions on which I must postpone my final decision until I shall be in possession of Dr. Madden's Report, they are questions which

it is impossible to leave unnoticed after they have thus been distinctly brought before me.

The proclamation of the late Sir John Jeremie is nothing more than the affirmation of a principle of law regarding which it is impossible that any doubt should arise. Perhaps, indeed, the mere words of that proclamation may not have been accurately chosen. It declares it to be unlawful for any persons to hold slaves in a British territory. To that extent it is indisputably correct.

The additional declaration that it is unlawful for a British subject to hold slaves in any country whatever, except India, St. Helena, and Ceylon, is a wider assertion than I apprehend can strictly be made.

For the laws of Great Britain are of course binding only within the British dominions, except in a few peculiar cases where the municipal law attaches to a British subject even in a foreign land. Treason is the most familiar instance

of an exception of this kind. But I do not understand that a British subject would incur any penalty which could be enforced against him in British courts of justice, by holding men in slavery within the limits of any country by the law of which slavery is permitted.

This distinction is of great practical importance in reference to the British forts on the Gold Coast. Her Majesty's dominion on that coast is, as I understand, of very narrow local range. If I am correctly informed, it extends only to the forts themselves.

Whatever influence Great Britain may exercise beyond those precincts, my supposition is that (beyond the very walls of the forts) there is no sovereignty, properly speaking, vested in the British crown, but that the whole adjacent country is subject to the dominion of the native powers.

My information on this subject may be defective or erroneous. But, if I am rightly informed respecting it, it follows that within the fort of Cape Coast Castle a different rule of law regarding slavery may prevail from that which exists beyond those limits. Within them the statute 3rd & 4th William 4. cap. 73. is unquestionably in force. Beyond them it is not.

Bearing this distinction in mind, I proceed to observe that your want of instructions on the subject, and your want of official knowledge of the statute in question, however material those facts may be, are unimportant as respects the right of the inhabitants of the forts, if any there be, to their freedom.

The enactments of the legislature take effect within the British dominions, and have the force of law there by their own proper authority.

Every British subject is bound to take notice of them, and to carry them into execution.

Whether it was or was not an oversight that the Slavery Abolition Act was not published at Cape Coast Castle, it admits of no dispute or doubt that it is and has been the law there for several years past, so far as the place itself is within the dominion of the British Crown. Sir John Jeremie had no choice but to insist on the exact obedience to that law; no power in the State, except the legislature itself, can dispense with the observance of it.

Whether the residents within Her Majesty's dominions on the Gold Coast are European, mulattoes, or natives, the rule of law that no man can be holden in slavery there is peremptory and inflexible, and must be strictly enforced.

With regard to persons living in the vicinity, but not within the British dominion, the same rule does not apply. If the laws or usages of those countries tolerate slavery, we have no right to set aside those laws or usages, except by persuasion, negotiation, and other peaceful means.

With regard to the case of the persons called "pawns," your statement appears to confirm Sir John Jeremie's declaration that such holding in pawn is a holding in slavery within the meaning of the Acts of Parliament.

You describe them as "servants voluntarily serving for an indefinite length of time, who can at any moment leave their masters either by paying their debts from their own resources or by procuring other masters."

It appears therefore, that these people have sold themselves into a bondage from which they can be emancipated only by pecuniary payments, and that if not emancipated, they must live and die in servitude.

The essential distinction between a freeman and a slave is, that a freeman owes no services to any other man except by his own voluntary engagement, a slave being one who is bound by law, and without his own consent to labour in the service of some other person.

In the case of the pawns it is said that the consent has been given, because the obligation of service arises from a voluntary contract, which however indefinite in its duration and improvident in its terms, is still the deliberate act of the party bound by it. It is therefore compared to any other engagement of apprenticeship or of temporary service into which a freeman may enter.

It is, doubtless, very difficult to draw with absolute distinctness and certainty the line which separates freedom and slavery when the two states approach thus nearly to each other. But the more refined and subtle distinctions which might be raised on a merely speculative view of the question must yield to the more broad and intelligible considerations which apply to them.

If the local law permits a man to sell his services to another for his life, that local law in effect permits a man to sell himself into slavery, and, being opposed to the general law of the empire, is superseded by it.

If the local law sanctions, as I understand from your despatch it does sanction, the holding a man in pawn merely because he owes money to his master, then the obligation of permanent service is clearly slavery; for it is the result, not of a contract to render that service, but of a law which attaches that obligation on a debtor. No analogy

can be drawn in favor of such a system from the case of the apprenticeship of children, for children have only that qualified freedom which their ignorance and inexperience will admit, and are of course bound during their minority by engagements made for their benefit by their parents or guardians. The apprenticeship of an adult, or the engagement of such a person to serve for a limited period, more resembles the case of the pawns. But the limitation of hire is an essential and not merely a circumstantial difference. Every such temporary engagement is in fact an engagement to work for wages, and the breach of it is not punishable by penalties, but by civil action for damages. The few occasional exceptions are of little importance.

For these reasons it appears to me that the distinction between a pawn and a slave is little more than nominal, and that Sir John Jeremie rightfully pronounced both systems an infringement of the Acts of Parliament.

That no notice was given at Cape Coast Castle of the enactment of the Slavery Abolition Act is, I apprehend, to be explained from the circumstance that in the year 1833 the Government was ignorant of the existence of slavery in any part of the British Settlements on the Western Coast of Africa. No pawn had ever been registered there as a slave, and I am not aware by what right or law slavery was ever introduced into that part of the British dominions.

In answer to your first question, "Against whom is the Slavery Abolition Act" to be enforced? I therefore answer it is to be enforced against every person holding another in slavery or in pawn within the dominions of the British Crown. To your second question "What steps ought you to take in enforcing it?" my answer, is that you should announce immediately and in the most public manner, that the Act for the abolition of slavery extends to and is in force within the British Forts on the Gold Coast and all territories there so far as the limit of the Queen's dominions extend.

With regard to the question (*sic*) exercised by the local Government in countries beyond the Queen's allegiance, I must suspend my opinion until I am in possession of Dr. Madden's report.

With regard to the claim for compensation made by the seven persons who have signed the petition of the 29th March last, you will inform the petitioners that it cannot be admitted,—first, because in no case has it been given except for the enfranchisement of slaves duly registered, and, secondly, because Her Majesty's Government do not admit that it was ever lawful to hold any person in slavery in Her Majesty's dominions on the Western Coast of Africa, although the existence of slavery there at a former period may, as a mere matter of fact, not be capable of contradiction.

I have, &c.,

JOHN RUSSELL.

Mr. President MacLean,  
Cape Coast Castle.

No. 2. EXTRACTS.

DESPATCH FROM GOVERNOR SIR B. PINE TO MR. SECRETARY LABOUCHERE.

(Confidential.)

Sierra Leone,

1 October 1857.

SIR,

(Received 12 November 1857.)

\* \* \* \* \*

HAVING now, Sir, tried to show you what slavery on the Gold Coast really is, I proceed to consider whether the exercise of our protectorate there involves any recognition of this so-called institution. I find in the books a despatch written by Mr. Connor more than two years ago, in which he laid before one of your predecessors the complicity of our judicial proceedings in slavery, for the purpose of inducing him to cause an Act of Parliament to be passed to indemnify the officers of the Local Government against the penal consequences of such complicity. Owing, I have no doubt, to the form in which the subject was brought before the Secretary of State, and to the subsequent mission of Major Ord, no reply has been received to that despatch. In your first despatch to me, inclosing Major Ord's report, whilst adverting to certain proposals of that gentleman for mitigating the evils of slavery and pawning, you adopt a tone which leaves no doubt on my mind that you entirely disapprove of any recognition of these institutions on the part of the Local Government under any circumstances or for any purpose. I therefore take the liberty of inclosing a copy of Mr. Connor's despatch, and of calling your most serious attention to the statements it contains.

Mr. Connor stated, that slavery is recognized by this Government, and that, upon the application of the masters of runaway slaves to our Courts for their restoration, it has

always been the custom, unless the slaves could prove ill-usage, to order their return to their masters, and to give the aid of our constables, if requisite, to enforce the order; but that if unkindness is established, we either liberate the slave or allow him to find another master for himself, and that we and the neighbouring Dutch restore the slaves of our respective natives. Mr. Connor then proceeds to point out the evils which he supposes would occur if we did not pursue this course, the illegality of which he admits.

I differ entirely from Mr. Connor's views as to the passing of an Act to indemnify, in this respect, the officers of this Government, under which, if passed, I should most respectfully decline to act; but I wish to say that I think the manner in which he brought the subject to the notice of Her Majesty's Government worthy of the straightforwardness and honesty which form so prominent a part of his character.

I have found, on examination, that the practice of the Courts in regard to slavery has always been nearly as represented by Mr. Connor; and, moreover, that in cases where decided ill-treatment was proved, the slaves were manumitted; but in cases short of this, where a slave was allowed to find another master, the magistrates were in the habit of acting as a sort of brokers between the old and new one, by receiving and paying the purchase-money and handing over the slave.

The foregoing statements show that the Government of the Gold Coast has, in the exercise of its jurisdiction, distinctly recognised slavery, in such a manner, too, as to render its officers liable to be punished for felony. The question now arises, whether our jurisdiction necessarily involves this recognition, and I am of opinion that it does.

One of the conditions, expressed or implied, of our exercise of the protectorate is, that we shall not interfere with rights of the native chiefs and headmen as to slavery. We have been tacitly allowed to violate this condition to a certain extent, by manumitting slaves in cases of decided cruelty, and by helping discontented slaves to procure new masters. I am convinced that we can go no further. If, except in the case mentioned, we were to emancipate slaves who come before our courts, without compensating their masters, there would at once be a resistance to our authority which we have no means of overcoming.

It may be said that we should only take cognizance of slave cases in which the slave had been treated with such cruelty as enables us to liberate him. This is the course which, in my difficulty, I have in the meantime ordered to be pursued. I fear, however, when it is fully known, it will cause great trouble, and be found impracticable. It is altogether a one-sided administration of justice. The chiefs and headmen will justly say that our courts are only open to decide against them; never for them. Besides, in order to discover whether it is a case for our interference, we must hear both parties; if we decide that it is not such a case, I am at a loss to know what we can do with the slave; if we drive him out of the fort, we virtually deliver him to his master; if we allow him to remain inside (which in other respects is impracticable), we really take him from his master.

It may be said that we might abstain from entertaining slave cases of any kind; but we could not prevent slaves from running into our forts for protection, and then we must drive them out, and, as I have said, virtually deliver them to their masters, for to keep them would be impossible. Besides, as the great mass of the people are slaves, to refuse to interfere in slavery cases would, in effect, be to give up our power of protecting them against the oppression of their superiors.

Even if we could escape from these difficulties as to direct interference between master and slave, I cannot see how we can exercise our jurisdiction without recognising slavery. Slaves have been shown to compose the bulk of the property—"the staple currency" of the country. Our courts could not decide a case of disputed succession, or scarcely any other case in which property is concerned, without taking cognizance of slavery. Slavery meets us at every point. I repeat that it is as impracticable to exercise judicial authority over these countries without recognising slavery, as it would be for a Court of Chancery to perform its functions in England without taking notice of the existence of real and personal property.

Upon the whole I am decidedly of opinion that our jurisdiction over the countries on the Gold Coast involves the recognition of slavery; and the anomaly of our position there cannot be more forcibly stated than by saying that the protectorate of England over these countries involves the violation of English law, and that the moment that law is fully observed by our officers, that moment brings our jurisdiction to an end.

\* \* \* \* \*

### No. 3. EXTRACTS.

#### CHIEF JUSTICE CORNER'S Remarks on the EMANCIPATION and SLAVE TRADE SUPPRESSION ACTS as applying to the British Possessions on the GOLD COAST.

\* \* \* \* \*

It does not appear to me that the sections of the two Acts referred to by Mr. Connor, viz., 6 & 7 Vict. c. 98, sec. 1. and 5 Geo. 4. c. 113., apply to the state of things in question; viz., the giving up to a previous owner, being a denizen of a slave-holding country, a slave or pawn who had taken refuge in a British fort or settlement, but only to cases of removals of persons in order to their being made slaves or transferred to new masters; in other words, to the foreign slave trade only. I do not mean to say that the words, separately considered, might not include the former case, but that, on looking to the context and to the other parts of the former Act, it seems clear to me that they do not, particularly the excepting clauses. Sections 13 and 14, legalizing sales and removals of slaves within the British colonies, are important as showing that the Act generally has no application to it; for it seems impossible to contend that under that Act, until the passing of the Emancipation Acts, there could be any illegality in giving up an escaped slave to his master, whether the latter were a British subject or a foreigner, or a resident in a British slave-holding colony or out of it.

The real difficulty seems to arise from the 12th section of the Emancipation Act already quoted; for although that Act could have no operation on the slaves of citizens of foreign states so long as they remain in those states, I apprehend it is equally clear that it does operate upon them as soon as they come into British territory, and that there, under the combined operation of the two Acts, their status as slaves or pawns can no longer be lawfully recognized or enforced.

I presume that the forts on the Gold Coast have been, since the Treaty of Peace with the King of Ashantee in 1830, actually British territory.

\* \* \* \* \*

Whether the territory *beyond* the walls of the forts comes within the words of the 12th section of the Emancipation Act as a "British colony, plantation, or possession," may be a difficult and delicate question, which would require a detailed and careful examination of the several treaties under which the jurisdiction is exercised by the British authorities, which treaties I have not had any opportunity of reading, but I have always understood that beyond the forts themselves the jurisdiction was exercised under the authority of the native princes and chiefs; and, if so, I apprehend the operation is confined to the forts themselves. (See Lord John Russell's letter, already quoted, and also Mr. Bannerman's letter at page 154 of same Report.)

If this view be correct, one result would be that the delivering up of fugitive slaves or pawns within the forts would be illegal, but on the territory beyond would in strictness be legal. The propriety and political expediency of it would, however, of course depend upon other considerations.

\* \* \* \* \*

RICHARD JAMES CORNER,  
March 1858.

### No. 4.

EXTRACT from a DESPATCH from GOVERNOR PINE to His Grace the DUKE OF NEWCASTLE, K.G., dated Cape Coast Castle, Gold Coast, 10 December 1862.

THE refuge afforded to runaway slaves and pawns under the British flag has, during my long experience, proved the source of the greatest irritation and annoyance to native kings and chiefs, and the wound the most difficult for Her Majesty's representative to heal; and, unfortunately, I find here such questions of every-day occurrence.

While addressing these lines to your Grace, I have two claims from the powerful and much-dreaded King of Ashantee for the restoration of his subjects.

The first case is that of a slave boy, who some weeks since escaped from his master on his way back to Ashantee, and took refuge in the kingdom of Assin, under this Protectorate.

As has been the custom, I desired the King of Assin to restore the boy to his Sovereign, and he is immediately sent down to me with special messengers.

An inquiry takes place in the hall of this castle, when the runaway boy avows himself to be a slave; that he was overladen, and otherwise cruelly ill-treated by his master; that he has taken the King's oath not to return to Ashantee;

that death will be the penalty for his offence; and that by force alone will he leave the Protectorate.

The master admits the boy to be a slave, but declares that for my sake the King of Ashantee will not take his life.

The second case is that of an old man (not a slave) who is claimed by the axe-bearer, sword-bearer, and followers of the King of Ashantee, who exhibit their symbols of office with much ceremony, and are considered of more than ordinary importance.

This old man is accused of having received and converted to his own use a piece of (so-called) rock gold, which by the law of the country must be accounted for to the King; there is not a tittle of evidence except the remotest hearsay in support of the allegation, and the accused solemnly denies the charge. He is a man of property, and declares that the King desires only to entrap him, take his head, and afterwards possession of his property.

The King's messengers offer to swear that the accused will be fairly tried, and, even if found guilty, will not lose a hair of his head.

The old man imploringly cries to me, "Kill me if you like; that will be better than giving my head to the King." And no one can assure me that I may rely upon the King's word; yet all would be delighted for me to restore to him his subjects.

Gladly would I try an experiment, and send back these subjects of Ashantee, for if confidence were once created between this Government and Ashantee, the greatest obstacle in the way of amicable relations between us would be removed; and if against the old man there were the slightest shadow of a *prima facie* case of criminality, my course would be clear; but, as it is, I dare not deliver him up, much less the runaway boy. Their blood would be upon my head. And yet I feel that I am estranging, if not exasperating, the most powerful king on this coast, and upon whom, according to his ideas, I am committing a gross injustice.

No. 5.

EXTRACT from a DESPATCH from His Grace the DUKE OF NEWCASTLE, K.G., to GOVERNOR PINE, dated Downing Street, 4 March 1863, No. 43.

I ENTIRELY approve of your having refused to surrender to the King of Ashantee the old man and boy who had been brought into British territory. No person once brought within the limits of a British possession can be then seized and handed over to a Foreign Power, except under sanction of the law of the Colony. And no law should authorise such delivery to the authorities of a country in which justice is not fairly administered, except in the case of heinous crimes clearly proved.

What shall be done with respect to persons taking refuge in the protected territories is a more difficult question. But one thing is clear, that no British authority should be involved in their surrender, except in cases where clear justice requires it. It may be unreasonable, in some cases, to prevent protected chiefs from taking that course which, though not such as a British authority could approve, may yet be necessary for their own safety. But in this case it should be clear that the act is theirs, and not that of the British Government; and care should be especially taken that in no such cases should the alleged fugitive or criminal be brought within the forts either for examination or for any other purpose. I should wish, however, to be informed what is the actual practice with respect to persons taking refuge in the protected territories, and claiming the benefit of British influence.

No. 6.—EXTRACTS.

MR. SECRETARY CARDWELL TO GOVERNOR BLACKALL.

SIR, \* \* \* \* \*  
Downing Street,  
3 February 1866.

THERE is a serious question which has been pending since our occupation of Lagos, which your appointment as Governor and Commander-in-chief over the West Africa Settlements will, I hope, enable you to bring to a close, viz., the existence of domestic slavery in British territory, and the grant of compensation for the liberation of slaves.

I need scarcely remark that this state of things is inconsistent with the provisions of the Imperial Act 3 & 4 William IV. cap. 73, which has made all the Queen's dominions free soil, and by which, therefore, every person in Lagos has been free since it became a British Colony. I am fully aware of the extreme difficulty which a Governor must encounter in having to assume the control of a territory under British jurisdiction, in which domestic

slavery, as in every part of Africa, is a constituent element in the fabric of society, and appreciate the endeavours of the late Governor Freeman and the present Lieutenant-Governor to facilitate the transition from slavery to freedom.

But, unfortunately, as could hardly have been helped, the Ordinances which have been passed for that object are at variance with British law.

The Ordinances to which I allude are, first, the one passed in 1863 for registering all "slaves" in the settlement of Lagos, and in which provision is made that in case of a slave being apprenticed the period of apprenticeship shall be guided by the original cost of the slave, the present market value of slave labour, &c.

The second Ordinance relates to the Slave Commission Court, in which provision is made for settling the amount of compensation to be given to the late owners of slaves being inhabitants of Lagos, &c.

\* \* \* \* \*  
With regard to fugitive slaves from the neighbouring territories, I need only remark that a Fugitive Slave Law in Africa is out of the question, and that it will be for the Chiefs, therefore, to take precautions against their slaves entering British territory, and for the Colonial Government to take care that no official inducements are held out to fugitives, and to warn them that if after entering British territory they again quit it, they must do so at their own risk.

But the readiest and most effectual way of escaping from all these embarrassments, is to confine British territory within the smallest compass which may be practicable; and if it should be found that British law cannot be fully established in the Island of Lagos, and in the towns occupied by us, we must confine the area of British territory, as at the Gold Coast, to the land occupied by the Government buildings, constituting the rest of the territory acquired from Docemo, a Protectorate where our influence could be used to soften and gradually destroy slavery, without our authority being called on to abolish it.

I have, &c.,  
E. CARDWELL.

No. 7.—EXTRACTS.

ADMINISTRATOR BERKELEY TO GOVERNOR POPE HENNESSEY, C.M.G.

SIR, \* \* \* \* \*  
Government House, Lagos,  
24 January 1873.

BUT, however satisfactory the result in this instance has been, the reflection is by no means an agreeable one that this Government may at any moment be involved in great complications from the acts of irresponsible agents, who, in addition to pursuing a line of conduct calculated to irritate our immediate neighbours, seek the protection of British territory as a cover to their misdeeds.

\* \* \* \* \*  
As matters at present stand we demand redress from the natives for any breach of our laws, while obliged to confess our inability to make any concession to them under similar circumstances. In a clearly proved case of abduction, such as that of Prince Adogun's slave, I think that, at the very least, there should be the power of enforcing the payment of a money compensation, even if it was not considered advisable to treat the matter as a criminal offence.

\* \* \* \* \*  
I have, &c.,  
GEORGE BERKELEY,  
Administrator.

His Excellency  
Governor Pope Hennessey, C.M.G.,  
Administrator-in-Chief.

No. 8.—EXTRACTS.

THE EARL OF KIMBERLEY TO GOVERNOR KEATE, LAGOS.

SIR, \* \* \* \* \*  
5 March 1873.

You will have the goodness to convey to Mr. Berkeley my approval of his proceedings, and of the manner in which Capt. Lees executed this mission. I shall wait for Mr. Berkeley's further report before forming an opinion on his suggestion that a money compensation might be enforced in certain cases for the liberation of domestic slaves.

I have, &c.,  
KIMBERLEY.



## No. 9.—EXTRACT.

REPORT OF JUDGE MARSHALL TO SIR GARNET  
J. WOLSELEY, C.B., K.C.M.G.

Court House, Cape Coast,  
December 24, 1873.

SIR,

\* \* \* \* \*  
WITH regard to the first statement, the only ground on which I can suppose it was founded is as follows:—

A day or two after the detachment of Cape Coast Houssas was sent from there to Accra to join Captain Glover's expedition a number of women and children, both Houssas and Fantees, were sent on board one of the mail steamers to be conveyed to Accra to join the Houssas. After they were on board, one of the principal native ladies of the place came to me with the complaint that two of her women servants or domestic slaves had run away from her, and had been received into the Houssa barracks, and were then on board the steamer, taking some of her property with them.

One of the most important duties of the Judicial Assessor's Court since its foundation, and which has been constantly recognized in Committees of the House of Commons on West African affairs, has been the regulation, as far as it has been possible, of the system of what is called domestic slavery, which exists among all the tribes which compose the British Protectorate. This duty involves the recognition and regulation of the rights of the masters as well as the protection of the servants.

The complaint of this lady was formally laid before me, and these women were being conveyed away from their mistress and town at the Government expense and under charge of a Colonial officer. They were leaving their mistress in a most improper manner, and throwing away a home where they were happy and comfortable, to become the servants and mistresses of Houssas in a dangerous campaign, at the end of which they would probably be cast adrift. I therefore issued a summons for them to appear before me in the Judicial Assessor's Court. It is utterly untrue that this was any order or warrant for them to be dragged back into slavery; it was done in order to investigate the case. This summons was executed by the police on board the steamer, and when on board they were violently assaulted and their clothes torn by some of the women there; but, according to the evidence of the police, neither of these two women offered any resistance.

When the two women appeared before me I informed them why they had been brought back, and inquired of them whether they had any complaint of ill-treatment or unkindness to make against their mistress, who was not present, assuring them that it was my duty to protect them if such was the case. They stated that they had no complaint to make against her, and that they felt they had done wrong in leaving her as they had, and that they were willing to return to her, which they did without any compulsion whatever, and so the matter ended.

This is the only instance that has occurred since my arrival here in which any domestic slave has been brought from on board ship to appear before me.

The second statement, to the effect that "a wretched female slave was carried through the streets of Cape Coast bound hand and foot," that she was then endeavouring to escape from slavery, and "being under due legal process carried back to her master," has no foundation whatever. Had any such treatment of any woman whatever been proved before me, I should most certainly have punished the guilty parties.

\* \* \* \* \*  
I have, &c.,

JAMES MARSHALL,  
Chief Magistrate and Judicial Assessor.

His Excellency  
Sir G. J. Wolseley, C.B., K.C.M.G.,  
Administrator.

## No. 10.—EXTRACTS.

THE EARL OF CARNARVON TO THE OFFICER ADMINISTERING THE GOVERNMENT OF THE GOLD COAST.

Downing Street,  
August 21, 1874.

SIR,

IN conformity with the intention I expressed to you in my despatch of the 20th instant (No. 2), I desire now to address you on the subject of slavery and slave-dealing in the protected territories of the Gold Coast.

Her Majesty's territorial dominion on the Gold Coast is of narrow local range. It extends merely to the forts, or at most to so much of the lands immediately adjacent as may be required for defensive, sanitary, or other purposes

essential to the maintenance of the British position on the coast. All beyond that area is foreign territory.

Within British territory slavery has, I need scarcely say, no existence. It ceased by virtue of the Act of Parliament of the 3rd and 4th Will. IV. cap. 73. But in the territories which lie beyond that range, the rule is otherwise. That country is foreign soil, divided amongst native chiefs and rulers standing in no relation of allegiance to Her Majesty, independent of one another, and each presumably sovereign within the local limits of his own domain.

But within the territory of each such ruler, the English Sovereign has, by cession or sufferance, acquired a varying degree of authority, and over the whole an undefined and somewhat anomalous jurisdiction.

Hitherto, that authority has not been regarded as entitling the Crown to interfere directly with the system of slavery and slave-dealing which has existed by law and custom in these territories from time beyond the memory of man. The eminent statesman who was Secretary of State for the Colonies in 1841 did not hesitate to lay down this doctrine, "If the laws or usages of these countries," said Lord Russell in a despatch of the 14th of July of that year, "tolerate slavery, we have no right to set aside those laws or usages, except by persuasion, negotiation, and other peaceful means." Whilst I am not prepared to dispute the political wisdom of this proposition, viewing it, as is only just, in reference to the circumstances and possibilities of the time when it was laid down, I would observe that even then the British Government, through the Judicial Assessor and the general administration of the Settlement, exercised, though an indirect yet a powerful influence upon slavery, as well as upon the other barbarous customs of the Gold Coast, and mitigated in a material degree its miseries and injustice.

The jurisdiction of the Judicial Assessor, in the language of one of the most distinguished of my predecessors in this office, the late Earl of Derby, "had its origin in a desire to mitigate, by the influence of Christianity and civilization, the effects of cruel and barbarous customs; it has been brought into operation upon a state of society, and under relations to savage tribes, necessitating a neglect of all technical rules and observances. In its effects it has undeniably been the means of insuring justice, preventing cruelty, and promoting civilization."

Further than this, however, the Government did not attempt to go. The right was not claimed, and the duty was denied, of making any more direct attack on this ancient institution of the country.

But the time has now come when it appears to me possible to lay aside the somewhat timid attitude which was, in a great measure, imposed upon my predecessors by the force of circumstances, and even to incur some risk for the sake of removing the dishonour and moral taint which is incurred by a toleration of slavery, when once that toleration ceases to be a matter of absolute necessity.

\* \* \* \* \*  
The chiefs and the inhabitants of the Protectorate should be frankly informed that in return for the benefits thus conferred their co-operation is required in the pursuit of one principal and paramount object, which Her Majesty's Government will employ their unremitting efforts to accomplish, and this is, the immediate abolition of slave-dealing and the importation of slaves, to be followed by such regulation of the relations between master and slave as shall ultimately, and in no long course of time, effect the extinction of slavery itself.

In making this avowal care should be taken to excite no needless fears, such as might arise if it were to be supposed that what is contemplated is some sudden and ruinous subversion of the existing social relations depending upon slavery, without regard to the various interests which have grown up and are closely connected with it. But Her Majesty's Government desire that their abhorrence of slavery and their determination to take measures for its ultimate abolition, as well as for the immediate abolition of slave-dealing by importation, should be declared at once, because it is now, when the impression made by recent events is fresh and strong, that such a declaration will be opportune, supported as it must be in the minds of the natives by a sense of what has been done for them; by a recognition of the homage due to the power and beneficence of the British Crown, and by a lively consciousness on the part of the owners of slaves themselves, that it is owing solely to the British nation that they are not themselves the slaves of a foreign power.

Under such circumstances it is not in mere acknowledgment of indefeasible right of property, impossible as it would be wholly to ignore, under the circumstances of the case, that there are certain rights of property vested in the owners of slaves on the Gold Coast, as there were forty years ago in the West Indies, that Her Majesty's Govern-

ment abstain from enforcing their immediate emancipation ; it is also from a sense of the evils and sufferings that might be occasioned to the slaves themselves, as well as to other classes, by an abrupt dissolution of ties by which the whole fabric of society has been hitherto held together, and which are interwoven with all their traditional sentiments and usages.

But there are no such considerations to dissuade the immediate abolition of slave-dealing by importation. This is an outrage and a crime, and must be punished as such wheresoever the authority of the British Crown can avail to bring it to justice. I have to request, therefore, that, in concert with your legal adviser, you will prepare for submission to Her Majesty's Government the draft of an Ordinance by which full punishment shall be awarded for this offence, and by which every person brought under compulsion within the Protectorate from beyond its bounds for the purpose of being sold or otherwise dealt with as a slave shall be declared free.

Slave-dealing, by the sale or pawning of slaves who are natives of the Protectorate or already within its limits, is a matter of more difficulty. The Doncos or slaves of foreign extraction may, perhaps, be dealt with on a different footing from the others. They are said to be treated with much more harshness than the native slaves ; and this may well be believed, inasmuch as they are without blood relations or connections to interfere for their protection. And, at the same time, their isolated condition may render their liberation a matter of less difficulty than the liberation of native slaves. What are the numbers of the Doncos I am not informed ; but, if they are not numerous, I suggest for your consideration the question whether they and their children might not be emancipated at once by payment to their owners by the Government in fixed annual instalments of the total sum of 8l., as the estimated price of each of the adult slaves, with such addition for children, if any, as their estimated value might justify, on such slaves contracting with the Government to give their daily labour to the making of roads or other public works for such a term of years and at such a rate of wages as would provide for their subsistence, and that of the children, if any, and at the same time reimburse the Government, wholly or in part, the sums paid for the slaves and their families. The practicability of this scheme would depend, amongst other things, on the means which the Government might have of inducing or coercing the performance by these liberated slaves of their contract to supply the required amount of labour. If necessity and the want of other means of subsistence were not enough, the means of coercion should certainly not be by corporal punishment.

\* \* \* \* \*

I have, &c.,  
CARNARVON.

No. 11.—EXTRACTS.

GOVERNOR STRAHAN TO THE EARL OF CARNARVON.  
(Received January 21, 1875.)

Government House,  
Cape Coast, December 27, 1874.

MY LORD,

The statement in the closing part of Reuter's report of the meeting of kings and chiefs of Cape Coast Castle, that it was decided that no slave could leave his master unless there was proof of cruelty or maltreatment, is wholly erroneous. The final result precisely corresponded with what is set forth in my statement, namely, that every slave was free, and might assert his freedom, by leaving his master if he chose, without assigning cause, although the Government did not intend to compel any one to leave who was happy and content to remain with his master.

The statement regarding pawns is also incorrect. The chiefs made inquiry whether the right to recover outstanding debts, where a pawn had been given in security, was lost by reason of the freedom of the pawns. It was explained to them that, although the pawns were at once free, the debt was recoverable as before.

Subsequent events have proved that the above was thoroughly understood by all classes.

I informed them, in answer to the question which they put in regard to their domestic slaves, that whilst it was not intended to force any who had been slaves to leave their masters' family who were happy and content to remain, yet that such of them as desired to leave their former masters were at liberty to do so at once or at any time, and that no coercion whatever would be allowed to enforce any claims to servitude.

The fact as it appeared was, that those of the chiefs who had made loans and taken pawns as security had some misgivings as to the future validity of these debts on the pawns becoming free, and hence, I believe, arose the question put by them as reported in my previous despatch. I explained to them, not that the debt would become recoverable on the pawn leaving; as it is put in the Report, but that, whilst the pawns, equally with all other persons held in servitude, became at once free to go or remain as they chose, the creditor's right to recover the debts in respect of which these pawns had been taken was unaffected by the freedom of the latter. There was a general manifestation of satisfaction on this explanation being given.

\* \* \* \* \*

I have, &c.  
GEO. C. STRAHAN.

No. 12.

No. 1, 1874.—GOLD COAST COLONY.

In the thirty-eighth year of the reign of Her Majesty  
Queen Victoria.

(L.S.) Captain GEORGE CUMINE STRAHAN, Governor.

[December 17, 1874.]

At a Legislative Council held at Cape Coast Castle on the seventeenth day of December, in the year of our Lord one thousand eight hundred and seventy-four.

*An Ordinance to provide for the Abolition of Slave Dealing.*

WHEREAS it is expedient that effectual measures should be taken for abolishing slave dealing :

Be it therefore enacted by the Governor of the Gold Coast Colony, by and with the advice and consent of the Legislative Council thereof, as follows, viz. :—

I. This Ordinance shall come into operation upon its being passed by the Legislative Council and assented to by the Governor, and thereupon shall extend and apply to the Gold Coast Colony and the protected territories.

II. In this Ordinance the term "protected territories" shall mean the countries or territories on the West Coast of Africa, near or adjacent to the Settlement on the Gold Coast wherein the Queen's Majesty has acquired, or may hereafter acquire, powers and jurisdiction.

III. Slave-dealing is hereby declared unlawful and is prohibited.

IV. Whosoever shall do, or shall attempt to do, any of the acts hereinafter mentioned, that is to say,

(1.) Deal or trade in, purchase, sell, barter, transfer, or take any slave ;

(2.) Deal or trade in, purchase, sell, barter, transfer, or take any person, in order or so that such person should be held or treated as a slave ;

(3.) Place or receive any person in servitude as a pledge or security for debt, whether then due and owing, or to be incurred or contingent, whether under the name of a pawn, or by whatever other name such person may be called or known ;

(4.) Convey or induce any person to come within the limits of the protected territories, in order or so that such person shall be dealt or traded in, purchased, sold, bartered, transferred, or become a slave, or be placed in servitude as a pledge or security for debt ;

(5.) Convey or send or induce any person to go out of the limits of the protected territories, in order or so that such person should be dealt or traded in, purchased, sold, bartered, transferred, or become a slave, or be placed in servitude as a pledge or security for debt ;

(6.) Enter into any contract or agreement with or without consideration for doing any of the acts or accomplishing any of the purposes herein-above enumerated, shall, and shall be deemed to have committed the offence of slave-dealing.

V. Whosoever shall aid, assist, counsel, request, order, or procure any person to commit the offence of slave-dealing shall be deemed and be guilty of slave-dealing, and may be tried and convicted either as an accessory before the fact to the principal offence, or after the conviction of the principal offender, or may be indicted and convicted of the substantive offence, whether the principal offender shall or shall not have been previously convicted, or shall or shall not be amenable to justice.

VI. Every offence of slave-dealing may be inquired of, tried, determined, and dealt with by any Court having within the Gold Coast Colony, or the protected territories, competent jurisdiction to try crimes and offences ; declaring

that the term Court for the purposes of this Ordinance shall include the Courts of such native Kings and Chiefs only as the Governor may by his commission authorize, either specially to try the offence of slave-dealing, or generally to try crimes and offences.

VII. Whosoever shall be convicted of slave-dealing shall be liable to be punished by imprisonment with or without hard labour for a period which may extend to seven years, and shall also be liable to be fined, either in addition to or in substitution for such imprisonment; and where any fine shall have been imposed, such fine shall be recoverable by distress and sale of the goods and chattels of the party convicted, and in default of sufficient distress, or without proceeding by distress in case the court pronouncing sentence shall so order, by imprisonment with or without hard labour for any term not exceeding two years, unless such fine shall be sooner paid.

VIII. Every person who as a slave or otherwise shall be brought or induced to come within the Gold Coast Colony or protected territories, so or in order that such person should be dealt or traded in, sold, purchased, bartered, transferred, or taken, or should become or be a slave, or be placed in servitude, or transferred as a pledge or security for debt, shall become and be, and is hereby declared to be, a free person.

IX. Every present contract in which it is stipulated or agreed that any person shall be brought or sold or placed in servitude, or be transferred either as a pledge or security for debt, or in any other way, shall, so far as regards any such stipulation or agreement, be and is hereby declared to be wholly, and in every particular, null and void, and every future contract which shall contain any such stipulation or agreement shall be absolutely illegal.

X. This Ordinance shall be sufficiently cited for all purposes as the "Gold Coast Slave-Dealing Abolition Ordinance, 1874."

Passed in the Legislative Council this seventeenth day of December, in the year of our Lord one thousand eight hundred and seventy-four.

ALFRED MOLONEY,  
*Clerk of Legislative Council.*

I assent to this Ordinance in Her Majesty's name.  
GEO. C. STRAHAN, *Governor.*

No. 13.

No. 2, 1874.—GOLD COAST COLONY.

In the thirty-eighth year of the reign of Her Majesty Queen Victoria.

(L.S.) Captain GEORGE CUMINE STRAHAN, *Governor.*  
[December 17, 1874.]

At a Legislative Council held at Cape Coast Castle, on the seventeenth day of December in the year of our Lord one thousand eight hundred and seventy-four.

*An Ordinance to provide for the Emancipation of persons holden in Slavery.*

WHEREAS divers persons under the native laws of the protected territories on the Gold Coast are or may be holden in slavery, and it is just and expedient to provide for the emancipation of all such persons:

Be it therefore enacted by the Governor of the Gold Coast Colony, by and with the advice and consent of the Legislative Council thereof, as follows, viz.:—

I. This Ordinance shall come into operation upon its being passed by the Legislative Council and assented to by the Governor, and thereupon shall extend and apply to the Gold Coast Colony and the protected territories.

II. In this Ordinance the term "protected territories" shall mean the countries or territories on the West Coast of Africa, near or adjacent to the Settlement on the Gold Coast, wherein the Queen's Majesty has acquired, or may hereafter acquire, powers and jurisdiction.

III. All persons who, after the 5th day of November of the year 1874, shall have been or shall be born within the limits to which this Ordinance applies, who under the native laws of the protected territories are or may be liable to be holden, or but for this Ordinance would or might be or be liable to be holden in slavery, are and shall be and are hereby declared free persons to all intents and purposes; but providing that, except in so far as is inconsistent with this Ordinance and with the "Gold Coast Slave-dealing Abolition Ordinance, 1874," nothing herein contained shall be construed to diminish or derogate from the rights and obligations of parents and of children, or from other rights and obligations, not being repugnant to the law of Eng-

land, arising out of the family and tribal relations customarily used and observed in the protected territories.

IV. If at any time after this Ordinance shall have come into operation any claim or alleged right over or affecting the liberty of any person shall be made, stated, or brought into controversy, or shall arise or come in question, whether as a ground or cause of action, or by way of plea, answer, demurrer, or defence of, in, or to any suit, action, cause, indictment, information, prosecution, or proceeding, or in any other manner of way whatsoever, then and in every such case such claim or alleged right shall be deemed and be of no force or validity, and every Court of Justice, Judge, Magistrate, native King, Chief, and other tribunal authority, and person before whom any such claim or alleged right may be made, stated, brought into controversy, or shall arise or come in question as aforesaid, shall refuse, disallow, discharge, and dismiss the same for all purposes and effects whatsoever: Providing always, that this enactment shall not be construed to include or apply to such rights as under the ordinary rules of English law applicable to the Gold Coast Colony may arise under and by virtue of contracts of service between freemen, or as are included and reserved in the last preceding section.

V. Whosoever shall, by any species of coercion or restraint, compel or attempt to compel the service of any person declared in this or in any other Ordinance of this Colony a free person, shall be guilty of an offence punishable in the manner prescribed in the 7th section of the "Gold Coast Slave-dealing Abolition Ordinance, 1874:" Provided that this enactment shall not be construed to apply to any such coercion as lawfully may be exercised by virtue of such contracts of service as under the ordinary rules of English law applicable to the Gold Coast Colony may be entered into between free persons, or by virtue of such rights as are included and reserved in the 3rd section of this Ordinance.

IV. This Ordinance shall be sufficiently cited for all purposes as the "Gold Coast Emancipation Ordinance, 1874."

Passed in the Legislative Council this seventeenth day of December, in the year of our Lord one thousand eight hundred and seventy-four.

ALFRED MOLONEY,  
*Clerk of Legislative Council.*

I assent to this Ordinance in Her Majesty's name.  
GEO. C. STRAHAN,  
*Governor.*

No. 14.

*Proclamation.*

By his Excellency George Cumine Strahan, Captain Royal Artillery, Governor and Commander-in-Chief of the Gold Coast Colony.

(L.S.) GEORGE CUMINE STRAHAN, *Captain Royal Artillery, Governor.*

WHEREAS the Queen's Most Excellent Majesty has resolved to abolish slave-dealing in Her protectorate of the Gold Coast, and the importation thereto of slaves and persons intended to be dealt with as slaves, and also to provide for the emancipation of persons holden as slaves within the said Protectorate:

And whereas the Governor and Legislative Council of the Gold Coast Colony have by Her Majesty's commands enacted an Ordinance, bearing date 17 December 1874, by which all selling, buying, or dealing in slaves is declared unlawful, and is absolutely and for ever abolished, prohibited, and made penal; and another Ordinance, also bearing date 17 December 1874, providing for the emancipation of persons holden in slavery:

Now I do hereby proclaim, publish, and make known the said Ordinances to all persons whom it may concern.

And further, in order and to the intent that all the Kings, Chiefs, Headmen, and other persons throughout the aforesaid Protectorate and elsewhere may the more readily understand and obey the laws now made and enacted, I hereby require every person to take notice and observe that now and from henceforth—

It is unlawful to sell or purchase or transfer or take any person for a slave.

It is unlawful to sell or purchase or transfer or take any person so as to make such person a slave.

It is unlawful to put or take any person in pawn for or on account of any debt.

It is unlawful to bring any person, whether slave or free, into the protected territories from Ashantee or elsewhere, in order that such person should be sold or dealt with as a slave or pawn.

It is unlawful to take or send any person out of the protected territories in order that such person should be sold or dealt with as a slave or pawn.

It is unlawful to make any contract or agreement for buying, selling, or pawning any person, or for bringing any person into or out of the protected territories to be sold or dealt with as a slave or pawn.

It is unlawful that any King, Chief, Headman, or other person should, in any palaver, or by any means whatsoever, force or constrain any person for the purpose of compelling him to remain at any place or serve any master contrary to the will of such person.

Whosoever offends against any of these laws shall be punished with imprisonment and hard labour, and may also be fined.

If in any contract hereafter made it should be agreed that any person shall be put in pawn, or bought or sold or transferred, the whole contract shall be null and void.

And further, let all persons whom it may concern take notice that all children who, after the 5th day of November 1874, have been or shall be born in the Protectorate have been declared free. But it is not intended by any of the aforesaid laws, or otherwise, to offer inducement to any persons to leave any master in whose service they may be desirous of remaining, or to forsake the rooms where they have been accustomed to inhabit, and that it is intended to permit the family and tribal relations to continue in all respects according as used and wont, except only that of slavery and such customs as arise therefrom and are thereon necessarily dependent.

Given at Government House, Cape Coast Castle, this 17th day of December in the year of our Lord 1874, and of Her Majesty's reign the 38th.

By Command,

W. OWEN LANYON,  
*Acting Colonial Secretary.*

God save the Queen!

## II.—MEMORANDUM UPON GOLD COAST SLAVERY, AND THE MEASURES RECENTLY TAKEN FOR ITS ABOLITION.

ON the Gold Coast of Africa the Queen possesses several castles and forts, ceded either by the native rulers of the country, or by the Kings of Denmark or the Netherlands. These castles and forts are British possessions, and slavery is for ever abolished, and is unlawful within them, by force of the Act of Parliament 3 & 4 William 4. c. 73.

Behind the line of forts lies a large native territory bounded by the rivers Prah and Volta, and occupied by tribes which have long been in alliance with and dependence upon Her Majesty. Their alliance with the English Crown commenced definitively in 1821, when Sir Charles McCarthy united them under his command for resistance to the Ashantis. Sir Charles McCarthy was defeated and killed in the war which followed, but the allies, led by other English officers, were finally victorious over the Ashantis, whom they compelled to agree to peace.

In 1828 Her Majesty's Government had been minded to retire altogether from the Gold Coast, but at the earnest entreaty of the local merchants they abandoned their purpose. They, however, disclaimed the responsibility of the direct government of the forts, which they handed them over to the care of a committee of the merchants, to whom they promised a Parliamentary grant of 4,000*l.* a year, enjoining them at the same time to abstain from interfering in the affairs of the neighbouring natives. The merchants chose as their President or Governor a man of remarkable character, Captain George Maclean, who in his administration of affairs paid no regard to the prohibition against interfering in native matters. During his administration of the Government from 1828 to 1843, he exercised over our native allies a greater degree of authority, both political and judicial, than was exercised at any subsequent period down to the arrival of Sir Garnet Wolseley on the Gold Coast.

Among the matters over which Captain Maclean assumed jurisdiction the principal was domestic slavery. Domestic slavery is prevalent on the Gold Coast as elsewhere in Africa. It is an emanation of parental and family authority, and in its actual incidence is probably as mild a species of slavery as has ever anywhere existed. Mild as it may be, it is slavery nevertheless, and as such unlawful within the Queen's dominions, and in so far as Captain Maclean gave effect, within the Gold Coast castles, to the rights of slaveholders over their slaves, he

disobeyed the law. He had not been made acquainted with the provisions of the Emancipation Act, or, at all events, supposed that it did not apply to West Africa, and acting in good faith on this assumption, he entertained applications for the rendition of slaves flying to the Gold Coast castles.

The exercise by Captain Maclean of jurisdiction in relation to slavery cases when the question of the application of the Emancipation Act did not arise, that is, in the territory of our native allies, was free from specific legal objection, and possessed the strong moral justification that thus Captain Maclean was able "to mitigate by the influence of "Christianity and civilization the effects of cruel and "barbarous customs" which we had neither the right nor the ability directly to overthrow. "If the laws or "usages of these countries" wrote Lord Russell, "tolerate "slavery, we have no right to set aside those laws or "usages except by persuasion, negotiation, or other lawful "means."

In 1842 a Committee of the House of Commons sat to consider the state of the West Africa Settlements. As a result of their deliberations, the direct government of the Gold Coast Castles and Forts was resumed by the Crown. The irregularity in the origin of Captain Maclean's self-imposed jurisdiction among the natives was set forth, but at the same time condoned and approved by the Committee; and in the arrangements which followed, while a new Governor was selected, Captain Maclean, under the title of "Judicial Assessor to the Native Chiefs," was retained by the Crown in the exercise of the judicial portion of his former functions. Captain Maclean continued in the exercise of that jurisdiction until his death in 1847. He has been succeeded in the office by a line of able Judges, all of whom, by a singular coincidence, are living, and have risen to distinction in the Judicial Service:—

Mr. Fitzpatrick, Judge of the Supreme Court of the Cape of Good Hope; Mr. Corner, afterwards Chief Justice of British Honduras; Mr. Connor, Chief Justice of Natal; Mr. Parker, Chief Justice, formerly of St. Helena and now of British Honduras; Sir W. Hackett, since Chief Justice of Penang and of Fiji; Mr. David Chalmers, formerly Queen's Advocate of Sierra Leone, now of Gold Coast, and Chief Justice designate of that Colony.

Each of these Judges recognized slavery, and gave effect to slave-holding rights.

One feature of Captain Maclean's policy, if it ever had existence, died with him,—namely, the alleged practice of surrendering slaves to the Ashantis. I allude to his having ever surrendered slaves to Ashanti with extreme diffidence because it is a grave charge to bring against the memory of such a man; and, as far as I know, (assuming it to have been his practice) he at all events never reported it. The Ashanti War of 1863-4 arose from the refusal of the then Governor of the Gold Coast to surrender two Ashantis, a slave and a fugitive criminal,—a course approved by the Duke of Newcastle; and at Lagos where the local authorities have at times been sorely tempted to conciliate powerful neighbours by surrendering fugitive slaves, the orders of Her Majesty's Government have been uniform and unhesitating in prohibition of that expedient.

Up to a much later period, probably up to the date of the exchange of forts in 1867, it continued to be the practice to surrender slaves flying from Dutch jurisdiction into the English Protectorate, and for our native allies, or our authorities on their behalf, to claim fugitive slaves flying to the Dutch. Up to 1855 it appears from a report of Mr. Connor, the then judicial assessor, that it was still the practice, when a slave ran into an English fort, to entertain a claim from the master for his surrender. In a memorandum dated March 1858, by Mr. Corner, the next succeeding assessor, the illegality of such surrender is deduced from a consideration of the Imperial statutes, and from this time may probably be dated the recognition of the doctrine that the forts of the Gold Coast were free soil, and that persons within them could not be treated in any way on the footing of their being slaves.

It is not to be understood that therefore these castles (which are usually a collection of barracks, drill yards, and public stores) were allowed to become permanent asylums for any fugitive slave desirous of taking up his abode there; and in my memorandum of 1874, laid before the Commission, the matter is put in this way, that though the slaves could not be delivered up to be dealt with as slaves, they might lawfully be expelled as idlers and intruders.

Notwithstanding the change of doctrine, and probably also of practice, with regard to the actual forts, the assessor and his deputies continued to exercise jurisdiction in slavery cases arising wholly within native territory, even to the extent of recognizing the validity of slave-dealing transactions, and, upon occasion, intervening in those

transactions.\* Our jurisdiction in native territory was one founded upon the implied consent of the native rulers. It could not by any reasonable construction be maintained that this implied consent extended to the abolition of slavery itself, the most ancient and cherished institution of the country. Hence the opinion adopted and acted upon by successive Governments, that it was not incumbent on us to strike any blow at the institution of Slavery itself upon the Gold Coast. The question remained whether it was not scandalous and mischievous that British officers should have a hand in administering the system. On the one side were urged the manifold advantages to the slaves themselves, which resulted from the jurisdiction of the assessors. In answer to this it was observed, among other things, that institutions are preserved by eradicating their abuses.

So matters remained until the war of 1873-4. After the close of that war, and as soon as measures had been devised for setting the new Government upon a secure basis, Lord Carnarvon took counsel with the Governor of the Gold Coast for dealing with the Slavery question which had evidently assumed a new aspect, in view of the recent entire overthrow of the Fanti powers, and their rescue from defeat and slavery itself, by the unaided efforts of the English Crown. "Her Majesty," observed his Lordship, "as their deliverer, is entitled to require of them a greater degree of deference and conformity to the known wishes of herself and her people than she has in former times exacted." (*Parliamentary Papers*, 6 February, 1875.) "Slavery within the range of the Queen's influence and authority," he had said before, was an evil which Her Majesty's Government had been compelled to tolerate, but in which they had never acquiesced. His Lordship, in his despatch to the Governor, reviewed the question at length arguing our right to interfere as derived from recent events, adverting to the dangers and difficulties of action, and finally setting out fully for his consideration three plans of extinguishing slavery; viz.,

1. Redemption from the public purse :
2. Partial redemption from the public purse coupled with a scheme of self-redemption :
3. Abolition of the legal right of a master to compel the services of a slave, by forbidding the law courts to notice such right, the question of compensation being left aside.

The Governor reported that the abolition of slavery was generally expected upon the Coast, and without hesitation advised the adoption of the third proposal made by Lord Carnarvon,—which, it may be observed, is identical with the measure whereby Lord William Bentinck extinguished slavery in India forty years ago.

The decision of Her Majesty's Government was announced to the Kings and Chiefs of the Western and Eastern Protectorate in great palavers at Cape Coast Castle and Accra; and two Ordinances were passed by the Gold Coast Council, one prohibiting slave dealing, pawning, or the introduction into the Protectorate of slaves for purposes of traffic, under adequate penalties; the second providing that no Court should hereafter take notice of so as to enforce any right of a master to the services of a slave; supplementary provisions being added that all persons born after the 5th November 1874, the date of the commencement of the Ordinances, should be absolutely free persons, and that any attempt to coerce any person with a view to exact service from him as a slave should be deemed a punishable offence.

These Ordinances were confirmed by the Queen upon the advice of Her Majesty's Government, after fully considering certain remonstrances emanating from persons on the Coast. The new laws have worked well and quietly. On their first promulgation many slaves claimed their freedom; the vast majority, however, remained in the families and krooms where they had been born, and in the affairs of which their interest was so strong. Latterly the claims for individual freedom have become less frequent, but the new laws continue to be actively resorted to for one class of cases, namely, cases where there are known to be families of one tribe, who, as the result of ancient wars, are residing in a position of subjection amidst strangers of another tribe. The people of the Gold Coast have the highest veneration for family and tribal organization; these isolated bondmen have never been forgotten by their kindred, though generations may have passed, and perhaps on neither side does any individual survive who witnessed the separation. Nevertheless, it is in such cases that the Emancipation Ordinance has been most frequently and eagerly used.

That Ordinance, while releasing slaves from the obliga-

tion of service to their master, has not destroyed their rights against him and his estate. It has not uprooted slavery in so far as it was a social and family institution. When it is considered how extensive are these rights and, how beneficial economically is the condition of a Gold Coast slave, it will not be matter of surprise that the emancipation has caused so little social confusion.

The Protectorate being now free soil, it might be supposed that to some extent it would become a refuge for fugitive slaves from the interior. Causes similar to those which have operated to restrain the Gold Coast slaves from leaving their krooms have probably operated to restrain those of the interior from seeking asylum in the Protectorate; and no influx of slaves has been brought to notice. Recently there has been a large influx, not of slaves, indeed, but of defeated Juabins, who, but for the refuge of our authority, would before now have been reduced into slavery by their victorious enemies the Ashantis, in accordance with native law. For a short time it was feared that our border in the Assin country might be violated by the Ashantis in their pursuit, and a force of Houssas was sent northwards as a corps of observation; but the Ashantis respected our border, and the fugitives have found a safe asylum in the Protectorate.

Downing Street,  
14th March 1876.

E. FAIRFIELD.

### III.—CORRESPONDENCE RELATING TO THE PASSAGE THROUGH MALTA OF PERSONS SUPPOSED TO BE SLAVES.

No. 1.—SIR A. HORSFORD TO THE EARL OF KIMBERLEY.

Palace, Valetta,

1st November 1871.

MY LORD,

I HAVE the honor to acknowledge the receipt of your Lordship's despatch, No. 167, of the 14th ultimo, calling for a report on certain allegations which appeared in the Malta Times of the 26th August and 30th September, in regard to an assumed case of slavery in Malta.

2. At the time of the appearance of those articles in the local newspapers, I made enquiries into the subject, and from the information which I then received I saw no reason to suspect any remissness on the part of the local authorities in placing clearly before individuals supposed to be slaves the option of emancipating themselves from the thralldom of slavery.

3. On receipt of your Lordship's present despatch I called upon the Superintendent of Police to furnish me with a full statement of the particulars of the case, which is apparently referred to; and I enclose for your Lordship's information, a copy of the report which I have received from the then Acting Superintendent of Police upon the subject, from which your Lordship will, I trust, be convinced that every lawful step is consistently taken, on all similar occasions, to make it clearly understood to persons suspected to be slaves, that the fact of their having entered within the dominions of Her Majesty the Queen has placed in their power the election of freedom.

I have, &c.,

A. HORSFORD,  
Major General,  
Administering the  
Government.

The Right Honorable  
The Earl of Kimberley,  
&c. &c. &c.

Enclosure I. in No 1.

ADJUTANT TO SUPERINTENDENT OF POLICE.

Police Office, Valetta,

31st October, 1871.

SIR

WITH reference to the Chief Secretary's letter of the 28th instant, asking a full report respecting the insertions in the Malta Times of the 26th August and 30th September last, headed respectively "The Slave Trade in Malta" and "More Slave Traffic in Malta," I have the honor to state for your information that during your absence on leave from 14th June to 10th instant, I, having had the honor of being entrusted with the chief direction of this department, have received three times information that some young female Arabs, several of colour, and others white, had arrived from Tripoli per steamers trading between that town and this island, and that they were supposed to be slaves bound to Constantinople. In consequence of these reports, I have on each instance directed the Adjutant of Marine Police to strictly carry out the instructions given on such occasion by the police,

\* As explained in Mr. Connor's memorandum of 1855, where, in cases of disagreement between master and slave, the judicial assessor, to smooth matters, procured a new master willing to buy the slave, and took charge of the purchase money.

namely, to call upon those persons, accompanied by an interpreter, and enquire of them, and of those who might be in their company, and acquainted of their condition, whether they were slaves, and if so, to inform them that being then under British protection, they might obtain their freedom, in which case Government would afford them protection and provide them with maintenance until they might be able to procure means of living; which directions were on every occasion punctually carried out.

Here enclosed I transmit a declaration I have obtained from the keeper of the house in Strada, St. Ursola, alluded to in the Malta Times of the 26th August, situated in front of that occupied by Mr. Stevens, the Notary and Acting Consul of the United States, showing clearly that on one of the three occasions mentioned above by me, and which I presume is the one noted by the Malta Times, a hatch of these females lodged in that house; and that information being received, the Adjutant of Marine Police repaired to that place, and that after explaining to those persons the state of the law, they have insisted on being allowed to proceed to Constantinople.

I can positively assure you that, whenever a suspicion existed of persons in a state of bondage having arrived in these possessions, every possible effort has been made by the police in order to induce them to regain their freedom; and I am happy to say that in various instances they were successful, and that at present there are in the island several of these unfortunate persons, who, having taken advantage of the opportunity, accepted the offers made to them and relied on the benevolent proposals of the Government, are earning an honest livelihood in the service of respectable families.

To R. Bonello, Esq.,  
Superintendent of  
Police.

I am, &c.,  
GIACOMO PSAILA,  
Adjutant.

Enclosure II. in No. 1.

TRANSLATION—DECLARATION.

Valletta,  
30th October, 1871.

I THE undersigned, hotel keeper, situate in Valletta, Strada St. Ursola, 61, declare that in the month of August last 12 Moors, of whom four were males and eight females, arrived in this island from Tripoli in Barbary, and took board in my hotel. Two days after their arrival the Adjutant of Marine Police made his appearance in my hotel, and asked me to conduct him to the rooms occupied by the above-mentioned Moors. After being conducted to their room, the Adjutant, through an Arab interpreter, made known to the said Moors that, if they wished to stop at Malta and regain their freedom, they were at liberty to do so; to which declaration of the Adjutant, the Moors answered that they preferred to continue their voyage. This answer not having satisfied the Adjutant, he renewed the question, and tried to persuade them to take advantage of that favourable opportunity to recover their freedom; but his repeated demands had no effect, as the Moors answered to be (*sic*) desirous to continue their voyage and go to their destination.

The present declaration is made by me of my own free will, and signed after having heard a translation in Maltese.

Cross of  
SALVATORE + BORG.  
Witness,  
L. CHAPPELLE.

No. 2.—MR. HAMMOND TO THE UNDER SECRETARY OF STATE, COLONIAL OFFICE.

SIR, Foreign Office, 17th May 1872.  
I AM directed by Earl Granville, in answer to your letter of the 6th instant, to request that you will inform the Earl of Kimberley that instructions were sent to Her Majesty's Consul General at Tripoli on the 13th of March last to use his best endeavours to prevent the embarkation of slaves in ships destined to touch at Malta, and, in the event of their embarkation being effected, to telegraph at once to the Governor of that Island such particulars as might enable him to take steps for liberating them on landing.

A copy of Mr. Hay's answer is inclosed herewith.

The Under Secretary of State,  
Colonial Office.

I am, &c.,  
E. HAMMOND.

Enclosure in No. 2.

MR. DRUMMUND HAY TO THE EARL GRANVILLE.

Barbary, Tripoli,  
24th April 1872.

MY LORD,  
I have the honour to acknowledge the receipt of Lord Tenterden's despatch of the 13th ultimo, and I will not fail, in compliance with the instructions therein conveyed, to continue to use my best endeavours to prevent the embarkation of slaves in ships destined to touch at Malta; and I will also, when requisite and practicable, communicate with the Governor of Malta on the subject, but shall be unable to do so by telegraph, there being no longer any telegraphic communication between this country and Malta.

I have, &c.,  
F. R. DRUMMOND HAY.

The Earl Granville, K.G.

No. 3.—THE EARL OF KIMBERLEY TO SIR C. VAN STRAUBENZEE.

Downing Street,  
31st October 1872.

SIR,  
I HAVE received your despatch, No. 136, of 11th instant, with its enclosures, on the subject of the arrival of slaves in Malta, en route from Tripoli to the East.

I quite understand that the Maltese Police have to contend with considerable difficulties in stopping this illicit traffic, but I see no reason why these difficulties should not be overcome if vigilance and activity is shown in the discharge of this duty.

The interrogation of persons suspected to be slaves should not be confined to the questions referred to in your Despatch, namely whether they had voluntarily come on board, and whether they are proceeding voluntarily to their destination; but inquiry should be made as to what passed before and at the time of their embarkation, so as to test how far they exercised their free will in the matter; and the further questions should be asked in what capacity they are going to Constantinople or place of disembarkation, and whether, if they were formerly slaves, they received their manumission before their embarkation.

I have, &c.,  
KIMBERLEY.

No. 4.—POLICE REPORT AS TO EXAMINATION OF AFRICANS ARRIVING AT MALTA.

Police Office,

Valletta, 12th March 1873.

SIR,  
I HAVE the honour to report, for your information, that yesterday morning at about eight o'clock, when the steamer "Trabulus Garb" arrived from Tripoli, it was found that the following Africans were on board of her bound to Constantinople; viz.,

"Minira bent Hasin," a white woman accompanied by "Fatima," a negress, stated to be her servant;

"Hadigia bent Imhammet," also a white woman, accompanied by "Fatima," another negress, stated to be her servant;

"Aly Effendi ben Imhammet," a white man, accompanied by "Ghabdu Rehan," a negro boy about 12 years old, stated to be his servant;

"Osman ben Imhammet," a white man, accompanied by "Fatima," a negress, stated to be his wife; and

"Selah Ben Romdan," a dark-complexioned man, charged with the custody of "Fatima," a negress.

As the answers to the questions put to them separately whilst on board the said steamer were not satisfactory, I caused them to be brought to this office, where, having myself strictly questioned each of them separately, through the interpretation of Mr. Mosé Levy, a person well conversant with the Arabic and Turkish languages, in the presence of the Adjutant of Marine Police and Sub-Inspector Inglott, I obtained the following statements:—

No. 1. "Minira bent Hasin" stated:—My husband is an employé of the Custom House at Tripoli. My father, who resided at Constantinople, died lately, and I am proceeding thither to see what is my share of the inheritance. He was a captain in the Police Corps. "Fatima," the negress who accompanies me is my servant. She has been in my service more than one year, and I give her a monthly allowance. When I shall have settled my interests in Constantinople I shall return to Tripoli, and I will take care that "Fatima" does not remain behind me. I detest slavery. I should not like to be accompanied by a slave, if I had any; and besides I know that the authorities at Constantinople would not allow any slave to land or to remain in that state if they came to know it. I swear by my God that I have spoken the truth. I depend on nobody

but my husband, whom I left at Tripoli, as I told you from the beginning.

No. 2. "Fatima," a negress, stated:—My name is "Fatima." I am a servant to "Minira bent Hasin." I have been in her service more than one year. She loves me as a sister, and so does her husband, whom we left at Tripoli. I went on board the steamer of my free will, and it is my earnest desire to proceed with my mistress to Constantinople.

No. 3. "Hadigia bent Imhammet," stated:—This negress, called "Fatima," is my servant. She has been with me more than one year. My husband is a captain in the Ottoman army. My father's name is "Ajas Magi Suliman Effendi." He is employed in the Custom House at Constantinople, and I am going to him, he having informed my husband that he wished to see me. "Fatima" accompanies me to Constantinople, and, please God, she will go back with me to Tripoli after I have seen my father. If there is anything in the tiskera not sufficiently intelligible, or erroneous, I declare that I have told you the truth. She is my servant and not a slave.

No. 4. "Fatima," a negress, stated:—I am the servant of "Hadigia bent Imhammet." I have known her a long time. She likes me exceedingly. I wish to accompany her to Constantinople. I cannot bear the idea of separating myself from her. She is very kind. I went on board the steamer of my own accord. I am at liberty not to go to Constantinople if I chose. I am not a slave.

No. 5. "Aly Effendi ben Imhammet" stated:—I was employed at Tripoli as governor of a mountain (Kaimakan). The youth who accompanies me is my servant. His name is "Rihan." I have had him some time in my service, and likewise his mother, who died some time back. I proceed to Constantinople in search of employment. If you have any doubt about the state of the boy, you may keep him, and do with him what you like, provided you do not illtreat him. He is very useful and obedient. I like him as if he were my son. If in his papers there is anything wrong, stating that he is a slave, I give you permission to keep him.

No. 6. "Rihan," a negro boy, stated:—My name is "Rihan." I am the servant of "Aly ben Imhammet." I have been in his service more than one year, and so was my mother. Myself and my mother were brought from "Fezzan" to Tripoli by the Arabs, and were sold. "Aly" bought us, and kept us in his service. My mother died, and I wish nothing but to accompany "Aly" to Constantinople, and wherever he goes. He loves me, feeds me, clothes me well, and gives me money besides (a matoroub per month). I wish to hear nothing. I shall not be induced to leave him. It was my wish to follow him; he has put no restraint upon me.

No. 7. "Osman ben Imhammet" stated:—"Fatima," the negress you have seen, is my wife. I married her about a year ago. I have no occupation. I proceed to my father at Constantinople, who sent for me, and he will provide for me and my wife. I had bought her some time ago, but I have freed her, and made her my wife.

No. 8. "Fatima," a negress, stated:—I am the wife of "Osman ben Imhammet." He has no occupation. He married me about one year ago. I am going to Constantinople in his company. I went on board the steamer at Tripoli of my own free will. He had purchased me some time before we were married, but now I am free. He has always treated me well, both before I was his wife, and after.

No. 9. "Selah ben Rodman" stated:—The negress who is in my company is called "Fatima." I am going to Constantinople in search of work. I am a weaver of blankets. I hope that God will provide me with work. I make no mystery of the woman. She has no relationship with me. A friend of mine at Tripoli, "Said Bulina," having known that I was going to Constantinople, desired me to take charge of the woman, and deliver her to his brother on my arrival there. If she wishes to remain here, to proceed with me, or be sent back to Tripoli, she is free to do as she pleases. I cannot read and write. I do not know anything of what the paper called "Tiskera" contains.

No. 10. "Fatima," a negress, stated:—I belong to a gentleman called "Omor," who is now in Constantinople. Some time back he had left me at Tripoli, under the care of his brother "Said." When "Selah" informed "Said" that he intended to go to Constantinople, "Said" desired him to take me under his protection, and to conduct me to "Omor," my master. I went on board of my own accord. I was not compelled to go, and I wish not to be prevented from going.

As the circumstances stated by No. 6, "Rihan," No. 8, "Fatima," No. 10, "Fatima," respectively showed that they were in a state of bondage, and as it appeared to me possible

that they were being conveyed to Constantinople against their will, I caused them to be taken for a short time to the lodging-house of Nicola Cassar, in Strada Stretta, not far from this office, whom I directed to treat them well, and to let them have anything they asked for, in order to show them clearly that they were at liberty to separate from their companions, if they chose, and that, in that case, they would have every assistance. Nothing, however, could be more displeasing to them than the idea of such separation. They cursed, wept, and became almost furious, and they finally refused even nourishment. I, therefore, felt bound to let them go back to their companions.

I have, &c.,  
GIACOMO PSAILA,  
Adjutant.

To R. Bonello, Esq.,  
Superintendent of Police,  
&c. &c. &c.

Forwarded for the information of his Excellency the Governor.

R. BONELLO,  
Superintendent.

NOTE.—This Report is given as a specimen of such an examination.

H. HOWARD,  
Secretary.

NO. 5A.—SIR C. VAN STRAUBENZEE TO THE EARL OF CARNARVON.

(Extracts.)

Palace, Valletta,  
4 July 1874.

MY LORD,

A SERIOUS question having just arisen in reference to the passage of slaves through Malta, I take the liberty to request to be favoured with your Lordship's views as to the course which it is my duty to take.

From the accompanying copy of a report of the examination made by the Adjutant of Police, Mr. Psaila, into the status of a number of passengers arrived from Tripoli on the 23rd ultimo, it appears that some of them form different families of Turkish officers returning from that Regency to Constantinople with their servants, mostly black females, three of whom have been admitted to be slaves.

One of those slaves is with a military officer named Mustapha Effendi and his wife, a white woman, who both candidly stated to Mr. Psaila that that young negress, who can speak no language that any one in Malta understands, was bought by them about a month ago from a merchant at Tripoli for 3,000 piastres, or about 25*l*.

The other two black slaves are with a white woman, named Aishé, of respectable appearance, who is also returning to Turkey, accompanied by her daughter, a young person about 18 years old, and by a friend named Ismail. Both the said Aishé and daughter, without the slightest hesitation, declared at once that their two servants are slaves, bought at Tripoli about three years ago, one for 1,700 piastres, 14*l*. 3*s*. 4*d*., and the other for 1,500 piastres, 12*l*. 10*s*. These two negresses speak the Turkish language, and they have both expressed their determination to follow their mistress.

I am advised that I have no power to detain those three slaves against their will, but that criminal proceedings can be instituted against their respective master and mistress, under the 5th Geo. IV. cap. 113, for having brought slaves into this island.

It seems, however, to be doubtful whether the case falls, indeed, under that or any other Slavery Act; and on this point, which is the first that occurs in Malta, and which, in case of failure, might give rise to serious complaints, I should be much obliged, if your Lordship would kindly, and as soon as possible, favour me with the opinion of Her Majesty's Government.

The doubt arises in my mind from the following circumstances:—By Despatch, marked Confidential (since made public), of the 28th October 1872, Lord Kimberley forwarded to me, with other papers, a report, dated 26th September, from Sir Philip Francis, the Judge of the Supreme Consular Court at Constantinople, to Sir Henry Elliot, in which the former gentleman put several questions having a tendency to show that, in his opinion, the travelling with a domestic slave is not an offence within the Slavery Acts; while, on the other hand, the Crown Advocate, fully admitting that the Government may refrain from taking any action in such cases, and that cases such as those which I have above described may not be within the spirit of the law—as, however, the Act above quoted

makes no distinction in reference to those cases—a prosecution under it may be maintained.

\* \* \* \* \*

No proceedings, it appears, can be taken against the master of the steamer in which those negroes arrived, because there is no evidence that he knew or had any reason to suspect that they were slaves. A copy of a translation of the documents or passports issued to Mustapha Effendi and the other person above alluded to is herein enclosed, and your Lordship will see that the negroes are therein referred to as domestic servants.

I am, &c.,  
C. T. VAN STRAUBENZEE,  
Governor.

The Right Hon. the Earl of Carnarvon,  
&c. &c. &c.

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No. 5B.—THE EARL OF CARNARVON TO SIR C. VAN STRAUBENZEE.

SIR, 21 July 1874.

HER Majesty's Government have considered the circumstances stated in your Despatch of the 4th inst. with reference to a question which had arisen as to the passage of certain slaves through Malta; and, in reply to your request for instructions as to your conduct, I have to acquaint you that you cannot in such a case detain the slaves against their will, and that as it is doubtful whether, under the Imperial Acts relating to slavery, proceedings could be instituted against masters bringing slaves into Maltese waters, it is inexpedient to initiate any such proceedings either against them or the master of the ship.

The slaves should be allowed to depart.

I am, &c.,  
CARNARVON.

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No. 6A.—THE TURKISH AMBASSADOR TO THE EARL OF DERBY.

Ambassade Imperial Ottomane,  
Londres, le 30 Sept. 1874.

MY LORD,

LE Consul Général de la Sublime Porte à Malte a signalé dernièrement au Gouvernement Impérial les procédés vexatoires auxquels des familles Musulmanes, sujettes Ottomanes, qui débarquent dans cette île, sont indistinctement en butte de la part des employés de la police, procédés qui puiseraient leur origine dans un excès de zèle de ces employés pour empêcher le commerce des esclaves.

C'est ainsi que des familles honorables qui n'ont rien à faire avec ce commerce, et contre lesquelles il n'existe aucun soupçon, sont traînées devant la police pour y subir un interrogatoire inquisitorial et humiliant, et que des dames Musulmanes sont exposées aux regards des curieux à travers la foule qui encombre habituellement ces localités, et se voient obligées de répondre à des questions, et même de se dévoiler publiquement.

Je ne saurais mieux représenter à V. Ex. la gravité du traitement auquel sont assujettées les familles Musulmanes de passage à Malte, qu'en transmittant ci-joint à V. Ex. la copie d'une note adressée sur ce sujet par le Consul Général de la Sublime Porte au Gouvernement de Malte, ainsi que la copie de la réponse de celui-ci; et votre Ex. remarquera par la lecture de cette dernière pièce que Son Ex. le Gouverneur de Malte lui-même regrette que des personnes honorables doivent être exposées à de papiers inconvenients, et reconnaît à quel point il est douloureux pour des dames respectables de comparaître devant la police, d'y être questionnées et d'être pressées de se dévoiler.

Connaisant combien le Gouvernement de Sa Majesté Britannique condamne les entraves apportées gratuitement aux voyageurs paisibles, et combien il tient à faire respecter tout ce qui affecte le sentiment d'honneur d'une famille, le Gouvernement Impérial n'a invité à appeler l'attention de V. Ex. sur les faits qui lui ont été signalés par son Consul-Général à Malte; et je viens, par conséquent, prier V. Ex. de vouloir bien faire parvenir au Gouvernement de Malte les instructions nécessaires, pour qu'il soit mis fin à une molestation blessante et attentatoire à la liberté individuelle, et au droit de protection assurés aux sujets Ottomanes par les traités et le droit international, et pour que l'enquête et la poursuite judiciaires soient limitées aux cas où des sujets Ottomans, en violation de la loi en vigueur dans l'Empire Ottoman contre le commerce des esclaves, tenteraient de se livrer à cet odieux trafic; mais il emporterait que, dans ces cas, le Consul Ottoman assistât personnellement à l'enquête, cette mesure d'un caractère peut être exceptionnel, étant destinée à rassurer les familles Musulmanes que jusqu'à

present ont été victimes d'un traitement également exceptionnel.

Son Excellence  
Le Comte de Derby,  
&c. &c. &c.

J'ai, &c.,  
MASURUS.

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No. 6B.—THE EARL OF DERBY TO THE TURKISH AMBASSADOR.

Foreign Office,  
9th October 1874.

M. L'AMBASSADEUR,

I HAVE the honour to acknowledge the receipt of your note of the 30th ulto., enclosing copies of a correspondence between the Ottoman Consul-General and the British Colonial Secretary at Malta, and calling attention to the vexatious proceedings which are said to have been taken by the Malta authorities in carrying out examinations of Ottoman subjects who are suspected of taking slaves through the island.

However much Her Majesty's Government would regret that any unnecessary inconvenience should be felt by Ottoman subjects landing on British territory, it is clearly impossible to abstain from taking the proper legal steps with a view to the prevention of an improper transit-trade in slaves through Malta. It appears from Sir Victor Houlton's letter, which forms the second enclosure in your Excellency's note, that the examination which is complained of is carried out with as much consideration as is compatible with the necessity which exists for detecting cases of such a traffic.

I beg, however, to assure you, M. l'Ambassadeur, that I have not failed to put myself into communication with the Secretary of State for the Colonies, on the subject of your note; and I shall have the honour of again addressing your Excellency with reference to your suggestion that the Ottoman Consul at Malta should be allowed to be present when it may be necessary to submit Ottoman subjects to an interrogatory in consequence of their being suspected of improperly having slaves in their custody when passing through the island.

I have, &c.,  
DERBY.

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No. 7A.—DRAFT ORDINANCE prepared by Crown Advocate at Malta to prevent the transport, by way of Malta and its dependencies, of slaves or persons suspected to be slaves.

Whereas there is reason to suspect that some individuals in Barbary, eluding the vigilance of the local authority, convey slaves to other countries, touching at Malta or its dependencies: And whereas it is very difficult in these islands to ascertain the real status of such persons: It is hereby enacted and ordained by His Excellency the Governor, with the advice and consent of the Council of Government, as follows:

1. The master of any ship arriving from any place in Africa, between Egypt and Algeria, who for any cause whatsoever enters any port or stops in any bay or roadstead of these islands with one or more persons on board seemingly African, and unprovided with a certificate signed by a British Consul, or with a certificate from the authority of the place of embarkation, authenticated by a British Consul, and, in either case, showing the status of such persons as, being free persons, shall by the Court of Judicial Police be sentenced, for any such person, to a fine not less than five nor exceeding twenty pounds sterling.

2. For the purposes of this Ordinance, any person unable to speak, as his or her own language, the language of a country in Europe, out of the Ottoman dominions, shall, in the absence of proof to the contrary, be deemed an African.

3. Neither the circumstance that the person referred to in article 1. embarked without the knowledge of the master, nor the absence, in the place of embarkation, of a British Consul to issue or authenticate the certificate required in that article, shall in any case be taken as an excuse for exemption from the punishment established in the same article.

4. Any person referred to in article 1. shall, with or without his or her consent, be, by the police, landed, placed in a safe and proper place under the care and custody of a fit person, and as soon as it may conveniently be done, sent back to the place where he or she had embarked, if there is in that place a British Consul.

If there is in that place no British Consul, the person aforesaid shall be sent to the nearest place in which there is such Consul.

All expenses shall be at the charge of the master mentioned in article 1; and the Superintendent of the Ports shall not permit the departure of the ship, before



those expenses shall have been paid, unless the master shall give a sufficient security for the payment thereof.

5. The expenses above-mentioned shall be regulated as follows:—

- 1st. For lodging and maintenance of any person detained as provided in the next preceding article,—three shillings a day.
- 2nd. For clothing of the said person, if he or she be unfurnished with the clothes necessary according to the custom of persons of his or her condition in these islands,—a sum corresponding to the cost of such clothing, and not exceeding two pounds sterling.
- 3rd. For conveyance of the said person to the place to which he or she may have to be sent,—a sum to be fixed by the Superintendent of the Ports, but not exceeding by more than ten per cent. the passage money usually paid by passengers of the same condition.
- 4th. For the remuneration of the person charged with the care and custody of the person above-mentioned, during the latter's stay in these islands,—three shillings a day.

6. If the person intended to be sent back to Africa shall be a woman, or a child apparently of less than fourteen years of age, the Police may cause him or her to be accompanied in the voyage by a person whom it deems trustworthy, and grant to the latter, at the charge of the master mentioned in article 1, besides the amount necessary for the voyage out and back, to be fixed by the Superintendent of the Ports, a remuneration at the rate of four shillings a day, from the day of the departure from, to the day of the return to these islands, each of those days included, provided however that this person shall return to these islands by the first opportunity that the British Consul shall deem proper.

7. The said master shall also be bound to lodge in the hands of the Police one pound sterling, to be given to the person intended to be sent back to Africa, at the arrival of the latter at the place of his or her destination.

8. The said person shall in Africa be delivered to the British Consul, to whom the money which is to be given to the same person shall also be delivered.

9. If the master shall fail to pay the fine to which he shall have been sentenced, the Police may recover it as a debt on the ship, with the privilege which the law accords for tonnage and port dues, provided it shall declare its intention to that effect within six hours after the sentence.

The Police may also, with the said privilege, recover any other sum due by the master for the causes expressed in the foregoing articles, as a debt on the ship.

10. No clearances shall be granted to the master of any merchant ship bound for the place to which the person referred to in article 1 is to be sent, if he, having room on board, refuses to give passage, for the amount fixed by the Superintendent of the Ports, to the said person, and to the person charged by the Police to accompany the former, or if he refuses to bind himself, in writing, under a penalty of twenty pounds sterling, recoverable by civil proceedings, to deliver the person first referred to, with the money mentioned in article 8, to the British Consul in the place aforesaid.

11. It shall be lawful to the Police to refuse to avail itself, for the conveyance of the said person, of the ship in which that person was brought to these islands, or of any other ship commanded by the master who commanded the former ship.

12. Except in regard to the landing of the person referred to in article 1, the provisions of the 4th and subsequent articles shall not apply, if that person shall be willing to remain in these islands, and shall, before the time at which he or she must be embarked for Africa, find a person, approved by the Court of Judicial Police, who enters into an obligation towards the Police, with a fit surety, to maintain and to take charge of the first-mentioned person for a period not less than one year.

In such case neither the person arrived from Africa, nor the person who entered into an obligation to take care of the former, shall, until the expiration of the said year, be permitted to leave these islands without special leave from the head of the Government.

13. None of the provisions contained in the 4th and subsequent articles shall apply, whenever it shall be proved to the satisfaction of the Court that the person referred to in article 1 is a free person, saving always the provision of the said article 1 respecting the punishment of the master for the absence of the certificate required in that article.

No declaration, however, made by the person referred to in article 1, and no testimony of any individual by whom that person in the voyage was accompanied, respecting

the freedom of such person, shall be considered sufficient to bring the provision of the present article into operation.

14. If the person referred to in article 1 is provided with the certificate mentioned in that article, such document shall, by that person or by the master, be produced to the Superintendent of Police, who, before returning it, shall affix upon it his signature with the date of its production.

A certificate, countersigned as above, shall have no effect if it be produced again by or in regard to any person arriving from any place referred to in the said article.

15. Whoever shall produce to the Superintendent of Police a false certificate of freedom shall be punished with hard labour from one to three months.

The said punishment shall also be applied to whomsoever shall produce a genuine certificate, representing it to be relating to a person different from that referred to in the certificate.

16. For the purposes of this Ordinance, the word "master" includes any person having the command of a ship; the word "ship," any vessel or other sea-going craft; the word "Consul," any consular agent; and the words "Superintendents of the Ports," and "Superintendent of Police," any person charged by either of those officers to carry out any part of this Ordinance.

17. The provisions of this Ordinance do not abrogate, either other laws relating to slavery or the slave trade, or the laws relating to foreigners.

**No. 7B.—THE EARL OF CARNARVON TO SIR C. VAN STRAUBENZEE.**

(Extract.)

Downing Street,  
11 November 1874.

4. After much consideration of the draft Ordinance which has been drawn by Sir A. Dingle, and after consultation with the Law Officers, I come to the conclusion that it is undesirable to legislate for the prevention of the transport of slaves through Malta. I believe that the end in view will be secured by leaving the matter as at present to the vigilance of the police, assisted by information given by persons having reason to suppose that any African brought to Malta was in slavery against his or her will.

5. I should hope that a strict examination of the ship's papers, and a careful inquiry conducted by competent persons, assisted by a good and independent interpreter, into the status of persons arriving for the first time at Malta from the African coast, might be made effectual for the suppression of the traffic in slaves.

**No. 8.—SIR H. ELLIOT TO THE EARL OF DERBY.**

Therapia, 16 November 1874.

As instructed by your Lordship's Slave Trade despatch No. 15, I requested Her Majesty's Consul-General to inquire into the truth of the statement that a British ship had been engaged in the transport of slaves from Tripoli to Constantinople, and I have the honour to enclose a copy of his answer.

Your Lordship is already aware of the mode in which slaves are occasionally brought from Tripoli through Malta without the authorities of the island being able to stop their embarkation from thence to Constantinople.

On the arrival of the vessel here, if there was any ground for a suspicion against the master, the circumstances have been inquired into; but I have the satisfaction of stating that in no instance has a case been established which would have justified proceedings against a British master.

It is in fact very difficult to ascertain which are slaves, and which free blacks, for the former are invariably furnished with manumission papers, intended afterwards to be taken away from them. They seldom show any wish to escape from the persons with whom they may be, and are always anxious to be brought to Constantinople, rather than to return to Tripoli.

It is not possible in such cases to do more than see that on their arrival here the Minister of Police provides for their receiving regular certificates of freedom.

I have, &c.

HENRY ELLIOT.

The Earl of Derby,  
&c. &c. &c.

**No. 9.—SIR C. VAN STRAUBENZEE TO THE EARL OF CARNARVON.**

Palace, Valletta,  
28 September 1875.

MY LORD,  
I HAVE the honor to enclose for your Lordship's information copy of a report which I have received from

the Superintendent of Police, concerning the status of several Africans arrived in this island from Tripoli, on the 3rd instant, in the Ottoman steamer "Trabulus Garb."

2. I beg to add that these Africans left this island on the 11th instant for Syra, Smyrna, and Constantinople, in the British steamer "Bulgarian;" and that information of their departure has duly been conveyed by telegram to Her Majesty's Consuls at Smyrna and Constantinople.

3. It may not be unopportune to remark how fruitless these inquiries are. The dealers are well aware that, according to law, the authorities have no power to compel the individuals accompanying them to remain in Malta against their wish; and as the dealers apparently find little difficulty in persuading those individuals (if slaves) that it would be better for them to proceed to Stamboul than to remain here amongst Christians, or go back to Tripoli to starve or be again made slaves, they have little fear of being molested in any other way than being subjected to a certain amount of inconvenience; and the transit of slaves (if any) through this port can, therefore, be carried on almost with impunity.

I have, &c.  
C. T. VAN STRAUBENZEE,  
Governor.

The Right Hon.  
the Earl of Carnarvon,  
&c. &c. &c.

#### IV.—CORRESPONDENCE RESPECTING THE CONDITION OF LIBERATED AFRICANS AT THE SEYCHELLES.

##### No. 1.—THE EARL OF KIMBERLEY TO GOVERNOR THE HON. SIR A. GORDON.

SIR, Downing Street, November 18, 1872.  
I THINK it desirable that your attention should be specially directed to certain remarks made by Mr. H. M. Stanley, at a public meeting held at the Mansion House (a report of which, as given in the *Times* of the 5th inst., I enclose), with respect to the conditions on which liberated African slaves are indentured in the Seychelles and Mauritius.

I request you to furnish me with a report on this subject, stating particularly whether the regulations issued under Ordinance No. 18 of 1865 for the protection of these liberated slaves are properly enforced.

From the report of the Protector of Immigrants enclosed in your predecessor's despatch of the 16th November, 1869, it would appear that the Government derives a profit from the payments made by the employers of the Africans. An arrangement under which the Colonial Treasury receives from the assignment of these labourers a larger amount than is required to meet the expenses attendant upon their reception into the colony is open to very grave question, and the Government should be careful not to receive a rate per head higher than is sufficient to reimburse the actual expenses incurred.

I have, &c.,  
KIMBERLEY.

Enclosure in No. 1.

##### EXTRACT FROM MR. STANLEY'S SPEECH AT A PUBLIC MEETING HELD AT THE MANSION HOUSE ON 5TH NOVEMBER, 1872.

HE would advise Sir Bartle Frere on his way to Zanzibar to make a call at Seychelles and the Mauritius, and find out how England was implicated in the slave trade. He would probably learn new facts at these places. The English Government had been selling slaves and taking money for them. For every slave captured and released at Seychelles, five, six, or ten dollars was taken, and that because England had gone to the expense of 5*l.* a head for the capture of them, wherefore she must be compensated by hiring them out. If that was not compounding with villainy he did not know what it was. If England wished to be called the champion of slaves, she must have nothing to do with the accursed thing. Let her provide establishments for them in healthy places, and not sell them to people at Seychelles or Mauritius for a few dollars a head for a term of years. Of course, it was said this was only hiring out, but it was slavery. Let Sir Bartle Frere call

and investigate the matter for himself. He told Livingstone of this, having found it out on the way; and when he told Livingstone of it, he said, "I am sure the English people do not know it." (Cheers.) He asked, "Do you think it would be wise in me to tell it?" and Livingstone replied, "If you can." He could give the names of persons who had taken slaves from ships at so much a head. In making this statement he was only doing that which the resolution enjoined (hear, hear); but he would gladly retract his assertions if Sir Bartle Frere said they were erroneous. But let Sir Bartle Frere ask, not the Commissioners, not people connected with the Government, but the people in the shops, where they got their black men from, and how much they paid for them. In that way the facts would be ascertained; and if the statements he had now made were wrong, he would as publicly retract them. (A gentleman in the body of the meeting exclaimed, "I hope you will.") Mr. Stanley resumed his seat amid loud cheering.

##### No. 2.—GOVERNOR THE HON. SIR ARTHUR GORDON TO THE EARL OF KIMBERLEY.

(Received March 10, 1873.)

Mahé, Seychelles,

January 16, 1873.

MY LORD,

I HAVE the honour to acknowledge the receipt of your lordship's despatch, of the 18th November, enclosing an extract from the report of a speech made by Mr. H. Stanley, in which a traffic in slaves is broadly stated to exist in Mauritius and Seychelles.

2. Mr. Stanley's remarks had already reached me, and I need hardly say had attracted my most serious attention.

3. Mr. Stanley's charges are, that "the English Government has been selling slaves and taking money for them," that the liberated slaves are "sold to people at Seychelles or Mauritius for a few dollars a head for a term of years," and that "it is said this is only hiring out, but it is slavery."

4. I have no hesitation in saying that these startling charges are, to say the least, put forward on very insufficient grounds, and ought never to have been made.

5. As regards Mauritius (which island, by the way, Mr. Stanley has, I believe, never visited), it is sufficient to reply that for the last three years no liberated Africans have been landed there; that there is no field there for their employment; that their introduction is not desired by the Government, the planters, or any class of the community; and, that as the naval authorities engaged in the suppression of the slave trade on the east coast of Africa are well aware of these facts, it is in the highest degree improbable that any more will again be brought there. All the information I can obtain with respect to those last landed in 1869 tends to prove Mr. Stanley's statement, so far as respects them at least, to be utterly unfounded.

6. As regards Seychelles, the case is no doubt different, as liberated slaves continue to be landed here, and I hope will still be so; but I most emphatically deny that the liberated slaves are "hired out" to *repay by the wages of their labour the expenses of their introduction*; or that their condition is, in fact, one of slavery; or that the Government reaps any direct benefits from their labour during their term of indentured service.

7. They are "hired out," (if Mr. Stanley chooses to employ that term,) or rather, as I should say, enter into contract with an employer before a stipendiary magistrate, not for the benefit of the Government, but for their own, at a regular rate of wages, from which no deduction is made, or allowed to be made, to meet any claim on the part of the Government.

8. Nor can I hold that their state is one of slavery, unless, which is possibly the case, Mr. Stanley uses the term in a rhetorical sense, applicable to all indentured service. I say nothing of the limited period of service (five years), for of course it is possible to inflict a short term of slavery; but a man who receives regular wages for the work he performs, who has rights as against his employer, who may at any time appeal to a magistrate to enforce those rights and also to cancel his engagement, and the employer's rights over whom accrue wholly from, and are limited by, a contract to which the servant himself is a party, cannot be said to be a slave in any proper sense of the word.

9. I believe the system of indenture to be beneficial to all parties concerned; that without it there would be great suffering and mortality among the Africans, and that their presence in the islands would be a curse to the rest of the community. But this is not the question now under consideration, and need not now be discussed.

10. It is true that a fixed fee is paid to the Government by the employer on allotment to him of a liberated African, just as an indenture fee is paid in many colonies on the engagement of coolie labourers; but the amount of this fee (the only money received by the Government from the employer) is fixed under regulations which have received the approval of Her Majesty's Government, and is calculated simply to repay the expenses of maintenance and introduction. The table which I have the honour to enclose shews that the amounts received, although they exceed the amount expended, do so very slightly, so slightly that they may be said to be equally balanced, nor can the Government with any fairness be said to have benefited by the transaction. Mr. Stanley's statement as to the various amounts paid would almost inevitably lead to the conclusion that the liberated African slaves were allotted to the highest bidder, although he refrains from making in direct terms a charge for which there is not the slightest foundation.

11. I am disposed to believe that the Ordinance and Regulations to secure the proper treatment of liberated Africans have, on the whole, been faithfully observed, but I shall be better able to speak on this subject when the Inspector about to be appointed has made his first report. Meanwhile, I have left with the Chief Civil Commissioner a set of questions as to the allotment and treatment of liberated Africans, his answers to which will no doubt be forwarded to your Lordship.

12. It is worthy of remark, as an evidence of the more prosperous condition of the Seychelles Islands, that, whilst I find my predecessor reporting in 1867 and 1869 that there was no employment to be found in the Seychelles for liberated Africans, there is now not the slightest difficulty in finding work at comparatively high wages for all applicants, and that there is a most eager demand on the part of the planters for an increased supply of labour.

13. I may add, in conclusion, that I have followed Mr. Stanley's advice, and have by no means confined my inquiries on this subject to official sources.

I have, &c.,  
ARTHUR H. GORDON.

Enclosure in No. 2.

LIBERATED SLAVES ALLOTTED AT SEYCHELLES.

Year.	Name of Ship.	No. of Slaves.	Total Amount Expended.		Total Amount recovered from Employers.	
			£	s. d.	£	s. d.
1861	H.M.S. "Lyra" - - -	193	217	3 5½	233	12 2½
"	H.M.S. "Gorgon" - - -	56	37	8 11	41	1 6
1862	H.M.S. "Ariel" and Dhow } "Black Bird" - - - }	199	228	7 6	244	4 0
1867	H.M.S. "Highflyer" - -	37	?		55	10 0
1869	H.M.S. "Daphne" - - - } "Nymph" - - - }	291 } 161 }	454	1 0	463	10 0
1871	H.M.S. "Columbine" - -	206	299	15 3	303	0 0
1872	H.M.S. "Columbine" and } Steamer "Africa" - - - }	230	?		395	0 0

Appendix.

PROTECTOR OF IMMIGRANTS TO COLONIAL SECRETARY.

Immigration Office,  
Mauritius, November 13, 1863.  
SIR,  
I HAVE the honour to submit the following Report on the Liberated Africans referred from Madagascar as follows:—

	Males.	Females.
29th September, per "Dryad" -	76	66
26th October, per "Perseverance" -	4	—
	80	66

2. Two of the females (a woman and a girl under 14) were removed to hospital, where they subsequently died. All the others remained in excellent health till they left the depôt.

3. Immediately after their admission into the depôt they were supplied with clothing, blankets, and other necessaries, and subjected to a careful vaccination.

4. Labour being in demand, numerous applications for their services came in as soon as their arrival became publicly known. The requisitions were indeed so numerous that had there been 500 Africans instead of 146 only, it would have been an easy matter to find employment for them.

5. The eagerness with which those who arrived were taken off was due, however, chiefly, if not wholly, to the temporary scarcity of labour, and not to Africans being held in higher estimation than the Indian as a labourer. I should not, therefore, recommend the adoption of any measures with a view to the encouragement of a systematic introduction of Africans.

6. Four of the children (three boys and a girl) who were without parents, and were not old enough to take service, were sent to the Government Orphan Asylum. Five others (four boys and a girl), who were also too young for employment, were allowed to be taken away without engagements by the employers of their parents. All the others were engaged for five years on the same terms as immigrants arriving from India, under which adults receive, besides food, lodging, and medical care, the wages mentioned in margin.

7. The expenses attending their maintenance in the depôt, including the cost of the clothes and other articles given to them, amounted to 144l. 4s. 3d. The amount recovered from their employers is 196l. 10s., which leaves a balance in favour of Government of 52l. 5s. 9d., minus the fees accruing to the medical officer who was employed as vaccinator.

I have, &c.  
H. N. D. BEYTS,  
Protector of Immigrants.

The Honourable  
the Colonial Secretary, &c.

V.—CORRESPONDENCE AS TO LIBERATED AFRICANS BEING SENT TO THE CAPE OF GOOD HOPE.

No. 1.—SIR HENRY BARKLY TO THE EARL OF KIMBERLEY.

Government House, Cape Town,  
November 15, 1873.

I HAVE the honour to submit, for your Lordship's consideration, copy of correspondence which has passed between myself and the British Consul-General at Zanzibar on the subject of obtaining for this colony a share of such Africans as may be rescued from slavers on the East Coast of Africa, and, in so doing, to express a hope that Her Majesty's Government will sanction compliance as far as practicable with the wishes of my responsible advisers in this matter.

I have, &c.  
HENRY BARKLY,  
Governor.

The Right Hon.  
The Earl of Kimberley.

No. 2.—THE EARL OF KIMBERLEY TO SIR HENRY BARKLY.

Colonial Office, January 24, 1874.  
SIR,  
I HAVE received your despatch No. 109, of the 15th of November, expressing the wishes of your advisers that some of the Africans rescued from slavers on the East Coast of Africa may be introduced into the Cape Colony.

I have no objection to a proportion of liberated Africans being assigned to the Cape on condition of the payment by the colony of all expenses connected with their removal, which I understand to be your suggestion.

In the event of the Government of Natal also desiring the introduction of these immigrants, I think it reasonable, looking to the extent and trade respectively of the two colonies, that the Cape should receive them in the proportion of two to one; and I propose to write to the Lieutenant-Governor of Natal to this effect.

Should your Government concur in the arrangement I have mentioned as to the payment of all the expenses of the introduction of the liberated Africans, I will communicate with the Secretary of State for Foreign Affairs with a view to instructions being given to the proper officer for their apportionment between the two colonies in the proportions I have suggested.

I have no means of knowing what number of Africans it may be possible to allot to the Cape under this arrangement.

KIMBERLEY.

Year.  
Per Month.  
1st.  
2nd.  
3rd.  
4th.  
5th.  
6th.  
7th.  
8th.  
9th.  
10th.  
11th.  
12th.

VI.—CORRESPONDENCE AS TO LIBERATED  
AFRICANS BEING SENT TO NATAL.

No. 1.—CONSUL ELTON TO THE EARL OF DERBY.  
(Received September 27.)

MY LORD,

Mozambique, August 2, 1875.

I HAVE the honour to inclose your Lordship extracts from a despatch dated 24th June, received by last mail from Major Brackenbury, R.A., Sir Garnet Wolseley's private secretary, with extracts from an enclosure in the same from the Governor-General of Mozambique to the Governor of Natal, relative to the reception in temporary depôt of freed slaves at this port, and solicit your Lordship's instructions as to whether freed slaves shall be landed at Mozambique in accordance with the terms proposed by the Portuguese Government.

I do not imagine applications would be made here for the services of freed slaves, the place being already overstocked with "Libertos" and slaves, the latter of whom are unsaleable owing to the present pressure on the Madagascar traffic; but should applications be made, I have confidence in the Governor-General's integrity with regard to the selection of fit and responsible masters.

I also enclose copy of letter from the Protector of Immigrants, Natal (with an enclosure, Natal Government Notice, No. 186 of 1875), and my reply to the same, from which your Lordship will see that, except under extraordinary circumstances—such as large captures effected in the vicinity in Portuguese territorial waters, should leave be given to act in them to any of our cruisers, and an urgent necessity for relieving Her Majesty's vessels of slaves on board in order to carry on extended operations—I purpose awaiting your Lordship's instructions on this matter.

I have, &c.

F. ELTON.

Enclosure I. in No. 1.

COLONEL LLOYD TO CONSUL ELTON.

Immigration Department, Durban, Natal,  
July 16, 1875.

SIR,

I HAVE the honour, with reference to former correspondence on the subject of liberated slaves, to inform you that numerous applications have been received by this Department, and I should be glad to be apprised by next mail of the probable number that are likely to be supplied, so far as it can now be estimated.

New regulations have recently been issued, placing the importation of liberated slaves as nearly as may be on the same footing as that of Indians—i.e., they will not be applied for except upon the requisition of persons desiring to import them, and upon execution of formal bonds for the payment of expenses, &c.

It appears to me that the simplest way of carrying out these regulations will be for this Department to send you an abstract of the applications each mail, showing the number of adults, male and female, boys and girls, applied for, and for you to conform as nearly as possible to these particulars in providing the people.

I shall be glad to have any suggestions on the subject which you may kindly favour me with.

I have, &c.

B. P. LLOYD,

Protector of Immigrants.

Enclosure II. in No. 1.

EXTRACT FROM THE "NATAL GOVERNMENT GAZETTE"  
OF JUNE 22, 1875.

Government Notice No. 186, 1875.

HIS Excellency the Administrator of the Government directs it to be notified that applications, accompanied by bond, will now be received from persons wishing to obtain liberated Africans from Zanzibar.

The regulations under which they will be assigned are published in Immigration Notice No. 3, 1875, as hereunder.

By his Excellency's command,

F. NAPIER BROOME,

Colonial Secretary.

Colonial Secretary's Office, Natal,  
June 14, 1875.

Immigration Notice No. 3, 1875.

The following regulations as to the reception, management, and distribution of liberated Africans are published for general information:—

1. The Protector of Immigrants, or, in his absence, the Assistant to the Protector of Immigrants, shall board each vessel arriving with liberated Africans, and shall ascertain and report to Government the number embarked, the number of deaths (if any) during the voyage, state of health, and whether the provisions of the charter party have been fully and fairly complied with.

2. The Protector of Immigrants shall keep a "Register," in which shall be inserted the names of all the liberated Africans who may be introduced into the colony, and shall number each by a particular number consecutively, and shall distinguish therein under different heads the number, name, age, and sex of every such liberated African, as well as the name of the person to whom he or she may be assigned, and the date and term of such assignment.

3. The assignment of the liberated Africans will be conducted in the same manner as that of the Indian immigrants.

4. No child will on any account be separated from its mother; and it will be necessary for employers to whom women having children may be assigned to agree to allow food, shelter, and clothing for the said children.

5. Adults will be assigned under contract to employers for a term of three years.

6. Destitute children will be apprenticed as follows:—Boys, until they attain their 18th year; girls, until they attain their 16th year.

7. All questions as to ages of any of the liberated Africans shall be determined by the Protector of Immigrants.

8. As many of the apprentices will be very young, and all need much training before they become useful, the payment of wages (in addition to food, clothing, lodging, and instruction) shall not commence till each apprentice shall have completed his or her 12th year.

9. It will be especially required by the Government that the apprentice shall be taught to read and write in the English language, besides some useful trade or domestic occupation, and that they shall be gradually instructed in the great truths of Christianity. It is expected that they shall be trained to habits of cleanliness, and that their lodgings shall be separate from those of the Kafir servants of the country.

10. On the expiration of the term of assignment of adults, and of the term of apprenticeship of the destitute children, both will be free to make their own terms for a further period of service, or may go where they choose.

11. Contracts of service or apprenticeship will be entered into before the Protector of Immigrants for the time being, who is hereby specially appointed to attest and make these contracts under Ordinance No. 2 of 1850.

12. The rates of pay will be as follows:—

Adult Men.—6s. per mensem for the first year, increasing at the rate of 1s. per mensem each year.

Adult Women.—4s. per mensem for the first year, increasing as above.

Apprenticed Children.—Boys, 3s. per mensem, increasing as above; girls, 2s. per mensem, increasing as above.

13. In addition to the above wages, good and sufficient rations of food, shelter, clothing, medical attendance, and medicines, when necessary, shall be provided at the expense of the employer.

14. It is to be clearly understood that no deductions are to be made from the wages of the servants or apprentices.

15. All persons with whom contracts may be made are required to send to the Protector of Immigrants an immediate report of the death or desertion of any assigned servant or apprentice.

16. It will be the duty of the Protector of Immigrants to keep a record of such contracts of service or apprenticeship in his office, and from time to time to ascertain by inquiry and personal visits the welfare of the persons so assigned or apprenticed. It will be competent to the Government, on the report of the Protector of Immigrants, to order the annulment of any contract whenever there shall be reason to believe that any of the conditions are not fulfilled, or that any assigned servant or apprentice has been subjected to ill-treatment.

17. The Government entirely reserves the right of selecting the parties to whom these people shall be assigned or apprenticed, and no reason whatever for refusing or not complying with any application will be given.

18. The cost of introduction and maintenance of these people before assignment has been calculated to amount to 9l. per statute adult (male or female). The Government will bear one-third of this sum; the remaining two-thirds

will have to be paid in advance by employers in three yearly instalments of 2*l.* each, such payment to be made whether the servant is alive or not.

19. Each applicant will be required to enter into a bond, with two approved sureties, for the due payment of the said annual instalments, and for repayment of any loss to the Government which may arise or be incurred by reason of such applicant not taking over any such liberated African who may be allotted, and also for the due fulfilment of such contract of service or apprenticeship.

By his Excellency's command,  
**H. C. SHEPSTONE,**  
 Acting-Protector of Immigrants.  
 Immigration Department,  
 Durban, 1875.

Enclosure III. in No. 1.

CONSUL ELTON TO COLONEL LLOYD.

SIR, Mozambique, August 2, 1875.  
 I HAVE the honour to acknowledge your letter of the 16th July, on the subject of liberated slaves, with inclosure of new Regulations, recently issued, placing the importation of liberated slaves as nearly as may be on the same footing as that of Indians.

I think the plan you propose of sending an abstract of applications made each mail for general guidance is the best than can be adopted, but it will not be possible to conform precisely with the requisitions made.

You should, however, send such abstract in duplicate—one to the Consul-General at Zanzibar, and one to me at Mozambique; and it will be requisite also to furnish Zanzibar with a copy of the new Regulations.

The Government notice inclosed in your letter, together with a copy of the letter itself, I shall forward to Her Majesty's Secretary of State for Foreign Affairs by next mail, under flying seal through Zanzibar, and would therefore beg you, when sending me your first abstract, to be so good as to inclose me another copy of Government Notice No. 186 of 1875, for the use of this Consulate.

For the present, there will not be freed slaves available from Mozambique, unless any large captures are made in the neighbourhood under peculiar circumstances, as, pending instructions from the Earl of Derby, it is, I think, advisable that captured slaves should be taken in the first instance to Zanzibar, if possible.

I am, &c.  
**F. ELTON.**

No. 2.—CONSUL ELTON TO MAJOR BRACKENBURY.

SIR, Mozambique, August 6, 1875.  
 I HAVE the honour to enclose for his Excellency Sir Garnet Wolseley, Portaria, No. 152, issued by the Governor General of Mozambique opening the voluntary emigration of free African labourers from Lorenzo Marques to Natal, together with translation, which is just in time for the mail.

There is nothing to add to my former letter, No. 95, the Portaria only differing from the draft I saw previously in the omission of the provision for a substitute appointed by the emigration agent, which is a matter of no importance whatever.

I have, &c.  
**F. ELTON.**  
 To Major Henry Brackenbury, R.A.,  
 Military Secretary to his Excellency  
 the Administrator of the Government  
 of Natal.

Enclosure in No. 2.

PORTARIA.  
 (Translation).

No. 152. The Governor General of the province of Mozambique orders as follows:

The Governor of the Colony of Natal having sent to this Government an official note, requesting it to be permitted to establish in this city of Mozambique a temporary depôt of negroes, which might be captured in the seas of this province by the British cruisers, and at the same time the Governor of the above-mentioned colony having asked for permission to embark free Africans to Natal, it is convenient to announce, that all the documents and correspondence which passed on the subject being presented to His Majesty the King, that august Señor authorizes in the capital of this province the depôt of negroes found in vessels taken by the English cruisers on the following terms:

I. The Africans who enter the depôt shall be entirely free in every way.

II. Those shall proceed to Natal who expressly wish to, as contracting emigrants.

III. Those shall remain in Mozambique who wish to remain there, and contract themselves.

IV. Those contracts in Mozambique shall be made for three years at the most, and made according to the established clauses of a regulation which shall be drawn up for the purpose.

V. Contracts shall not be allowed except with people holding property, or persons worthy of the Governor General's confidence, and under the effective superintendence of this Government.

VI. The Africans so contracted shall in every way be considered free, and as free obliged to fulfil their contracts.

With respect to the second concession His Majesty equally thinks fit to authorize free emigration, which shall be done on the following terms:

I. The emigrants shall be received in depôts, where the right of inspection may be exercised by Portuguese authority appointed for such purpose.

II. In Lorenzo Marques there shall be an agent of the Government of Natal, who shall not exercise other functions in his relations with the Portuguese authorities, except being responsible towards them for the fulfilment of the emigrant laws in the English territory, for the execution of the contracts, and especially for the clause of return passage.

III. Before the embarkation of the emigrants shall be signed in quadruplicate by the agent of the Government of Natal, a Declaration Form A., which is annexed to this Portaria. One copy to be retained by the British agent in Lorenzo Marques, another sent by him to the inspecting Government Protector of Immigrants in Natal by the hand of the Captain of the vessel by which they are conveyed; two given by the same agent to the Portuguese (Government) Inspector of Emigration in Lorenzo Marques, who will send one to the Portuguese Consul in Port Natal, and keep the other copy.

IV. The Consul of His Most Faithful Majesty in D'Urban shall receive from the Government of Natal, within the term of 14 days from the disembarkation of the emigrants, a copy of the contract made with each of them according to the laws of that colony.

V. The transport of Emigrants will only be permitted on board the mail steamer.

VI. On the passport of Emigrants there is levied an impost of 2,500 Reis\*, exclusively for the purpose of expenses of inspection by the Portuguese authority appointed for that purpose.

VII. The Emigrants shall pay nothing on their return.

VIII. The depôts shall be maintained by the agent of the emigration appointed by the Government of Natal, and shall always be subject to the inspection of the Portuguese authority.

To the authorities and other persons to whom the knowledge of this present concerns, that they may understand and perform the same.

Palace of the Governor-General of  
 the province of Mozambique,  
 2nd August 1875.

The Governor-General,  
**JOSÉ GUEDES DE CARVALHO E MENEGES.**

FORM A. TO WHICH THE PORTARIA OF 2ND AUGUST 1875 REFERS.

No. 1875.  
 Voluntary Emigration of African Labourers from Lorenzo Marques to Natal.

No.	Name.	Sex.	Age.	Tribe or District.	Remarks.

Embarked on board the Mail Steamer \_\_\_\_\_ on \_\_\_\_\_ of 187 for Natal.

I, \_\_\_\_\_, emigration agent on the part of the government of Natal, declare I hold myself responsible in the name of the same government for what is set forth as follows:—

The above-mentioned people, in number \_\_\_\_\_ of the masculine sex, and \_\_\_\_\_ of the feminine, are guaranteed by the Government of Natal a paid passage to Natal by the mail steamer and employment for three years under a

\* Fiscal.

\* Fiscal.

\* A trifle more than 1*l.*

contract fulfilled under the care of the government, in conformity with the labour law which in the colony of Natal regulates the rights and duties of masters and servants (No. 2 of 1850), and also a paid return passage (also by mail steamer) when they shall have completed the term of service, and in both paid passages are included water, food, and shelter.

A copy of each contract shall be sent within 14 days after arrival at Natal to the Consul of His Most Faithful Majesty the King of Portugal in Port Natal by the Protector of Immigrants in that colony, for any reference which in the future may be necessary.

Signed on the part of the Government of Natal by \_\_\_\_\_

Emigration agent accredited to the Governor of Lorenzo Marques

In presence of \_\_\_\_\_

Governor of Lorenzo Marques (or the superintending officer of the Portuguese Government).

No. 3.—THE HON. R. BOURKE TO CONSUL ELTON.

SIR, Foreign Office, October 14, 1875.  
WITH reference to your Despatch S. 7 No. 17 of the 2nd August, I am directed by the Earl of Derby to state to you that he is of opinion that it would not be politic to allow any slaves which may be captured by Her Majesty's cruisers, and landed temporarily at Mozambique, to be apprenticed or engaged in any way in the Portuguese Possessions on the East Coast of Africa.

You will accordingly decline to accede to any applications which may be made to you for the engagement of slaves freed by Her Majesty's cruisers.

Capt. Elton,  
H.M. Consul,  
Mozambique.

I am, &c.  
R. BOURKE.

## PAPERS FURNISHED BY THE INDIA OFFICE.

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### I.—THE ROYAL COMMISSION TO THE UNDER SECRETARY OF STATE, INDIA OFFICE.

Royal Commission on Fugitive Slaves,  
8, Richmond Terrace,  
February 28, 1876.

SIR,

I am directed by his Grace the Duke of Somerset, Chairman of this Commission, to request you to move the Marquis of Salisbury in Council to furnish him with any papers which may be deemed useful to the Commissioners in their present inquiry on the question of Fugitive Slaves, and I have the honour to enclose herewith a copy of the warrant for guidance as to the subjects on which this information is required.

I have, &c.

HENRY HOWARD,  
Secretary.

The Under Secretary of State,  
India Office.

### II.—THE UNDER SECRETARY OF STATE, INDIA OFFICE, TO ROYAL COMMISSION.

India Office,  
7th March 1876.  
SIR, I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 28th ultimo, and to forward herewith copies of papers as specified in the accompanying list,\* which his Lordship thinks may be of use to the Royal Commission on Fugitive Slaves.

I am, &c.

The Secretary,  
Royal Commission on  
Fugitive Slaves.

GEORGE HAMILTON.

\* See preceding List.

## PAPERS selected by the COMMISSIONERS for insertion in the APPENDIX to their REPORT.

### I.—TREATIES WITH STATES AND MARITIME TRIBES IN THE PERSIAN GULF, AND ON THE ARABIAN AND AFRICAN COASTS.

NOTE.—The treaties given are with Muscat, Sohar, the Maritime Tribes, Bahrein, Maculla and Shuhur, and certain of the Somali tribes. With the exception of the treaty with Bahrein, which relates to the maritime truce, the

primary object of all was the suppression of the slave trade. They are, probably, all superseded by Sir Bartle Frere's treaties of 1873, presented by the Foreign Office. The treaties with the maritime tribes in regard to the truce at sea will be found in the printed volume containing miscellaneous information about the gulf. The summaries are extracted from Aitchison, Vol. 7.

No. 1.  
SOHAR.

As the general engagements for the suppression of the slave trade in the Persian Gulf were concluded while the relations of Sohar to Muscat were still undefined, a formal agreement had not been concluded with Syud Humood.

\* An Act of Parliament, 16 & 17 Vict. c. 16, was passed to carry this treaty into effect.

other maritime states for the suppression of the slave trade, was concluded on 22nd May 1849 with his son Syud Saif, who was then in possession of the government.

No. LXII.

Translation of an engagement entered into by Syud Syf bin Humood, Chief of Sohar, for the abolition of the African Slave Trade in his ports.

It having been intimated to me by Major Hennell, the Resident in the Persian Gulf, that certain conventions have lately been entered into by the Ottoman Porte and other powers with the British Government, for the purpose of preventing the exportation of slaves from the coast of Africa and elsewhere, and it having, moreover, been explained to me that, in order to the full attainment of the objects contemplated by the aforesaid conventions, the concurrence and co-operation of the Chiefs of the several ports situated on the Arabian coast of the Persian Gulf are required, accordingly I, Syud Syf bin Humood, Chief of Sohar, with a view to strengthen the bonds of friendship existing between me and the British Government, do hereby engage to prohibit the exportation of slaves from the coasts of Africa and elsewhere, on board of my vessels and those belonging to my subjects or dependants, such prohibition to take effect from the 29th Rujut 1265, or the 21st June A.D. 1849.

And I do further consent, that whenever the cruisers of the British Government fall in with any of my vessels, or those belonging to my subjects or dependants, suspected of being engaged in the slave trade, they may detain and search them, and in case of their finding that any of the vessels aforesaid have violated the engagement by the exportation of slaves from the coasts of Africa, or elsewhere, upon any pretext whatever, they (the Government cruisers) shall seize and confiscate the same.

Dated this 20th day of Jemmadecood Akhir A.H. 1265, or 22nd day of May 1849.

L.S.

SYUD SYF BIN HUMOOD.

Approved by the Government of Bombay on 4th August 1849.

No. 2.  
PERSIAN GULF. MARITIME TRIBES.

By the 9th article\* of the treaty of 1820 with the Arab tribes of the Persian Gulf, the carrying off of slaves from the coasts of Africa or elsewhere, and the transporting them in vessels, is plunder and piracy, and the friendly Arabs shall do nothing of this nature. This was not interpreted as forbidding traffic in slaves, but as prohibiting kidnapping only. A very extensive trade in slaves was carried on from the ports of the Red Sea and Persian Gulf with Kattywar, Kutch, and the Native States on the West Coast of India, which, under the interpretation put on the treaty of 1820, the British Government had no power to interfere with. In April 1838, under instructions from Government, the Resident in the Persian Gulf obtained from the maritime Chiefs of Ras-ool-Khymah, Ejman, Debaye, and Aboothabee, an agreement (No. 66) giving to British cruisers the right to detain and search vessels suspected of being employed in carrying off slaves, and to confiscate the vessels if found so employed. In the following year the Chiefs of Ras-ool-Khyma, Debaye, Aboothabee, and Amalgavine entered into an agreement (No. 67) of three articles; the first and second of these articles gave

\* No. 65, Art. 9. The carrying off of slaves, men, women, or children, from the coasts of Africa or elsewhere, and the transporting them in vessels, is plunder and piracy, and the friendly Arabs shall do nothing of this nature.

to the British Government the right to search and confiscate slave vessels found beyond a line from Cape Delgado on the African coast, passing two degrees east of Socotra, and ending at Cape Guadel, on the Mekran coast, unless driven beyond that line by stress of weather or other necessity. By the third article the sale of persons of the Somalee tribe was declared to be piracy. The same Chiefs, and also the Chiefs, of Ejman and Bahrein entered into

† An Act of Parliament 13 & 14 Vict. c. 84, was passed to give effect to these engagements.

engagements† (No. 688) in 147, binding themselves to prohibit, from and after 10th December 1847, the exportation of slaves from the African coast, or elsewhere, in vessels belonging to themselves or their subjects, and authorising British cruisers to confiscate vessels found engaged in the forbidden traffic.

No. 3.  
BAHREIN.

(Extracts.) No. LXXIII. (1862.)

Terms of a Friendly Convention entered into between Sheikh Mahomed bin Khuleefa, independent Ruler of Bahrein, on the part of himself and successors, and Captain Felix Jones, Her Majesty's Indian Navy, Political Resident of Her Britannic Majesty in the Gulf of Persia, on the part of the British Government.

ARTICLE 1.

I recognise as valid and in force all former Treaties and Conventions agreed to between the Chiefs of Bahrein and the British Government, either direct or through the mediation of its representatives in this gulf.

ARTICLE 2.

I agree to abstain from all maritime aggressions of every description, from the prosecution of war, piracy and slavery by sea, so long as I receive the support of the British Government in the maintenance of the security of my own possessions against similar aggressions directed against them by the Chiefs and tribes of this gulf.

ARTICLE 3.

In order that the above engagements may be fulfilled, I agree to make known all aggressions and depredations which may be designed, or have place at sea, against myself, territories, or subjects, as early as possible, to the British Resident in the Persian Gulf, as the arbitrator in such cases, promising that no act of aggression or retaliation shall be committed at sea by Bahrein, or in the name of Bahrein, by myself or others under me, on other tribes without his consent or that of the British Government, if it should be necessary to procure it. And the British Resident engages that he will forthwith take the necessary steps for obtaining reparation for every injury proved to have been inflicted, or in course of infliction by sea upon Bahrein, or upon its dependencies in this gulf. In like manner, I, Sheikh Mahomed bin Khuleefa, will afford full redress for all maritime offences which in justice can be charged against my subjects, or myself, as the Ruler of Bahrein.

Signed at Bahrein, 31st May 1861.

Approved by Government of India, 9th October 1861.

Ratified by Governor of Bombay, 25th February 1862.

No. 4.  
ARAB TRIBES. (OULAKEES.)

(Extract.) No. LXXXV. (1855.)

\* \* \* \* \*  
We whose names and seals are set to this bond do, therefore, in the sight of God and of men, solemnly proclaim our intentions to prohibit the exportation of slaves from any part of Africa by every means in our power; we will export none ourselves, nor will we permit our subjects to do so, and any vessel found carrying slaves shall be seized and confiscated and the slaves shall be released.

No. 5.  
SOMALIS.

(Extract.) No. C. (1856.)

Articles of Peace and Friendship concluded between the Habr Owul tribe of Somalees on the one part, and Brigadier William Marcus Coghlan, Political Resident at Aden, on behalf of the Honourable East India Company, on the other.

\* \* \* \* \*

ARTICLE 4.

The traffic in slaves throughout the Habr Owul territories, including the port of Berbera, shall cease for ever, and any slave or slaves who, contrary to this engagement, shall be introduced into the said territories shall be delivered up to the British, and the commander of any vessel of Her Majesty's or the Honourable East India Company's Navy shall have the power of demanding the surrender of such slave or slaves, and of supporting the demand by force of arms if necessary.

ARTICLE 5.

The Political Resident at Aden shall have the power to send an agent to reside at Berbera during the season of the fair, should he deem such a course necessary, to see that the provisions of this agreement are observed, and such agent shall be treated with the respect and consideration due to the representative of the British Government.

II.—CASE OF A SLAVE who took REFUGE on board the merchant steamer "SIR CHARLES FORBES" in BUSHIRE ROADS, 1849.

NOTE.—A slave got on board the "Sir Charles Forbes," lying alongside the Bushire custom-house, and engaged himself as a coal trimmer. The slave owner demanded his restitution. The captain refused. The Governor of Bushire then applied to the Resident, who ordered restoration. The captain gave up the slave under protest. The Resident reported the case to Bombay, and Government, after reference to the Advocate-General, approved his proceedings. The Advocate-General laid down that, in a country where slavery is permitted, the commander of an English vessel cannot detain a slave against the consent of his owner,—that the police authorities of the place can enforce restoration,—or the Resident interpose to obtain it.

No. 1.—From MAJOR HENNEL, Resident in the Persian Gulf, to ARTHUR MALET, Esq., Chief Secretary to Government.

(Extract.)

Bombay,  
26th September 1849.

\* \* \* \* \*

"It is true the late Shah issued a firman prohibiting his subjects from importing slaves into Persia by sea; but nothing more. The state of slavery is not only recognized by the law, but is also closely interwoven with all the domestic institutions of this country. However much opposed to the sympathies and habits of a native of Great Britain such a condition of society may be, still we are, I conceive, while in Persia, bound to take things as we find them; and although doubtless it would be grateful to the feelings of every Englishman to be the means of rescuing a fellow-creature from slavery, it is not to be supposed the Persians will quietly submit to our merchant ships and steamers, which may visit their coasts, being made an asylum for every dissatisfied or runaway slave who may seek refuge in them.

"4. It must be further borne in mind that in almost every steamer a proportion of the coal trimmers are negroes. The intercourse of these with their fellow-countrymen on shore, in a state of slavery, is likely, by the contrast of their respective positions, to lead many to seek the comparative liberty and independence of a paid coal trimmer; and, therefore, as I remarked in my former letter, cases similar to the present one will, in all probability, happen frequently.

"5. I have reason to believe that in Muscat cases have occurred in which, slaves having taken refuge in an English merchant ship, the local authorities have sent their officers on board, accompanied by the British agent, to search the

vessel and bring away the fugitives. In doing this I conceive they were justified, but I should be glad to find the correctness of this opinion confirmed by the approval of the Right Honourable the Governor in Council."

No. 2.—From ARTHUR MALET, Esq., Chief Secretary to Government, Bombay, to LIEUT.-COLONEL T. HENNEL, Resident in the Persian Gulf.

SIR,

Dated 30th November 1849.

I AM directed by the Right Honourable the Governor in Council to acknowledge the receipt of your letters, Nos. 279 and 281, dated respectively the 25th and 26th September last, with enclosures, relative to a slave belonging to an inhabitant of Bushire, who had sought refuge on board the steamer "Sir Charles Forbes" in the Bushire Roads, and to convey to you the entire approval of Government of your temperate and judicious proceedings in this case.

2. Presuming that the "Sir Charles Forbes" on the occasion in question was within the local jurisdiction of the Bushire authorities, as slavery is there permitted, the commander of an English vessel in such a position cannot detain a slave on board against the consent of the owner, and, on refusal to deliver up the slave, the police authorities of the place could enforce it, or the Resident interpose on their behalf.

3. Slavery, odious as it may be, is not a crime against the law of nations. An Englishman, while in countries which permit it, must respect their laws. The commander of a vessel cannot enter into the question of the right to the slave; this must be left to the local authorities to determine, and it is the duty of the Resident to take care of the rights and liberty of Indian subjects in this respect.

4. Such being the law with regard to slaves in a foreign country permitting slavery, the course which should be followed on any future occasion is that above pointed out,—the recovery of a runaway slave being effected through the interposition of the police or Resident, without there being any necessity for detaining the ship or master, or of prohibiting the embarkation of the cargo.

I have, &c.,

A. MALET,

Chief Secretary.

III.—CASE OF A SLAVE absconding from BUSHIRE to BOMBAY, taking service there in the Indian Navy, returning to Bushire as one of the crew of a British vessel, landing there, and being claimed by his former Master.

No. 1.—From H. L. ANDERSON, Esq., Secretary to the Government of Bombay, to G. F. EDMONSTONE, Esq., Secretary to the Government of India.

SIR,

Dated 5th March 1855.

I HAVE the honour, by the direction of the Right Honourable the Governor in Council, to solicit the instructions of the President in Council at Fort William under the following circumstances.

2. The Resident in the Persian Gulf represented to this Government that a coal trimmer, belonging to the Honourable Company's steam frigate "Achar," had disappeared on shore, and that the Resident's interference for his apprehension had been requested. It appeared that the man was a runaway slave who had left a wife and children in Bushire, on landing from one of the ship's boats he had proceeded to visit his family, and had been persuaded to desert. The Resident was enabled, by a representation to the local authorities, to procure the return of the man, but he was induced by the circumstance, that a considerable portion of the crew of the "Akbar" had formerly been slaves, to submit the following question for the consideration of this Government:—

"Supposing that a slave who has absconded from Bushire to Bombay, and who has then taken service in the Indian Navy, return to Bushire as one of the crew of a British vessel, and landing be recognized and claimed by his former master," can the Resident demand officially his restitution?

3. The question thus proposed was referred to the Advocate-General, who, in reply, submitted the following opinion:—

"Slaves in countries where domestic slavery is lawful are deemed the property of their masters. Should, however, a slave at Bushire, where slavery, I believe, is allowed, run away and abscond from his master to



" Bombay and take service in the Indian Navy, and return to Bushire as one of the crew of a British vessel, and land, and be recognized and retaken, or claimed by his former master, I think the Resident might use his good offices to procure the return of the slave to the ship, yet, in the absence of any Treaty, he could not officially demand and insist on his restitution. While on board he would be free and under British authority; but if his former master should regain possession of him at Bushire, I think, without his consent, his slave could not be taken from him."

4. On the receipt of this opinion it was determined by this Government to obtain the further advice of counsel, and accordingly Mr. Howard, the Remembrancer for Legal Affairs, submitted the opinion, a copy of which accompanies this letter.

5. A memorandum was then drawn up by the secretary, which is appended to this letter, and it was determined to refer the subject for the instructions of the Government of India, in order that the peculiar question involved might receive the fullest consideration.

6. The Right Honourable the Governor recorded the following remarks:—

" Luckily the case of the coal trimmer appears to have been decided by Captain Kemball having, with the assistance of the local authorities, compelled the man (who had deserted from the "Acbar") to regain his ship. The general question must, I think, be decided by the Government of India, as the same rule must apply to all cases where fugitive slaves may be serving on board British ships.

" In my opinion, as these men are by our laws free when they land on British soil, and consequently when they enlist at Bombay to serve the Honourable Company, it would not be consistent with the spirit of our laws to give them up to their former masters while they remain under the protection of the British flag.

" That flag ought to cover them as long as they are serving in the Indian Navy, whether they are afloat or on shore, whether on duty or on leave.

" But it is a different thing if they voluntarily withdraw themselves from the protection of the British flag. Deserters can either be claimed, or not, and in the case of a fugitive slave deserting, he may, I think, be justly held to have forfeited his claim to protection."

7. The Honourable Mr. Warden briefly expressed his concurrence in Mr. Howard's view, but considered that the question should be referred to the Government of India.

8. The Honourable Mr. Lumsden recorded the following minutes:—

" The question of how the commander of a vessel of war should act in a case like the present is not likely to be of frequent occurrence, and I should doubt if it were either necessary or expedient to lay down an invariable rule for his guidance. Officers must in many cases exercise a discretionary power of acting according to circumstances.

" Where recourse must be had to a fixed rule or principle of decision, I am entirely of the opinion of our Right Honourable President, "The British flag ought to protect all fugitive slaves as long as they are serving in the Indian Navy, whether afloat or on shore, whether on duty or on leave."

" A man on leave is as much an integral part of the ship's company as a man on duty, and is in all respects as much under the safeguard of our flag.

" But the deserter who, having sought our protection as a fugitive slave, has voluntarily cast it off, and resumed his bondage to his former masters, is in a very different position. We can have no right on any acknowledged principle of international law to demand his surrender. The title which either party possesses to his allegiance, and the duty which they are under of giving him protection, rest on the same basis—his own act and choice. If he could alter his rights and social position by his own act of adherence to us, he must be able to alter them again by a similar act of adherence to his former masters. If he could abjure the latter's lawful authority we cannot deny that he may abjure ours if they receive him.

" But if such a question should arise, it can only arise between our own Government and that of Persia or of Turkey, and perhaps, I should add, the Imam of Muscat, and with these States we might regulate our demand for the surrender of slaves who had entered our navy as seamen, and had been detained on shore or deserted from them, by the broad rule which is laid down in the Right Honourable President's minute.

" Beyond this, I think it would be unadvisable to limit the free agency of our officers in demanding the surrender even of deserters, while it would be quite impracticable,

" as our ships are manned at present, to prescribe for their guidance such instructions as have been suggested in our Secretary's memorandum.

" I am assured that the majority of our seamen on board our steamers are at this very time Africans, and that the greater number of these are fugitive slaves. These men work the ship and form the crews of the boats which communicate with the shore. They must, therefore, necessarily have opportunities afforded them of deserting. They have escaped from the numerous ports on the coasts of the Persian Gulf or of Arabia, to which our ships frequently resort, yet with the rulers of which we have little intercourse and no reciprocal relations.

" The occasion of a visit paid to these ports by one of our ships of war is very frequently to compel satisfaction for some injury inflicted on our subjects or our commerce, or to enforce a policy essential for the protection and encouragement of trade.

" If a man desert at such a crisis, whether under the pretext of being a fugitive from the place and a slave or not, he will be demanded from the authorities, and his surrender compelled, and I do not think it would be advisable to say that if he be a deserter our naval officers in command of our vessels should not compel it.

" To give an illustration of what I have said of the composition of our ships' crews in the Indian Navy, I will take the case of the "Acbar," the very vessel to which the slave who is the subject of this correspondence belonged.

" I have obtained this from Lieutenant Balfour, the commander:—

" European sailors about, and under 22.

" Leedees, of whom the great majority are runaway slaves, 50.

" Stokers, 24.

" Bombay artillerymen, 22.

" Marine battalion, Sepoys, 15.

" Thus it will appear that the men who work the ship, in other words, the effective crew, are principally these very slaves."

I have, &c.

H. L. ANDERSON,  
Secretary to Government.

(True Extract.)

H. L. ANDERSON,  
Secretary to Government.

Bombay Castle,  
5th March 1855.

No. 2.—From Foreign Department.—J. W. DALRYMPLE, Esq., Officiating Secretary to the Government of India, to H. L. ANDERSON, Esq., Secretary to the Government of Bombay.

Dated Fort William,  
the 9th November 1855.

SIR,  
I AM directed by the President in Council to acknowledge the receipt of your despatch, dated the 5th March last, No. 43, and, in reply, to observe that the question propounded therein as to the right to detain a slave in the service of the Honourable Company in the Indian Navy is one of some difficulty.

2. His Honour in Council's opinion is in accordance with that of the Right Honourable the Governor, viz., that if a slave who has absconded from Bushire to Bombay, takes service in the Indian Navy, and returns to Bushire as one of the crew of a vessel belonging to the Indian Navy, he is protected by the British flag so long as he is serving, whether afloat or on shore, whether on duty or on leave, and that he cannot be detained against his will. But if he deserts, His Honour in Council thinks it must depend upon the Local Government and the laws of the country in which he is found, whether he is to be given up on demand or not.

3. It appears to His Honour in Council that, independently of any treaty, there is an implied authority for the public ships of one nation to enter the ports of a friendly power, and for the crews of those ships to enter the country for business or amusement; and that there would be no more right to detain a member of such a crew upon his landing, upon the ground of his having formerly been a slave, than there would be to detain a soldier of a friendly power upon a similar ground when marching, by permission, through the country in which he was formerly a slave.

I have, &c.

J. W. DALRYMPLE,  
Officiating Secretary to the  
Government of India.

#### IV.—CASE of a SLAVE escaping at BAHREIN on board the Sloop-of-War "CLIVE."

NOTE.—The sloop of war "Clive" was lying in Bahrein waters. A slave, having secreted himself on board one of the ship's boats, was taken on board. The Chief of Bahrein applied to the Assistant Resident for his surrender. The Assistant Resident in his turn applied to the commander of the "Clive," who gave up the slave under protest. The Assistant Resident reported the case to the Resident, who, in referring to Bombay for instructions for future guidance, expressed his opinion that his Assistant had acted properly. He refers to the case of the "Sir Charles Forbes," which, however, was not relevant. The Bombay Government inquired from their solicitor, whether "a slave escaping from his master to a British ship of war in a port where slavery was recognized could be legally given up." The answer was in the affirmative. Instructions accordingly were sent to the Resident, and the case was reported home, but no notice was taken of it here.

No. 1.—From Captain FELIX JONES, I. N., Political Resident, Persian Gulf, to H. L. ANDERSON, Esq., Secretary to Government, Bombay.

Residency in the Persian Gulf,  
Bushire, 21st September 1858.

SIR, *Slave Trade.—Bahrein.*

MY Assistant, Lieutenant Disbrowe, having placed before me a correspondence which he was necessitated to enter into with Commodore Jenkins, C.B., on his late mission to the Island of Bahrein, I am compelled to place the same before Government, as the question of surrender or non-surrender of slaves who may take refuge in our vessels of war or their boats in these tracts is one of much intricacy, and if not formally decided by supreme authority likely to involve us in a multitude of ways.

2. Adverting to the present case, which occurred at Bahrien, where we have specific treaties with its Chief, in common with the other maritime Chiefs of the south shores of the Gulf, my own opinion is decidedly in favour of the course which my Assistant adopted, and I have accordingly signified my approval in every sense.

3. Those treaties were obtained from the Chief at the request of the British Government, in the hope, I believe, of eradicating slavery in tracts where, as an institution, it is coeval with the history of mankind, by conciliatory and progressive measures, rather than by systematic domination; the more so, as in Mahomedan countries a state of slavery implies but little beyond loss of freedom, and is unattended by those horrible atrocities which constitute Christian slavery in the West. Moreover, bondage of this nature is not opposed either to the tenets of the Mahomedan faith, or to the generally humane feelings of this sect in respect to their unfortunate fellow-men. In short, to paraphrase the words of Demosthenes, "a slave is better off in the East than a free citizen in many other countries;" and the view I therefore take of our adopted policy with Oriental States in respect to slavery is its being directed more to wean the possessors of slaves from countenancing the traffic than to raise universal clamour against us by assuming an impulsive and arbitrary attitude towards them for its immediate suppression. This latter course, indeed, in my humble opinion, is justifiable only towards those actively engaged in pushing the revolting traffic for their own immediate gain.

4. Reviewing, then, our recent treaties with all Oriental States, and with the maritime Chiefs in particular, these documents concede to us only the right of liberating newly imported slaves from the territories into which they are brought. This concession virtually denies to us any right over slaves already located on the soil, and hence to shelter runaways of this description on board our vessels of war in the harbours of the friendly power, which has out of respect to us conceded a great point, would endanger the stability of the treaty, and moreover would lead to hesitations, if not embarrassment, if further concessions were sought on the simple grounds that we had taken an undue advantage of a previous one. Thus our aims may be frustrated instead of forwarded by indiscreet acts.

5. Such is the main objection to giving indiscriminate protection on board our vessels of war to runaway slaves, and if the rule laid down by Commodore Jenkins, that all such parties are free from the moment they tread the deck of a British ship of war, is recognized, it may easily be foreseen what complications may arise. Freedom will be the premium offered to the viciously disposed of the slave classes for the commission of every species of crime, and

the sight of the British flag in the port, while acting as the incentive, will be the signal of immunity for every offence.

6. Lieutenant Disbrowe, in paragraph 4 of his reply to Commodore Jenkins, remarks on the delicate act of surrendering a slave who has been thus circumstanced, and on that point, at all risks of consequences, I should have agreed could I have traced any direct right to shelter any party in our vessels on such a plea. But I can nowhere find the least authority for our naval officers exercising a prerogative of the nature indicated over the slave population of foreign and independent powers in their own ports, however much they may have practised a custom sanctioned by usage, such as Commodore Jenkins adverts to in the second paragraph of his reply. At all events, until I can learn the sentiments of his Lordship in Council on this point, I shall, for the reasons given, hold to the opinion of our best international legislators, that prescription and long use do not constitute right, and shall discountenance the harbouring of runaway slaves in our ships when claimed by the Chiefs of these shores, unless I can fairly combat the demand on grounds authorised by treaty and by law. On the other hand, where special application is not made, such parties undoubtedly shall have the benefit of the silence, and shall be granted the freedom that is sought.

7. In conclusion, it is but fair to state that Commodore Jenkins, in advocating what he thinks is the just right of these unfortunates, has been prompted only by a praiseworthy zeal in maintaining professional usages, and by feelings which in common with him every Englishman must share. His arguments in the third and fourth paragraphs of his communication do not, however, appear to me to have any bearing on the present question.

I have, &c.

FELIX JONES,  
Political Resident, Persian Gulf.

P.S.—Since writing the above I found in the records of the office a letter from the Government of Bombay having reference to British merchant vessels sheltering runaway slaves in the ports of this Gulf; and as the opinion therein expressed must equally apply in this case, I shall in forwarding my own views to Commodore Jenkins, make known to that officer the purport of the decision therein come to for his future guidance.

I have, &c.

FELIX JONES,  
Political Resident, Persian Gulf.

No. 2.—From LIEUTENANT H. F. DISBROWE, Assistant Resident, Persian Gulf, on special duty at Bahrein, to COMMODORE GRIFFITH JENKINS, C.B., I.N., commanding the Squadron on the Persian Gulf Station.

Dated "Clive," Bahrein Harbour  
September 14, 1858.

SIR, *Slave Trade.*

SHEIKH ALI BUI KHULUFA, brother of the Bahrein Chief, has represented to me, through Hajee Ahmed, Arabic Secretary to the Resident, that an African lad having been missed from the island, it became presently known that he had taken refuge on board the Honourable Company's sloop-of-war "Clive," bearing your broad pendant. The circumstances under which the lad, whose restoration is now claimed by the Ruling Chief of Bahrein, obtained refuge under the British flag are peculiar, and have placed me, as also probably yourself, in a most delicate position.

2. It would appear that he secreted himself in one of the "Clive's" cutters, whilst lying off the shore, and was brought on board the "Clive" by the said boat. The African is not a fresh importation. The sloop-of-war "Clive," too, is at anchor in Bahrein waters, and, as above shown, the lad was brought off from the shore by a British man-of-war's boat. I see no resource therefore, however painful to my feelings, but to request, in the name of Captain Felix Jones, Political Resident at Bushire, that you will surrender the African lad into my hands.

3. Had the slave been a *bona fide* fresh importation, I should have decidedly claimed him, and retained him on the strength of the new treaty for slave trade suppression, whereby the Chief of Bahrein, amongst others, is compelled to surrender slaves to British authorities, even after they have been landed in his territories. But the features of the case under review are far different, and place me in the painful position of requesting you will surrender him to me.

4. So delicate a matter do I conceive to be the surrender of a party who has once succeeded in stepping on board a vessel of war carrying the British flag, that in the event of your consenting to make him over to me, I shall refuse

to restore him to the Bahrein Chief, until I am placed in possession of a written pledge under his seal that the lad shall be immediately re-delivered into the hands of British authorities, if hereafter claimed by the Political Resident, or the Government, and that he shall be treated with kindness and humanity whilst in charge of his masters in Bahrein Island.

5. When in possession of above guarantees, I purpose addressing you further, and soliciting the favour of your surrendering the African into my hands for transfer to Bahrein Chief.

I have, &c.

H. F. DISBROWE,  
Assistant Resident, &c.

No. 3.—From COMMODORE GRIFFITH JENKINS, C.B., I.N., commanding the Squadron on the Persian Gulf Station, to CAPTAIN HERBERT DISBROWE, Assistant Political Resident in the Persian Gulf.

Dated "Clive," Bahrein Harbour,  
September 14, 1858.

SIR,

*Slave Trade.*

I HAVE the honour to acknowledge the receipt of your letter of this date, in which you have, on behalf of the British Political Resident in the Persian Gulf, requested that I will deliver into your personal custody the African slave that has come on board this ship to seek the protection of our flag, and freedom from slavery, as he had heard of the glorious character of our country, and that our most gracious Sovereign was exerting her great influence on behalf of the persecuted Africans.

2. The laws of our country under the head of slavery place, in a most painful position, compliance with your requisition, as from the view I take of the intention of our legislators, and the custom that prevails, a slave becomes free the moment that he stands on British ground, or on the deck of a British ship of war, and therefore the African in question must now be free.

3. I feel it is therefore my duty, as the commodore entrusted with the command of the squadron serving in this station, to place this subject thus before you, and more particularly as I was present at the trial of the late Captain Hawkins, of the Indian Navy, for a breach under most singular and extraordinary circumstances of these very slave laws. That trial and its result must be known to you, and that only through the favour of the Sovereign was Captain Hawkins restored to his liberty and rank in his profession.

4. On the grounds therefore that induced the Judge of Her Majesty's Supreme Court at Bombay to pass the painful sentence of transportation on that excellent officer, I feel it to be thus my duty to address you, and to urge that no expediency should supplant the laws of our land, or induce a public officer to adopt any measure that does not uphold the honour of our Queen and country.

5. I shall, however, as you are charged to represent politically to the Chief of this Island our Government, deliver to you the African that you have requested, well assured that as you are aware of our responsibility that you will act with your usual judgment, and fully support the laws, customs, and dignity of our country.

I have, &c.

GRIFFITH JENKINS,  
Commodore, &c.

#### No. 4.—ADVOCATE-GENERAL.—OPINION.

I HAVE read the correspondence relating to the demand for the surrender of the African slave who had escaped to or taken refuge on board the Honourable Company's sloop-of-war "Clive," and I am of opinion that the view taken of the subject by the Assistant to the Resident in the Persian Gulf, concurred in by the Resident, is the correct view.

I have perused the Treaty entered into between the British Government and the Chief of the Island of Bahrein on the 8th of May 1847, and it is clear that none of the provisions of that Treaty affect the present question. That Treaty prohibits the exportation of slaves from the coast of Africa after the 10th of December 1847, and reserves to British cruisers the right of detaining and

searching vessels suspected of being engaged in the slave trade. It leaves the right of the British Government, as respects slaves domiciled in the country of the Bahrein Chief, in the same state in which those rights were previous to the Treaty being entered into.

As a general legal proposition there is no doubt that a slave the moment he sets foot on British soil, or on board a British ship (and for this purpose a British ship is considered as British soil), is free, and cannot legally be delivered to a person who claims his restoration on the ground of his being his slave; but such British ship must, in my opinion, be either within British waters or upon the high seas (the common property and common highway of all nations). If it (the British ship to which the slave makes his escape) be, at the time of such escape, within the territories, or within the waters, of a foreign and friendly State, in which slavery is recognized as law, that general proposition is not applicable. Every State has a right to adopt such laws as it may think fit, and by the law and comity of nations, other nations and States are bound to pay respect to those laws whenever they or their subjects are within the territories of such nation or State; and upon this latter principle I am of opinion that, inasmuch as at the time the African slave made his escape to the "Clive" he was within the waters of the Arab Chief's country, he (the slave) was subject to the laws of that Chief's country, and the commander of the "Clive" was bound to respect those laws, and to recognize the rights which those laws gave to the master over his slave; in other words, that he was bound to deliver up the slave if called upon by the master to do so.

The case of *Forbes v. Cochrane*, 2 Barn. and Cres., 448, might at first sight appear to militate against my opinion. In that case certain slaves escaped from their master (who was the owner of a cotton plantation in East Florida, where slavery was recognized by law,) to a British ship of war on the high seas. The master demanded of the commander of the ship that they should be delivered up to him, and in consequence of that demand not being complied with he brought his action against the commander. The Court of King's Bench decided that the action could not be maintained; in other words, that the commander was justified in not delivering up the slaves. On a careful perusal of the judgment delivered in that case it will be seen that the judges considered it a material fact, that the British ship in that case was not within the territories or waters of East Florida at the time the slaves made their escape to it.

Mr. Justice Holroyd, in his judgment, says, "The moment they got on board the English ship there was an end of any right which the plaintiff had by the Spanish laws acquired over them as slaves. They had got beyond the control of their master, and beyond the territory where the law recognizing them as slaves prevailed." And Mr. Justice Best remarks, "The moment they (the slaves) put their feet on board of a British man-of-war, not laying within the waters of East Florida (where, undoubtedly, the laws of that country would prevail), those persons who before had been slaves were free." And again he observes, "Whatever service he (i.e., the slave) owed by the local law is got rid of the moment he got out of the local limits." It is upon the distinction adverted to that my opinion is founded. The British ship to which the slaves escaped, in *Forbes v. Cochrane*, was not within the waters of East Florida, where the status of slavery was recognized as law, but on the high seas, where the British commander was not bound to respect any other laws but those of his own country; but in this case the "Clive" is anchored within the waters of Bahrein at the time of the slave's escape to it, where the status of slavery and the rights of a master over his slave were recognized and prevailed as law, which status and law, upon the principle of international law, to which I have before referred, he was bound to respect, and consequently to accede to the demand of the Bahrein Chief for the restoration of his fugitive slave.

With reference to the second paragraph of Mr. Anderson's letter to the Government's solicitor, No. 4,190 of 1858, and the general legal question therein put, namely, Whether "a slave escaping from his master to a British ship of war in a port where slavery is a recognized status can be legally given up?" my opinion is (as may be collected from what I have said above) in the affirmative; namely, that he can be legally given up.

ARTHUR J. LEWIS,

3rd December 1858.

Advocate-General.

V.—CASE of a SLAVE of ABOOTHABEE who smuggled himself on board H.M.S. "DALHOUSIE" while the Chief was paying a visit of ceremony.

NOTE.—The "Dalhousie" was lying in Aboothabee waters. The Chief came off to visit the Assistant Resident, who was on board. When he was leaving the ship, one of the Chief's slaves refused to return, and claimed the protection of the British flag. This the Assistant Resident "could not refuse," and the slave was kept on board the "Dalhousie." Sir L. Pelly, the Resident, thought this course was wrong, and caused the Chief to be informed that the slave would be returned, on a promise that he should not be ill-treated. The Government of Bombay thought that Sir L. Pelly had acted for the best in a difficult position, but that the surrender should have been avoided. Sir L. Pelly subsequently reported his intention to ask the Aboothabee Chief, as a personal favour to himself, to allow the slave to remain on board the "Dalhousie."

No. 1.—From LIEUTENANT-COLONEL LEWIS PELLY, C.S.I., H.B.M.'s Political Resident in the Persian Gulf, to the SECRETARY TO GOVERNMENT, Political Department, Bombay.

SIR, Dated Bushire, 17th September 1869.  
I HAVE the honour to transmit, for the information of the Right Honourable the Governor in Council, an extract from a report received from my First Assistant, Captain Way, regarding a slave of the Aboothabee Chief who smuggled himself from the Chief's boat on board "Dalhousie" while the Chief was paying a visit of ceremony to the First Assistant Resident on arrival off Aboothabee.

The "Dalhousie" was anchored at the time off the Chief's town, certainly within gunshot (three miles), and to all intents and purposes within what is recognized as the territory of the State to which the anchorage is contiguous. Hence, I have considered that we could not in such territorial waters harbour a slave, unless with the knowledge and consent of the reigning Chief.

Again, the Chief came off to the ship in conformity with usage and under safe conduct, which is understood as invariably accorded to the Littoral Chiefs when they come for interviews with the Resident. Even when those Chiefs have committed infractions of the maritime truce, and are visited by the Resident for the declared purpose of punishment, they nevertheless come on board to explain or communicate, *under safe conduct*, which extends of course, in liberality and good faith, not only to the person of the Chief, but to his immediate suite in the boat with him.

Clearly, if such safe conduct were not granted by us and were not relied on by the Chiefs, they would never trust themselves on board, and the successful prosecution of our office as arbitrators of the truce would become impracticable. One result of the detention of a member of the Chief's suite is in the present instance evident in the expression of the Chief himself, that his "face has been blackened."

At the same time the surrender of a slave is so delicate a proceeding, and is so liable to bring down criticism on an officer, that it can be no matter of surprise that the First Assistant Resident hesitated.

I have now addressed the British Agent on the Arab Coast, instructing him to inform the Chief of Aboothabee that the slave will be returned by the first opportunity on condition of the Chief assuring me that no injury shall result to the slave consequent on his move on board our ship.

I would propose also to issue safe conduct to the Littoral Chiefs, expressly granting protection to themselves and whatever suite and property they may have in their boats when they come off to visit a British vessel. These documents remaining with the Chiefs will, I hope, dispel any distrust which the present accident may have caused in their minds, and at the same time prevent any misunderstanding for the future.

I have, &c.

LEWIS PELLY, Lieut.-Col.  
H.B.M.'s Political Resident,  
Persian Gulf.

No. 2.—EXTRACT, para. 5, from a Report received from the FIRST ASSISTANT POLITICAL RESIDENT, Persian Gulf, dated 12th September 1869.

Para. 5.—When leaving the ship one of the Chief's slaves refused to return with him, and claimed the protection of the British flag. This I could not refuse, and he is now in the "Dalhousie," but I submit that great distrust will be engendered, and the present existing good feeling so necessary to the carrying on of our duties on the coast be destroyed, if, in friendly visits, H.M.'s vessels are to be used as slave escapes. In the present instance the Chief considered "his face had been blackened."

(True Extract.)

S. SMITH, Captain,  
Second Assistant Political Resident,  
Persian Gulf.

No. 3.—RESOLUTION of GOVERNMENT of BOMBAY, October 1869.

RESOLUTION.—Colonel Pelly has perhaps acted for the best in a difficult position, but the surrender of the slave should have been avoided. The fact of his secreting himself was an evidence probably of ill-treatment, and the condition that no injury should result to him on his return is not worth much. Colonel Pelly should take care that the assent of the Chief to this should be very formally given.

C. GORME,  
Secretary to Government.

No. 4.—Bombay Castle, 5th January 1870.

The POLITICAL RESIDENT, Persian Gulf, No. 206, dated 12th November 1869.

Explains, with reference to Government Resolution of 14th October 1869, regarding the slave of the Chief of Aboothabee, that it was not his wish actually to make him over to the Chief, that he is still on board the Residency steamer, and that he proposes when next visiting Aboothabee to bring the slave back, and then request the Chief, as a personal favour to himself, to permit the slave to remain on board the steamer.

RESOLUTION.—The course contemplated by Colonel Pelly is approved.

VI.—CASE of TWO SLAVES who ABSCONDED from their MASTERS and desired to take service on board H.M.S. "DALHOUSIE."

NOTE.—This is a mere skeleton of a case, the correspondence not having been recorded at length. But it appears that, consequent on it, the commandant of the "Dalhousie" resolved to send all Africans to the Resident before receiving them on board, *i.e.*, not to receive them at all without orders.

Bombay Castle, 5th January 1870.

The POLITICAL AGENT, Muscat, dated 13th November 1869.

Submits copy of correspondence which has passed between himself and Lieutenant Wood, commanding H.M.S. "Dalhousie," regarding two slaves who absconded from their masters and desired to take service on board the "Dalhousie."

Offers remarks, and reports his proceedings in the matter of the only slave that remained on the ship, the other having deserted.

RESOLUTION.—In a similar case lately before Government, in which a slave attending the Chief of Aboothabee, when visiting Colonel Pelly on board "Dalhousie," refused to return with the Chief, the Government recorded that his surrender should have been avoided.

The present case might be sufficiently disposed of by expressing approval of Lieutenant Wood's intention, expressed in his letter of 8th November to Colonel Disbrowe, to send all Africans to the Political Agent before receiving them on board ship.

VII.—LETTERS, AND EXTRACTS OF LETTERS,  
FROM THE GOVERNMENT OF INDIA,  
SHOWING THEIR RESPONSIBILITY FOR  
THE POLICE OF THE PERSIAN GULF.

No. 1.—Extract, Letter from India, dated 23rd June  
1868, No. 5.

As to Naval Force in the Persian Gulf.

"We are in communication with the Bombay Government on the subject of the provision of a permanent naval force for the security of our interests in the Persian Gulf, and we shall address you again when the scheme is matured. It is chiefly from the absence of such a force that present political complications between the Governments of Persia and Muscat, and between several of the maritime tribes have arisen, and it is in our opinion impossible for the peace of the Gulf to be maintained and trade protected unless the Resident at Bushire has at his command the means of enforcing the terms of the maritime truce. The question is one of vital importance to our political position in the Gulf.

Inclosure in No. 1.

Extract, Letter from COLONEL PELLY, Resident in Persian Gulf, dated 23rd April 1866, enclosed in above.

"Were it practicable, and having regard only to Arab feuds and invasions, I would most gladly recommend our withdrawal from the Persian Gulf line, but the force of circumstances compels us to take an increasing interest in this line. It is the shortest way from India to Europe, and may some day become our principal overland route. We are already dependent on it for our telegraph communication with England, and the Gulf trade continues to increase. Apart from the coasting trade, horse dealing, and an annual out-turn of nearly half a million sterling in pearls, it is estimated that the seaborne trade may now be upwards of five millions sterling, while of this trade the

To and from Bombay, Madras, and Calcutta -	3,000,000
To and from Batavia, Singa- pore, and Mauritius -	1,500,000
To and from Kurrachee and Red Sea -	500,000
Grand total -	5,000,000

great bulk finds its way to our possessions, and is in large part in the hands of our subjects and protegés, who would hesitate to reside in the sea-board towns of those regions unless

they could feel assured that, in the contingency of their being plundered or otherwise injured, Government would exact reparation. These people trust, moreover, to our upholding our engagements for the maintenance of the maritime peace in the Gulf, and well understand that our withdrawal would be the signal for piracy on a large scale."

No. 2.—Extract, Letter from COLONEL PELLY, Resident in Persian Gulf, dated 19th June 1869.

Para. 16th.—"On the other hand, it should never be forgotten that this line" (that of the Persian Gulf) "is perhaps singular in one respect, viz., that while, on the one hand, civilization and trade are increasing more than we could have expected, we have, on the other hand, constantly to watch on the Arab littoral tribes, who have immemorially been accustomed to dwell in a condition wherein every man's hand was ever prone to be raised against his neighbour. To keep the maritime peace along the strongholds of these littoral chieftainships is no child's play. It is not alone by the sudden and occasional appearance of a man of war that this can be done. What is required is uniform vigilance and pressure. The position of the Resident as Arbitrator of the maritime truce may be aptly compared with that of an officer holding a civilized frontier against lawless borderers. Those borderers would never be kept quiet or be reduced to order and industry by intermittent sallies from a garrison accompanied by tardy retaliation. What is wanted is the constant presence of watchful outposts, ready at any moment to put down raids and uphold the peaceful and well inclined. The tribes so dealt with gradually come to perceive that the object of the civilized power in patrolling is not vengeance, but

"the general good and the maintenance of peace and progress. The tribes thus come to learn also that raids and piracy are unsuccessful in practice. Our light gun-boats are such outposts and patrols for the Arab Coast." \* \*

No. 3.—(Extract.)—From LIEUT.-COLONEL LEWIS PELLY, C.S.I., Her Britannic Majesty's Political Resident in the Persian Gulf, to the SECRETARY to the GOVERNMENT OF BOMBAY, Political Department (May 6, 1841).

11. It is to be borne in mind that at great cost and trouble the British Government have maintained the maritime police of the Persian Gulf for the term of a generation or longer, and that this police originated in the necessity of the case, in that it was found impracticable to preserve the Indian Ocean from the raids of the Persian Gulf pirates, unless by putting down piracy in the Gulf itself.

12. In furtherance of this maritime security, written trucial engagements were entered into with the Arab chieftains, who had been most addicted to piracy.

13. In consequence of the security thus attained, trade developed, and has fallen largely into the hands of British Indian subjects who have settled in small colonies along the littoral.

14. While incurring the cost of the maritime police, we have not excluded other flags from these waters. On the contrary, we have rendered possible and aided the development of the seaborne traffic of all nations concerned. Steam and telegraph communications and establishments have been introduced, and the line promises to become a high road between Europe and British India.

15. It appears, therefore, that our position in the Gulf rests, 1st, on the reason of the thing; 2nd, on the claims and obligations derived from long usage and practice; 3rd, on the necessity for protecting our own interests, whether as respects those created by the present peace or those lawlessly and violently invaded by the previous condition of piracy; and 4th, and in part on voluntary written engagements. I am deferentially of opinion that we could not relinquish the trucial contracts which we have entered into unless with the consent of the contracting Chiefs, and unless assured that the lives and property of our subjects, settled in these chiefdoms, would not be thereby jeopardised, and unless, further, we felt sure that trade interests, including the very considerable matter of the pearl fisheries, would not suffer.

No. 4.—(Extract.)—From HER MAJESTY'S POLITICAL RESIDENT in the Persian Gulf, to HER MAJESTY'S SPECIAL ENVOY to Zanzibar and Muscat, dated 31st March 1873.

During the summer of last year I received from the India Office a copy of correspondence as per margin instructing me to hold the Sovereigns and Trucial Chiefs of the countries near the Persian Gulf strictly to their engagements for the suppression of the slave-trade.

Letter from India Office to Her Britannic Majesty's Political Resident, Persian Gulf, No. 1, dated London, 5th April 1872.

Letter from Foreign Office to India Office, dated 17th February 1872, with enclosures.

From India Office to Foreign Office, dated 16th March 1872.

From Foreign Office to India Office, dated 26th March 1872.

2. As the anti-slavery engagements of the Trucial Chiefs had been of a personal character, and did not expressly bind their heirs and successors, it seemed expedient to transmit to the present Chiefs copies of the engagement when communicating to them the instructions of Her Majesty's Government.

3. Accordingly I addressed to all the Trucial Chiefs a circular letter, and forwarded it through the British Agent on the Arab Coast with a transmitting letter.

4. Enclosed are transmitted purports of the replies of the Trucial Chiefs now marginally enumerated, and I trust that these renewed assurances may be deemed satisfactory by your Excellency.

5. The British Agent has not yet forwarded to me the reply of the Chief of Shargah, but from his letter of the 4th September 1872 it appears

Ejman.	Debai.
Amulgowaine.	Bahreïn.

The engagement with the late Chief of Shargah, Sultan-bin-Suggur, Joasmeë, included Ras-ool-Khymah.

that his reply was favourable. It appears further from the Agent's letter of the 5th October that he had personally visited the several chiefdoms and found them free of imported slaves.

6. As regards the Sultan of Muscat, I addressed His Highness suggesting his adherence to his anti-slavery engagement.

7. A translated purport of the reply of the Sultan of Muscat is enclosed. This document is at the present moment remarkable, and, on the whole, I think satisfactory.

8. Referring to the Persian littoral of the Gulf, I beg to enclose, for your Excellency's information, a copy of a letter I addressed to the Persian Slave Commissioner at Bushire, and of a translated purport of his reply. Your Excellency is aware that our anti-slavery convention with Persia is insufficient for the purpose of practically suppressing the slave trade with that country.

#### VIII.—REPORT BY SIR L. PELLY ON THE PEARL FISHERIES IN THE PERSIAN GULF. (1865).

From LIEUTENANT-COLONEL LEWIS PELLY, Her Britannic Majesty's Political Resident, Persian Gulf, to C. GONNE, Esquire, Secretary to the Government, Bombay.

(Extract.)

I am collecting, to the best of my ability, the shells of the Gulf, and in the mean time I have the honour to submit a few remarks concerning the Pearl Oyster beds. These beds extend at intervals almost along the entire length of the Arabian coast of the Gulf from a little below the port of Koweit to the northward, down to the neighbourhood of Rass-ool-Khaimah, southward. There are also some beds near Karrack and at other points on the Persian coast line, but these latter are of comparatively little account as being far less extensive, less prolific, and less lucrative.

The beds along the Arabian coast are held to be the property of the Arabs in common; for instance, an Arab of Koweit may dive along the Bahrein or Rass-ool-Khaimah coast and *vice versa*. But no person other than the Coast Arabs is considered to have any right of diving. And it is probable that any intrusion on the part of foreigners would create a general ferment along the coast line.

There may be from four to five thousand fishing boats along the entire coast, each boat containing from 10, 20, to 32 men. Of the above number of boats some fifteen hundred may belong to Bahrein.

As regards profits, each boat is a partnership: the profits being divided into ten shares, of which,

The Owner and Captain get	-	2
The Divers	-	10
The Rope-holders	-	10
And the rest is laid out for provisions	-	10

A few of these boat-men may reap independently the fruits of their own labours. But the great majority are in the hands of agents of Pearl merchants, whether Hindoo or other, who reside in the towns of the littoral. These agents make advances of money to the divers during the non-diving season, and when the spring comes on, the boats are supplied with so many days' dates, rice, and other provisions, and start away for the banks, returning as provisions fail or weather compels.

Hundreds of boats may be seen anchored at a time on the banks.

Of course numerous disputes occur among so many boats jostling together in a comparatively small area. In former times these disputes were frequently serious and attended with bloodshed; but more recently the several Arab Chiefs of the littoral have entered into a maritime truce, binding them to refer all their disputes at sea to the arbitration of the English Resident in the Persian Gulf.

The annual out-turn of the pearl fisheries is assumed to be as follows:—

Out-turn of the Bahrein Pearl Divers, 20 lacs of Rupees or	£ 200,000
Out-turn of the Divers from the Arab littoral of the Persian Gulf other than Bahrein, 20 lacs of Rupees or	£ 200,000
Total	£ 400,000

The revenue levied by the Chiefs themselves on the Pearl fisheries consists in a poll-tax of one dollar per annum on every diver and on every diver's attendant rope-holder. The revenue so derived by the Bahrein Chief may be about 50,000 dollars, thus representing 25,000 divers and 25,000 rope-holders, and amounting to 5 per cent upon the total out-turn.

#### IX.—ACT of the GOVERNOR-GENERAL in COUNCIL.

ACT No. V. of 1843.—Passed on the 7th April 1843.

An Act for declaring and amending the Law regarding the condition of Slavery within the Territories of the East India Company.

I. It is hereby enacted and declared, that no public officer shall, in execution of any decree or order of Court, or for the enforcement of any demand of rent or revenue, sell, or cause to be sold, any person, or the right to the compulsory labour or services of any person, on the ground that such person is in a state of slavery.

II. And it is hereby declared and enacted, that no rights arising out of an alleged property in the person and services of another as a slave shall be enforced by any Civil or Criminal Court, or Magistrate, within the territories of the East India Company.

III. And it is hereby declared and enacted, that no person who may have acquired property by his own industry, or by the exercise of any art, calling, or profession, or by inheritance, assignment, gift, or bequest, shall be dispossessed of such property, or prevented from taking possession thereof, on the ground that such person from whom the property may have been derived was a slave.

IV. And it is hereby enacted, that any act which would be a penal offence if done to a free man shall be equally an offence if done to any person on the pretext of his being in a condition of slavery.

#### X.—MEMORANDUM AS TO THE PRESENT STATUS OF THE INDIAN MARINE, BY SIR THOMAS PEARS, K.C.B., MILITARY SECRETARY, INDIA OFFICE.

##### BOMBAY MARINE.

The Bombay Marine (subsequently Indian Navy) was constituted under the authority of Royal Charters as an armed force for the protection of the trade of the East India Company, for preventing interlopers from interfering with the exclusive rights of that trade, and for defending the possessions of that Company. It was employed as police in the Persian Gulf for the suppression of piracy, for transport between Madras and Burmah, and in regular warfare as follows:—

As Bombay Marine	-	1st Burmese War, 1824/26.
		1st China War, 1841/42.
		2nd Burmese War, 1854/55.
As Indian Navy	-	Persian War, 1856/57.
		Indian Mutiny, 1857/58.
		2nd China War, 1857/60.

The powers conferred by the charters above alluded to though sufficient for earlier times, were considered somewhat too general after it had become necessary for the Crown to commission the Officers of the Company's Army, with whom the Officers of the Marine had held relative rank from the East India Company. It was found to be not only difficult, but had been declared impracticable to enforce discipline in the Bombay Marine (under the powers granted by the charters) in the same manner and to the same extent as in the Royal Navy. Various expedients were had recourse to, with the concurrence of the Admiralty, for rectifying the most prominent inconveniences, and eventually a Royal Warrant was passed in 1827, by which the privilege of hoisting and wearing the union jack and pendant was granted to the Bombay Marine; and by an Order in Council of the same time, King George IV. conferred upon the Officers of the Marine (within the limits of the Company's Charter) the further privilege of taking rank relatively with the Officers of the Royal Navy, but junior to those Officers in each grade.

Consequent upon this, it was arranged between the East India Company and the Admiralty, in order to secure uniformity of practice and discipline in the two services, that the Superintendent of the Bombay Marine should be a Post Captain of the Royal Navy, and Sir Charles Malcolm was the first Superintendent who was appointed (1827) under this arrangement with the Admiralty. But as Her Majesty's Government raised difficulties to the proposal of the East India Company for the extension of the provisions of the Royal Navy Mutiny Act to the Bombay Marine, the Company abandoned their proposal.

Subsequently, however, they applied to Her Majesty's Government in the same view, the result of which was that the Act 9 of George IV., cap. 72, was passed on the 9th July 1828, for extending to the Marine the provisions of the Act 4 George IV., cap. 81, being the law which then regulated the Company's Army, and in order that the corps might have the benefit of that Act, without delay, its Officers were to be embodied into a Marine Corps under the command of the Superintendent of the Bombay Marine, who was to hold the Military Commission of a Major-General, the other Officers of the Marine also holding Military as well as Naval Commissions according to their relative ranks with the Officers of the Company's Army.

The Military Mutiny Act, however, was found to be ill adapted to the Indian Naval Service (the designation of the "Bombay Marine" having been altered to the "Indian Navy" in 1829), even on some of the most obvious points of discipline, and in the year 1834 a case occurred in illustration of the inconvenience of giving the Superintendent the Military rank of Major-General.

No further notice of the subject was taken until 1840, when the Military Mutiny Act was revised by the new Act 3 & 4 Vict., cap. 37, and clauses 43 to 47 were inserted to make it applicable to the Indian Navy.

On the receipt of this Act by the Indian Government they drew up a new Naval Code (according with the Royal Navy Mutiny Act), and passed it as Act XII. of 25th May 1844, with effect from 1st October 1844.

Thenceforward this Act became the law for the government of the Indian Navy.

After some time it was found that the new law required amendment. An Act was accordingly prepared and passed into law by the Act XXVII. of 30th December 1848, with effect from 1st February 1849.

These two local enactments formed the late Indian Naval Code.

By the Act 21 & 22 Vict., cap. 106 (2nd August 1858), the Government of India was transferred to the Crown.

In 1862 the Secretary of State for India in Council, conceiving (in view of the altered relations between the Government of India and the Crown by this Act) that the time had arrived when the general naval defence of India should be entrusted to the Royal Navy, determined upon the abolition of the Indian Navy as a war service.

This determination was carried into effect by the Marine Despatch to the Government of India, No. 55, dated 28th November 1862.

The Indian Navy then reverted to its original name of the "Bombay Marine," and has since been employed solely upon civil marine duties.

The two Acts, XII. of 25th May 1844, and XXVIII. of 30th December 1848, were repealed by the Act VIII. of 2nd April 1868.

#### BENGAL MARINE.

This service took its rise in 1824, and has never been in any way connected with the Bombay Marine or Indian Navy, the Government of India having always kept it as a separate and distinct service.

The vessels composing it have been employed for general service in the Bay of Bengal, and elsewhere, and for the suppression of piracy on the east side of India, and in actual warfare in Burma and China.

It has never been subject to martial law, the officers and crews having been engaged only for temporary service. There is no defined code having legal sanction for its discipline. The officers and men taken from the Merchant service have no military status, and consequently the Government of India can exercise no martial command over them beyond what the master of a mere merchantman can exercise.

As regards the vessels employed with the Royal Navy vessels in Burma and China, their Commanders were granted acting Commissions by the Royal Navy Commander-in-Chief, under whose orders they were employed, and the vessels themselves were placed under martial law for the occasion only.

Under such a system the vessels belonging to this service have been kept in a state of order, discipline, and efficiency that have uniformly called for the commendation of the Government of India, of the Naval Commanders-in-Chief, and other Officers of Her Majesty's service, under whose orders they have been placed,—a fact redounding greatly to the credit of the commanders, officers, and crews in this service.

The actual status of the vessels of the India Marine, both in regard to the position and discipline of their crews, is very undefined.

At present these Indian Government vessels, known as ships of the Bengal and Bombay Marine Services, are in no sense ships of war. As regards the vessels of the Bombay Marine, they constituted a sort of residuum from the old Indian Navy on its abolition; and as many of the officers employed in them have been commissioned officers in that service, and as, moreover, their employment as armed vessels has made them more generally useful to the Government, it has not been easy to eradicate from the minds of the officers and others in India the notion of their still being fighting ships.

There can be no doubt, however, that whatever guns the vessels of either services may have on board can only lawfully be used for signalling or saluting, and such pacific purposes, or in self-defence.

The status of these vessels as regards the position and discipline of their crews has been for some years, and continues still to be most unsatisfactory. They are not merchant ships, and cannot be brought under the Merchant Shipping Act. They are not men-of-war, and cannot be brought under any Mutiny Act, so that at present the officers exercise no lawful authority over their crews.

The attention of the Government of India has, from 1866 to the present time, been frequently called to the necessity of legislation.

The difficulty has been how to provide for the maintenance of discipline on board, and for this a Local Act of the Government of India was supposed to be the remedy, but that Government have found difficulties in their way, and say that their legislative power for marine matters is confined to the three marine miles of sea; but for their own ships and subjects when on the high seas, that power has never been delegated by Parliament to the Indian Legislature.

In 1873 the Government of India proposed that an Officer of the Royal Navy might be appointed as the Consulting Naval Officer for the Marine Department of their Government.

Accordingly in 1874 Captain John Bythesca, R.N., was appointed, and proceeded to India. It is to be hoped that when his Report shall have been received from the Government of India, it will discuss and help to settle this question.

In the meantime it is proposed in a Draft Bill, now before Parliament, to extend and consolidate the legislative power of the Government of India, which will, it is expected, enable them to dispose of this matter in a satisfactory manner.

In disposing of this question one point would appear to call for special consideration, and that is, under what authority and code of discipline are vessels of the Indian Marine to be maintained as fighting ships within three miles of the coast line or upon rivers.

Military Department,  
17th March 1876.

T. T. PEARS.

#### XI.—CASE OF SLAVES LIBERATED, IN THE ISLAND OF PEMBA, BY MAJOR C. B. EUAN SMITH, C. S. I., OFFICIATING POLITICAL AGENT AT ZANZIBAR.

GOVERNMENT OF INDIA to the MARQUIS OF SALISBURY,  
Her Majesty's Secretary of State for India.

MY LORD MARQUIS, Simla, the 7th October 1875.

We have the honour to forward, for the information of Her Majesty's Government, a copy of the papers noted in the margin, relating to a visit recently paid to Chak-Chak, in the island of Pemba, by Major C. B. Euan Smith, C.S.I., Officiating Political Agent, Zanzibar.

From Officiating Political Agent,  
Zanzibar, No. 80, dated 20th August  
1875, and enclosure.

To Officiating Political Agent,  
Zanzibar, No. 2,638 P., dated 29th  
September 1875.

2. We have approved of Major Smith's proceedings in connection with the liberation of the slaves held by British Indian subjects on the island.

We have, &c.

NORTHBROOK.  
NAPIER OF MAGDALA.  
H. W. NORMAN.  
A. HOBHOUSE.  
W. MUIR.  
A. EDEN.  
A. J. ARBUTHNOT.  
A. CLARKE.

Enclosure I.

From MAJOR C. B. EUAN SMITH, Her Majesty's Officiating Political Agent and Consul-General, Zanzibar, to C. U. AITCHISON, Esq., C.S.I., Secretary to the Government of India, Foreign Department.

Dated Zanzibar, 20th August 1875.

I HAVE the honour to forward, for the information of his Excellency the Viceroy and Governor-General in Council, copy of a Despatch, No. 110, dated 31st July 1875, addressed by me to Her Majesty's Principal Secretary of State for Foreign Affairs regarding my late visit to Chak-Chak in the island of Pemba.

From MAJOR C. B. EUAN SMITH, Her Majesty's Officiating Political Agent and Consul-General, Zanzibar, to EARL DERBY, Her Majesty's Principal Secretary of State for Foreign Affairs.

Dated Zanzibar, 31st July 1875.

IN continuation of my Despatch, No. 108, dated 26th July 1875, I have the honour to report, for your Lordship's information, that leaving Mombassa at 4.30 p.m. on the afternoon of the 21st instant, I reached the harbour of Chak-Chak, the principal village of Pemba, at 6 p.m. the next day. It had been anticipated that we should have reached Chak-Chak early in the morning, but the *Nassau* being insufficiently provided with steam power could make but little headway against the very strong current which she met with immediately upon clearing Mombassa, and which ran with such force that at 6 next morning, or after more than 12 hours' steaming, it was found that we had made but little over 26 miles. Our anchorage at Chak-Chak, which was much nearer the town than any steamer had hitherto ever attempted to go, was still some four miles distant, and at the late hour at which we arrived nothing could be done. I therefore sent off my dragoman and clerk to inform the Governor that I wished to visit the town early the next morning, and myself remained on board ship. The town of Chak-Chak is very prettily situated at the head of a creek, which having a magnificent landlocked 8-fathom bay, winds in and out among mangrove bushes for some 1½ miles before it reaches the town, and of which the intricacies render the service of a guide very necessary to a stranger. This creek, which at high tide gives from 7 to 8 feet at the landing-place at Chak-Chak, dries at low water to a distance of 1½ miles from the town, leaving an unwholesome expanse of noisome black and mud, which is unhealthy to the last degree, and which naturally renders the approach to the town except at high tide a somewhat serious undertaking, but at high tide there is no difficulty whatever.

The town, to which the ascent is very steep and slippery, is built on the high land, which rises abruptly from the borders of the creek to a height of some 400 feet, and completely overlooks the vast belt of mangrove swamp by which it is encircled, and which makes it so notoriously unhealthy. The principal objects of interest in it are its old and now dilapidated fort built some hundred years ago by the Mazarias, its broad and airy streets, and the magnificent trees and foliage in which it is embosomed. The fort boasts some dilapidated guns brought over by Syud Syud, which fired an occasional salute on my landing, extending over a period of half an hour, and which was only brought to a conclusion by the dismounting of the guns or the expenditure of the whole available stock of powder.

3. The tide serving most conveniently, Captain Gray and myself left Her Majesty's *Nassau* at daybreak on the morning of the 23rd instant and proceeded in the steam-cutter right up to the landing-place at Chak-Chak, being guided by an Arab sent down for that purpose, and experiencing no difficulty whatever in our passage. As it is

over 30 years since a British Consul visited Chak-Chak, my reported arrival had occasioned the greatest excitement, and I found the entire population, headed by the Governor, the Arab chiefs, and the heads of the Indian community, drawn up to await our arrival at the landing-place. Their excitement was increased by the appearance of the steam-cutter; as up to the present no boat of such a size had ever ventured so far up the creek, and they seemed to look upon it as a symbol that their long-fancied seclusion was to be done away with.

4. We were received with the greatest civility possible. The Governor, who in Captain Prideaux's Despatch, No. 69, dated 4th May 1874, has been erroneously called Jumah-bin-Muftah, is an Arab named Hamed-bin-Syud-bin-Jumah-bin-Muftah. He is believed to be really anxious to assist the Sultan in carrying out his new anti-slave trade policy, but, as Captain Prideaux observes, he is a man raised from a low position, and has, therefore, but little power at present,—the chief influence being vested in the principal *cadi*, an old man of the sect of the *Ibathias*, called Khalfan-bin-Hakim, who showed us also the greatest civility.

We found that rooms had been prepared for us in the Governor's house, whither we were at once conducted. After the usual compliments had passed, I sent for the heads of the different classes of the Indian community, and addressed them on the subject of slave-holding. I told them what had been done by Dr. Kirk on the mainland in the way of freeing slaves, explained the penalties to which they rendered themselves liable by slave-holding, and finally summoned them to declare all the slaves in their possession.

At first these men were in a great state of consternation and alarm. They pleaded the long absence of any Consul as a reason for their ignorance of the law. I told them if they instantly declared their slaves, they would escape punishment, and left them an hour to think over the matter. At the expiration of that period they came forward and said they had determined to free all their slaves—the headman of the *Borahs* leading off by producing 18 slaves, which were instantly freed. The whole of that day I was busily engaged in making out the necessary papers for the freed slaves, and at nightfall the work at Chak-Chak itself was not only unfinished, but the Indians themselves begged that I would remain another day so as to give time for their relations and friends to come in with their slaves from the distant shambas to which messengers had been sent to summon them to Chak-Chak. I therefore requested Captain Gray to remain another day, to which that officer kindly agreed. All next day I was engaged in the same work; slaves were brought in from far distant parts of the island, and the Indians seemed really desirous to assist in having the work done thoroughly.

Late on the afternoon of the 24th instant we came to the end of the slaves that had been brought in to Pemba to be freed, and I had the satisfaction of knowing that I had given papers of freedom to 213 slaves in all, of which total number the details are as follows:—

Banyans held no slaves at all.			
Khojahs freed	-	-	45 slaves.
Borahs	"	-	156 "
Memrons	"	-	12 "
Total	-	-	213 "

Of which there were

Men.	Women.	Boys.	Girls.
85	113	8	7

among whom there were no *Mjingas* or raw slaves.

With the exception of three men and six women, the whole of these slaves elected to remain with their former masters, it being carefully explained to them that they had a right to demand pay for their services. The slaves appeared to be in unexceptionally good condition, and, as will be seen by the numbers given, a large majority were women, concubines of the Indians, with whom they had lived for years and whom, except in rare instances, they did not wish to leave.

All the slaves with the exception of 42, who were in the distant shambas or absent on other business, appeared before me personally and had the conditions of freedom fully explained to them. Every measure was taken for the protection of the newly-freed slaves.

The free papers for those that were absent were entrusted to the Custom Master for personal delivery. Lists of the free slaves were also left with him, and he was directed



to report any case in which they should be ill-treated or of any attempt to take away their passes, which the slaves showed a keen desire to possess.

The whole measure was indeed carried out most satisfactorily and without my having to inflict a single punishment, and, as has been experienced elsewhere, the Indians generally showed a feeling of extreme satisfaction that the freedom of their slaves had thus been forced upon them, and that they had at least relieved themselves from their liabilities to heavy punishment under which they had so long been labouring.

It being notified to me that there were still several British Indian subjects in the north of the island who had been unable to reach Chak-Chak before my departure, I had it proclaimed throughout the island that up to a certain date, (8th August,) any British subject coming to Zanzibar from Pemba, and declaring his slaves at the Consulate, would come under the same category as those British subjects who had been dealt with so leniently at Pemba. I have no doubt, in view of the great willingness exhibited on all sides to help me to carry out the work of freedom thoroughly (it being done in open Court, when I had an opportunity of watching the demeanour of the natives,) that this proclamation will have the desired effect, and I hope to have the pleasure of reporting to your Lordship that before long there is no single case of a British subject holding slaves in Pemba. After the Indians had once commenced to free their slaves, there was no instance of attempted concealment of slaves. Had there been so, the many agents I had on the look-out would certainly have known it. But I believe that without an exception the British Indian subjects had made up their minds to act with *bona fides*. The total value of the slaves released represents a sum of \$5,982, which is necessarily lost to the Indian slave-holders. The work entailed in the preparation of all the papers and lists of freedom was very heavy; and I merely mention this to bring to your Lordship's notice the great assistance I received from Captain Gray of Her Majesty's Ship *Nassau*, who worked as my assistant for the two days. Without his help I could never have got the business finished in the time allotted, and my best thanks are most certainly due to him.

I have before reported to your Lordship that a very considerable slave trade is carried on between Pemba and the mainland. It is calculated that at least 1,000 slaves are imported and sold each month in Pemba, notwithstanding the exertions of our cruisers,—the demand for slaves being very great owing to the profits obtainable from clove cultivation. I impressed upon the Governor the necessity of greater vigilance on his part in the apprehension of the slave-dealers, and especially with regard to the system of bonfires all along the island coast line by which the slave-dealers make known the movements of our cruisers and frustrate their efforts. I had a good opportunity of doing this from the fact that while we were at Chak-Chak two immense bonfires were lighted on the headland near our anchorage.

The Governor promised to put a stop to this system of watch-fires, which however he said he had never heard of before. Should he be successful in so doing, it will render slave-running very much more difficult. He showed every desire to carry out my suggestion, but begged for support from Zanzibar, concerning which I shall take an early opportunity of speaking to the Regent.

The suitability of Chak-Chak as a depôt for the reception of slave dhows captured by our cruisers pending adjudication at Zanzibar received my attention; but on this subject, which has an important bearing on the action of our cruising boats in the Pemba Channel, I shall have the honour of addressing your Lordship after conferring with his Excellency Rear-Admiral Macdonald.

Clove estates in Pemba are daily increasing in value. The out-turn of the crop expected this year is about 80,000 frashla of 35 lbs. each against 82,000 last year, the price of cloves without duty being about \$4½ per frashla. The product of the Arabs' estates are generally mortgaged to Indian dealers, who largely advance money for the cultivation of the estates; and I cautioned the Indians against the danger of advancing money for the purchase of slaves. They have I think been thoroughly alarmed at the danger they have escaped, and for some time at least will not dare to put themselves in a similar position. And I would add that I found no cases of Indians holding slaves on mortgage or as security, against which they were especially warned. I finally left Chak-Chak on the evening of the 24th instant amid manifestations of the greatest good-will on the part of the Arab authorities and all British Indian subjects, by whom I was conducted to the boats. They were loud in their protestations of gratitude for the good that had been conferred upon them by a Consular visit, and begged that it might not be long before this visit should be repeated.

I arrived in Zanzibar at noon on the morning of the 25th instant, and resumed my duties at this Agency.

In reporting my return to his Excellency Rear-Admiral Macdonald, I requested his Excellency to be kind enough to convey to Captain Gray and the officers of Her Majesty's Ship *Nassau* my cordial thanks for the ready assistance they rendered to me on every occasion.

I trust your Lordship will approve of my proceedings at Pemba, and of the course I took in accordance with Dr. Kirk's procedure elsewhere in awarding no punishment to our slave-holding Indian subjects who voluntarily came forward. Had I commenced by punishment, I might have convicted a few culprits; but the great majority who were at a distance would have infallibly escaped detection for the time, and the slaves freed would have been but few in comparison to the general liberation that has now taken place, while discontent and intrigue would have taken place of the general good feeling which I left behind me.

#### Enclosure II.

From Capt. W. F. PRIDEAUX, Assistant Secretary to the Government of India, Foreign Department, to Major C. B. EUAN SMITH, Her Majesty's Officiating Political Agent and Consul-General, Zanzibar.

Dated Simla, 29th September 1875.

WITH reference to your letter, No. 80, dated the 20th of August 1875, forwarding copy of a despatch addressed by you to Her Majesty's Secretary of State for Foreign Affairs regarding your recent visit to Chak-Chak in the island of Pemba, I am instructed to state that his Excellency the Viceroy and Governor-General in Council fully approves of your proceedings in connexion with the liberation of the slaves held by British Indian subjects on that island.

## PAPERS FURNISHED BY THE ADMIRALTY.

## LIST OF PAPERS.

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2. East India Station Orders of 1871, and Correspondence respecting	221	9. Letter from Lord Weymouth to the Admiralty as to the Punishment of certain Officers of H.M.'s Navy, who had broken the Revenue Laws of Spain, June 12, 1770	0
3. Correspondence as to the escape, &c. of two Slaves from the shore at Genoa to a boat of H.M.'s ship "Alarm," lying at the Mole, 1769	222	10. Correspondence respecting the drowning of two native boatmen at Rio de Janeiro, Brazil, who took off a party of Marines to H.M.'s ship "Reindeer"	0
4. Correspondence as to the escape of a Slave from an Algerine Kebeque to a boat of H.M.'s ship "Montreal," in Gibraltar Bay, 1770	223	11. Case of a slave dhow captured off Pemba, on 4th January 1876, by H.M.'s ship "London," and afterwards restored to her owners	228
5. Correspondence as to complaint by Sovereign Order of Malta, that on several occasions H.M.'s ships had given shelter to fugitive Maltese Slaves, 1798	224	12. Extracts from letters respecting the return by Captain Sir T. Hardy to the United States Government of certain Slaves who had been received on board H.M.'s ship "Triumph" in 1807	228
6. Correspondence as to conduct of Captain Denis of H.M.'s ship "Dorsetshire," in the Tagus, with reference to the request of the King of Portugal, that H.M.'s ships should not leave the Tagus, or take on board any Portuguese subjects, 1758-9	0		
7. Correspondence as to the case of John Brown, who escaped from the Prison at Lima, Peru, to H.M.'s ship "Tyne," 1820	224		

## PAPERS selected by the COMMISSIONERS for insertion in the APPENDIX to their REPORT.

## I.—THE ROYAL COMMISSION TO THE SECRETARY TO THE ADMIRALTY.

Royal Commission on Fugitive Slaves,  
8, Richmond Terrace,  
February 28, 1876.

SIR,  
I AM directed by his Grace the Duke of Somerset, Chairman of this Commission, to request you to move the Lords Commissioners of the Admiralty to furnish him with any papers which may be deemed useful to the Commissioners in their present inquiry on the question of Fugitive Slaves, and I have the honour to enclose herewith a copy of the warrant for guidance as to the subjects on which this information is required.

I have, &c.

HENRY HOWARD,  
Secretary.

The Secretary to the Admiralty.

## II.—THE SECRETARY TO THE ADMIRALTY TO THE ROYAL COMMISSION.

SIR,  
Admiralty, March 3, 1876.  
In reply to your letter of the 28th ultimo, requesting to be furnished with any papers which may be deemed useful to the members of the Royal Commission in their inquiry on the question of Fugitive Slaves, I am commanded by my Lords Commissioners of the Admiralty to send you at once, for the information of the Commissioners, the copies of the following Regulations:

Queen's Regulations and Admiralty Instructions (see especially page 337).

Addenda (see especially page 123).

Slave Trade Instructions, 1844.

Slave Trade Instructions, 1865.

Slave Trade Instructions, 1869.

Slave Trade Instructions, 1876.

A further communication will be addressed to you shortly on this subject.

I am, &c.

Henry Howard, Esq., C.B.,  
8, Richmond Terrace, Whitehall.

ROBERT HALL.

## No. 1.

## QUEEN'S REGULATIONS AND ADMIRALTY INSTRUCTIONS, 1862.

## Extracts.

## DISCIPLINE.

Par. 25. The Commanding Officers of Her Majesty's Ships will afford every facility to the Civil Power in detecting and apprehending persons serving on board any of Her

Majesty's Ships who may be accused of having committed any crime. They will require any Constable or other Civil Officer coming on board one of Her Majesty's Ships for the purpose of searching for or apprehending persons so accused, to produce his Warrant, or to show some evidence of the character in which he acts; but when satisfied of the official character of a Constable or Officer, they will aid him to the utmost in the execution of his duty. Commanding Officers will be justified in not allowing any Petty Officer, Seaman, Non-commissioned Officer of Marines, or Private Marine belonging to any Ship of Her Majesty to be taken under any Warrant, Process, or Writ of Execution whatever, which may be issued either in the United Kingdom or in any other part of Her Majesty's dominions, for any Debt or alleged Debt, unless such Debt shall have been contracted by such Officer, Seaman, or Marine at a time when he did not belong to Her Majesty's Service; and he will be justified in not allowing any Officer, Seaman, or Marine, who may be in arrest on board to be taken out of the Ship under a Civil Process for Debt.

## CAPTAIN.

Par. 44. The Officers in command of Her Majesty's Ships are to pay due regard to any requisition which may be made to them, in the absence of the Commander-in-chief, from the Governors and other British Authorities within the limits of the station on which they are employed, for their co-operation and assistance on any necessary service, whether it be for the protection of Her Majesty's Possessions, or for the benefit of the trade of Her Majesty's subjects, or otherwise, so long as the same does not interfere with or infringe any instructions they may previously have received from a superior Naval authority, it being of course a general obligation on all Her Majesty's Civil and Military Officers to afford mutual aid and assistance to each other in all cases affecting the welfare of the Queen's Service. In any very urgent case, where requisitions made by Governors or other authorized persons may interfere with the instructions under which the Officers in command of Her Majesty's Ships are acting, the commanding Naval Officer on the spot must, in the absence of the Commander-in-chief on a part of his Station too distant to admit of reference being made to him in the first instance, very maturely weigh and consider the relative importance and urgency of any such required service, as compared with that directed by his instructions, and he must then act, with regard to complying with or refusing such requisition, as his judgment shall point out to be right,—always recollecting the very heavy responsibility he will incur by an infringement of the orders of the superior Naval authorities, unless the urgency of the case shall most fully warrant it.

Par. 45. The Captains of such of Her Majesty's Ships as visit Foreign ports or places are to take especial care to avoid all possible cause of offence or dissatisfaction to the official authorities or to the inhabitants; and they are to cause all those under their orders to show due deference to the established rights, ceremonies, customs, and regulations of such places, and to conciliate, as far as possible, the good will and respect of the inhabitants.

Par. 93. Officers in command are to bear in mind that, by the 52nd section of the Act 16th and 17th Victoria, chapter 107, Her Majesty's Ships are for the protection of the Customs, liable to such searches as Merchant Vessels are liable to, and that the Officers of the Customs may freely enter and go on board such Ships in the performance of their respective duties; and further, that the Ships of War belonging to Her Majesty are subject to such Customs regulations as may be issued by the Lords Commissioners of the Treasury, from time to time, in respect of them. Commanding Officers are enjoined to observe also the provisions of the 237th section of the Act referred to, requiring them to place in security on board the Ship any person or persons, being part of the crew, who shall be liable to detention under any law relating to the Customs, until the detaining Officer shall have obtained a warrant from a Magistrate for bringing such person or persons before him, to be dealt with according to law.

### No. 2.

#### ADDENDA TO THE QUEEN'S REGULATIONS AND ADMIRALTY INSTRUCTIONS, 1868.

Extract.

AS TO RECEPTION OF REFUGEES ON BOARD HER  
MAJESTY'S SHIPS OF WAR IN FOREIGN PORTS,  
1863.

#### Par. 381.

i. Her Majesty's Ships, while lying in the ports of a foreign country, are not to receive on board persons (although they may be British subjects) seeking refuge for the purpose of evading the laws of the foreign country to which they may have become amenable.

ii. During political disturbances or popular tumults, refuge may be afforded to persons flying from imminent personal danger. In such cases care must be taken that refugees do not carry on, from Her Majesty's Ships, correspondence with their partizans, and the earliest opportunity must be taken to transfer them to some place of safety.

iii. Except in extreme cases, passages should not be given to the subjects of foreign Governments.

iv. Whenever circumstances may permit, Her Majesty's Naval Officers should communicate with any of Her Majesty's Diplomatic or Consular Servants who may be on the spot, before taking steps for the reception of refugees on board Her Majesty's Ships.

v. No allowance will be made for entertaining refugees, whether British subjects or foreigners, except in cases of extreme destitution, or under special circumstances which may have been submitted for the consideration of the Admiralty.

### No. 3.

#### INSTRUCTIONS FOR THE GUIDANCE OF NAVAL OFFICERS EMPLOYED IN THE SUPPRESSION OF THE SLAVE TRADE.

Admiralty, November 6, 1869.

The attention of the Lords Commissioners of the Admiralty having been called to serious irregularities and mistakes committed by Officers commanding Her Majesty's Ships employed in the Suppression of the Slave Trade on the East Coast of Africa, their Lordships are pleased to issue the following Order.

It is not intended by this Order to alter the Slave Trade Instructions, which are now furnished to Her Majesty's Ships, but merely to point out and explain to Officers, in the most marked manner, certain provisions of those Instructions, which on some occasions have been misunderstood or neglected; and to bring to the notice of Officers the provisions of the recent Statute, 32 & 33 Vict. cap. 75.

#### 1. As to what vessels are liable to Capture :

Articles 50, 51, and 388.

The 50th Article of the General Instructions gives the general rule as follows :—

“ If in the course of the search you are satisfied that the Vessel is engaged in or equipped for the Slave Trade, and that she is subject to your authority, you will proceed to detain her.”

The 51st Article gives ancillary rules :—“ You will be justified in concluding that a Vessel is engaged in or equipped for the Slave Trade :—

I. If you find any Slaves on board.

II. If you find in her outfit any of the equipments herein-after mentioned [then follows an enumeration of the equipments taken from the Statute 2 and 3 Vict. cap. 73. Sect. 4.]

In construing the words in this Article, “ if you find any Slaves on board,” reference must be had to the general scope of the Instructions, and particularly to the language of the preceding Article, which speaks of the Vessel being “ engaged in or equipped for the Slave Trade.”

Slave Trade must for this purpose be carefully distinguished from Slavery; with which, as existing in foreign States, or on board foreign ships, not being in British territorial waters, Her Majesty's Government does not claim either by treaty or otherwise to interfere. As a fact, Slavery as a legal institution exists in several States (amongst them Zanzibar) with which Great Britain has treaties for the suppression of Slave Trade. The mere finding therefore of slaves on board a Vessel, will not justify an officer in detaining her, if there are other circumstances which show that these persons are Slaves by the law of the country, from which the ship has sailed, or to which she belongs, and that they are not being transported for the purpose of being sold as slaves. Thus, for instance, where the slaves found on board are very few in number, are unconfined, and appear to be on board for the purpose of loading or working the ship, or attending upon the master or the passengers, and there is no other evidence that the vessel is engaged in or equipped for the Slave Trade.

It is quite otherwise where the Slaves are found crowded and chained together, and are obviously being carried as cargo to be sold as Slaves.

Between these two classes of cases there are intermediate cases, some of a doubtful character. It must rest with the Officer to distinguish to what class any particular case belongs by a careful consideration of all the circumstances;—bearing in mind always this, that it is his duty to detain the Vessel, if he is reasonably satisfied that she is engaged in or equipped for the Slave Trade; but not otherwise.

Officers must further observe that by the 388th Article of the Instructions, a right is reserved to the subjects of the Sultan of Zanzibar of transporting Slaves within certain limits therein specified. That right, however, has by a special order of the Sultan, dated 1863, been waived during the months of January, February, March, and April.

#### 2. As to Documents found on board the detained Ships.

Articles 58, 69, 85.

These Articles which prescribe measures for the preservation and final delivery to the Court of Adjudication of all papers and documents found on board the detained vessels, are to be carried out with perfect fidelity and scrupulous care.

The unexplained loss of any such document, and still more its destruction, on any pretext whatsoever, will lay the Officer open to very serious imputation.

#### 3. As to the destruction of Vessels.

Articles 60, 61.

These Articles give authority to the Officer to destroy a Vessel which, on search, he considers to be engaged in or equipped for the Slave Trade, if after survey held, it appears that she is not in a sufficiently seaworthy condition to be sent to a Port of Adjudication. My Lords cannot, however, too strongly insist, that such destruction of a vessel is only to be resorted to as an extreme measure. Nothing will excuse the Officer in not sending in the vessel to a Port of Adjudication, except facts showing satisfactorily that doing so would have involved serious danger to the lives of the prize Crew.

In addition to this, the 390th Article is to be strictly observed as to Zanzibar Vessels :—

“ If you have detained a Zanzibar vessel upon suspicion and are unable to send her in to the proper port of adjudication, you will not destroy her without (if practicable) having first ascertained at the nearest Zanzibar port, by inquiries from Her Majesty's Consul and others, that she was engaged in or equipped for the Slave trade.”

You are also strictly to observe all similar articles with respect to vessels of other nationalities to be found in the Special Instructions.

4. As to the Port of Adjudication.  
Articles 63, 65, 389.

The two first named of these Articles prescribe the general duty of forwarding the detained vessel with as little delay as possible to the Port of Adjudication, and direct the officer to refer to the Special Instructions to ascertain the proper port.

The 389th Article, referring to Zanzibar vessels only, is as follows:—

“The proper Port of Adjudication for a Zanzibar Vessel is the nearest or most accessible port at which a British Admiralty, or Vice-Admiralty Court is established.”

Since the issuing of these Instructions certain powers have been conferred on Her Majesty's Consul at Zanzibar, by Order in Council of 9th August 1866, and the Statute 32 & 33 Vict. cap. 75.

The 29th Section of the Order in Council is in these words:

“And it is further ordered, that Her Majesty's Consul within the Dominion of the Sultan of Zanzibar shall, for and within the said Dominions, and for Vessels and Persons coming within those Dominions, and in regard to Vessels captured on suspicion of being engaged in the Slave Trade within those Dominions have all such jurisdiction as for the time being ordinarily belongs to courts of Vice-Admiralty in Her Majesty's possessions abroad.”

The Act of Parliament extends the Consul's power; for the second section is in these terms:—

“Her Majesty's Consul at Zanzibar for the time being shall have, and shall be deemed to have always since the commencement of the said Order in Council had, all such jurisdiction as ordinarily belongs to Vice-Admiralty Courts in Her Majesty's possessions abroad in regard to vessels captured on suspicion of being engaged in or equipped for the Slave Trade in the following cases:—

“1. Where a Zanzibar vessel shall have been captured in pursuance of any Treaty with the Sultan of Zanzibar, either within or beyond the dominions of Zanzibar.

“2. Where the vessel captured shall not be entitled to claim the protection of the flag of any state or nation.”

Officers will therefore observe that:—

1. All vessels captured in Zanzibar Dominions are to be taken for adjudication to Zanzibar.

2. All Zanzibar vessels wheresoever captured, and all vessels wheresoever captured, which shall not be entitled to claim the protection of the flag of any state or nation, are to be sent for adjudication to Zanzibar, if that be the nearest or most accessible port at which a British Admiralty or Vice-Admiralty Court is established.

In cases where the Vessel is run on shore and wrecked, or is destroyed as unseaworthy, the same Port of Adjudication is—excepting in very special circumstances—to be resorted to for procuring the decree of Court, as that to which the vessel ought to have been sent if in a seaworthy condition when captured. More especially is this to be observed where persons are found on board the vessel.

5. As to Persons and Property found on board the Vessel.

Articles 66, 67, 77, 78.

These Articles prescribe that wherever practicable all persons and things found on board the vessel shall be sent, with as little delay as possible, to the Port of Adjudication, and, if possible, in the vessel herself.

Nothing short of necessity will justify any Officer in landing any such persons on the coast, at random, near the place of capture, or in taking them to any port other than the Port of Adjudication.

Their Lordships regret to be obliged to remind Naval Officers of this simple duty, so clearly imposed upon them, and to have to state that the purpose of taking the captured vessel to the proper Port of Adjudication is not to procure, as a matter of form, a decree of condemnation, but to obtain a full and fair trial of the case; at which trial those concerned in the property may have all reasonable facilities to defend their interests.

6. As to reporting Captures.

Articles 48, 49.

Officers commanding Her Majesty's Ships are required by these Articles to furnish a detailed report of every capture, and especially of any circumstances which may have induced them to depart from the appointed course of conduct.

In conclusion, their Lordships are most anxious to assist and protect Officers in the right performance of their duties in suppressing the Slave Trade, but they must warn all such Officers that if they transgress the Instructions on this subject they will fall under their Lordships' serious

displeasure; and that they will also be liable to be called upon to pay heavy costs and damages.

By Command of their Lordships,  
V. LUSHINGTON.

III.—THE ROYAL COMMISSION TO THE SECRETARY TO THE ADMIRALTY.

Royal Commission on Fugitive Slaves,  
SIR, March 4, 1876.

I AM directed by his Grace the Duke of Somerset, Chairman of this Commission, to request you to move the Lords Commissioners of the Admiralty to furnish him, if possible, with a copy of the letter on which “The East Indies Station Orders” of 1871 must have been founded.

I have, &c.

HENRY HOWARD,  
The Secretary to the Admiralty. Secretary.

IV.—THE SECRETARY TO THE ADMIRALTY TO ROYAL COMMISSION.

SIR, Admiralty, March 6, 1876.

In reply to your letter of the 4th instant, requesting to be furnished, if possible, with a copy of the letter on which the East India Station Order of 1871 must have been founded, I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for the information of the Fugitive Slave Commission, that in their Lordships' opinion the Order in question was founded on the Foreign Office letters of the 6th January 1870 and 16th May 1870 (Nos. 21 and 36 of the Papers recently laid before Parliament, pp. 35 and 44), copies of which were transmitted to the Commodore Commanding on the East India Station in Admiralty letters of the 13th January 1870 and 19th May 1870 (Nos. 22 and 38 respectively, pages 35 and 45).

I am, &c.

VERNON LUSHINGTON.

Henry Howard, Esq., C.B.,  
8, Richmond Terrace, Whitehall.

EAST INDIA STATION ORDERS OF 1871.

No. 1.—EXTRACT FROM EAST INDIES STATION ORDERS, 1871.

Art. 147. Her Majesty's Minister for Foreign Affairs has decided that slaves coming on board ships-of-war within the territorial jurisdiction of the country from which they escape, that is to say, within three miles of the shore, should be returned to the owners; but when it appears that slaves coming on board Her Majesty's ships have been recently imported in violation of Treaties, the Commanders of Her Majesty's ships should communicate the facts to the Consul, with a view to proper inquiry being made, rather than carry off the slaves on their own responsibility.

Art. 148. With reference to the course to be pursued in the case of slaves captured by Her Majesty's cruisers who may prove to have been kidnapped within the territories of the Sultan of Zanzibar, Her Majesty's Government is of opinion that slaves in the above category captured within the Sultan's territories or waters should for the future be restored to the proper authorities at Zanzibar; but that slaves captured on the high seas, or without the jurisdiction of the Sultan, ought not to be given up to the Zanzibar authorities.

No. 2.—MR. HAMMOND TO THE SECRETARY TO THE ADMIRALTY.

SIR, Foreign Office, January 6, 1870.  
I am directed by the Earl of Clarendon to acknowledge the receipt of your letter of the 7th ultimo, inclosing a letter from the Commander of Her Majesty's naval forces on the East Coast of Africa, relative to the complaints preferred against the Commanders of Her Majesty's ships “Nymph” and “Dryad” by the Hova authorities, with regard to their proceedings in carrying off and then liberating certain domestic slaves at Majunga, who swam off to those vessels to escape from their masters, and in destroying certain slave dhows at the same port, and I am to state to you in reply, for the information of the Lords

Commissioners of the Admiralty, that Lord Clarendon conceives that the Commanders of Her Majesty's ships "Nymph" and "Dryad" were not justified in sailing away with the slaves in question in the manner above set forth.

The status of slavery being acknowledged and lawful in Madagascar, the Commander of a British ship-of-war is not borne out in depriving the inhabitants of slaves who are rightfully their property, and the owners of such slaves are plainly entitled to compensation from us for the losses incurred at our hands by their abduction.

If a British cruiser were at sea beyond the territorial jurisdiction of Madagascar, and slaves on shore were to seize a boat to escape to the British ship, the case would be different, and we might then fairly decline to surrender persons received on board under such circumstances; it is, however, impossible to approve the conduct of Her Majesty's officers in cases like the present, the facts of which simply amount to the entry into the waters of a friendly Power of a British ship, and to her depriving the subjects of that Power of their lawful property.

Such a course can, moreover, have no other effect than to dispose the natives and authorities towards us, and would in all probability tend to prevent their carrying out their engagements for the suppression of the Slave Trade.

The circumstances under which the "Nymph" destroyed the dhows are not stated, but if they were clearly ascertained to be slavers she would be justified in destroying them, if she could not send them to a Port of Adjudication, and the Commander of the "Nymph" would also be borne out in requiring the slaves to be handed over to him, if, after communication with Her Majesty's Consul at Tamatave, it should appear that the Hova Government and authorities could not ensure the slaves their freedom. No British authority, however, naval or other, would be justified in demanding the surrender of the slaves if they were seized by the Hova authorities, and if the Hova Government undertook to see that they are properly cared for and not again reduced to slavery.

I am, &c.  
E. HAMMOND.

**No. 3.—THE EARL OF CLARENDON TO CONSUL  
PAKENHAM.**

SIR, Foreign Office, May 16, 1870.

I have received your despatch of the 18th of October last, reporting your decision in the matter of some slaves who had escaped from Madagascar and were carried away by Her Majesty's ship "Dryad," and we approve your proceedings in this case. I enclose, for your information and guidance, a copy of a letter addressed to the Lords of the Admiralty by my direction on the 6th of January last, containing my views upon the points which you have raised.

I was not aware that it could be proved that any of the escaped slaves had been imported into Madagascar in violation of the Treaty, which would doubtless give them a claim to British protection; but I am of opinion that the Commanders of Her Majesty's cruisers are not justified, where slavery is legal, in receiving fugitive domestic slaves on board their vessels, or in carrying them away in spite of the local authorities; and in cases where naval officers are made aware that an escaped slave has been imported in violation of the Treaty, it would be better that they should communicate the facts to you, with a view to a proper inquiry being made into the case, than that they should carry off the slave on their own responsibility.

I am, &c.  
CLARENDON.

**No. 4.—THE SECRETARY TO THE ADMIRALTY TO  
COMMODORE SIR L. G. HEATH.**

SIR, Admiralty, January 13, 1870.

In reply to your letter of 24th November, forwarding a letter from Commander Colomb, of the "Dryad," and Commander Meara, of the "Nymph," explanatory of their proceedings at Majunga, in Madagascar, and the alleged improper seizure of slaves and destruction of slave dhows, I am commanded by my Lords Commissioners of the Admiralty to transmit, for your information, a copy of a letter from the Secretary of State for Foreign Affairs, dated 6th January, expressing the views of Lord Clarendon as to the irregularity of these proceedings.

I am, &c.  
VERNON LUSHINGTON.

**No. 5.—THE SECRETARY TO THE ADMIRALTY  
COMMODORE SIR L. G. HEATH.**

SIR, Admiralty, May 19, 1870.

I am requested by the Lords Commissioners of the Admiralty to transmit for your information and guidance a copy of a despatch addressed by direction of the Earl of Clarendon to Her Majesty's Consul in Madagascar, in reference to the question of naval officers receiving and carrying away domestic slaves on board Her Majesty's ships.

2. Lord Clarendon informs Her Majesty's Consul that the commanding officers of Her Majesty's cruisers are not justified where slavery is legal in receiving domestic slaves on board their vessels, or in carrying them away in spite of the local authorities, and that in cases where naval officers are made aware that an escaped slave has been imported, in violation of the Treaty, it would be better that they should communicate the facts to the Consul with a view to proper inquiry being made, rather than they should carry off slaves on their own responsibility.

3. My Lords desire that you will give the necessary instructions to the commanding officers of the ships under your orders, for carrying out the views of the Secretary of State.

I am, &c.  
VERNON LUSHINGTON.

**V.—THE SECRETARY TO THE ADMIRALTY TO ROYAL  
COMMISSION.**

SIR, Admiralty, March 9, 1876.

In further reply to your letter of the 28th ultimo, requesting to be furnished with any papers which may be deemed useful to the Commissioners, I am commanded by my Lords Commissioners of the Admiralty to send you, for the information of the Fugitive Slave Commission, copies of the documents specified in the accompanying list A,\* the originals of which will be sent if desired.

I am also to send you the original documents specified in list B,\* relating to the voluminous case of the "Reindeer," copies of which will, if required, be furnished to the Commission.

I am, &c.  
VERNON LUSHINGTON.

Henry Howard, Esq., C.B.,  
Richmond Terrace, Whitehall.

**CORRESPONDENCE AS TO THE ESCAPE, &c.  
OF TWO SLAVES FROM THE SHORE AT  
GENOA TO A BOAT OF HIS MAJESTY'S  
SHIP "ALARM," LYING AT THE MOLE, 1769.**

**No. 1.—CAPTAIN JERVIS TO THE SECRETARY TO THE  
ADMIRALTY.**

"Alarm," Genoa Mole,  
September 11, 1769.

SIR, Received, October 2.  
I desire you will acquaint my Lords Commissioners of the Admiralty that, in pursuance of the inclosed orders from Commodore Spry, I arrived here, in His Majesty's Ship under my command, the 7th instant, and on the 9th, having sent Lieutenant Colville into the Old Mole in the "Alarm's" cutter to recover a seaman's wages, not finding the master on board his ship, he landed at the port and went upon the Exchange in quest of him; in the mean time, two Turkish slaves suddenly escaped into the boat and clasped the colours, three of the crew being in her, and the rest on the landing-place; the guard of the port and sentinels from a galley moored near it immediately rushed into the boat, with their swords drawn, and tore the slaves out of her, notwithstanding the efforts of the unarmed crew, wounding and beating the slaves in a barbarous manner, and snapping a musket at the head of one of them while in the boat. The moment I was made acquainted with the transaction, I sent Lieutenant Colville with the whole boat's crew, and a midshipman, who commanded the longboat watering, and saw the latter part of it, to Mr. Holford, the British consul, accompanied by a letter, of which the inclosed No. 1 is a copy, and on his representing, in a visit he made me the same evening, I was likely to be engaged in a labyrinth of Genoa negotiation,

I yesternorn wrote him a second letter, of which the inclosed No. 2 is a copy, and impatiently wait the event.

Fully sensible of the indignity offered to one of the most important objects of my trust, I shall endeavour to acquit myself as becomes the commission I bear.

I have discontinued the delivery of money and all communication with the city, except conveying my remonstrances to the consul since this violation.

I am, &c.

J. JERVIS.

To Philip Stephens, Esq.

Enclosure I.

CAPTAIN JERVIS TO MR. HOLFORD.

"Alarm," Genoa Mole,  
September 9, 1769.

SIR, I send Lieutenant Colvill, with a midshipman of the "Alarm" and her cutter's crew, to inform you of a very extraordinary violation of treaty and flagrant insult to the King's colours committed on shore this morning. Two slaves having escaped from the galley into the "Alarm's" cutter, were seized by the guard and torn out of the boat embracing the colours, and a musket snapped at the people in her, during the transaction.

I desire you will not lose a moment to remonstrate in the strongest terms on this head, and insist in my name on the two slaves being immediately delivered up and exemplary punishment inflicted on the persons who have thus dared to insult the British flag.

I am, &c.

JOHN JERVIS.

To James Holford, Esq.,  
His Britannic Majesty's Consul, Genoa.

Enclosure II.

CAPTAIN JERVIS TO THE SECRETARY TO THE ADMIRALTY.

"Alarm," Genoa Mole,  
September 16, 1769.  
(Received October 2.)

SIR, Soon after I had closed my letter of the 11th instant the slaves were given up, and I received through Mr. Holford a disavowal of the whole proceeding from the Doge and Senate, with an assurance that a process should be commenced against the offenders. Not judging this concession adequate to the insult, I wrote the enclosed letter to the consul, who yesterday brought me a message from the Doge and Senate desiring to know whether I would be satisfied with their ordering the persons concerned in the transaction to be arrested in the most public manner and committed to prison. I referred them to my demand, declaring nothing less could prevent a complaint to my Court of their injustice, to which I can get no reply.

Having been detained by this unforeseen event much beyond my intention, I shall proceed in execution of my orders the first opportunity.

I am, &c.

J. JERVIS.

To Philip Stephens, Esq.

CORRESPONDENCE AS TO THE ESCAPE OF A SLAVE FROM AN ALGERINE XEBEQUE TO A BOAT OF HER MAJESTY'S SHIP "MONTREAL" IN GIBRALTAR BAY, 1770.

No. 1.—COMMODORE PROBY TO THE SECRETARY TO THE ADMIRALTY.

"Montreal," in Gibraltar Bay,  
January 26, 1770.

SIR, The Commander of an Algerine Xebeque (that has lain since the latter end of October last in the New Mole at this place) having by letter demanded the restitution of a Portuguese captive, who, after making his escape from the Xebeque by plunging into the sea, was taken up by a boat belonging to His Majesty's Ship the "Montreal," I am to desire you will inform my Lords Commissioners of the Admiralty that I refused to comply with his request, and have for their Lordships' farther information enclosed

you a translation of his letter, together with a copy of my answer thereto.

I am, &c.

C. PROBY.

To Philip Stephens, Esq.,  
Admiralty Office.

P.S.—I desire the favour of you to order the annual lists of officers to be sent me by the first opportunity.

Enclosure I.

COPY OF A LETTER FROM THE COMMANDER OF AN ALGERINE XEBEQUE, IN THE NEW MOLE AT GIBRALTAR, TO COMMODORE PROBY.

(Translation from the Arabic.)

In the name of God, Amen.

Health and peace be to all the Faithful.

From the Rais or Captain of the Algerine Xebeque to the English Commodore and Governor, and to all the Principal Officers in Gibraltar. Greeting.

This is to inform you that yesterday one of the Christian slaves that was on board my vessel took an opportunity of plunging into the sea from my vessel in order to make his escape, that the moment he jumped overboard three of my seamen threw themselves into the sea after him, but he swam towards a merchant vessel that lay in the Mole, and before he had reached her my three men came up with him, but the sailors belonging to the English ship manned a boat, put off, and rowed towards the slave, and one of the English seamen took up a boat hook and darted it at one of my men, which very nearly killed him, whereupon the said English seamen seized on my slave, and carried him away by force. I am therefore under the necessity of remonstrating to you against this act of violence, for if the slave had reached the shore or a ship or vessel belonging to H. B. M., then I should have known that I had no further right to claim him; but as he was taken in the sea by my own men before he was in any way entitled to protection from you, it is my opinion that you should restore him to me, for I think it is a shame for your nation to keep him from me. Referring the whole to your serious consideration, I trust you will act strictly according to the custom of the sea, and to the rules of justice in such like cases, and that you will favour me with your answer.

20 January 1770.

21 Ramdan.

To The English Commodore,  
whose answer is required.

Enclosure II.

COPY OF THE ANSWER RETURNED TO THE CAPTAIN OF ALGERINE XEBEQUE BY COMMODORE PROBY.

"Montreal," in Gibraltar Bay,  
January 22, 1770.

SIR, I received your favour and am sorry that the negligence of your people has laid me under the necessity of informing you that it is not in my power to comply with the request you make me, to deliver up the Portuguese seaman who made his escape, on the 19th instant, from on board the Xebeque you command, as the said seaman the instant he was out of your Xebeque situated as she is in the Mole, was immediately under the British protection, and more especially so, as the seaman had passed an English merchant ship which lays close to you, and got hold of a rope from the said merchant ship before your people laid hold of him, which the officers and seamen of one of the King's, my master's, boats who were then present, and who took the seaman in question up, all testify.

The Xebeque you command is now under the same protection, which protection has, since my command in these seas, been very particularly exerted in favour of two Turkish or Moorish slaves at Genoa, and which ever has been and always will be given under the same circumstances to your countrymen, and to all nations in friendship with Great Britain.

Touching your complaint of a boat hook's being darted at and near killing one of your people, I must inform you, by the testimony of the officers and seamen then present, that the boat hook was only held up and not darted, though that step might have been authorised, from your people seizing and beating in a cruel manner the

Portuguese seaman after he had got hold of a rope from the English merchant ship under the care of two of the King my master's ships in the Mole.

I am, &c.  
(Signed) C. PROBY.

To the Captain of the  
Algerine Xebeque,  
in Gibraltar New Mole.

guerre Anglais lorsqu'ils mouilleront dans les ports de Malte, et l'a l'honneur de lui témoigner les sentimens de sa haute estime, et parfaite considération.

HERBERSTEIN.

A Mr. le Chevalier d'Eden.

No. 2.—THE SECRETARY TO THE ADMIRALTY TO THE  
EARL OF ST. VINCENT.

CORRESPONDENCE AS TO COMPLAINT BY  
SOVEREIGN ORDER OF MALTA, THAT ON  
SEVERAL OCCASIONS H.M.'S SHIPS HAD  
GIVEN SHELTER TO FUGITIVE SLAVES,  
1798.

No. 1.—SIR MORTON EDEN TO LORD GRENVILLE.

Vienna, Wednesday,  
February 21, 1798.

MY LORD,  
I HAVE the honour of transmitting to your Lordship, in compliance with the earnest instances of the Maltese Minister at this Court a Note, that I received from him a few days ago; and in answer to which I told him that His Majesty's Ministers would immediately put a stop to any abuses which on inquiry might be found to exist.

Right Hon.  
Lord Grenville, &c. &c. &c.

I have, &c.  
MORTON EDEN.

Enclosure.

THE MINISTER AT VIENNA OF THE SOVEREIGN ORDER  
OF MALTA TO SIR MORTON EDEN.

Vienne, ce 10 Février 1798.

Le soussigné Ministre Plénipotentiaire de l'Ordre Souverain de Malte à la Cour Impériale Royale, a l'honneur de communiquer à Mr. d'Eden Ministre Plénipotentiaire et Envoyé Extraordinaire de Sa Majesté le Roi de la Grande Bretagne auprès de Sa Majesté l'Empereur et Roi les justes plaintes de l'Eme Chef de l'Ordre sur quelques déréglemens survenus pendant le cours de la guerre causés par des sujets de Sa Majesté Britannique, déréglemens dont il espère le redressement vû la justice et l'équité connue de Sa Majesté le Roi de la Grande Bretagne et de ses Ministres. Il est notoire, que pendant toute la durée de la guerre, le pavillon Anglais n'a presque pas cessé de flotter dans les ports de l'Ordre, et d'y être traité avec toute l'amitié et les égards qui lui étaient dûs, mais malheureusement les Commandans des vaisseaux de guerre Anglais n'ont pas reconnu tous ces bons procédés; ils ont donné refuge à ceux des esclaves de Malte, qui pouvant s'échapper, se réfugiaient à leur bord. On n'a pas manqué du côté du Gouvernement de les réclamer, mais peu de Commandans ont consenti à les restituer alleguant, que les ordonnances Anglaises ne le leurs permettaient pas. Le triste resultat de ce refus était, que chaque fois qu'un bâtiment Anglais de guerre est entré dans les ports de l'Ordre, il fallait tenir tous les esclaves renfermés, ce qui a occasionné au trésor de l'Ordre et au pays un préjudice considérable, attendu que les travaux publics et particuliers auxquels ces esclaves sont ordinairement employés se trouvaient suspendu tous le tems que les vaisseaux de guerre Anglais y séjournaient.

L'on sait que ces esclaves sont pour l'Ordre et les particuliers, qui les ont acquis, une propriété réelle, et que par conséquent il est douloureux de se les voir enlever sous un pavillon ami, et auquel sans aucune vue d'intérêt quelconque le Gouvernement de l'Ordre accorde égards, asile, secours, et l'hospitalité.

Un tel procédé n'étant sûrement pas dans l'intention du Cabinet Britannique, le Grand Maître ne doute pas que l'équité connue de Sa Majesté le Roi et de ses Ministres ne s'y opposent pas, aussitôt qu'ils auront connaissance du tort réel et grave que l'Ordre et les propriétaires ont souffert jusqu'à présent.

Le soussigné Ministre Plénipotentiaire de l'Ordre de Malte intimement persuadé de l'équité de Mr. le Chevalier d'Eden, Ministre Plénipotentiaire et Envoyé Extraordinaire de Sa Majesté le Roi de la Grande Bretagne, le prie, en conséquence, de vouloir bien avoir la bonté de faire parvenir à la connaissance de Sa Majesté le Roi et du Ministère Anglais, les justes plaintes de l'Eme Grand Maître, et employer ses bons offices, pour qu'une entrave soit mise dorenavant au procédé des Commandans de

Admiralty,  
April 16, 1798.

MY LORD,  
LORD GRENVILLE having transmitted to my Lords Commissioners of the Admiralty the copy of a note from the Maltese Minister at Vienna to Sir Morton Eden, relative to certain injuries said to have been done to the inhabitants of the Island of Malta by several of His Majesty's ships in the Mediterranean, I have their Lordships commands to enclose to you a transcript of the said note for your information, and to signify their direction to your Lordship to give such orders to the Captains and Commanders of the ships and vessels of your squadron as may prevent in future any injury of the nature complained of, in the event of any of His Majesty's ships having occasion to touch at that island.

I am, &c.  
EVAN NEPEAN.

Admiral the  
Earl of St. Vincent, K.B.

No. 3.—EARL OF ST. VINCENT TO THE SECRETARY TO  
THE ADMIRALTY.

"Ville de Paris," off Cadiz,  
May 31, 1798.

SIR,  
I HAVE received your letter of the 10th ultimo., with the enclosures from Lord Grenville's office, relative to the escape of slaves from Malta into His Majesty's ships; I have to observe thereupon, that from the days of the renowned Blake to this hour it has been the pride and glory of the officers of His Majesty's navy to give freedom to slaves wherever they carried the British flag, and God forbid that such a Divine maxim should fade under me; it has been the practice in all the ports in the Mediterranean, time immemorial, on the approach of a British ship of war, for the Governor to give notice to the owners of slaves to keep them in confinement until the departure of such ship. When I commanded the "Alarm," two Tunisian slaves, who leaped into her launch when watering at the font in the Mole of Genoa, were forced out of the boat by the guard on the mole, although one of them had wrapped the pendant round his waist; the moment the report was made to me, I demanded of the Doge and Senate, that the slaves should be brought on board immediately, with the part of the torn pendant, which the slave carried off with him, the officer of the guard punished, and an apology made on the quarter deck of the "Alarm," under the King's colours, for the outrage offered to the rights of the British nation; after this was performed, I asked the slave who had wrapped the pendant round his body, what were his sensations when the guard tore him from the pendant staff, his reply was, that he felt no dread, for he knew that the touch of the royal colours gave him freedom. To the rest of the charge, I have only to reply, that the ships I have the honour to command, never continue long enough in any port to occasion much loss or inconvenience to owners of slaves.

I am, &c.  
ST. VINCENT.

CORRESPONDENCE AS TO THE CASE OF JOHN  
BROWN, WHO ESCAPED FROM THE PRISON  
AT LIMA, PERU, TO H.M.'S SHIP "TYNE."  
1820.

No. 1.—CAPTAIN FALCON TO THE SECRETARY TO THE  
ADMIRALTY.

Her Majesty's Ship "Tyne,"  
Spithead, October 16, 1820.

SIR,  
I HAVE the honour to lay before you for the information of their Lordships the following particulars relating to Mr. John Brown, a native of Ireland, who being a prisoner in the hands of the Spaniards, effected his escape, and came on board this ship whilst at Callao, claiming the protection of the flag.

To take up as little of their Lordships time as possible, I shall merely enclose copies of such parts of the Viceroy's letters and my replies as relate particularly to this circumstance, briefly stating at the same time such other information as I have that can serve to elucidate the subject.

It appears that Brown commanded a Chilean cruiser called the "Maipu," and was captured in October 1818, on the coast of Peru by some of H.C.M. cruisers. Immediately upon his arrival at Callao a military tribunal (I believe unknown to the prisoner) tried and condemned him to death for piracy, notwithstanding his vessel and himself were furnished with the usual documents as a cruiser by the Government of Chili.

This sentence, however, not having been carried into effect for eighteen months, he escaped, and succeeded in getting on board this ship in May 1820, when I naturally considered it incumbent upon me, as a subject of His Majesty, to grant him the protection of the flag, and to decline complying with a demand made upon me by His Excellency the Viceroy (letter No. 1) for the delivery of Brown's person to the Spanish Authorities, to which No. 2 is my reply.

No. 3 is a second demand of a similar nature to the first from the Viceroy, concluding with the request (in the event of my not complying with the former) therein contained, a compliance with which at the time I could see no objection to, the particular circumstances of the case considered, and therefore returned the answer No. 4.

As I have no farther communication on the subject, I am unable to state what steps the Viceroy intends, or may have already taken, but at the same time it appears no more than justice to say that the sole complaint against Brown is his having commanded a Chilean cruiser, on which, I believe, alone rests the charge of piracy against him, as he is not accused of having committed or attempted any piratical act; and as the time of his entering into the service of Chili was antecedent to His Royal Highness the Prince Regent's proclamation, forbidding British subjects to do so, reaching that country, and certainly previous to the date of the Act of Parliament on that subject, he appears to have joined the Independents under an ignorance of the impropriety of such a measure.

Requesting their Lordships will furnish me with the necessary directions as to his disposal,

I have, &c.  
GORDON THOS. FALCON,  
Captain.

John Wilson Croker, Esq., Secretary,  
Admiralty, London.

P.S.—Mr. Brown having furnished me with the enclosed particulars of his capture and detention, I beg to have it forwarded for their Lordship's perusal.

G. T. F.

Enclosure I.

CAPTAIN FALCON TO THE VICEROY OF PERU.

H.B.M.'s Ship "Tyne" in Callao Bay,  
May 22, 1820.

I HAVE the honour to acknowledge the receipt of Your Excellency's official note of yesterday, wherein Your Excellency reclaims the person of John Brown (a British subject), late Commander of the Chili cruiser "Maypu," captured some time since by one of H.C.M. vessels of war on this coast, and who has, as mentioned by Your Excellency, effected his escape in company with the corporal of the escort that had the said Brown in charge, and with him supposed to have got on board H.B.M. ship under my command, stating therein the grounds upon which Your Excellency makes the demand and rests the expectation of my complying with this request, under the impression, it would appear, that both these individuals are on board this ship, &c.

I have, in reply, the honour to state to Your Excellency (what, indeed, must be well known to Your Excellency before) that in circumstances like the one in question the power of complying with such a demand is not rested in the commander of any national ship, and therefore my yielding in the present instance would be viewed by my own Government as an unauthorised deviation from a proper discharge of my duty, and must be considered by every one as compromising those rights which all civilized nations admit to belong to the national ships of friendly powers.

I am, therefore, under the necessity of declining in this instance an acquiescence in Your Excellency's wish as

respects Brown; and as to the corporal that accompanied him in his flight, he did not, it appears, come on board in the same boat; and when he did come alongside, was not received by the commanding officer at the time, he immediately departed, and has not since been heard of by any person here.

The reasons assigned by Your Excellency for reclaiming this man Brown, however strong and applicable they may be to the occasion, yet cannot, I humbly conceive, set aside those rights universally admitted by established Governments to belong to national vessels; and by none is the line of conduct I feel myself called upon to adopt on this occasion more strongly enjoined than by H.C. Majesty in His Public Orders and Instructions issued for the Government of the Spanish Marine, and therefore I am persuaded that in not meeting Your Excellency's wish on this occasion, Your Excellency will do me the justice to believe that I am alone actuated by a sense of duty which in the mind of a public officer must ever be paramount to every other consideration, and, therefore, that although I cannot comply, I nevertheless embrace with pleasure this opportunity of assuring Your Excellency of my respect and esteem, and that with the highest consideration.

I have, &c.

GORDON THOS. FALCON,  
Captain.

To His Excellency  
Dn. Joagn. de la Pezuela,  
Viceroy of Peru, &c. &c.

Enclosure II.

VICEROY OF PERU TO CAPTAIN FALCON.

EXTRACT.—Translation. May 26, 1820.

V. S.'s denial to my demand might, besides, in future cool the constant protection and favourable reception which British ships and commerce that have come to Callao have experienced, for the fear that a generous hospitality should meet in return an equal detriment to the one your stay in this port has caused by the flight and admission of the prisoner Brown, will be a just and advantageous reason to put in force the rigour of the laws of the country, which exclude all foreigners from these Dominions.

But if, notwithstanding all this, V. S. follows up the intention of retaining said prisoner, I exact from V. S., in a solemn manner, with a protest of the consequent responsibility to its results, that keeping him with the due security, you should deliver him up to the supreme British Government, in order that my Sovereign, who will be immediately informed of all by me, may make to yours the necessary demand on the matter.

God keep V. S. many years,  
Lima, 26th May, 1820.  
JOAGN. DE LA PEZUELA.

To the Commander of the  
British Corvette of War "Tyne."

No. 2.—THE SECRETARY TO THE ADMIRALTY TO  
ADMIRAL SIR GEORGE CAMPBELL, G.C.B.

SIR, Admiralty, October 17, 1820.

HAVING laid before my Lords Commissioners of the Admiralty a letter from Captain Falcon of the "Tyne," stating the circumstances under which he has brought to England a British subject of the name of Brown, who took refuge on board that ship at Callao, having made his escape from confinement by the Spaniards, I am commanded by their Lordships to signify their direction to you to take care that the person in question be not allowed to come on shore until further orders.

I am, &c.  
J. B.

Admiral Sir George Campbell, G.C.B.,  
Portsmouth.

No. 3.—QUESTION FOR KING'S ADVOCATE.

I AM directed to submit to you and to the Advocate of the Admiralty the letter of Captain Falcon, dated 16th October instant, and the accompanying correspondence between him and the Viceroy of Peru, and to request your opinion whether there are any grounds on which Mr. John Brown ought to be detained in custody for piracy or any other cause.



## OPINION.

19th October 1820.

I am of opinion that J. Brown cannot legally be detained in custody in this country on any grounds stated in the letter of Captain Falcon or the correspondence accompanying that letter.

CHRISTOPHER ROBINSON.

The Advocate of the Admiralty being not in the neighbourhood of town, I have answered the case without waiting for a conference with him.

C. R.

## No. 4.—MINUTE OF LORD MELVILLE.

October 25, 1820.

Send copies of this letter and enclosures and the case and opinion of the King's Advocate to Sir William Scott, and acquaint him that as there did not appear to their Lordships or to the King's Advocate, to whom they referred the question, to exist any legal and sufficient grounds on which Mr. John Brown, the individual alluded to in those papers, who had arrived in H.M.S. "Tyne," and was actually within the realm, could be detained in custody; their Lordships have accordingly given orders for withdrawing any restraint over him, and for allowing him to come on shore.

But it appears to their Lordships that another and more important question of a general nature is involved in the discussion between the Viceroy of Lima and Captain Falcon; and as their Lordships must be prepared either to disavow or to maintain and defend on this and all other similar occasions the principle for which Captain Falcon contends; viz., that any British subject coming on board one of Her Majesty's ships in a foreign port, though escaping from a civil or criminal process in such port, and from the jurisdiction or supposed jurisdiction of the State within whose territories such port may be situated, is entitled to the protection of the British flag, and to be deemed as within the Kingdom of Great Britain and Ireland. Their Lordships are desirous of ascertaining from Sir William Scott to what extent they will be warranted in asserting and maintaining such a principle. Their Lordships are the more anxious to have this question considered, as they have reason to believe that an opinion prevails very generally among the officers of the British navy that they are not at liberty to withhold the protection above described; and if it should appear that such opinion is erroneous, and is not founded on any sound principle of the Law of Nations, the present opportunity may afford conveniently the means of promulgating a more correct doctrine.

Their Lordships, however, do not desire or expect from Sir William Scott a statement of all possible cases in which it might be proper or justifiable in the Commander of H.M. ships to afford protection to a British subject repairing on board such ship in a foreign port, they merely wish to ascertain whether there exists any such distinct rule in the Law of Nations as is contended for by Captain Falcon, and supposing any such rule or principle to be recognised, how far it applies to the case which forms the subject of the enclosed correspondence.

MELVILLE.

## No. 5.—SIR WILLIAM SCOTT TO THE SECRETARY TO THE ADMIRALTY.

## OPINION.

Grafton Street,

November 18, 1820.

SIR, I HAVE to acknowledge the receipt of your letter dated 25th ultimo, enclosing copies of a letter and its enclosures from Captain Falcon of His Majesty's ship "Tyne," and of the case and opinion of the King's Advocate relative to Mr. John Brown, a native of Ireland, who being a prisoner in the hands of the Spaniards, effected his escape, and came on board the "Tyne" at Callao, and has since arrived on board the same within the realm of England (having claimed the protection of the flag), and acquainting me that their Lordships conceiving that they had no authority to detain him, and being supported in that opinion by the concurrence of the King's Advocate, had allowed him to depart without restraint. Upon his statement I have no observation to make, not being desired by their Lordships to make any; but if my opinion had been required, I would have coincided with what has been

advised and done. A more extensive and important question is proposed to me, viz., whether any British subject coming on board His Majesty's ships of war in a foreign port, escaping from civil or criminal process in such port, and from the jurisdiction of the State within whose territory such port, may be situated, is entitled to the protection of the British flag, and to be deemed as within the Kingdom of Great Britain and Ireland. Upon this question proposed generally, I feel no hesitation in declaring that I know of no such right of protection belonging to the British flag, and that I think such a pretension is unfounded in point of principle, is injurious to the rights of other countries, and is inconsistent with those of our own.

The rights of territory are local, and are fixed by known and determinate limits; ships are mere moveables, and are treated as such in the general practice of nations. It is true that armed neutralities have attempted to give them a territorial character, but the attempt when made has always been most perseveringly and at all hazards resisted and defeated by the arms of our own country, as inconsistent with the rights of hostility and capture. No such character is allowed to protect ships of war when offending against the laws of neutrality upon the high seas, where no local authority whatever exists; still less can it be claimed when there is a visible and acknowledged authority belonging to an independent state in amity with the nation to which the ship of war belongs. Such a claim can lead to nothing but to the confusion and hostility which wait upon conflicting rights.

The common convenience of nations has for certain reasons and to a certain extent established in favour of foreign ships of war, that they themselves shall not be liable to the civil process of the country in whose ports they are lying; though even this immunity has been occasionally questioned. But that individuals merely belonging to the same country with the ship of war are exempted from the civil and criminal process of the country in its ordinary administration of justice by getting on board such ship, and claiming what is called the protection of its flag, is a pretension which, however heard of in practice occasionally, has no existence whatever in principle.

If the British flag converts a ship of war into British territory, the flags of other nations must be allowed to possess the same property in favour of their marine; for there is no principle whatever that can appropriate it exclusively to the British flag. It therefore must be allowed reciprocally, that a Spaniard getting on board a Spanish ship of war lying in Portsmouth or Plymouth harbour shall be protected from British justice. I believe that the administrators of that justice would return a very speedy and decisive negative to any such protection urged on behalf of a Spaniard charged with being amenable to British law. But the inconvenient effects of considering such a ship as Spanish territory would go much further—to the extent of protecting even a British criminal who found his way into her; for no process of British justice can be executed upon a British subject in a foreign territory.

When I give this as my decided persuasion upon this subject generally, I do not mean to say that in the infinite possibility of events cases may not arise in which such a protection might be indulged. But such cases are justified only by their own peculiar and extraordinary circumstances, which extend no further than to those immediate cases themselves, and furnish no rule of general practice in such as are ordinary.

How far the case of Mr. Brown comes within such a description I am not enabled to state confidently by any exact knowledge of the facts, and particularly of the nature and validity of that authority under which the acts charged upon him by the Spaniards are said to have been committed. It would be improper in me to define that which the British Government has not thought proper to define. Holding the opinion that before any Act of Parliament or Proclamation issued it was unlawful for a British subject to accept a hostile commission from any persons, either in war or in rebellion against a state in amity with the Crown of Great Britain, I am led to think that the Spaniards would not have been chargeable with illegal violence if they had thought proper to employ force in taking this person out of the British vessel, and I add that it is certainly very undesirable to furnish occasions for the lawful use of force in the intercourse of friendly nations.

Taking the authority under which Brown acted to be clearly invalid (which I do not mean to assert), I think it might possibly appear that Captain Falcon's act was more to be commended for its humanity and spirit than for its strict legality.

WILLIAM SCOTT,  
Grafton Street, November 23, 1820.

No. 6.—CAPTAIN FALCON TO THE SECRETARY TO  
THE ADMIRALTY.

7, Tavistock Place,  
December 20, 1820.

SIR,

I HAVE the honour to acknowledge the receipt of Mr. Barrow's letter of the 29th ultimo., inclosing a copy of Sir Wm. Scott's opinion on the question relating to Mr. John Brown, conveying at the same time their Lordships entire concurrence in this opinion, and consequent disapprobation of my conduct in having given protection to that individual.

No person, I beg to assure you, can more sincerely regret than I do any occurrence that necessarily draws forth their Lordships displeasure, but, as, on this occasion, I was left to follow the dictates of my own judgment, having neither rule nor precedent within my knowledge, by which to regulate myself (as I now learn I ought to have done), I trust their Lordships will do me the justice to believe that it was not from any improper motive I resisted the claim of the Vice-King, but from an impression that a compliance with His Excellency's demand would place me in the unpleasant situation of receiving censure for a want of proper regard to the rights and character of a national ship, where I have hitherto been taught to believe, that any subject of my Sovereign had, in a foreign country, a right to consider himself, *when once on board*, as protected from harm. Besides, in Brown's case there were many circumstances of so peculiar a nature, which though they cannot perhaps justify the steps I took, may yet tend in some degree to excuse my error in the opinion of the Government. This man entered into the Independent service, and was made prisoner, previous to any law having passed in this country forbidding such a step, and he was accused before a military tribunal of piracy, for the sole reason of sailing under the Chilian flag, and resisting when attacked by a superior Spanish force, and although no other act of his sustained the charge, he was condemned unheard, and had remained more than eighteen months under sentence of death, during which period he suffered all the rigours and miseries of imprisonment in a low, damp, and unhealthy dungeon, the only respite from which was, when sickness made it necessary to remove him to an hospital, and as it was communicated to me from unquestionable authority, previous to receiving the first letter on the subject, that the Viceroy determined to have Brown shot if he again got him into his possession, as an example to the other prisoners under similar confinement, with a knowledge of this before me, I would ask with what sensations must I have resigned up this person to his fate, even knowing, as I do now, the opinion of those high in authority that I would have been right in doing so? But deeply impressed with a contrary conviction, to have tamely yielded to this demand, and witnessed the execution, under my very eyes of the unfortunate being in question, though I might have stood acquitted to my Government, I yet could never have reconciled the proceeding to my own breast without subduing those feelings of humanity which are, it must be acknowledged, on some occasions, found to do more honour to the heart than credit to the head.

I have considered it necessary to make this explanation in the hope that it may allow this Government to appreciate justly my motives for acting as I did, and enable it to meet more readily, any communication made from that of Spain upon the subject; and, at the same time, to place my own conduct in the light least objectionable before their Lordships.

I have, &c.  
GORDON THOS. FALCON.

Indorsed on the above—

Dec. 23. Send copy to Lord Castlereagh in reference to the former.

Received and executed, 28th.  
F. C. B.

To J. W. Croker.

No. 7.—LORD CASTLEREAGH TO SIR H. WETHERBY.

Foreign Office,  
December 29, 1820.

SIR,

I HAVE the honour of herewith transmitting to Your Excellency copies of a letter received at this office from the Secretary to the Admiralty, and of the correspondence inclosed in it, relating to a British subject of the name of Brown, who, whilst prisoner in the hands of the Viceroy of Peru, affected his escape, and took refuge on board H.M.S. "Tyne," Captain Falcon, which officer refused to give up Mr. Brown when called upon by the

Viceroy so to do, but engaged to deliver him up to the British Government, on his arrival in this country.

Your Excellency will perceive, by the inclosures containing the opinions of H.M.'s Advocate-General, and of the Judge of the High Court of Admiralty, that there did not appear to be ground sufficient for detaining Mr. Brown in custody.

Your Excellency will find it easy, from these papers, to give such an explanation of the circumstances which attended the liberation in England of this individual, as will be satisfactory to the Spanish Minister. You will at the same time, on the part of your Court, disavow Captain Falcon's conduct in receiving Brown on board his ship within a Spanish port, and not delivering him up, upon the requisition of the Local Authorities. The officer, no doubt, acted from a good motive, but in assuming that the British flag could protect him against the legal process of the Territorial Jurisdiction within which the parties then were, was to maintain a principle, which the British Government desire distinctly to disclaim as not consonant to their uniform practice, or to the Law of Nations.

CASTLEREAGH.

CORRESPONDENCE AS TO ISSUE OF REGULATIONS RELATING TO GIVING ASYLUM ON BOARD H.M. SHIPS TO POLITICAL REFUGEES. 1863.

No. 1.—MR. LAYARD TO THE SECRETARY TO THE  
ADMIRALTY.

Foreign Office,  
March 18, 1863.

SIR,

WITH reference to your letters of the 2nd ultimo, and 24th Jany., I am directed by Earl Russell to request that you will state to the Lords Commissioners of the Admiralty that, as the Mexican officers for whom passages were provided on board H.M.S. "Camelion" were exposed to great peril at the time, when General Villareal applied for their reception on board that vessel, Lord Russell considers that the expense of their entertainment should be paid by the public.

Lord Russell would, however, suggest to the Board of Admiralty that Her Majesty's Naval Officers should be cautioned against giving passages on board H.M.'s vessels to the subjects of Foreign Governments, except in extreme cases where personal danger to the individual seems to be imminent.

His Lordship desires me also to state, that it is desirable that applications to this Department regarding passages in Her Majesty's vessels of war should, so far as may be practicable, set forth on whose requisition the passages were provided.

I am, &c.  
A. H. LAYARD.

The Secretary  
to the Admiralty.

No. 2.—THE SECRETARY TO THE ADMIRALTY TO  
MR. LAYARD.

Admiralty,  
July 24, 1863.

SIR,

WITH reference to your letter of the 18th March last, in which Earl Russell suggests that H.M.'s Naval Officers should be cautioned against giving passages on board ships of war to the subjects of Foreign Governments, except in extreme cases where personal danger to the individual seems to be imminent, I am commanded &c. to acquaint you that they have caused instructions, of which the enclosed is a copy, to be drawn up for the guidance of H.M.'s Officers on this head; but before issuing these instructions, my Lords would be glad to know whether Lord Russell has any observations to offer thereon.

I am, &c.  
C. PAGET.

A. H. Layard, Esq.,  
Foreign Office.

NOTE.—For these instructions see *Extracts* from "Addenda to the Queen's Regulations, &c., &c.," *Para.* 381, printed in this series, p. 220, as an enclosure in Admiralty Letter to the Commission of the 3rd of March 1876. They are there given as amended by the Foreign Office.

H. HOWARD.

No. 3.—MR. LAYARD TO THE SECRETARY TO THE ADMIRALTY.

Foreign Office,

August 13, 1863.

SIR,

I HAVE laid before Earl Russell your letter of the 24th ultimo, enclosing for his observations a copy of the instructions which the Lords Commissioners of the Admiralty propose to issue for the guidance of H.M. Naval Officers with regard to the question of granting an asylum to political refugees on board H.M.'s ships; I am to inform you, in reply, that Lord Russell concurs in these instructions, but he would suggest that an addition should be made to the effect that, whenever circumstances may permit, H.M.'s Naval Officers should communicate with any of H.M.'s Diplomatic or Consular Servants who may be on the spot before taking steps for the reception of refugees on board H.M.'s vessels.

I am further to request that when these instructions are finally prepared, a copy may be sent to this office for communication to H.M.'s Diplomatic and Consular Agents abroad.

I am, &c.

A. H. LAYARD.

The Secretary to the Admiralty.

VI.—THE SECRETARY TO THE ADMIRALTY TO THE ROYAL COMMISSION.

Admiralty,

28 March 1876.

SIR,

I AM commanded by my Lords Commissioners of the Admiralty to transmit, for the information of the Royal Commission on Fugitive Slaves, an extract from a letter, dated 3rd ultimo, No. 11, from the captain of H.M.S. "London," reporting the capture, by the boats of that ship, of a dhow with a fugitive boy on board, the subsequent restoration of the vessel to her owner, and the landing of the boy at Bogamoyo.

I am, &c.,

ROBERT HALL.

H. Howard, Esq., C.B.,  
Richmond Terrace.

CASE OF SLAVE DHOW CAPTURED OFF PEMBA, ON 4th JANUARY 1876, BY H.M.S. "LONDON," AND AFTERWARDS RESTORED TO HER OWNERS.

Enclosure.

*Slave Trade.*

EXTRACT from LETTER, dated 3rd February 1876, from the CAPTAIN H.M.S. "LONDON," reporting the capture and subsequent restoration to OWNER of a SLAVE DHOW.

This dhow was detained off Chak-Chak, on the 4th last month, by Lieutenant O'Neill of this ship. On boarding her, and examining the crew, a boy was discovered who stated that he had been enticed on board by promises of food from some of the men whom he had met on the beach, and that the nakhoda (captain) had offered to take him to Zanzibar. He further said, that he had been originally a slave of the Sultan, but had been stolen about two years ago and taken to Pemba, where he was sold to an Arab named Salim-bin-Saleh. This Arab, he stated, ill-treated him, and that on this account he wished to get back to his former master. On seeing the boat coming towards them the nakhoda had told him to say that he was one of the crew and not a slave. On the case coming before the Consular Court, the lad modified his former statement considerably, showing that instead of being enticed on board the dhow he had come of his own free will, being at the time a fugitive from his owner, who had been chasing him with dogs in order to re-capture him. The nakhoda and crew also strongly denied any intention other than to afford the boy a passage to Zanzibar, in return for which he was to assist in working the dhow, and as their evidence in many points corroborated the boy's latter statement (although he was kept separate from them) the case for the prosecution could not be maintained. The Court therefore pronounced a decree of restitution, and directed "that the said Kamna (the boy), having been shown to "have embarked in the said dhow by his own free will "and on his own business, shall be free to land wherever "he may please." The dhow was therefore restored to her owner, and the boy Kamna landed at Bogamoyo at his own request.

VII.—THE SECRETARY TO THE ADMIRALTY TO THE ROYAL COMMISSION.

SIR,

Admiralty, 15th May 1876.

I AM commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Royal Commission on Fugitive Slaves, extracts from letters respecting the return by Captain Sir T. Hardy to the United States Government of certain slaves who had been received on board H.M.S. "Triumph" in 1807.

I am, &c.

VERNON LUSHINGTON.

H. Howard, Esq., C.B.,  
Fugitive Slave Commission.

EXTRACTS FROM LETTERS RESPECTING THE RETURN BY CAPTAIN SIR T. HARDY TO THE UNITED STATES GOVERNMENT OF CERTAIN SLAVES WHO HAD BEEN RECEIVED ON BOARD H.M.S. "TRIUMPH" IN 1807.

No. 1.

EXTRACT from LETTER of CAPT. SIR THOS. M. HARDY, of H.M.S. "TRIUMPH," dated Chesapeake Channel, 15th July 1807, to MR. HAMILTON, H.M. CONSUL at NORFOLK, VIRGINIA.

\* \* \* \* \*

THIS morning before the Bellona was well clear of Cape Henry, a small boat was discovered, not far from the "Triumph," apparently in want of assistance. I sent a boat immediately to her relief, and found in her three black men, who call themselves free; after being informed by them from whence they came, &c., they told me that many hundreds of the same description of persons were ready to come on board provided boats for that purpose could be procured; and one, who seems very intelligent, told me that two-thirds of the people of colour would join if I would only land the soldiers (that was his expression). I have not the smallest idea of entering into the views of those unfortunate people, or of even holding out the smallest encouragement; however, under existing circumstances, I do not feel authorized in refusing these unfortunate men an asylum, should any others claim the shelter of the British standard. I must therefore beg you will, with all possible dispatch, communicate my sentiments to His Majesty's Envoy Extraordinary, that I may receive the benefit of his advice for my future guidance on this head. In the meantime, I should derive infinite consolation by your affording me your ideas on the subject.

(Thursday morning.) Two more black men are this moment come on board, and confirmed all that was stated yesterday by the men above alluded to.

\* \* \* \* \*

No. 2.

EXTRACT from REPLY of MR. HAMILTON to SIR THOS. M. HARDY, to above LETTER, dated 30th July 1807.

\* \* \* \* \*

SIR,

I HAVE had the honour to receive your letter of the 15th instant, and I am very happy to observe your determination to do everything on your part (consistent with your duty as an officer) to re-establish that friendship between the two nations so essentially beneficial to both; and that, trusting that no insult will be offered to His Majesty's flag, every measure tending to conciliation will be adopted by you.

With respect to the five black men to whom your humanity has induced you to grant an asylum, I beg to be permitted to express my apprehensions that you may have fallen into an error in affording them your protection; for, notwithstanding their declaration that they are free, I much fear that they are runaway slaves, belonging to some of the plantations adjacent to the bay, and if so, being as much the property of their owners as any other personal effects of which they are legally possessed, they ought not to be admitted or protected on board of His Majesty's ships on any account; and there are very heavy penalties, recoverable by the laws of this State, on harbouring slaves or removing out of the commonwealth. If the persons who have been taken on board by you are really free, there cannot be the smallest question of your right to retain them, any more than of that which you undoubtedly have

to extend the protection of the flag to any other volunteers claiming. But in the case of negroes asserting themselves to be free (and there are but few runaways who would not make the assertion) the task of discrimination is not easy; and I would in the most earnest manner recommend to you not only to use the greatest caution and the severest scrutiny in the admission of negroes and persons of colour on board His Majesty's ships under your command, but to restore such as may have been already received to their owners, should they prove to be slaves, and a well substantiated claim to be made for them.

Until you can obtain the sentiments of His Majesty's Envoy Extraordinary (to whom I have already forwarded a copy of your letter) on the subject, I hasten, agreeably to your wish, to furnish you with mine, assuring you that while I fully enter into your views on the side of humanity on the present occasion, yet that I rest satisfied that your opinion as to the sacredness which ought to attach to individual property (under whatever form) at this time, will accord with mine. Independent of this consideration, allow me besides to observe that nothing would at this juncture have a more general tendency to increase the popular irritation in this quarter, than the idea of any facility being offered to the escape of their negroes,—at all seasons with the inhabitants of the sea coast, an object of peculiar jealousy and anxious apprehension.

\* \* \* \* \*

No. 3.

EXTRACT from LETTER of BRIGADIER-GENERAL MATHEWS, commanding United States Forces at Norfolk, Virginia, dated 5th August 1807, to CAPTAIN SIR THOS. M. HARDY.

\* \* \* \* \*

MAJOR Tazewell having informed me that you had made him acquainted with a circumstance relative to some people

of colour, supposed to be slaves, now on board your ship, and that you had permitted them to remain, the better to secure them to their owners, I have directed Captain Taylor to solicit the delivery of those persons or any part of them. Captain Taylor is accompanied by several citizens, who attend for the purpose of examining those people, and if in their power, to identify them.

\* \* \* \* \*

No. 4.

EXTRACT from LETTER from SIR THOS. M. HARDY, dated 8th August 1807 to BRIGADIER-GENERAL MATHEWS.

\* \* \* \* \*

SIR,

I HAVE the honour to acknowledge the receipt of your letter of the 5th instant, by Captain Taylor, who, I have no doubt, has made you acquainted with my ideas on the mode of communication, and which I trust you will accede to. The slave that was missing the other day is now found and will be delivered up to any person authorised to receive him. Douglas M'Dougle, an American citizen, is also landed by this conveyance, and the other men will be sent to Norfolk, as soon as Consul Hamilton forwards to me a sufficient proof of their being citizens of the United States. I take this opportunity of returning two boats, to be claimed by their proper owners, which have been picked up by this ship.

\* \* \* \* \*

PAPERS FURNISHED BY MR. H. C. ROTHEBY.

LIST OF PAPERS.

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I.—THE ANTIGUA SLAVE CASES.

The facts connected with these cases are to be found in a volume of Colonial Office correspondence, which is now in the Record Office. It is entitled "Antigua and Montserrat, 1826, vol. 3, Slaves claiming freedom."

It seems that in the year 1826 proceedings were instituted, under instructions from the Home Government, by the local Attorney General at Antigua, with a view of testing certain questions arising under the Slave Trade Abolition Act. The object of the proceedings was to secure the freedom of certain slaves who, having been absent for a time from the colony, had afterwards returned to it, and it was contended by the Government that that circumstance alone was sufficient to entitle them to their freedom.

The proceedings caused great excitement in Antigua, and a joint Committee of both Houses of the Legislature was formed to protect the interests of the slave owners, and to bear the expenses of the defence.

With a view to save expense, it was proposed by the Government that some of the cases, of which it seems there were 27, should be selected as test cases, and that, pending the ultimate decision of the question, the slaves in all the other cases should be returned to their owners, on the condition, however, that they should be well treated, and that they should be given their freedom in the event of the final decision being in their favour. To this proposal a peremptory refusal was given. The suits proceeded, and after a full hearing, the judge of the Vice-Admiralty Court on the 31st July 1826 gave judgment in two of the cases, those of the slave Grace and the slaves James and Robert, and on the 12th August following in the cases of the slaves Jack Martin and of Rachael and John Smith. The court in each case ordered the slaves to be restored to their respective owners with costs and damages against the prosecutor. From these decisions the Attorney General of

Antigua appealed to the High Court of Admiralty, then presided over by Lord Stowell.

The two most important cases, and which seemed to involve all the questions at issue, were those of the slave Grace, and the slave John or Jack Martin. And it will be advisable to examine the circumstances of each.

No. 1.—CASE of the SLAVE GRACE.

In this case the slave had accompanied her mistress to England, and after residing there for some time had voluntarily returned with her to Antigua. The facts of the case are very fully reported in the second volume of Haggard's Admiralty Reports, p. 94. It is only necessary here to state that the slave was ordered by the Court of Antigua to be given up to her mistress with costs and damages for the period of her detention, and that that decision was affirmed on appeal by Lord Stowell.

No. 2.—CASE of JACK MARTIN.

The case of the slave Jack Martin is very curious, and as no notice of it has, so far as I am aware, been published, except a very short one in the Annual Register for 1827, page 355, it may be well to state the facts at some length.

The circumstances which led to the proceedings in the case of Jack Martin will be found fully detailed in a letter from Mr. Chipchase, an officer of the Customs at Antigua, dated the 10th of January 1826, and of which the following is a copy:—

Custom House, Antigua,  
10th January 1826.

SIR,

I BEG leave to report to you that a black man, named John Martin, has applied to me for the purpose of

establishing his right to freedom, having served about two years in Her Majesty's ship the "Blenheim," commanded by Captain Burret, and arrived at Plymouth, when that ship being paid off he was sent on board the "Centurion," where he remained about two weeks, and then joined the "Cygnet" commanded by Captain Hodge, and became tambourine player in the band. That the "Cygnet" was soon after ordered on a cruise and to Halifax, at which place he received five pounds, and was there married to Eliza Middleton, the daughter of Andrew Middleton, who was at that time living with the Commissioner of the Dockyard. The "Cygnet" was then ordered to Guadeloupe with four horses for the use of Sir Alexander Cochrane, and having landed them was proceeding to Saint Johns for the purpose of receiving prize money, due to some of the crew, when she carried away her mainmast, and put into English harbour to repair, and from thence to this port, when a woman by the name of Susannah Moviani, who is still here, went on board and informed his former master, who, through the influence of Mr. McKay, at that time prize agent, prevailed with the captain after much hesitation to give him up, notwithstanding the man's solicitation to be allowed to return to his wife. He was then sent to jail, where he remained two weeks, and was then removed on board a brig belonging to Messrs. Baxter and Friningham, for the purpose of being sold, and went to Barcelona, the island of Blanco, and Cumana; but Mr. Friningham, who was on board the vessel, finding him a useful man, did not offer him for sale, and determined on purchasing him himself, but he unfortunately died; and on the vessel's return he was again sent to jail, where he remained some time, and was then purchased by a Mr. Mitchu, who afterwards sold him to Messrs. Laidlaw and Cummings, with whom he has since remained.

As I have no reason to doubt the truth of this man's story, having made inquiry of a free person who was in the same fleet when he left the island, I have considered it my duty to detain him as liable to freedom, having served in His Majesty's navy, and been in England, and I have also detained him for being illegally imported into this island contrary to the Abolition Acts.

I have, &c.

CHAS. CHIPCHASE,  
Writer.

To the Collector of His Majesty's Customs,  
Saint John's.

In the course of the proceedings some question arose as to whether the slave had been so long absent from the colony as was pretended; but on the 12th of August 1826 Dr. Nugent, the Judge of the Vice-Admiralty Court, gave judgment in the words following:—

"It is abundantly clear that this John or Jack Martin was originally a slave here, that he ran away from his master many years ago, and that whether his absence were long or short, on his return to the island his master obtained quiet possession of him, and that he has ever since been held as a slave."

"I really do not see that it is of the slightest consequence whether the slave absconded in 1806 or 1810, whether he entered on board His Majesty's ship "Blonde" or His Majesty's ship "Cygnet;" whether he went merely to a neighbouring island or to England, whether he stayed away a few weeks or a few years. If John Martin alias Jack Martin wished by absconding from slavery to be ever after regarded as a free man he ought to have taken care not to come within the reach of the local law of Antigua, and not to enter into any such contracts or engagements as would render it likely he should come here."

"Whether the commander of His Majesty's ship was bound to give up this man to his master is another thing. If the ship lay within the insular jurisdiction and within what are termed the 'fauces terræ,' the local law would I apprehend have its influence in this particular. If the ship was without the island jurisdiction and properly on the high seas, then the commander ought not certainly to have given up this man against his will. Be this as it may, the master gets possession by the consent and direction of the commander of His Majesty's ship, and surely the owner or master having obtained quiet possession of his slave once more is entitled to retain and treat him as such."

And after stating that the case was simply that "of a British runaway slave," to whom the 5 Geo. 4. c. 113, could not apply, that Act having only come into operation on the 1st of January 1825, and not having any retroactive or ex post facto operation, the judge directed that Jack Martin should be restored to his owner, with costs and damages against the prosecutor.

From this decree the case was appealed to England, and on the 8th of December 1827 Lord Stowell gave judgment affirming the sentence of the court below, and condemning the prosecutor in costs and damages. We have not, as in the case of the slave Grace, the terms of Lord Stowell's judgment, but the records of the Court of Admiralty contain an entry of the decree, and show further, that on the 6th of May 1828 the case was remitted, together with that of the slave Grace, and other cases, to the Vice-Admiralty Court of Antigua in order that the respective claimants might obtain the costs and damages which had been awarded to them.

## II.—TREASURY MINUTE, APRIL 1839, ON THE COMPENSATION TO BE GRANTED IN THE CASES OF THE UNITED STATES VESSELS "COMET" "ENCOMIUM," AND "ENTERPRIZE," FOR SLAVES LANDED ON BRITISH TERRITORY.

Read a report from Mr. Rothery, dated 30th ultimo, submitting the result of his proceedings in pursuance of the arrangement provided for by the Board's minute of 4th June last, in regard to the inspection of documents in the possession of the Minister of the United States of America, relating to the value of the American slaves wrecked at the Bahamas in the vessels "Comet" and "Encomium," and of the directions conveyed to him on the 27th January last to attend at the office of the American legation for that purpose.

From this report, and from the annexed copies of documents, it appears that Mr. Stevenson is in possession of satisfactory proof of the amount of insurances effected on 146 slaves on board the "Comet," and on 13 of the slaves on board the "Encomium"; and my Lords conceive that these insurances are sufficient evidence of the valuation of the slaves by their owners, and of the loss sustained by subjects of the United States, either as owners or insurers, from the transactions which led to the interference of the British custom-house officers, and to the liberation of the slaves. My Lords, therefore, resume the consideration of the proceedings relating to the claims preferred for indemnification for losses in respect of these slaves, as well as for slaves subsequently liberated at Bermuda from on board the American vessel "Enterprize," and have again before them the several communications received from the Secretaries of State for the Colonial and Foreign Departments, with the reports of the British officers and functionaries relating to the wrecks of the vessels and the liberation of the slaves brought into the Port of Nassau, as well as to the proceedings with respect to the "Enterprize," and copies of the communications with the American legation respecting the claims of the owners or insurers for compensation. My Lords also refer to the communication made by their direction to Viscount Palmerston, on the 15th December 1836, which, referring to opinions of the law officers of the Crown then before the Board, apprized his Lordship that it had appeared to the law officers, on adverting to the circumstances attending the wrecks of the "Comet" and the "Encomium," and to the period at which those wrecks occurred, "that the relation of owner and slave was not necessarily dissolved on the arrival of the slaves in the British colony," but that the slaves "being virtually in the possession of the owners were seized by a functionary of the British Government," and that although "had there been no interference on the part of the English Government, the owners might not in either case have been able to re-ship the slaves," yet "if the seizure was wrongful and prejudicial, some compensation would be due, and the party aggrieved is to be favourably heard when he imputes the whole of his loss to the injury done to him," and that in accordance with this opinion my Lords would be prepared, on being furnished with specific information as to the value of such of the slaves on board those two vessels as remained at the Bahamas, to have under consideration the amount of compensation, it may be reasonable to allow for any injury the American owners may be presumed to have sustained from the interference of the British functionary in landing the slaves at Nassau, and to make application to Parliament for the means of discharging the same. But the law officers of the Crown having further stated that the owner of "the slaves on board the 'Enterprize,' (which vessel had entered the Port of Hamilton in Bermuda on the 11th February 1835), never was lawfully in possession of them within the British territory," for that the moment the ship entered the port they were free, as slavery had "been abolished throughout the British

" Empire, and they had acquired rights which the Courts there were bound to recognize and protect"; and the law officers had also remarked, that "however the cases of the 'Comet' and 'Encomium' may be disposed of, they are the last of the sort that can occur; for upon the most mature consideration of the subject they were of opinion that, slavery being now abolished throughout the British Empire, there can be no well-founded claim for compensation in respect of slaves that may come under any circumstances into the colonies, any more than into the mother country."

Lord Palmerston was at the same time further apprized that my Lords considered the claim respecting the slaves in the "Enterprize" to be finally disposed of by the principle thus laid down, and that the recurrence of any similar claim in future is likewise thereby precluded.

My Lords further refer to the note addressed to the American minister, by Viscount Palmerston, on the 7th January 1837, communicating the decision of the British Government to the foregoing effect with respect to the claims in question, and likewise to the statements relating to the value of the slaves in the "Comet" and "Encomium" furnished by the American minister, and to Lord Palmerston's further note of 12th September 1838, signifying the opinion of the Government that no claim for compensation could be entertained in respect of certain of the slaves from the "Comet," who had escaped from the custody of the owners and were on shore at large previously to the time of the seizure by the officers of customs, or on other slaves who had subsequently returned to their former servitude in the United States, and that any assessment of compensation must have reference not to an estimated valuation of the produce of the sale or employment of the slaves at the place of their destination, which the statements received from the American minister appeared to contemplate, but to such value as might be satisfactorily shown to have attached to them at the period of their embarkation for the voyage in the course of which the wrecks occurred.

From the report and documents now submitted to the Board by Mr. Rothery it appears that of 164 slaves who had been embarked in the "Comet" insurances had been effected on 146; and it further appears, from the representation of an agent who had proceeded to the Bahamas to reclaim these slaves on behalf of the insurers, that of the above number embarked, who had all been saved from the wreck, 11 had escaped from their owners by swimming on shore immediately after their arrival at Nassau, five in all had returned to servitude in the United States, and two had died, thus leaving 146 in respect of whom compensation would be payable. It also appears that of 45 slaves embarked in the "Encomium" insurances had been effected on 13 only, and that of the number embarked, who had likewise been saved and brought into the Port of Nassau, 12 had returned with their owners to the United States; leaving in this case, therefore, 33 for whom compensation could be claimed. The documents further show that the insurance effected on 146 slaves in the "Comet" amounted to 70,000 dollars, equivalent, at the rate of exchange stated to have been concurred in by Mr. Stevenson, to 14,000*l.*; and my Lords are of opinion that this insurance may be adopted as a fair valuation of the 146 slaves of whose services the owners were divested by the interference of the officers of customs.

With respect to the case of the "Encomium" it is shewn that the insurance effected on 13 of the slaves amounted to 6,200 dollars, giving an average valuation of 477 dollars nearly for each slave; and as this average also very nearly accords with the average of the insurance in the case of the "Comet," my Lords conceive that it may be reasonably adopted as a fair rate of valuation for the remaining 20 slaves; and accordingly that the above sum of 6,200 dollars, with the addition of 9,539 dollars, being the proportionate value of the 20 uninsured slaves, and constituting an amount of dollars 15,739, equivalent to 3,147*l.* 16*s.*, may be properly assumed as a fair valuation of the 33 slaves of whose services the owners were divested in the case of the "Encomium."

My Lords having also proceeded to consider the title of the claimants to the above-mentioned compensation to interest for the whole or any portion of the period during which the payment has been deferred, and having adverted to all the circumstances that have delayed the admission and adjustment of the claims, are of opinion that the parties are entitled to some further consideration in this respect, and that it will accordingly be proper to allow interest on the sums that may be assigned as compensation for the slaves at the rate of 4*l.* per centum per annum from the dates of the respective seizures by the officers of customs at the Bahamas to the period at which my Lords shall be prepared to direct payment of the compensation to be made.

Write to Mr. Fox Strangways transmitting copy of the foregoing Minute, in order that it may be submitted for the consideration of Viscount Palmerston, with reference to the correspondence that has taken place respecting the claims of the subjects of the United States of America to which it relates; and request that in laying the same before his Lordship Mr. Fox Strangways will state that unless Lord Palmerston should see reason to dissent from the arrangements thereby contemplated, my Lords will cause an estimate to be prepared and submitted to Parliament with a view to the requisite vote for carrying the same into effect being obtained.

At the same time, Mr. F. Strangways will suggest to Viscount Palmerston that in apprising the Minister of the United States of the intentions of Her Majesty's Government with respect to the adjustment of the claims for compensation for the slaves in the "Comet" and "Encomium," it will be advisable that he should not only be informed that the proposed payment is to be final and conclusive as regards these two cases, but likewise that his attention should be again particularly called to the principles on which it has been considered that some indemnification might be due to the parties who sustained loss by the liberation of the slaves wrecked in those vessels, but that no claim can be recognized for any such indemnification in respect of the slaves who were in the "Enterprize," or of any other slaves thrown within the British jurisdiction, in the colonial possessions or otherwise, subsequently to the abolition of slavery throughout the British dominions, and availing themselves of the protection of the British laws; and my Lords have also to suggest that the American Minister should further be informed that it is only with distinct reference to this principle that my Lords would feel warranted in making the application to Parliament they have now proposed.

## MEMORANDUM on the ESTABLISHMENTS for LIBERATED AFRICANS at MOMBAZA and NYANZA, by the Right Honourable Sir H. BARTLE E. FRERE, Bart., G.C.B., G.C.S.I.

THERE are some papers regarding the Church Missionary Society's establishment at Mombaza, which, if permitted, I should like to put in. They have been sent to me by the Society, and they seem to me to show that the society's establishment at Mombaza, if supported by the Sultan of Zanzibar and by the British Government, as the Sultan's ally, might at a very small cost to us, do all that we wish in checking the slave trade both by land and sea on that part of the coast, and in affording a good safe refuge for all liberated slaves. At the same time it would assist the Sultan to maintain his authority and greatly increase his customs and other revenue.

If I were advising the Sultan I would suggest to him to declare Mombaza and a good portion of the country round, to be free soil, as British India is at present; pointing out to him that all that was necessary was for him to decree

that, within that territory, His Highness' courts of law would not exercise their authority to support slavery, they would simply ignore it. That this would leave practically unaltered the present relations between good and kind masters, such as the Arabs generally are, and their slaves who are well treated, and who in fact differ only in name from servants, well-treated and well-cared for. That such a territory might become a most valuable possession, and would form a good and effective barrier to the aggressions of other powers.

Whether His Highness adopted such a course or not, I would, if permitted, suggest to Her Majesty's Government to concede all the requests of the Church Missionary Society, as contained in their letter to Lord Derby of April last, viz:

1. To confer on Captain Russell, or some similarly

qualified person resident at Mombaza, vice-consular powers, making him in his consular capacity entirely responsible to the Consul-General at Zanzibar.

2. That Government should pay the Society, as was done on the west coast, a fixed sum towards the support of every freed slave entrusted to the Society's care, and unable to earn a maintenance.

3. That the postal steamers should receive a suitable addition to their contract payments to induce them to call regularly at Mombaza.

Similar concessions, especially under the second head, should be made to the Universities Mission and the French Missions at Zanzibar and Bagomoyo in consideration of their trouble and expense in caring for freed slaves entrusted to their care till such slaves are able to earn their own living; a scale of head money calculated according to age and apparent want of capacity to earn wages, and paid in one sum when the freed slave is made over to them, would probably be the simplest and best form of payment.

Both Bagomoyo, and some point to the southward, or in the neighbourhood of Lake Nyassa, would be suitable places for tracts of free soil, such as is recommended at Mombaza, as barriers to the land transport of slaves.

I have no doubt it would greatly tend to check the slave trade, if the English Government would act as mediator between the Khedive and the Sultan of Zanzibar with a view to define the boundary of their acquisitions on the east coast. I would suggest as the bases of the arrangement to be so negotiated:

1. On the coast, a good and safe port to be secured to Egypt, south of Brava. This seems to me essential to enable the Khedive to do anything effective towards establishing his authority in Somaliland, and developing its resources.

2. Inland I would make the line of political division follow the line of demarcation of races, leaving the Somalis and Gallas to be dealt with by the Egyptians, and the negro races by the Sultan of Zanzibar.

3. This will probably bring the line of demarcation to the south of the present most northerly limit of the Sultan's garrisons. As compensation for this the Khedive should either pay down a sum fixed in proportion to the present net value of the customs, and other Zanzibar revenues, or engage to pay a fixed annuity for a term.

4. The arrangement should stipulate for entire freedom of commerce, abstention from slave dealing, and a limitation to customs duties, on both sides.

May 10th, 1876.

H. B. E. FRERE.

Inclosure I. in Sir Bartle Frere's Memorandum.

THE CHURCH MISSIONARY SOCIETY TO THE EARL OF DERBY.

Church Missionary House,  
Salisbury Square,  
April 1876.

MY LORD,

I AM directed by the Committee of the Church Missionary Society to lay before your lordship the following facts connected with their mission established at Mombaza on the east coast of Africa, and to ask the assistance of Her Majesty's Government in efforts which the Society are making for the reception and care of the negro slaves liberated by Her Majesty's Government under the treaties with the Sultan of Zanzibar for the suppression of the East African slave trade.

In the year 1874 the Society, who had already a station at Mombaza, purchased a considerable tract of land at that port for the purpose of forming a settlement where they might be able to receive liberated slaves, this settlement was visited in the month of July 1875, by Acting Consul General Major Euan Smith, and I have the honour to refer your Lordship to the report of that officer addressed to your Lordship for an account of the establishment. Since that time there have been sent to the settlement 350 slaves, a large proportion of whom are children; the adults have been planted out in cottages, and the children have been received into schools upon the settlement where they are maintained and taught at the cost of the Society. The Society has also at its own cost erected the necessary buildings for the adults, and provided them with food and clothing to the present time, the Society has, moreover, provided teachers, and also superintendents for instruction in manual labour, with the view of ultimately making the colony self supporting, and enabling the adults to earn their own livelihood.

In forming this settlement the Society had in view not only the amelioration of the condition of the liberated

slaves, but they acted in the belief that such a settlement would prove a most powerful auxiliary in the suppression of the slave trade, both by teaching the lesson of the value of free labour, and by acting as a break in the line of the traffic by land which it was felt would arise in order to evade the action of the squadron along the coast.

The Committee have acted in conformity with the recommendations on this subject of Sir Bartle Frere, and they are happy to know that in this course of action they have the approval of Her Majesty's Government. The recent debate in the House of Commons has drawn attention to the fact that the slave trade has not diminished, it has only taken a new channel, and that from the collecting grounds to the south and west of lakes Tanganika and Nyassa there is continually poured a perpetual stream of unhappy captives; these instead of being destined for shipment from the coast to the south of the Island of Zanzibar are marched along the coast to the north under circumstances of the most revolting cruelty, for details of which I need only refer your Lordship to the Reports of Captain Elton, dated January 1874, and to the accompanying extract from a letter written in November 1875 by the Rev. W. S. Price, the senior missionary of our Mombaza mission. From these facts it is evident that the slave trade has not been checked, but only diverted into a new channel, the necessity therefore, of some such establishment as that I have referred to, where the slaves may be received when liberated becomes more urgent. Still more is this the case in view of the motion which was acceded to in the House of Commons, that Her Majesty's Government should assist the Sultan of Zanzibar to deal with the land traffic, and enable him to intercept the slave gangs which are constantly passing to the north. If this is done, the Committee, who have given, as your Lordship will recollect, from the memorial which they had the honour to lay before your Lordship in the year 1874, some attention to the subject, anticipate that their settlement will play a still more important part in the suppression of the trade.

Under all these circumstances, and looking to the fact, that already the rising colony needs an officer at its head of energy and experience, the Committee have appointed as lay superintendent, Commander Russell, who has recently retired from the navy, and has been very highly recommended to them.

Captain Russell's duties will be entirely in connexion with the lay administration of the settlement, and of such off-shoots from it, as may in course of time be made.

In their selection of this gentleman, the Committee have desired to obtain, and think they have obtained one on whose courage, firmness, and tact they can rely.

The Committee have thus endeavoured to do all in their power for the reception of the liberated slaves, and now they are prepared, subject to two conditions, to receive any number of liberated slaves, the Committee intend to lay an application before the Lords of the Treasury, and in respect of the other, viz., for some measure of protection for the new settlement, they beg to make the following proposal to your Lordships, that Her Majesty would be pleased to grant to Captain Russell the position of Vice-Consul at the Port of Mombaza, with a small allowance, and also that arrangements be made for the regular calling at the Port of Mombaza of one of the vessels of the East African squadron. The society have given Captain Russell a salary of 400*l.* per annum, with a furnished house, so that they would not ask the Government for more than 150*l.* or 200*l.* per annum, as circumstances may require. Should it become desirable to form a Vice-Consular Court under the East African Courts Bill at Mombaza, some further arrangements may be needed.

One further suggestion the Committee would venture to make, and that is, that the regular calling at Mombaza of a line of steamers would prove an important auxiliary in the suppression of the slave trade.

Captain Russell is prepared to sail upon the 27th instant, and the Committee would hope that before that date, the proposals they have ventured to make may receive the favourable consideration of Her Majesty's Government.

I have, &c.

EDW. HUTCHINSON,  
Lay Sec., C.M.S.

To The Right Hon.  
The Earl of Derby, K.G.,  
Her Majesty's Secretary of State for  
Foreign Affairs,  
Foreign Office, Downing Street.

## Inclosure II. in Sir Bartle Frere's Memorandum.

## EXTRACTS from JOURNALS of Rev. W. S. PRICE.

## I.—Concerning Frere Town and the Freed Slaves.

Sept. 28th.—We are all working at high pressure. The sudden influx of nearly three hundred souls—men, women, and children—in a state of destitution, speaking a language that nobody understands, and many of them suffering from various diseases, is no joke. The first problem is how to provide food for so large a multitude. The necessities of life, few and simple as they are, are not easily obtainable, and, when obtained, they have to be cooked under great difficulties. When our buildings are completed, and the machinery is in full working order, this will be a comparatively trifling matter, but in our present transition state it is a troublesome business. Then, with our limited means of accommodation, one's powers of invention are sorely taxed to locate all decently according to age and sex. Happily we have so far progressed as to be able to shelter them, and we are running up temporary buildings which, in a few weeks, will be ready for occupation, and remove all anxiety on this score for some time to come. Some unruly spirits have to be restrained and controlled; the sick have to be attended to, and the able-bodied to be supplied with suitable employment. In addition to all this, provision must be made for the education of the young and the regular religious instruction of all. Altogether we have a task before us which makes a full demand on all our powers of mind and body, and for the due performance of which we need, above all, "the wisdom that cometh from above."

Sept. 29th.—Migrated to Frere Town. Here my chief work lies at present. Everything has to be organized and set on foot, and a number of questions arise daily which require me to be on the spot. We are putting up an iron cottage, which is intended ultimately as a dispensary. Though none of us are raised more than a few feet from the ground, we find the change from Mombaza agreeable and invigorating. We have the full benefit of the sea-breeze pure and uncontaminated.

Oct. 1st.—Organized a police-force, consisting of a Havildar, a Naik, four Sepoys, and two night watchmen. This is absolutely necessary for the maintenance of order. Selected twenty-six boys to be employed as apprentices under Messrs. Last and Pearson as masons and carpenters, and made arrangements for their messing and supervision. Had the greatest trouble in providing for the adults—men and women. They are a lazy, unruly set, and difficult to please; and for want of language it is impossible to make them understand our kind feelings towards them.

Oct. 7th.—Mustered the freed slaves, and took down their names, classifying them according to sex and age. Distributed sleeping-mats to all the new-comers. Placed five little boys, who are a good deal emaciated, in the hospital under Minnie's care. A poor man, who came in the first batch, suffering from terrible ulcers, and who has been carefully attended to by the doctor, is evidently sinking. He cannot last long, and it is sad to feel that one has not the means of pointing him to the Saviour.

Nov. 8th.—Some of the Wamiakwa are married, and others who are not, wish to be, which is very natural. I had a piece of ground cleared to-day, and went out with Mr. Harris to divide it into small allotments, so that each married couple may have a separate hut in which they may decently live. I feel that we can scarcely hope to effect much among them in the way of spiritual teaching till they are somewhat settled and comfortable in their domestic relations.

Sunday, Nov. 14th.—Took advantage of George's presence to get him to preach in Kiswahili at our morning service. He took for his text, "Ye are the salt of the earth." In the afternoon we collected all the freed slaves, more than 200, and he endeavoured to impress upon their minds two truths which are at the foundation of all true religion, the Being and omnipresence of God, "for he that cometh to God must believe that He exists." I never in my life witnessed such an illustration of that kind of teaching which the Prophet seems to describe as "line upon line." After a simple statement of the truth that there is a God, and that He is everywhere present, he expressed the substance of his teaching in the following formula:—"Munugu Killa pahali yupa, jun na thun," ("God is in every place, above and below"); and then, dividing his audience into several groups, he patiently persevered with each group, till they could not only repeat the words after him, but utter them without his assistance. I am within mark when I say that he repeated the words at least 300

times. The exercise lasted an hour and a half, and the patient teacher was rewarded at last by finding that the words, if not in all the fulness of their import, were imprinted on the minds of his rather obtuse pupils. This may seem a small result, but it was worth the labour. Minds full of darkness do not easily open to the first rays of spiritual light.

Dec. 21st.—Went to Frere Town, and married fourteen couples of the freed slaves. The men and women were grouped apart, and then the men, as their names came up, were asked to name the objects of their choice. This, in most cases they were unable to do, and there was nothing for it but for the would-be husband to enter the charmed circle, and lead off the object of his affection. Generally there seemed to be a preconcerted arrangement between the parties, but not always. One unfortunate wight came forward, and, on looking round on the galaxy of black beauties, was so bewildered that he was unable to fix his choice on any one in particular. With a peculiar nervous shrug, and a crimson blush, which was all but visible through his black skin, he said, "I should be very happy to marry them, but don't know who will have me." He subsided amidst a roar of laughter from his companions, and his case was of course postponed. Another no sooner pointed out the lady of his selection than she coquettishly turned her back upon him, and began to stare vacantly in an opposite direction. I said, "Very well, no compulsion, let him stand aside." This was more than she expected; she only wanted to be wooed and won like others of her sex; under the circumstances, as this was inadmissible, she quickly relented, and gladly suffered herself to be led away to the group of selected brides. I took each couple separately, and joining their hands, required them "to pledge their troth either to other." The number was only limited by the number of cottages ready for married couples. By next week we hope to have as many more.

Jan. 2nd, 1876.—This afternoon a large buggalow arrived from Bombay, with Jones and forty Africans, most of whom are cultivators. He will be a valuable addition to our little band of workers. The cultivators, too, if steady Christian men, and possessing a fair knowledge of their profession, will be a great boon to the settlement. They come fully equipped with ploughs and other implements, which the institution at Sharanpur has furnished. I have asked the doctor to make a careful medical inspection, and then to note how they are variously affected by climatic influences here and at Rabbai.

Sunday, Jan. 23rd.—Nursing dear L—, and so unable to attend Divine Service. Mr. Binns read prayers in English, and W. Jones preached in Kiswahili. It was a cheering sight for our new friends on their first Lord's-day, a large room well filled with black faces, listening to an earnest and eloquent sermon preached by a man as black as themselves, who is himself an illustration of what Christian education and God's grace can do for a poor despised slave.

Jan 27th.—This afternoon I went over to Frere Town, and witnessed a sight which has given me more real pleasure than anything I have yet seen in East Africa. I paid a visit to the school, dropping in quite unexpectedly, and found Mr. Handford, Jacob, and three monitors all at their posts, and everything going on in excellent order. Maps and Scripture prints were tastefully arranged over the walls, producing at once a cheering and instructive effect. But what surprised and pleased me most was, to see the command Mr. H. had gained over his little savages in so short a time. They went very creditably through their "facings and paces," and with the modulator before them they took the key-note from a tuning-fork and gave the dominant notes in the scale. Before dismissal they all knelt down, and audibly responded to a short form of prayer in English. I heartily thank God for permitting me to witness this—the beginning, as I cannot but think, of one of the most hopeful and promising works in connexion with the spread of Gospel light in East Africa. Handford finds Jacob a great help.

Sunday, Jan. 30th.—Twenty young girls of the freed slaves are now here under Polly's care. They have already greatly improved in appearance and manners. They are learning to read and sew and cook, and are regularly instructed in spiritual things as they are able to bear it. May the Holy Spirit work upon their hearts, and lead them to the Saviour! These, together with several families of the cultivators that recently joined us from Bombay, have added considerably to the congregation at Rabbai, and the little temporary church was pretty well filled this morning.

Arrival of the freed slaves at "Thetia."

Marrying the freed slaves.

William Jones (native catechist) and cultivators from Bombay.

The freed slave children at school.

First religious instruction to freed slaves.



## Inclosure III. in Sir Bartle Frere's Memorandum.

## EXTRACTS FROM JOURNALS OF REV. W. S. PRICE.

## II. Concerning Slavery, and the Relations of the Colony to the Authorities.

Oct. 8th.—The other day a Swahili man was caught tampering with one of the freed slaves, and trying to decoy him away. I made him over to the Wali for safe custody, till I can report the case to the Consul, and know his decision upon it. Meanwhile it would appear that on the very morning when they were landed from the ship, either this same individual or another, taking advantage of the confusion, managed to spirit away two of the women and to sell them again into slavery. One has escaped and found her way to Rabbai, and when she comes we shall be able to learn more of the matter. I am anxious to get to the bottom of it.

Oct. 9th.—A female slave of a Swahili has run away from her master and taken refuge at Frere Town, in the house of one of our native Christian women. The master, who is little removed from a brute in appearance, wanted to take her away by force; but the doctor, who happened to be there, would not allow him to do that. He comes complaining to me, and I have told him, if he will promise to treat the woman kindly, I will do my best to send her back to him on Monday. He seemed unwilling to give up his intention of putting her in chains for awhile, but, to secure my co-operation, gave the required promise. If we had authority to issue a proclamation to the effect that every slave setting foot on the soil of Frere Town would be free, domestic slavery in Mombaza would soon come to an end.

Oct. 10th.—Word is brought me that a poor slave-girl has run away from her master, and taken refuge with our freed slave girls at Frere Town. I must look into this and the other case to-morrow. It goes sadly against the grain to hand them over to their brutal masters; but, as the law stands, I fear there is no alternative. The most I can do is to try to obtain from them a promise of better treatment.

Oct. 11th.—The woman and girl who had fled to us for refuge I brought over and sent to the Wali with my compliments, and a request that they might not be cruelly treated by their masters. The Wali returned a very civil message, and promised to call for the masters and warn them to treat the runaways kindly.

Oct. 23rd.—Had a strange application made to me to-day. Three men from Jibore, near Melindi, representing themselves as runaway slaves, who support themselves by kidnapping and selling children, came asking to be allowed to settle here. They are able-bodied men, and quite willing to work for their living, but want protection. They state that a large number of men in a similar condition are willing to follow them if they find that they are well received. They say they are quite aware that if they come amongst us they must give up their evil practices and conform to our rules, and they are willing to do this. I told them they might come and work with our people for a month, and that if I was satisfied with their conduct, I would make some arrangement for their living here. There are some hundreds of men of this class scattered over the country, who, for the sake of protection, are almost driven to connect themselves with M'baruk, or some other lawless chieftain, who employs them upon plundering expeditions, nevertheless they would be glad, if they had the chance, of maintaining themselves in a more honourable way.

Nov. 5th.—A visit from the Wali himself this morning. It is the first time he has been at Frere Town. His object in coming is to ask my advice and co-operation in the event of a hostile visit from the Pasha's men-of-war. He said he should make all preparations in his power, but begged that, if the ships came, I would send off a boat and try to make arrangements with the invaders. He appeared greatly satisfied when I said that I would not only do this, but in case of necessity go myself. Of course, if anything of the sort does happen, I shall hoist the British ensign. Six of our Makua freed slaves have absconded. I am suspicious that they have been enticed away to join the band of runaway slaves attached to M'baruk. It is difficult to get at the bottom of these things, but I shall try. The men were well provided for and appeared contented, and their disappearance is mysterious.

Nov. 13th.—To-day George came from Rabai, accompanied by Abe Ngao and several people from Giriama, who wish to see me; and two of whom at least express a desire "to join the Book." On the way they met with an adventure. They came upon a gang of slaves, who were being driven along to a northern port. The owner, seeing a carpet-bag approaching, suspected a European, and did his best to get the slaves hidden away in the jungle; but owing to their heavy chains and loads this was no easy task, so

George came upon the scene before he had accomplished it. There were in all thirty-seven poor creatures mostly chained together, while some had long forked sticks on their necks. The owner, apparently awed by seeing a respectable black man in European dress, in answer to his inquiry, said the slaves belonged to the Wali of Mombaza. "If so," replied George, "come along with me; I am going to Mombaza, and shall ascertain from the Wali whether or no you speak the truth." The poor wretch then confessed he had told a lie, and that he was taking the batch of victims to Melinda. Among them was a young man, whose feet were so swollen with the journey that he could with difficulty move along. George took him in charge, and brought him on to Frere Town, the owner apparently well satisfied to be let off so easily. George did not stop to inquire as to the strict legality of his proceedings, he acted simply on principles of humanity, and no doubt, from a moral point of view, he was right. He met with a man having stolen property in his possession, and as far as he was able he made him disgorge. When the poor fellow came in he had still on the forked stick which he had carried many a weary mile through the African jungle. It is a wooden stick, six feet and a half in length, with a triangular fork at the end, which is fitted on to the neck, and fastened by a thick iron spike. It required a chisel and hammer to relieve him of it. In travelling, the slave has not only to bear the galling of this upon his neck, but to sustain the weight of the heavy log of timber in his hand, and, as long as he can possibly hold out, to carry a load on his head. Surely, of no class of people can it be more truly said, "the instruments of cruelty are in their hands," than of the traffickers of human flesh. The Christian philanthropists of England have not yet half realized what East African slavery is, or they would not have let off their late visitor so easily, nor would they rest till the treaty which provides for the capture and liberation of slaves by sea is amplified, so as to *legalize the liberation of slaves conveyed by land*. Till this is done comparatively little is done to heal the "open sore" which is a disgrace to humanity, and which brings a curse upon the fair country in which it is suffered to exist. It is a fact that, within twenty miles of this place, there passes from south to north an almost continuous stream of miserable creatures—human beings, men, women, and children—exposed to every hardship and cruelty by the men-stealers who have caught them in their toils, and all this in spite of our intimate alliance with the enlightened ruler under whose protection this system of iniquity exists and flourishes.

Nov. 15th.—One of the men from Giriama, who came on Saturday, is Yamezi, a man of some position, an elder of elders among his own people. To-day his two sons came to say that Raschid-bin-Khamis, the Wali of Takanugu, taking advantage of his absence, had sent a band of soldiers, who made a night attack upon his house, carrying off thirteen of his people, together with his goats, fowls, and other property—the reason given for the outrages being, that Yamezi, being a Mussulman, had now gone to the Msungu "to join the Book." I wrote to Raschid a quiet letter, assuming the possibility of his soldiers having acted without instructions, and asking him to inquire into the matter, and, if he found it true, to order the restoration of Yamezi's property. It may be, of course, that Yamezi's story is an exaggerated one.

18th.—An answer from the Wali of Takanugu. It is very respectfully worded. He does not deny the attack on Yamezi's house, and the carrying off of his people; but says it was made by his soldiers without orders from him. He, however, justifies the act on the ground that Yamezi had given refuge to a number of slaves who had run away, belonging to himself and others. He concludes by expressing his readiness to do in the matter as I may prescribe. Of course I *can* do nothing besides trying to get at the truth, and then using such influence as I may possess to prevent wrong being done.

Thursday, Dec. 2nd.—Yamezi denies *in toto* what the Governor of Takanugu says about his having harboured his runaway slaves. There is good reason to believe that the attack upon Yamezi's house was an act of high-handed oppression. Wrote to Raschid again to-day, *kindly* warning him that if he does not at once restore the persons and property taken from Yamezi, I shall be obliged to bring the matter to the notice of Saeed Burgash through the English consul. Paid a visit to the Wali, and had a long private conversation with him. There is a small clique of persons in Mombaza who are, naturally enough, bitterly hostile to us, and to the establishment of a freed-slave settlement in their vicinity; and while they come to me with bland words and smiling faces, they are secretly doing all they can to bring us into trouble.

The Wali was very communicative, telling me the various stories reported to him—one of which was that we were

making preparations for an attack upon Mombaza! Like a sensible old man, he added, "But you and I are not babies, and we know what value to attach to such rumours." On taking leave, the Wali said, "Your visit to-day has made me very happy."

Dec. 15th.—A week or two ago, when every one from the Wali downwards was in hourly expectation of an invasion, as a measure of precaution I put up a pole, on which, in case of necessity, we might hoist the British Ensign. Not a word came to us one way or another from the authorities at Zanzibar. The extent of the panic around us may be judged from the fact that five guns were fired at one of the Sultan's own steamers which was making the harbour. There are some half-dozen or so of leading men in Mombaza who are bitterly hostile to us; they at once seized upon the erection of the pole, and made a grave complaint of it to the Wali. The Wali sent me a message; both it and my reply had been wrongly delivered. I therefore waited upon him, and explained the matter to his entire satisfaction, and supposed the matter ended. Yesterday, however, I got a letter from the Consul, from which it appears that the affair has been reported in a grossly exaggerated form to His Highness. A note from Ishmael, just received, tells us that some Swahilis of Mombaza threaten to come over to Frere Town and remove the "Flag Staff," as they call it, by force. We return (D.V.) on Friday, and I shall at once see the Wali, and have the question sifted to the bottom. It is difficult to deal with these stupid people, who do not know their true friends; whilst we are careful to keep within legal limits, we must hold our own with a firm hand; otherwise the position of the Mission would be untenable for any practicable purposes.

After dinner, a poor miserable wretch came in asking me for protection. He states that he was at Takanugu, and that one day, when he was on his master's business, he was captured and carried off by robbers. He managed to escape and returned to his master, who, refusing to believe his story, put him in fetters. Broken-hearted by this treatment he determined to get away into the jungle and commit suicide. Then it came into his mind that, if he could only get to Frere Town, he would be free; so he managed to get from a Banyan a "Sheffield file," with which he relieved himself of his fetters, and made the best of his way to Frere Town. As I was not there, he came at once to this place. I pitied the poor fellow from my heart, but what could I do? In this country manstealing is legal—connivance at the escape of a slave a crime. No wonder that God's curse rests on a country where such a state of things exists. The poor fellow had his fetters carefully tied up, hoping to realize sixpence, with which to purchase food. I cannot take the man in, but he shall have the means of living for a week or two, till he can get out of the reach of harm.

Dec. 27th.—The Sultan has acted well and generously in the two cases I referred to him. He gives us permission to hoist the British Flag; and he has sent a peremptory letter to the Wali of Takanuga to restore the property forcibly taken from Yameza, the Christian inquirer. Praised be the Lord for thus making even "our enemies to be at peace with us!"

#### Inclosure IV. in Sir Bartle Frere's Memorandum.

##### EXTRACTS from latest JOURNALS from Rev. W. S. PRICE.

Feb. 27th.—This morning a dhow came in bringing 25 freed slaves captured by the "Flying Fish," near the Island of Mafia. Dr. Kirk writes that he has forwarded 28, but the captain of the dhow says that two jumped overboard, and one was swept off by the sail. This story must be sifted to-morrow.

Feb. 28th.—Inspected new batch of freed slaves. Dr. Kirk speaks of them as "able-bodied," but they have all more or less a starved appearance, and many are pitifully emaciated. They state that the captain of the dhow who brought them from Zanzibar, landed two of their number at Kokotoni, together with some provisions which had been put on board for their consumption on the journey hither; and that he doled them out a handful of beans a day on which they subsisted. It is a serious matter, and must be reported to the Consul. The men are of various tribes, and state that they are a part of a large gang of slaves, a large proportion of which, viz., women and children, were otherwise disposed of at Zanzibar.

Feb. 29th.—Last night word came to me that the Banyan Custom House master, who will never forgive me for having put a spoke in his wheel in the matter of safe traffic in slaves, had put the captain of a dhow in jail for having taken his craft laden with wood to Frere Town. I went this morning at 6 o'clock, and saw the man in a dungeon reeking with filth. I then went to the Wali, and demanded

his instant release. The Wali said the Custom House master had no authority to put the man in prison, and at once ordered him to be set at liberty. He interceded, however, for the culprit; but I said that the affair was too serious to be passed over without being brought to the notice of the Consul. I have reason to believe that this man has already been at the bottom of all the disaffection which from time to time has been manifested towards us on the part of some of the people of Mombaza, and I think before long I shall be able to bring it home to him. Last week there was a meeting of elders (instigated I am told by this very man) to get up a memorial to Saeed Burgash, complaining of my having harboured their runaway slaves. It happens that I have acted very cautiously, and with careful regard to the law in these somewhat difficult cases, and there happened to be a sensible Arab present, who said, "Which of you all can say 'that any slave of his went to Frere Town, and that when 'applied for he was refused?'" As none of them could say this, the speaker went on, "Now see what fools you will 'make of yourselves. When you make your complaint, 'do you think Mr. Price would ask this question? And 'what will you answer?'"

*Resolved unanimously.*—To let the matter drop.

N.B.—The Custom House master has been dismissed by Dr. Kirk.

#### Inclosure V. in Sir Bartle Frere's Memorandum.

EAST AFRICAN SECTION of THE PROPOSED ANNUAL REPORT to be read at the ANNIVERSARY MEETING of THE CHURCH MISSIONARY SOCIETY on May 2nd, 1876.

##### EAST AFRICA.

The Committee heartily thank God for much help and encouragement graciously vouchsafed during the past year to the important work undertaken in the preceding year in East Africa notwithstanding the peculiar difficulties connected with it. Three objects were aimed at in the resuscitation of the long languishing mission at Mombaza, and in the prosecution of all three the Lord has manifestly blessed their labours.

(1.) *The formation of a Christian Industrial Colony.*—The nucleus of this was supplied by the return from Western India, of the Christian liberated African slaves there, many of whom had been brought up by Mr. Price at the similar settlement at Sharanpur, near Nasik. Forty more of these have lately returned, together with an experienced catechist, himself a liberated African, who had been ministering to their spiritual need in India. These new settlers are skilled cultivators, having spent some time at a Government model farm near Bombay. They came equipped with ploughs and other agricultural implements, and are described by Mr. Price as steady and well-conducted men. They, and the others (150) who had preceded them, are distributed between Mombaza and Kisulidini. At both places the Sunday services and occasional devotional gatherings have been regularly attended; there have been as many as forty communicants at one time; and Mr. Price speaks of the "earnest and eloquent sermons" preached in Kisuhili by the native catechists.

(2.) *The evangelization of the Wanika and other tribes in the interior.*—But little has been done yet in this direction. The works at Giriama, however, continues to be a token for good, inviting us to further efforts. Nine adults there have been baptized during the year, including a chief, Abe Sidi, and his wife, who took the names of David and Rachel. "It is very interesting," writes Mr. Price, "to see a man like this, a wild M'nika, who has been brought to the knowledge of Christ, and transformed into a new creature, not so much by man's intervention as by the Holy Spirit alone." Several more of the same tribe are under instruction, and the Gospel has been preached in one or two other villages.

(3.) *The establishment of a Free Settlement for the reception of liberated slaves.*—It was the appeals of Bishop Ryan and Dr. Livingstone, respecting the horrors of the East African Slave Trade, the official evidence on the subject collected by the Parliamentary Committee of 1871, and the reports of Sir Bartle Frere's mission in 1873, that led the Committee to throw fresh vigour into their operations on the coast; and now with thankfulness and hope they have to record the successful commencement of a work which will, they trust, have no small influence upon the slave traffic. Just a year ago Mr. Price, aided by the kindly interposition of the Saeed of Zanzibar, obtained a healthy and in every way eligible site for the settlement, on which he began at once to erect the necessary buildings, employing for this purpose his African artizans from Nasik. While these buildings were still in progress, in September

last, 271 captive slaves, recaptured by H.M.S. "London" and "Thetis," were suddenly handed over to the Mission. The Committee thankfully acknowledge the resolute vigour with which, in dependence on the Strong for strength, Mr. Price and his helpers girded themselves, while their preparations were still incomplete, to the formidable task of housing, feeding, and managing such an importation of destitute and degraded creatures, speaking only a language unknown at Mombaza, and many of them suffering from various diseases. The laborious exertions of our brethren have met with gratifying success. The settlement is in good order; judicious arrangements have been made to ensure health and decency; the adults are living on the whole in peace and comfort; the children are under regular and efficient instruction; and a beginning has been made in instilling into these 270 dark minds the elements of Christian truth. Twenty-five more adult rescued slaves have lately been sent to the Mission by Her Majesty's Consul-General at Zanzibar.

The settlement, which has been named Frere Town in honour of Sir Bartle Frere, has been well spoken of by several independent and valuable witnesses. Captain Ward of the *Thetis*, who brought the largest cargo of slaves, speaks of the estate as "a most desirable tract of land," and of Mr. Price as "a thoroughly practical and hard-working clergyman." Major Euan Smith, who was Acting-Consul-General during Dr. Kirk's absence, writes to Lord Derby in an official despatch, "I was so satisfied with everything I saw and heard, and so impressed with the excellence of the guarantee thereby given, that all possible means that experience and kindness could suggest would be employed to make the best use of any liberated slaves that may for the future be entrusted to the care of the Church Missionary Society, that I informed Mr. Price that I would endeavour to have the supply of slaves kept up from time to time as circumstances afforded, while I should be happy at all times to assist him in every way in my power. Mr. Price has initiated a new state of things in this part of Africa, and if the scheme is but carried out with the energy and tact with which it has been commenced, it cannot fail to be a success from a practical as well as from a humane and Christian point of view." A few weeks ago, in the debate on Sir John Kennaway's motion in the House of Commons for more vigorous measures to put down the East African Slave Trade, the Under Secretary of State for Foreign Affairs spoke of the "constant and unremitting efforts of the Church Missionary Society in the cause," and said the Government "had got great encouragement from the society's example" in returning to the old national policy with regard to the abolition of slavery and the slave trade. In other respects, the results of this debate were highly satisfactory, and from the statements of Mr. Bourke the committee have good reason to hope that the Government are prepared to render assistance and protection to the settlement at Frere Town, both by contributing to the maintenance of the liberated slaves, and by investing the lay superintendent with vice-consular papers. For this important lay office the committee have secured the services of an experienced naval officer, Commander Russell, who has just left England for Mombaza. It is with heartfelt gratitude to God that the committee are enabled to meet their friends with such hopeful prospects for the plans they have formed in the interest, temporally and spiritually, of the negro slave; and they earnestly pray that on the East Coast like blessed results may follow to those which the past half century has witnessed on the West Coast.

The past year has witnessed the return home from East Africa, after thirty years patient and uninterrupted service, of the veteran Rebmann, the founder of the mission jointly with Dr. Krapf. The two fellow-labourers are now living near each other in Germany; but their untiring labours in investigating and reducing to writing the languages of that part of Africa are now, it may be hoped, about to bear valuable fruit. The committee regret that the attempt to restore Mr. Rebmann's eyesight proved unsuccessful. The mission has also suffered a severe trial by the death from fever of one of the young missionaries who accompanied Mr. Price, and the return home in weakened health of another. Dr. Forster, too, who went out this time last year, is on his way home; but his medical services during his residence at Mombaza have been of much value. His dispensary in the town has been thronged, and has, as far as possible, been made the medium of dispensing spiritual as well as bodily medicine; his care of the sick among the

freed slaves has been a relief to Mr. Price; and his very presence has done much to promote a friendly feeling towards the mission among the inhabitants of Mombaza. The committee have been able to send out two ordained missionaries, one of them, the Rev. James Lamb, formerly of Lagos and Sierra Leone, who readily gave up a living in this country at the call of the committee to devote himself to the work; and also a trained schoolmaster. The steam launch presented to the mission last year unfortunately failed to reach its destination; but it has been, by the kindness of the same donors, replaced by a larger sea-going yacht, the *Highland Lassie*, which is now on her voyage out. Meantime, however, one of the English lay agents of the mission, who had been a shipwright himself, constructed a sailing boat on the spot, which has proved useful in several ways.

This brief sketch of the position and prospects of the East African Mission surely presents many grounds for special thanksgiving to Him without whom nothing is strong, nothing is holy; and the committee earnestly invoke His continued blessing upon the agencies thus successfully initiated.

#### NYANZA MISSION.

The Church Missionary Society has long been desirous of penetrating into Africa from its station on the East Coast at Mombaza. Nearly forty years have passed since public attention was called to this part of the African continent by the travels of the Society's Missionaries, Krapf and Rebmann; and 25 years since Henry Venn ventured to predict that the missionary road to the heart of Africa would be from the eastern rather than the western coast. Their discoveries have been incentives to all the efforts of geographical discovery that have been made in those regions from that time until now. The latest of these efforts, by Mr. Stanley, led to a general invitation from Mtesa, King of Uganda, on the shores of the Victoria Nyanza, for Christian Missionaries to settle in his country. The invitation appeared in the *Daily Telegraph* of the 15th November, and on the 18th the Society received an offer of 5,000*l.*, in order to take up the enterprise, from one whose eyes had often been "strained wistfully towards the interior of Africa, west of Mombaza," and who had "longed and prayed for the time when the Lord would by His providence open there a door of entrance to the heralds of the Gospel." Within five days the Committee met, and resolved to accept the responsibility, and to form a special fund to meet the necessary expenditure. Other munificent gifts have subsequently raised the amount thus promised to 12,000*l.* A marked token of the gracious favour of God towards this enterprise has been afforded by the manner in which he has so speedily raised up the agents required for commencing this great work. The party will consist of one ordained clergyman (the Committee would have preferred to have sent two if they had been forthcoming), one lieutenant in the navy, one civil engineer and architect, one mechanical engineer, one medical man, one agriculturist, one blacksmith and industrial teacher, one shipwright. Four of them have already started for the coast, and the remaining four will leave at the close of the present month.

After most careful deliberation it has been resolved that the route to be taken by the Mission party should be via Zanzibar and Unyanyembe, and with a view to facilitate the journey, Lieutenant Smith, R.N., recently engaged in the Ashantee war, and the appointed leader of the expedition, has been directed by the society to explore the river Wami, for which a suitable steam launch has been provided. If this investigation should be satisfactory a great lift will be given to the expedition advancing to the interior, by enabling it, as it were, to overleap the coast district, and to reach without delay or difficulty the higher and healthier district of Usagara, among whose mountains it has been arranged by the Committee to establish a station.

It is proposed, God permitting, that the party for the Nyanza shall start about August in the present year, and that they shall proceed by way of Karagué, leaving a portion of their number at its capital under the protection of King Rumanika, who has been described as an able though kind and gentle ruler. The Committee feel that they have committed themselves to an arduous and even in some respects dangerous enterprise; but the step has not been taken without prayer for guidance, and their trust is in Him to whom all power is given in heaven and earth, and whose glory they desire to promote in the fulfilment of the purposes of His love.

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