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FUGITIVE SLAVES.

RETURN to an Order of the Honourable The House of Commons,
dated 17 February 1876;—for,

RETURNS “of all Cases which have occurred during the last Ten Years in which British Naval Officers on Foreign Stations have asked Government for Instructions in regard to SLAVES who have taken Refuge on Board their Vessels while in the Territorial Waters of Countries where Slavery is the Law of the Land :”

“And, for the same Period of Time, of all Cases relating to FUGITIVE SLAVES which have ended in Actions being brought against British Naval Officers, of the Damages incurred, and of the Amount of Compensation paid in each Case by this Country on their Behalf.”

Admiralty, }
18 February 1876. }

THOS. WOLLEY,
Chief Clerk.

COMMODORE SIR L. HEATH is the only British naval officer on a foreign station who, “during the last 10 years, has asked Government for instructions in regard to slaves who have taken refuge on board their vessels while in the territorial waters of countries where slavery is the law of the land.”

Sir L. Heath’s letter, and the correspondence that ensued, is published in the Papers recently presented to Parliament. (Slave Trade, No. 1 [c. 1413].)

No distinct case has occurred during the last 10 years “relating to fugitive slaves which has ended in an action being brought against a British naval officer,” but the following somewhat analogous case (as reported by Mr. Rothery to the Treasury) happened to Captain Sullivan, of the “London,” last year:—

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

“May it please your Lordships,

“In obedience to your Lordships’ commands I have perused and considered the documents herewith returned, consisting of a letter from Admiral Robert Hall, the Naval Secretary to the Admiralty, dated the 17th of May ultimo, forwarding copy of a letter from the Foreign Office dated the 11th of the same month, with its enclosures, relative to the capture and destruction by one of the boats of Her Majesty’s Ship ‘London’ of a supposed slave dhow called the ‘Conda,’ and for which compensation was subsequently awarded to the owner by Captain Prideaux, the Acting Judge of the Consular Court at Zanzibar.

“The enclosures in the Foreign Office letter consist of two despatches from Captain Prideaux, with copies of the decree of restitution, and of the award of compensation.

“The circumstances of this case, which is referred to in my Report to your Lordships of the 25th ultimo, and which is therein described as case No. 8 of 1875, appear to have been as follow:—

“On the 29th of January last Sub-Lieutenant Harry Dampier Law, who was then on detached service in command of the launch of Her Majesty’s Ship ‘London’

'London,' boarded, off the Island of Makonqui, a dhow named the 'Conda,' which was bound with a cargo of cocoa nuts from Chak Chak, in the Island of Pemba, to Zanzibar, and finding on board amongst other persons, three women, who, on being questioned, stated that they were slaves; he, without further inquiry, detained the vessel, intending to take her to Zanzibar. He omitted however to put a prize crew on board, and in passing between the Islands of Makonqui and Pemba, the dhow being it is stated carelessly worked by her crew, ran ashore, and although as the tide rose she floated off, it was found on the following morning that she had sprung a leak, and that in spite of the efforts of her crew, she was gradually filling; and as Mr. Law had no means of stopping the leak, and considered it would be useless to attempt to take her in that condition to Zanzibar, he burnt the vessel, after removing the Nakhoda and the three women into his own boat, and sending the rest of the crew and passengers ashore at Pemba.

"When, however, shortly afterwards the case came before the Consular Court, Captain Prideaux, the acting Judge, from the examination of the three women, and from the inquiries which he subsequently made at Kokotoni, where they resided, became convinced that, although they might be technically slaves, not having received any deeds of freedom, they had been free to all intents and purposes since the death of their late master. He adds that it was clear from the manner in which they gave their evidence, and from their demeanour in court, that they were voluntary passengers on board the dhow, and were not intended for sale. Accordingly, he ordered the three women who had been seized as slaves to be released, and condemned the seizers in all costs and damages arising from the illegal capture and destruction of the vessel and her cargo, leaving the amount to be determined hereafter.

"This decree was pronounced on the 17th of February last, the proceedings having apparently been commenced on the 1st of that month, and on the 22nd of March following the owner of the vessel 'Khalfan bin Raschid,' having brought in an account of the damages which he had sustained, supported by a voucher, Captain Prideaux awarded the full amount claimed, namely, 270 dollars as the value of the vessel, and 108 dollars as the value of her cargo of 12,000 cocoa nuts at 9 dollars per 1,000, making a total of 378 dollars, with such interest as may be allowed by your Lordships.

"The amount awarded does not appear, so far as I am able to judge, to be excessive; and Captain Sullivan, as the commanding officer of the ship, to which the capturing officer belonged, and under whose authority the capture was effected, would *prima facie* be liable for the consequences, and it would be for your Lordships to say whether or not that officer should be relieved from his liability.

"It is, I presume, with this view that Captain Sullivan on the 2nd of March addressed a letter to Captain Prideaux in which he states the grounds on which he considers that the capturing officer was not to blame for the destruction of this vessel. The grounds, which he urges, are,

"(1.) That the presumption was that the three females were slaves, and that their real condition was only established after a very severe cross-examination in court.

"(2.) That young officers have to decide promptly on points of great doubt and difficulty, which it is sometimes found necessary to refer to the Law Officers of the Crown, whose opinions are not always communicated to the naval officers.

"(3.) That what Captain Sullivan calls the universally mendacious habits of the people render it extremely difficult for an officer to decide who are slaves within the meaning of the Act, or who are slaves travelling with their owners as attendants, or who are slaves travelling for their own pleasure or business."

"Captain Sullivan speaks also of the great difficulties that an officer has to encounter; swayed on the one hand by an anxiety to perform his duty efficiently, and unwilling on the other to be outwitted by people whom he knows to be habitual liars. He further states that the grounding of the vessel on the rocks
near

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near Kohané, a place with which they must have been perfectly familiar, was due if not to wilfulness, at all events to gross carelessness, on the part of her crew, who were at the time in charge of her. And he urges that after she had come off the rocks her condition was such that it was not possible to take her to Zanzibar, and that under these circumstances, believing her to have been engaged in the Slave Trade, Lieutenant Law's only course was to destroy her.

"In forwarding Captain Sullivan's letter, together with a copy of the award, Captain Prideaux stated that he had not yet called upon the captors to make good the amount, as he considered that it was a case which might fairly be left to your Lordships' consideration. He moreover expressed his concurrence in Captain Sullivan's remarks, and stated that, although there was in his opinion no doubt that a prize crew ought to have been put on board, he yet thought that some allowance should be made for the difficult position in which young officers are often placed when carrying out the responsible duties entrusted to them; and states that it is very satisfactory to observe the careful and conscientious manner in which those duties have generally been performed.

"On the receipt of these Papers at the Foreign Office, they were forwarded to the Admiralty with a letter, in which it is said that in Lord Derby's opinion it will be impossible to prevent mistakes of this nature occurring occasionally, where young officers are employed who have not had time to become sufficiently acquainted with the nature of the service on which they are employed. And it is added that the detention of the dhow under the circumstances was, Lord Derby thinks, an error of judgment, but that his Lordship does not consider the officer otherwise blameable. And in this view the Lords of the Admiralty express their concurrence.

"That there has in this case been no more than an error of judgment on the part of the capturing officer, and that his conduct is not otherwise blameable, I venture to think that your Lordships will have no difficulty in admitting; but the question is whether, when such an error of judgment has been committed, the captors ought to be relieved from responsibility. Most of, if not all, the arguments advanced by Captain Sullivan could be urged in every case by the captors as grounds for relieving them from liability for the capture; but the great mistake in this case was in mistaking the three females for slaves being conveyed for the purposes of the Slave Trade, whereas I have always understood that there is little, if any, difficulty in determining whether a slave found on board a dhow is what is called a raw slave fresh from the interior, and being transported for sale, or a domestic slave following his or her master, or travelling, as Captain Sullivan observes, for business or pleasure. At the same time, your Lordships have always been ready to make allowance for the difficulties in which naval officers must of necessity find themselves occasionally when carrying out the operations with which they are entrusted; and you will no doubt give due weight to the recommendations, both of the Foreign Secretary and of the Lords of the Admiralty, as well as of Captain Prideaux, before whom the case was tried.

"Before, however, your Lordships can come to any decision on the question, it will be necessary to ascertain, the time for appealing not having yet expired, whether Captain Sullivan is or is not satisfied with the decision, and whether he does or does not intend to appeal from it. If he has no intention of appealing, as I should presume from his letter, his proper course would have been to have paid the award, and then to have applied to your Lordships for repayment of the amount. I presume, however, that your Lordships will not insist upon this course being taken, but that in the event of Captain Sullivan expressing his intention not to appeal, you will authorise the Consul General at Zanzibar to pay the amount, as such a course would not relieve the captors from their liability to satisfy the award; and Her Majesty's Government would not be justified in leaving the Arab claimant to his remedy against the British officers.

"And should your Lordships concur in the suggestions which I have ventured to make, it would be proper that a communication should be addressed to the Admiralty with a view to ascertain what Captain Sullivan's intentions are in regard to the award, whether he intends to appeal or to pay the amount

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previous to any instructions being sent out to the Consul General at Zanzibar on the subject. And when this has been ascertained, it will be for your Lordships to say whether the captors should be relieved from liability, or whether under Section 15 of the Slave Trade Act, 1873 (36 & 37 Vict. c. 88), the capturing officer should be required to make good any amount which Her Majesty's Government might be called upon to pay on his account.

"All which is most humbly submitted to your Lordships' wisdom."

(signed) "H. C. Rothery."

"Doctors' Commons, 2 June 1873."

The compensation awarded to the owner of the dhow has been paid by the country.

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(Mr. William Holms.)

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Under 1 oz.