MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

(In compliance with resolutions of the Senate,)

Copies of the correspondence between the government of the United States and that of Great Britain, on the subject of the right of search; with copies of the protest of the American minister at Paris against the quintuple treaty, and the correspondence relating thereto.

JUNE 6, 1846.

Read, and ordered to be printed.

To the Senate of the United States:

In answer to the resolutions of the Senate of the 10th, 11th, and 22d of April last, I communicate herewith a report from the Secretary of State, accompanied with the "correspondence between the government of the United States and that of Great Britain in the years 1840, 1841, 1842 and 1843, respecting the right or practice of visiting or searching merchant vessels in time of peace;" and, also, "the protest addressed by the minister of the United States at Paris, in the year 1842, against the concurrence of France in the quintuple treaty, together with all correspondence relating thereto."

JAMES K. POLK.

WASHINGTON, *June*, 6, 1846.

DEPARTMENT OF STATE,
Washington, June 5, 1846.

The Secretary of State, to whom have been referred the resolutions of the Senate of the 10th, 11th, and 22d of April last, requesting the President to communicate to that body, if not incompatible with the public interest, "all correspondence between the government of the United States and that of Great Britain, in the years 1840, 1841, 1842 and 1843, respecting the right or practice of visiting or searching merchant vessels in time of peace;" and, also, "the protest addressed by the minister of the United States at Paris, in the year 1842, against the concurrence of France in the quintuple treaty, together with all correspondence relating thereto," has the honor of reporting to the President the accompanying copies of papers.

Respectfully submitted.

JAMES BUCHANAN.

To the PRESIDENT *of the United States.*

☞ *of accompanying papers.*

Mr. Fox to Mr. Forsyth.

[Extracts.]

WASHINGTON, *October* 30, 1839.

The undersigned, her Britannic Majesty's envoy extraordinary and minister plenipotentiary, has been instructed by his government to transmit to the Secretary of State of the United States the enclosed copies of papers, consisting of numerous official reports and despatches received by her Majesty's government, which contain evidence of the surprising and deplorable extent to which the American flag is now employed for the protection of the inhuman traffic in African slaves. * * * *

In conclusion, the undersigned has to state that it remains the settled opinion of her Majesty's government, that the most sure and effectual means of checking the African slave trade would be afforded by a conventional agreement between Great Britain and the United States for the mutual exercise of the right of search, under due regulations, by the cruisers of the two nations; and the undersigned is instructed once more to urge this proposal upon the serious attention of the President of the United States. The regular, rapid, and frightful increase of the African slave trade, under the abuse of the American flag, which has been observed to take place since the period when the above proposal was last discussed, appears to her Majesty's government to offer a very strong argument in favor of a reconsideration, by the United States, of the decision then formed. If obstacles, which her Majesty's government are unwilling to anticipate, should still prevent the concurrence of the United States in such an agreement, her Majesty's government have only to express their anxious hope that the government of the United States may be able to devise some other effectual method, either singly or in concert with Great Britain, for arresting the progress of a guilty and sinful traffic, which her Majesty's government are well convinced the government of the United States do, equally with the government of Great Britain, abhor, reprobate, and detest.

Mr. Forsyth to Mr. Fox.

[Extract.]

DEPARTMENT OF STATE,
Washington, February 12, 1840.

The President has directed the undersigned, Secretary of State of the United States, to reply to the note of Mr. Fox, her Britannic Majesty's envoy extraordinary and minister plenipotentiary, of the 30th of October last, on the subject of the African slave trade.

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The state of things on the coast of Africa, as disclosed by Mr. Fox's communication, has rendered necessary there the presence, for some time, of an American naval force, as a measure of precaution, to protect American vessels from improper molestation in that quarter of the globe; and also to detect those foreigners who may be found carrying, without proper authority, the flag of the United States. * * * *

The President sees, with regret, by the contents of Mr. Fox's note, that her Britannic Majesty's government continues to think it important that the United States should become a party to a convention yielding the mutual right of search to the armed vessels of each other, with a view to detect persons engaged in the slave trade. Her Majesty's government considers such convention as the most sure and effectual mode of checking that trade. After the determination which the position and policy of the United States have required this government to make, the President would regret extremely to be convinced that, in this regard, her Majesty's government judges correctly. He cannot but think, on a careful examination of the evidence exhibited with Mr. Fox's note, that her Britannic Majesty's government has overlooked both the causes of the present shocking condition of the slave trade, and the remedies which are demanded to correct the evil. To do justice to his opinions on this subject, it would be necessary for the undersigned to institute a scrutiny into the proceedings of other friendly nations, which might justly be considered uncalled for and invidious. It will be sufficient to appeal to a few broad facts well known to her Majesty's government, and to apply to them the well-established rules of trade and of criminal law. There are slave markets. In these slave markets, if they can be reached before detection, the profits of the trade are certain and enormous; and impunity is, in that event, unfortunately for the true interests of humanity, quite as certain as profit. Destroy the market, and there is no slave trade; pursue the criminal into the places where his profit is derived; render punishment there as certain as detection, and detection as certain as just vigilance can make it; and the fear of punishment will be strong enough to overcome the love of gain, the great stimulant under which the laws of humanity are every day violated by worthless members of all human societies. In the largest and most profitable of these markets, her Britannic Majesty's commissioners of the mixed commission have named vessels employed in the slave trade; mercantile houses as notoriously dealing in that traffic; the number of Africans brought in, contrary to legal enactments and treaty stipulations. Like statements are made by her Britannic Majesty's naval officers and the commissioners of the mixed commission in Sierra Leone. All the evidence furnished points to the source of the mischief, and indicates the

only effectual corrective. The President, from all that Mr. Fox has presented, and that which has been furnished through the officers of the United States, sincerely believes that the complete extirpation of the slave trade depends not so much upon the formation of the new convention desired by Mr. Fox, as on the faithful execution of those already existing. But little can be expected from the promulgation of new laws, while those already adopted are treated as dead letters in the criminal code.

Mr. Fox to Mr. Forsyth.

WASHINGTON, *August* 15, 1840.

SIR: I have much satisfaction in communicating to you, by direction of her Majesty's government, the enclosed report received from commander Tucker, of her Majesty's ship "Wolverine," stationed on the coast of Africa, in which are enclosed copies of a correspondence that had passed between that officer and Lieutenant John J. Paine, of the United States navy, commanding the United States schooner "Grampus," and of an agreement entered into between them for mutual co-operation and assistance in the suppression of the African slave trade.

Her Majesty's government have been much gratified by the intelligence of this zealous co-operation on the part of the United States commander for the attainment of an object which both governments have equally at heart.

I avail myself, &c.

H. S. FOX.

Hon. JOHN FORSYTH, *&c. &c. &c.*

Mr. Fox to Mr. Forsyth.

WASHINGTON, *August* 16, 1840.

SIR: I have the honor herewith to enclose to you the copy of a despatch, with its enclosures, addressed to me by her Majesty's Secretary of State for Foreign Affairs, upon the subject of the claim of the British captors of the American ship "Wyoming," to receive a due portion of the value accruing from the forfeiture and sale of that vessel, the "Wyoming" having been detained on the coast of Africa by her Majesty's sloop "Harlequin," Lord Francis Russel commander, under suspicion of being engaged in the illicit traffic in slaves; and when brought into New York for adjudication by the competent tribunal, having been there condemned and forfeited, upon a separate action, for breach of the United States navigation laws.

Her Majesty's government desire to submit this claim to the consideration of the President, recommending it to his favorable and friendly attention. The merits of the case are fully detailed in the papers which I have the honor to enclose.

I avail myself, &c.

H. S. FOX.

Hon. JOHN FORSYTH, *&c. &c. &c.*

Mr. Fox to Mr. Forsyth.

WASHINGTON, *August* 18, 1840.

SIR: With reference to the letter which I had the honor to address to you on the 15th instant, enclosing a correspondence between commander Tucker, of her Majesty's ship "Wolverine," and Lieutenant Paine, of the United States schooner "Grampus," with the copy of an agreement entered into between those officers for mutual assistance and co-operation in repressing the slave trade on the coast of Africa, I now further enclose to you, by direction of her Majesty's government, copies of additional correspondence from the same quarter, reporting the detention in the Rio Porgos, by the commander of her Majesty's ship "Bonetta," of a schooner under American colors, called the "Sarah Anne," of New Orleans, charged with being engaged in the slave trade, and the delivery of the said vessel by her Majesty's officers to the commander of the United States schooner "Grampus."

I avail myself, &c.

H. S. FOX.

Hon. JOHN FORSYTH, *&c. &c. &c.*

Mr. Fox to Mr. Forsyth.

WASHINGTON, *August* 21, 1840.

SIR: With reference to former communications which I have had the honor to address to you by order of her Majesty's government, upon the subject of the lamentable extent to which the African slave trade is carried on through means of the fraudulent assumption of the American flag, which protects the miscreants and pirates engaged in that detestable traffic from capture and condemnation by her Majesty's officers, I have now further to communicate to you the enclosed despatch, with documents annexed, relating to a vessel called the "Perry Spencer," detained on the coast of Africa, in the month of May last, while engaged in the illicit traffic of slaves. The "Perry Spencer," it will be seen, hoisted at one time Spanish, and at another time American colors. Under the former character, she was seized by one of the British cruisers and carried for trial before the mixed court of commission at Sierra Leone; but it appearing, upon investigation, that she was furnished with an American pass, granted by the United States consul at Cuba, the court of commission held itself bound, in consideration of such consular act of recognition, notwithstanding the obvious Spanish ownership and Spanish character of the transaction, and although the pass had been obtained for the sole purpose of fraudulently covering Spanish interests, to release the slaves and dismiss the cause.

The circumstances of this case appear to be well deserving the attention of the United States government, with a view to the adoption of effectual measures for preventing such unworthy abuse of the American flag.

I avail myself, &c.

H. S. FOX.

Hon. JOHN FORSYTH, *&c. &c. &c.*

Mr. Fox to Mr. Forsyth.

WASHINGTON, *February* 4, 1841.

SIR: In addition to former communications, which, by direction of her Majesty's government, I have had the honor to address to you upon the subject of the African slave trade, and of the frequency with which the subjects of other countries engaged in that nefarious traffic endeavor to protect themselves from the punishment due to their crimes by a fraudulent assumption of the American flag, I herewith transmit to you a further series of documents relating to the same matter, which her Majesty's government are desirous should be carried to the knowledge of the government of the United States.

These papers consist chiefly, it will be seen, of despatches and reports from the British commissioners for the suppression of the slave trade residing at Sierra Leone and at Havana, and contain details in particular of the cases of four slave vessels (the "Laura," "Asp," "Lark," and "Mary Cushing") captured by her Majesty's cruisers on the coast of Africa during the course of the last year. The above vessels, in like manner with many others formerly mentioned, although fitted out for the slave trade upon account of Spanish owners, had been enabled fictitiously to assume the United States flag, and to perfect their outward voyage to the coast of Africa under that fraudulent protection. Fortunately, however, for the ends of humanity and justice, the evidence found against the vessels, after their arrival upon the African coast, was sufficient to enable the mixed court of commission at Sierra Leone to condemn them as Spanish slavers.

Amongst the enclosed series of papers will likewise be found reports from the British commissioners at Sierra Leone, containing some additional evidence in relation to the slave vessels "Butterfly" and "Catharine," the circumstances attending the capture of which vessels are already known to the government of the United States. Lastly, there will be found amongst the enclosed papers copies of a correspondence between her Majesty's commissioners at Havana and Mr. Everett, a gentleman who visited that port by commission from the government of the United States, which correspondence her Majesty's government are desirous should be conveyed to the knowledge of the President.

You will be gratified to learn, by another correspondence herewith enclosed, that her Majesty's commissioners at Sierra Leone entertain hopes of a considerable diminution of the slave trade under the fraudulent protection of the American flag, in consequence of the presence upon the African coast of the United States ship of-war "Dolphin," commissioned to cruise on that station for the suppression of the trade.

I avail myself, &c.

H. S. FOX.

Hon. JOHN FORSYTH, *&c. &c. &c.*

Mr. Fox to Mr. Forsyth.

WASHINGTON, *February* 5, 1841.

SIR: The case of the American vessel "Tigris," recently carried into the port of Boston, Massachusetts, in the care of a British officer and prize crew, and there delivered over to the judicial authorities of the United States upon a charge of having been engaged in the illicit traffic of slaves on the coast of Africa, has, I believe, been duly brought to the knowledge of the United States government by the district attorney of the port of Boston. I have now received from Mr. Grattan, her Majesty's consul at Boston, the following information: It appears that the district attorney, (Mr. Mills,) acting in the case for the United States, did, at the commencement of the business, legally bind over Mr. Jackson, the British officer in charge, to appear as witness in the criminal prosecution of the master and mate of the "Tigris" for violation of the laws of the United States; thus sanctioning a *prima facie* case against the "Tigris," and inducing and authorizing Mr. Jackson to file, as he has done, a libel against the vessel and cargo. But Mr. Mills has since desisted from all further co-operation in the prosecution, having both refused the request of the consul that he would claim the protection of the court for his own witness, (Mr. Jackson,) when arrested at the suit of the very parties he was bound over to prosecute, and having since declined to take any part in the civil suit—that is to say, in filing a libel against the vessel and cargo. Her Majesty's consul and the legal counsel employed by Mr. Jackson are apprehensive that this conduct on the part of the district attorney of the United States, for which they are unable to account, will risk the failure of the ends of justice, and the loss of the civil action which is instituted equally for the benefit of the United States as for that of the captors and informers. One effect of this want of co-operation has already been, that the owners of the "Tigris" are endeavoring to bind the British officer (Mr. Jackson) personally to give security, or, as it is technically expressed, to "stipulate" for damages to a large amount in the event of the action failing; and this course, it seems, they would not have been able to pursue, if the district attorney had duly borne his part in forwarding the civil prosecution. I do not pretend to be accurately acquainted with all the legal points and considerations involved in the question; but as a due and full execution of the existing laws against the slave trade must be the object of all parties, I hope that it may be in the power of the United States government, upon a due examination of the matter, to give such instructions to the district attorney of Boston as may cause him to lend a more effectual aid in the prosecution.

I avail myself, &c.

H. S. FOX.

Hon. JOHN FORSYTH, *&c. &c. &c.*

Mr. Forsyth to Mr. Fox.

DEPARTMENT OF STATE,
Washington, February 11, 1841.

SIR: I have the honor to acknowledge the receipt of your letter of the 5th instant, on the subject of certain proceedings connected with the case of the American vessel "Tigris," recently carried into the port of Boston, in the care, as you state, of a British officer and prize crew. No information relating thereto having been communicated to this department, a definitive reply cannot be given to your letter until all the facts have been obtained from the United States attorney in Boston, who will be written to immediately to transmit them. In the mean time, it is presumed that, in an event so extraordinary as that of a vessel acknowledged to be American brought into an American port in the care of a British officer and prize crew, any failure to act by the district attorney must have been occasioned by an opinion that his official interference was not required by the obligations of his public duty.

I avail myself, &c.

JOHN FORSYTH.

HENRY S. FOX, Esq., *&c. &c. &c.*

Mr. Forsyth to Mr. Fox.

DEPARTMENT OF STATE,
Washington, March 1, 1841.

SIR: By the directions of the President of the United States, I have the honor to transmit to you a copy of a letter from Mr. Mills, the United States attorney for the district of Massachusetts, on the subject of the "Tigris," an American vessel, brought into the port of Salem under charge of a British officer and prize crew, and to inform you that the explanation of the attorney is entirely satisfactory to the President. You will also receive, herewith, the copy of a letter from the commander of her Britannic Majesty's brig "Waterwitch," which was delivered to Mr. Mills in Boston. The President has seen from it, with great satisfaction, that commander Matson, of the "Waterwitch," has acted in this matter without instructions from his government, and upon his own responsibility only. With due consideration to the motives alleged for this extraordinary interference with an American vessel by a British ship-of-war, it is considered by the President his indispensable duty to call, through you, the attention of her Majesty's government to this act of commander Matson, that it may be visited with such distinct reprehension as to prevent the repetition of a similar act by other officers in her Majesty's service. The commanders of the ships-of-war of the United States on the coast of Africa are instructed not to molest any foreign vessels, and to prevent any molestation of American vessels by the armed vessels of any foreign nation. However strong and unchangeable may be the determination of this government to punish any citizens of the United States who violate the laws

against the African slave trade, it will not permit the exercise of any authority by foreign armed vessels in the execution of those laws.

I avail myself, &c.

JOHN FORSYTH.

HENRY S. FOX, Esq., *&c. &c. &c.*

Mr. Fox to Mr. Webster.

WASHINGTON, *February* 2, 1843.

The undersigned, her Britannic Majesty's envoy extraordinary and minister plenipotentiary, has been instructed by his government to communicate the accompanying documents to the government of the United States.

They relate, it will be seen, to the case of the American vessel "Douglas," detained in the month of October, 1839, by the commander of her Majesty's sloop-of-war "Termagant," off the coast of Africa, for being engaged in the illicit traffic of slaves.

The case of the "Douglas" has already been the subject of official correspondence between the United States legation in London and her Majesty's Secretary of State for Foreign Affairs, together with the cases of two other American vessels, the "Tigris" and the "Seamen," to the owners of which her Majesty's government have agreed to grant compensation to indemnify them for losses sustained through the detention of their vessels.

Her Majesty's government are ready to allow that the "Douglas" being an American vessel, and sailing under the American flag, the act of the commander of the British sloop-of-war "Termagant," in seizing her and sending a prize crew on board, who kept possession of her during eight days, was not justifiable by the law of nations, or by any treaty between Great Britain and the United States; and it is therefore admitted that the government of the United States have a right to claim compensation for the owners of the "Douglas," on account of losses sustained by reason of the detention of their vessel.

But it will be satisfactory to her Majesty's government, and doubtless not less so to the government of the United States, that this claim should not be made without a full knowledge of the circumstances under which the detention of the vessel took place, and of the nature of the voyage which it interrupted.

These circumstances are fully described in the accompanying despatch and its enclosures, which contain the result of an investigation instituted by the senior officer of her Majesty's naval forces on the coast of Africa, in pursuance of the orders of his government.

If, after a full consideration of the facts disclosed by this investigation, the United States government shall continue to be of opinion that compensation ought to be claimed for the owners of the American vessel "Douglas," her Majesty's government will not refuse to grant it; but her Majesty's government will, in that case, have the satisfaction of knowing that they have not voluntarily lent themselves to the indirect sanction of a slave-trading speculation, or withheld from the government of the United States any information which it was in their power to give respecting

the real character of the vessel in question, or of the adventure in which she was engaged.

The undersigned avails himself, &c.

H. S. FOX.

Hon. DANIEL WEBSTER, *&c. &c. &c.*

Mr. Forsyth to Mr. Stevenson.

DEPARTMENT OF STATE,
Washington, January 3, 1840.

SIR: I transmit to you, herewith, the copy of a despatch (No. 22) addressed to this department on the 16th of October last by the consul of the United States at Rio de Janeiro. Transcripts are also sent of the enclosures therein referred to. These papers set forth the circumstances attending a gross violation of the flag of our country by the commander of her Britannic Majesty's sloop "Columbine" on the 22d of July last, off Ambrise, on the coast of Africa, in boarding and taking possession of an American merchant vessel, the brig "Edwin," of New York, while prosecuting a lawful commerce; compelling her master, by acts of violence, and with contumelious language, to quit his vessel; forcibly taking possession of his log-book and other papers; carrying him on board the British sloop, and there detaining him a prisoner, under guard, until the hatches of his vessel had been opened, a part of the cargo removed, and a strict search made for proofs of his having been engaged in the slave trade. Under pretext of such a suspicion, (which nothing appears to have authorized,) the commander of the "Columbine" assumed to perpetrate the offences charged in the deposition of Captain Dayley, the truth of which is corroborated by the officers and seamen who sailed with him.

It is the wish of the President that the attention of the British government should be forthwith called to this case. You are accordingly directed to address a representation of it to Lord Palmerston, exhibiting the facts as set forth in the accompanying documents, expressing the dissatisfaction it has occasioned this government, asking for such explanations of the transaction as her Majesty's government may have to offer, and demanding that the very vexatious and reprehensible conduct of commander Elliot on this occasion be adequately punished.

I am, &c.,

JOHN FORSYTH.

ANDREW STEVENSON, Esq.,
&c. &c. &c.

Mr. Stevenson to Mr. Forsyth.

[Extract.]

LEGATION OF THE UNITED STATES,
London, February 18, 1840.

I received, on the 4th instant, your despatch No. 64, transmitting the papers in relation to the late outrage committed by Lieut. Elliot, of the

British navy, upon the American brig "Edwin," of New York, off the coast of Africa.

I immediately addressed an official note to Lord Palmerston on the subject, setting forth the prominent facts of the case, and expressing the expectation of our government that suitable measures would be taken for inquiry and redress. On the 16th I received his answer, a copy of which, with my two notes, I now enclose.

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[Enclosure.]

Mr. Stevenson to Lord Palmerston.

32 Upper Grosvenor Street,
February 5, 1840.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States, has been specially charged by his government to make the following representation to Lord Viscount Palmerston, her Majesty's principal Secretary of State for Foreign Affairs, respecting an alleged violation of the flag of the United States by the commandant of the British sloop-of-war the "Columbine," in July last, on the coast of Africa. From the affidavits (regularly taken before the American consul at Rio de Janeiro) of James Dayley, master, Richard Darling, chief mate, John Albertson, second mate, and three seamen, of the American brig "Edwin," of New York, which the undersigned has now the honor of transmitting to Lord Palmerston, together with a copy of an official letter from the consul at Rio de Janeiro to the Secretary of State, it appears that on the 22d of July last, off Ambrise, near the African coast, George Elliot, the commander of her Majesty's sloop the "Columbine," boarded and took possession of the "Edwin" while at sea, prosecuting a lawful trade, and under the protection of the flag of the United States; that, immediately after boarding, Captain Dayley was compelled, by acts of violence, and in the most insulting manner, to quit his vessel; his log-book and other papers were forcibly taken from his possession, and he carried on board the British sloop, and there detained as a prisoner, under guard, until the hatches of his vessel were opened, a part of the cargo removed, and a strict search made to ascertain whether there were any slaves on board. These are the important facts of the case, as they appear conspicuous in the papers now transmitted for the consideration of her Majesty's government. The grounds alleged by Captain Elliot for this proceeding were, that this brig was engaged in the slave trade. Now, the affidavits of the captain and the two mates and seamen show that there was no just foundation for any such supposition, and nothing to excuse or extenuate so gross an outrage upon the flag of an independent nation and the rights of its citizens. On the contrary, the whole proceeding appears to have been one of an aggravated and unwarrantable character.

Upon the subject of the right of British officers to search the vessels of the United States, under pretence of their being engaged in the slave trade, it may be proper again distinctly to state to Lord Palmerston that the government of the United States can never acquiesce. The undersigned has heretofore taken occasion to announce to her Majesty's government the

determination of that of the United States, that her flag is to be the safeguard of all who sail under it, either in peace or war; and, consequently, that no just exception can be allowed in favor of a right of search connected with the slave trade, or the fulfilment of treaties between Great Britain and other nations for its abolition, to which the United States are not a party.

Whilst the United States, therefore, have omitted nothing which was proper to be done for preventing its flag from being used for the protection of a traffic which they were the first to denounce as piracy by their laws, and for the abolition of which their efforts have been as sincerely and cordially directed as those of Great Britain, they cannot acquiesce in the practice of having their vessels and citizens interrupted and detained, whilst engaged in commercial pursuits, by British officers, under any pretence, such as that exercised by Captain Elliot. The undersigned has, therefore, been instructed to present this case to the consideration of her Majesty's government, and to ask for such explanations of the transaction as it may be able to give, and likewise to express the just expectation of his government, that, should the complaint be such as it has been represented, her Majesty's government will not only take pleasure in disavowing the proceeding, but will see fit to mark its disapprobation of such vexatious and reprehensible conduct by a suitable and signal punishment of the individual by whom it has been perpetrated.

The undersigned, &c.

A. STEVENSON.

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[Enclosure.]

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *February* 15, 1840.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has received the note which was addressed to him under date of the 5th instant, by Mr. Stevenson, envoy extraordinary and minister plenipotentiary from the United States government, complaining of the conduct of Lieutenant Elliot, of her Majesty's navy, in examining the papers of the United States vessel "Edwin."

The undersigned has desired that inquiry may be immediately instituted into the facts of the case, and will lose no time in making Mr. Stevenson acquainted with the result of his inquiry.

The undersigned, in the mean time, begs to inform Mr. Stevenson that strict orders have been given to her Majesty's cruisers employed for the suppression of the slave trade not to interfere with vessels belonging to countries with which Great Britain has no treaty conceding mutually a right of search. But the undersigned cannot refrain from availing himself of this opportunity of requesting Mr. Stevenson to draw the attention of the President of the United States to the progressively increasing extent to which the citizens and vessels of the Union are engaging in the slave trade; for, not only do vessels which are not the property of citizens of the United States fraudulently assume the United States flag in order to cover their criminal undertakings, but, in contempt and violation of the laws of

the Union, vessels are built for slave trade in the ports of the United States, and United States citizens engage more and more in that traffic.

Her Majesty's government, therefore, earnestly hope that the President will take effective means for putting down this evil, by enforcing, in the ports of the Union, the law against slave trade, and by sending an adequate number of cruisers to the coast of Africa to prevent the abuse which is now made of the flag of the Union.

The undersigned, &c.

PALMERSTON.

[Enclosure.]

Mr. Stevenson to Lord Palmerston.

32 Upper Grosvenor Street,
February 17, 1840.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States, has the honor to acknowledge the receipt of the note of Lord Palmerston, her Majesty's principal Secretary of State for Foreign Affairs, under date of the 15th instant, in answer to that of the undersigned of the 5th, in relation to the conduct of Lieutenant Elliot, of her Majesty's navy, towards the brig "Edwin," of New York, on the coast of Africa.

The undersigned will take the earliest opportunity of transmitting a copy of Lord Palmerston's note for the information of his government, from whom it will doubtless receive the consideration it merits.

In the mean time, it may be proper to correct a misapprehension into which his lordship appears to have fallen as to the character of this proceeding. The complaint which the undersigned had the honor of submitting to her Majesty's government was not, as Lord Palmerston states, in consequence of Lieutenant Elliot's *examination of the papers of the American brig*, but for an outrage of a marked character upon the flag of the United States and the rights of its citizens. By reference to the note of the undersigned, and the papers which accompanied it, his lordship will perceive that Lieutenant Elliot was charged with having not only boarded and searched the "Edwin," and forcibly taken possession of her log-book and papers, but with having, in a very insulting manner, forced the captain on board the British ship, and there detained him as a prisoner under guard, until the hatches of his vessel were opened, the cargo removed, and strict search made in every part of it for slaves. It was for such conduct that the government of the United States directed the case to be brought to the notice of her Majesty's government, as one which must strike with peculiar force, and offer a favorable opportunity of marking with disapprobation and punishment such unwarrantable proceedings on the part of her Majesty's naval officers towards the vessels and citizens of a friendly nation.

Of the extent to which the citizens and vessels of the United States are now engaged in the slave trade, the undersigned is wholly uninformed. Upon that subject he can only repeat the assurances which he has already had the honor of giving Lord Palmerston, that nothing has been omitted

on the part of the government of the United States, within its constitutional powers, to enforce its laws and regulations for the suppression of the slave trade, and the solicitude which it feels for its entire abolition. Indeed, the same just and benevolent motives which produced the interdiction now in force against this odious traffic will no doubt continue to be felt by the American government in giving the fullest efficacy to their own laws and regulations for the suppression of this great evil. This, however, can give no right to the naval officers of those countries who have treaties on the subject of the slave trade, to board and search the vessels of the United States, and harass their commerce, however qualified or restricted the right claimed may be, or under whatever pretence done; and that, consequently, the conduct of Lieutenant Elliot in the present instance can be regarded in no other light than as an insult to the flag of the United States, and an outrage upon the rights of its citizens.

The undersigned, &c.

A. STEVENSON.

Mr. Stevenson to Mr. Forsyth.

LEGATION OF THE UNITED STATES,
London, February 25, 1840.

I have the honor to transmit, enclosed, copies of a note received yesterday from Lord Palmerston, with the paper which accompanied it, in relation to three vessels lately captured on the coast of Africa by one of her Majesty's naval officers, and engaged in the slave trade under cover of the American flag.

One of these vessels appears to have been the "Constituçao," referred to by Mr. Trist in the extract from his letter of the 7th September last, which accompanied your despatch No. 65, received yesterday by the "South America," and to which my earliest attention shall be given.

As Lord Palmerston's note required only the common answer, I gave the reply of which a copy is now transmitted.

I am, &c.,

A. STEVENSON.

[Enclosure.]

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *February* 24, 1840.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, with reference to recent communications between Mr. Stevenson, envoy extraordinary and minister plenipotentiary from the government of the United States, and himself, upon the subject of slave trade attempted to be carried on in vessels which profess to belong to citizens of the United States of America, and which bear the flag of the Union, begs to transmit to Mr. Stevenson the accompanying extract of a letter, just received from Lieutenant Matson, commanding her Majesty's brig Waterwitch, reporting

the proceeding of that vessel while employed, under treaties between Great Britain and foreign powers, for the prevention of illegal traffic in slaves.

The paper in question contains an account of three vessels which Lieutenant Matson had recently met with, carrying on the slave trade on the coast of Africa under cover of the United States flag.

The undersigned requests that Mr. Stevenson will have the goodness to transmit to the United States government the information contained in that paper.

The undersigned, &c.

PALMERSTON.

[Sub-enclosure.]

Extract of a letter from Lieutenant Matson, of her Majesty's brig "Waterwitch," dated off Prince's Island,

"October 9, 1839.

"On the 8th of July, after a chase of five hours, I captured the Portuguese schooner 'Constituçao,' (which vessel I had seen on the evening of the 6th, standing out from Lagos, and followed in her supposed tack,) having on board 344 slaves. This vessel was sailing under American colors, and by the name of Dolphin, until the day she embarked her slaves. She arrived at Sierra Leone, under the charge of Mr. Clarence Taylor, mate, on the 20th July, with the loss of two slaves on the passage.

"On the 3d August, I boarded the American schooner 'Hound,' completely equipped for the slave trade; she was direct from Havana, where she was fitted so as to enable her to take slaves on board at an hour's notice. Her master, two mates, and one seaman were Americans—the rest Spaniards and Portuguese; this vessel sailed shortly after with slaves, under Portuguese colors, at which time I was absent from Lagos in search of the 'Lynx' and 'Dolphin,' and to meet the senior officer.

"On the 27th September, I captured, after a chase of four hours and a half, the Portuguese schooner 'Sette de Abril,' having on board 427 slaves, and despatched her to Sierra Leone, under the charge of Mr. Wilcox, mate. I had several times boarded this vessel during the last three months, at which times she was sailing under American colors, and by the name of 'Mary Cushing;' was not then equipped for slave trade, though with every appearance of being intended for it. It is quite evident that this, as well as all slavers hoisting the American flag, are sailing with false colors and papers; the papers of the 'Sette de Abril' are dated in October, 1838, whereas she was sailing so late as the 15th September, 1839, with American colors and papers. The American who formerly acted as master being on board at the time of capture, I have considered it my duty to detain him for the disposition of the senior naval officer, to whom I have specially reported the case.

"Rear Admiral the Hon. G. Elliot, *C. B.*,

"*&c. &c. &c.*"

[Enclosure.]

Mr. Stevenson to Lord Palmerston.

32 UPPER GROSVENOR STREET,
February 25, 1840.

MY LORD: I beg to acknowledge the receipt of the note which your lordship did me the honor to address to me yesterday, communicating extracts from a letter of Lieutenant Matson, commanding her Majesty's brig "Waterwitch," in relation to the capture of three vessels on the coast of Africa engaged in the slave trade under cover of the flag of the United States.

I will take great pleasure in transmitting, by the earliest opportunity, copies of these papers for the information of my government; and have the honor, &c.,

A. STEVENSON.

Mr. Stevenson to Mr. Forsyth.

[Extract.]

LEGATION OF THE UNITED STATES,
London, March 6, 1840.

I have now the honor to transmit to you the enclosed copy of Lord Palmerston's answer to my note of the 17th ult. in the case of the brig "Edwin," of New York, received since the date of my last despatch.

[Enclosure.]

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *March* 2, 1840.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, with reference to previous correspondence with Mr. Stevenson, envoy extraordinary and minister plenipotentiary of the United States of America, respecting the conduct of Commander Elliot, of her Majesty's brig "Columbine," towards the United States vessel "Edwin," has to acquaint Mr. Stevenson that no report has yet been received at the admiralty upon this case, but that directions have been given by the board of admiralty for instituting an immediate inquiry into the facts stated in the communication from Mr. Stevenson.

The undersigned, &c.

PALMERSTON.

Mr. Forsyth to Mr. Stevenson.

DEPARTMENT OF STATE,
Washington, March 18, 1840.

SIR: I transmit to you, enclosed, the copy of a despatch addressed to this department by the consul of the United States at Havana, on the 29th of February last, together with the original documents therein referred to, in which he communicates intelligence of several recent cases of outrage committed by British armed cruisers upon American merchant vessels on the western coast of Africa. These papers are forwarded with a view to enable you again to point the attention of the British government to the extraordinary and most unjustifiable proceedings of some of her Majesty's naval officers on the African station towards our citizens engaged in lawful commerce on that coast, and to invite such measures on the part of her Britannic Majesty's government as shall effectually prevent such excesses in future. The case of the brig "Mary," of New Orleans, Tomlinson, master, captured on the 18th of August last, when within a short distance of the Gallinas, (her destination,) and subsequently taken to Sierra Leone by the commander of her Britannic Majesty's brig "Forester," will attract your especial attention, and may properly form the subject of a particular representation, in which you will set forth all the circumstances attending this impudent violation of our flag, as disclosed in the accompanying papers. Prefer a claim for indemnification in behalf of the owners of the "Mary;" denounce the conduct of Commander Bond of the "Forester," on the occasion referred to; and demand the exemplary punishment of all concerned in this piratical outrage.

I am, &c.,

JOHN FORSYTH.

ANDREW STEVENSON, Esq.,
&c. &c. &c.

Mr. Stevenson to Mr. Forsyth.

[Extract.]

LEGATION OF THE UNITED STATES,
London, April 28, 1840.

I shall lose no time in examining the documents transmitted in relation to the brig "Mary," and other vessels on the African coast, and fulfilling your instructions. This, I believe, will be the third or fourth case in which complaints have been preferred to this government for violations of our flag by British cruisers; in none of which, however, have satisfactory explanations or redress been given. If I am not greatly mistaken, the present proceeding, marked as it is by insult and outrage, will share the same fate. This, I think, is to be inferred from the recent decision in the case of the "Susan," of Boston, which has just been communicated to me in a note from Lord Palmerston, a copy of which, with the enclosures, I have now the honor herewith to transmit. You will see that, so far from giving the explanations and redress which I was instructed to ask for, and which we had a right to expect, the conduct of the

parties who perpetrated the outrage is excused, if not justified, and a formal complaint made against the officers and men on board the "Susan," for the manner in which they resented the wrongs done them. Indeed, it would seem as if Great Britain intended, if not formally to assert, at least to exercise, (and that, too, in a manner not the least offensive,) the right of boarding and searching all American vessels on the African coast so long as abuses in the slave trade continue to be practised by other nations, under the flag of the United States. The consequence, therefore, I presume, will be, that if the vessels of our citizens engaged in lawful commerce on the high seas, in time of peace, are to be considered as exclusively under the protection of their own flag, then the vexations and embarrassments to which they are now subjected by British cruisers on the whole of the African coast, and the adjacent seas, will not be much longer patiently endured by our people. It is a subject, however, for the consideration of the President, and will no doubt become one of importance between the two governments. I have taken the liberty of making these suggestions at this time, because I foresee, I think, very clearly, the dangers to which the present state of things, if allowed to continue, must inevitably lead.

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[Enclosure]

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *April* 23, 1840.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, in his note dated the 9th of September last, had the honor to inform Mr. Stevenson, envoy extraordinary and minister plenipotentiary from the United States of America, that an inquiry had been instituted upon the complaint brought forward by Mr. Stevenson, in his note dated the 26th of August, relative to an alleged outrage committed upon an American ship, the "Susan," of Boston, near Cape Frio light, on the 9th of April, 1839, by the commander of her Majesty's sloop "Grecian" and a boarding officer from that vessel.

The undersigned has now the honor to transmit to Mr. Stevenson a copy of a letter from the secretary of the admiralty, enclosing an extract of a letter from Commander Smyth, of her Majesty's sloop "Grecian," and a copy of a letter from Mr. N. B. Pearse, master of that sloop, explaining the circumstances attending the detention of the "Susan" on the occasion to which Mr. Stevenson's note refers.

The undersigned trusts that the government of the United States will see, from the narrative which these papers contain, that nothing was done by the officers of the "Grecian" of which the United States government can justly complain; but that, on the contrary, her Majesty's government have good ground for complaining of the rude and offensive behavior of Mr. Brewer, a passenger on board the "Susan," towards her Majesty's officers, while employed in the performance of their duty; and the undersigned has to observe, that, from what is stated in these reports, there seems strong reason to suspect that Mr. Brewer was not unconnected with slave-trade undertakings.

The undersigned, &c.

PALMERSTON.

[Sub-enclosure.]

Sir John Barrow to Lord Leveson.

ADMIRALTY, *April* 14, 1840.

MY LORD: With reference to your letter of the 7th September last, I am commanded by my Lords Commissioners of the Admiralty to transmit to you herewith, for the information of Viscount Palmerston, an extract of a letter from Commander Smyth, of her Majesty's sloop "Grecian," dated December 10, 1839, and a copy of a letter from N. B. Pearse, master of that sloop, which accompanied it, relative to the detention of the American ship "Susan," off cape Frio, by the "Grecian," on the 9th April, 1839.

I am, &c.,

JOHN BARROW.

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[Sub enclosure.]

Extract of a letter from Commander Smyth, of her Majesty's sloop "Grecian," dated December 10, 1839, *addressed to Commodore Sullivan, C. B., at Rio de Janeiro.*

In reply to your letter of the 25th November, 1839, enclosing copies of a correspondence relative to the United States barque "Susan," boarded by a boat from her Majesty's sloop under my command, I have the honor to state to you, for the information of my Lords Commissioners of the Admiralty, that while cruising off Cape Frio I was standing towards the cape, with a prize, and at half-past 7, p. m., it being quite dark, flashes were reported as being seen to leeward, which appeared to me to be signals with slave vessels, as I knew that several were expected, and among them a barque called the Commodore.

I desired the prize to continue her course for the cape, and then bore up in the direction of the lights, and very soon after discovered a sail, upon which I hoisted a light, and fired a blank gun to bring her to. As far as we (the officers and myself) could distinguish, from the obscurity of the night, the vessel paid no attention to our signals. I then, being anxious not to separate from the prize, ordered a shotted gun to be fired well ahead of the vessel, and shortly after ran up along side of, and hailed her in the following manner: This is her Britannic Majesty's brig "Grecian;" what barque is that? The answer was, The "Susan," from Rio de Janeiro. G—d damn you, what do you mean by firing a shot across our bows? I'll blow you out of the water.

Not feeling satisfied, from the style of the answer, what the vessel was, I hailed, to say I should send a boat on board. I therefore ordered the jolly boat to be lowered, and sent Mr. Pearse, master, to ascertain what vessel she was; (and the statement of that officer accompanies this letter, relative to what took place on board the "Susan," which I beg leave to transmit for their lordships' information.)

On the return of the boarding officer he related to me, as far as my memory will allow, precisely the words that are in his statement. I confess I should have detained her, and inquired into such unbecoming behavior,

had I not been pressed to rejoin the prize, who had on board 430 slaves, who I was extremely anxious should get into port with the utmost speed; therefore, every moment's detention to me was of the greatest importance, and I was reluctantly constrained to permit my officer—in fact my ship—to suffer an indignity, without being able, from circumstances, to examine the case, so as to make an official report thereon. An additional cause of my anxiety to rejoin the prize was, through fear that she might mistake the light shown by the "Susan" for Cape Frio light, which at that time was not visible.

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[Sub-enclosure.]

Mr. N. B. Pearse to Commander Smyth.

H. M. SLOOP "GRECIAN,"
Buenos Ayres, December 10, 1839.

SIR: In compliance with your orders, I beg leave to state what occurred on the night of the 9th April last, while in company with the United States barque "Susan."

Being on board the brig "Grecian," cruising off Cape Frio, engaged in the suppression of the slave trade, and particularly looking out for a slave barque that was daily expected, viz: the Commodore, at 7h. 30m. p. m., it being very dark, a light was observed in shore of us, which was visible only at intervals, but, when visible, was very bright. This was suspected to be a slave vessel, making signals to the shore, (this being a place where slaves in great quantities are landed.) We stood after her and fired a blank gun; and she not heaving to, a shot was fired ahead of her. On closing with her, she seemed to be a barque. She was hailed by you from the forecastle, telling what ship this was, and asking what she was. The reply was, the ship's name, and, "G-d damn you, what do you mean by firing across our bows? If you fire again, I'll blow you out of the water." I was then ordered to board her, which I did in the jolly boat. On going alongside, I had considerable difficulty in getting on board, it being very dark, and a considerable sea on. No rope was handed over the side, or any of the usual assistance given to a boat going alongside of a vessel.

I had considerable difficulty in scrambling up her side. When I got on deck, I called for the captain, but was immediately surrounded by several persons who were most clamorous and noisy, particularly one person of the name of Brewer, whose language and general deportment were most insolent and abusive. I told him I had nothing to say to him, but wished to see the captain; on which he merely continued to repeat his abuse, and to offer every interruption to my obtaining any information as to what the vessel was. I repeated to him several times that I had no business with him, and wished to say nothing to any one but the captain; that all my efforts to have any conversation with him (for, as yet, I had not seen him) were interrupted by the noisy and turbulent behavior of the said Mr. Brewer, who was now joined in his reproaches and abuse by the other persons standing round, and much confusion was produced on deck by their violent language and insolent menaces.

I had not yet seen the captain; and although I believed Mr. Brewer to be

an American citizen, my mind was by no means free from suspicion of the vessel being a slaver; this same Mr. Brewer having declared, in a boasting manner, some time previously, in Rio Janeiro, that he was the person who had sold the very slave vessel that we were now in chase of—"the Commodore"—to her present owners. Under these circumstances, I told them that if I was interrupted by them in communicating with the captain, I should make a signal to the brig for assistance, calling one man out of the boat, and desiring him to bring a musket and a lantern, to enable me to make the necessary signal. I had not yet seen the captain, nor had I any proof of the nationality of the vessel. They were now more silent; and having at length ascertained who was captain, I asked him to show me his papers. Mr. Brewer then again interfered, desiring the captain to show nothing but the register. I told them I only wished to satisfy myself that she was an American vessel. I went into the cabin with the captain, and inspected the register, and entered her name, &c., in the boarding-book, in the usual manner: while so engaged, Mr. Brewer and the other passengers came into the cabin. I asked the captain why he gave such an answer to a British man-of-war hailing her; when he told me he had made no such reply, and that what was given had been given by Mr. Brewer, who was a passenger, but not by him, the captain. While making the short notation in the boarding-book, Mr. Brewer and the others insisted on my going away, and not detaining them; to which I replied that I should take what time was necessary.

The only time that was lost was by the insolent behavior of Mr. Brewer and the others.

Having seen the register, and being satisfied that she was a regular trading vessel, I made no further inquiries, but left the vessel, requesting she would not make sail until I got on board the "Grecian," to make the report of her.

I came on board the "Grecian," then within hail of the "Susan;" and having reported her, you immediately hailed her to go on.

From the time she first hove to until she filled again did not exceed half an hour; and the time occupied by me in examining her register, when once produced, did not exceed five minutes.

The whole affair occupied as little time as possible, having been ordered to return immediately, in order to rejoin the Ganges prize slave brig, from which we had parted company, and being anxious about her, lest she should have been deceived by the lights seen from the "Susan," and mistaken them for Cape Frio light, which was not then visible.

And I further state that I am ready, if called upon, to substantiate on oath the foregoing statement.

I have, &c.,

N. B. PEARSE,
Master of H. M. sloop "Grecian."

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[Enclosure.]

Mr. Stevenson to Lord Palmerston.

Mr. Stevenson presents his compliments to Lord Palmerston, and has the honor to acknowledge the receipt of his lordship's note of the 23d in-

stant, relative to the case of the American ship "Susan," of Boston, submitted for the consideration of her Majesty's government in August last.

Mr. Stevenson will take an early opportunity of transmitting Lord Palmerston's note to his government, and avails himself of this opportunity to renew to his lordship assurances of his high consideration.

32 Upper Grosvenor St.,
April 27, 1840.

Mr. Stevenson to Mr. Forsyth.

[Extract.]

Legation of the United States,
London, June 3, 1840.

I now transmit to you a copy of my note to Lord Palmerston, complaining of the outrage committed upon the American brig "Mary," of New Orleans, by one of the British cruisers on the African coast. No answer has yet been received, nor is it probable that one will be given for some time to come. Several of my former notes, in similar cases, remain unanswered.

[Enclosure.]

Mr. Stevenson to Lord Palmerston.

32 Upper Grosvenor St., *May* 15, 1840.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States, has the honor to inform Lord Palmerston, her Majesty's principal Secretary of State for Foreign Affairs, that he has received instructions which make it his duty again to invite the attention of her Majesty's government to the continued excesses which, it appears, are still practised by British naval officers upon the vessels and commerce of the United States in the African seas; and more particularly to bring to its notice a recent aggression of a marked and extraordinary character, committed by the commander of one of her Majesty's cruisers upon an American brig on the high seas, and which, in the opinion of the President of the United States, calls for the immediate action of her Majesty's government.

To enable Lord Palmerston to judge of the nature and extent of this outrage, the undersigned has the honor of transmitting to his lordship the accompanying documents, detailing the whole proceeding, amongst which will be found the original log-book of the American brig from the time of her sailing from the Havana to that of her return to that port, four or five months after.

From these papers, it appears:

That on the 21st of June, 1839, an American brig called the "Mary," the property of Peter Sabate, of the city of New Orleans, and under the command of Captain David Tomlinson, (both citizens of the United

States,) sailed from the Havana for the Gallinas and Cape Lopez, with a valuable cargo of merchandise, belonging to the commercial house of Blanco and Cabello, of that city.

That this vessel was regularly cleared from the Havana by the consul of the United States, for ports on the African coast.

That on the 18th of August, whilst pursuing her voyage, and within sight of Cape Mount, and not more than twenty-five or thirty miles from the port of destination, a British cruiser called the "Forester," commanded by William Bond, and sailing under the British flag, bore down and fired a gun across the bow of the "Mary," for her to heave to.

That the American colors were hoisted on board the brig, and in full view of the British cruiser.

That Captain Tomlinson accordingly came to, when his vessel was immediately boarded by the commandant of the "Forester," with a subordinate officer and six or eight of the crew.

That, upon examination of the ship's papers, which were all regular, Captain Bond expressed himself dissatisfied; declared that the American consul at the Havana, by whom they were signed, had been removed by his government; ordered the hatches immediately to be opened; turned up and examined the whole cargo; broke open and destroyed 10 boxes or liquor cases; and finally seized the said vessel and cargo as lawful prize.

That the vessel was thereupon carried by force into Sierra Leone for condemnation, but the prize court refused to exercise jurisdiction over her, upon the ground that she was American property, and that the seizure had been unauthorized and illegal.

That this took place on Saturday, the 24th of August, at 3 o'clock, p. m., at which time orders were given to Captain Tomlinson to leave the port by one o'clock the following day, with a further notification that if there was any delay beyond that hour, his vessel would be again seized.

That his papers were then in possession of Captain Bond, as were also five of her crew, and that she had not, besides, suitable provisions of wood and water for going to sea.

That it was not until after three o'clock that possession of the brig was restored to Captain Tomlinson by the officer, with a part of her papers, and four of her crew. On the following day, however, she was again boarded by another officer, who brought with him the remainder of the papers, without the fifth seaman, (the steward,) who was retained.

That, in consequence of this notification, Captain Tomlinson made immediate preparation to sail, and accordingly put to sea, though so unprovided with wood and water as to make it extremely hazardous to do so.

That on the 30th of August the brig reached the Gallinas, where she went for provisions; and, on the 23d of September, Captain Tomlinson died, from a fever which he had taken in consequence of his detention in the deadly climate of the African coast.

It further appears that the "Mary" was a clump brig, utterly unsuitable for the purposes of a slaver, and manifestly intended for the employment in which she was engaged—of transporting cargoes of ordinary merchandise.

Such is a brief recital of the facts of this case, which will be found, however, more particularly detailed in the documents which accompany this letter. They afford proof too manifest and decisive to leave room for

doubt or denial as to the extent of the outrage, or the reparation which it calls for.

Not content with having boarded and searched, (acts in themselves of insult and violence,) the commandant of the British crusier had the temerity actually to capture and send into a foreign port, for condemnation, in time of peace, as lawful prize, the vessel of a friendly nation, engaged in lawful commerce upon the high seas, and under the protection and jurisdiction of its own flag; and that, too, in the absence of that degree of suspicion which, under the provisions of existing treaties between Great Britain and other nations in relation to the slave trade, would alone justify a mutual right of search and capture of their respective vessels.

Indeed, the whole proceeding on the part of Captain Bond would seem to want nothing to give it the character of a most flagrant and daring outrage, and very little, if any thing, to sink it into an act of open and direct piracy.

Such is the view of the case which the undersigned has been instructed to present to the consideration of her Majesty's government; and, in preferring a claim for suitable indemnity to the owners of the "Mary," he has been further directed to ask for the exemplary punishment of the commander of the "Forester" and those concerned in so wanton and unjustifiable an outrage.

In peforming this duty the undersigned will forbear to enlarge upon the subject. After the former notes which he has had the honor of addressing to Lord Palmerston, and in which he took occasion to express very fully the views of his government in relation to these violations of its flag, and the vexatious interruptions to which the commerce and navigation of the United States are subjected by her Majesty's cruisers on the coast of Africa, it cannot be necessary to do more than to place her Majesty's government in possession of the facts, and invite its early adoption of such measures as will have the effect of guarding for the future against such unwarrantable excesses on the part of its naval officers.

Lord Palmerston will not fail to see how unpleasant and painful it must be to the President to have complaints of this character so often pressed upon the attention of her Majesty's government, and the necessity and importance of preventing their repetition. Indeed, it would indicate a want of confidence in a government which so well understands its own rights, and what is due to it from other nations, not to infer that a case of such gross indignity and insult—one so inconsistent with all international courtesy, and ill suited to the friendly relations of two such countries—would be promptly redressed and signally punished.

The undersigned, &c.

A. STEVENSON.

Mr. Forsyth to Mr. Stevenson.

DEPARTMENT OF STATE,
Washington, July 8, 1840.

SIR: Your despatch No. 92 was duly received and laid before the President. The answer given by Lord Palmerston to your note complaining of the outrage committed by the officers of the British sloop-of-war "Gre-

cian" upon the barque "Susan" is of a nature to call for an early recurrence to the subject in your correspondence with the British government. You will, accordingly, on the receipt of this despatch, address to Lord Palmerston an official note in the following terms:

"The President has read with feelings of surprise and regret the answer returned by her Majesty's government to the complaint preferred on the part of the United States in the affair of the barque 'Susan.' That answer cannot be considered as otherwise than unsatisfactory. The conduct of the British officers is attempted to be justified on their bare and unsupported statements, totally at variance with, and in entire disregard of, the facts registered with every formality usual on such occasions in the log-book of the 'Susan,' supported, as these are, by the asseverations of persons of respectability, then passengers on board the vessel. In justice to the rights of their citizens, and in pursuance of the principles which the United States have assumed, such an occurrence as that under consideration cannot be allowed to pass over in the manner in which it has been treated by her Majesty's government. It would be foreign to the purposes of this communication to raise questions of law out of the occurrence which gave rise to the complaint of the United States.

"The circumstances under which the right of boarding and visiting vessels at sea is usually enforced are defined with sufficient clearness; and, even where the right is admitted, usage among civilized nations has prescribed with equal precision the manner in which it is to be exercised. The motive of this communication is, that the British government should be clearly made sensible that the United States cannot, in justice to their own citizens, permit the recurrence of such causes of complaint. If, in the treaties concluded between Great Britain and other powers, the latter have thought fit, for the attainment of a particular object, to surrender to British cruisers certain rights and authority not recognised by maritime law, their officers charged with the execution of those treaties must bear in mind that their operation cannot give a right to interfere in any manner with the flag of nations not parties to them. The United States not being such a party, vessels legally sailing under their flag can in no case be called upon to submit to the operation of said treaties; and it behooves their government to protect and sustain its citizens in every justifiable effort to resist all attempts to subject them to the rules therein established, or to any consequent deductions therefrom.

"The United States cannot look with indifference upon the laudable exertions made by Great Britain and her allies in the suppression of the slave trade, towards the attainment of the great object in view; and, so long as those efforts are confined within their proper sphere, they will command applause and good wishes from the people and government of the United States. But they must be considered as exceeding their appropriate limits whenever they shall lead to such acts as those which form the subject of this communication. The President has been advised that, on frequent occasions, the flag of the United States, as well as those of other nations, has been fraudulently used by subjects of other countries to cover illicit commerce and elude the pursuit of British and other cruisers employed in the suppression of the African slave trade; and that a pretext has thereby been afforded for boarding, visiting, and interrupting vessels bearing the American flag. The several complaints to which the subject has given rise should convince her Majesty's government of the

great abuse to which the practice is liable, and make it sensible of the propriety of its immediate discontinuance. It is a matter of regret that this practice has not already been abandoned. The President, on learning the abuses which had grown out of it, and with a view to do away every cause for its longer continuance, having now directed the establishment of a competent naval force to cruise along those parts of the African coast which American vessels are in the habit of visiting in the pursuit of their lawful commerce, and where it is alleged that the slave trade has been carried on under an illegal use of the flag of the United States, has a right to expect that positive instructions will be given to all her Majesty's officers to forbear from boarding or visiting vessels under the American flag. This expectation is now distinctly signified to her Majesty's government, in the belief that it will see the propriety of confining the action of its agents to the vessels of nations with whom her Majesty's government has formed stipulations authorizing a departure from the rules prescribed by the public law, and thereby prevent the recurrence of circumstances inevitably productive of causes of irritation, and deeply endangering the good understanding now existing between the two nations, and which it is so much the interest of both to maintain unimpaired."

I am, &c.,

JOHN FORSYTH.

ANDREW STEVENSON, Esq., *&c. &c. &c.*

Mr. Stevenson to Mr. Forsyth.

LEGATION OF THE UNITED STATES,
London, August 26, 1840.

SIR: I received, on the 13th instant, your despatch of the 8th of July, (No. 73,) in relation to the outrage committed on the barque "Susan," of Boston; and the next day I addressed to Lord Palmerston an official note, a copy of which I have the honor herewith to transmit. No answer to it has yet been received.

I also enclose copies of a note from Lord Palmerston, with the documents accompanying it, purporting to give an explanation of the conduct of Commander Elliot and Lieutenant Tatham, in relation to their proceedings towards the sloop "Edwin," of New York. I acknowledged simply the receipt of the papers, with an assurance that they would be forwarded to my government, with whom it alone rested to decide on the sufficiency of the explanation given. A copy of my note is also enclosed.

I am, &c.,

A. STEVENSON.

[Enclosure.]

Mr. Stevenson to Lord Palmerston.

32 UPPER GROSVENOR STREET, *August* 14, 1840.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States, has the honor to acquaint Lord Palmerston, her Majesty's principal Secretary of State for Foreign Affairs, that, having lost

no time in transmitting to his government the note of his lordship, under date of the 23d of April last, in reply to that of the undersigned of the 26th of August preceding, complaining of the outrage committed by the officers of the British schooner the "Grecian" upon the barque "Susan," of Boston, he has been specially instructed to make the following communication in answer to Lord Palmerston's note:

The President has read, with feelings of surprise and regret, the answer returned by her Majesty's government to the complaint preferred on the part of the United States, in the affair of the barque "Susan." That answer cannot be considered as otherwise than unsatisfactory. The conduct of the British officers is attempted to be justified on their bare and unsupported statements, totally at variance with, and in entire disregard of, the facts registered with every formality usual on such occasions in the log-book of the "Susan," supported, as they are, by the asseverations of persons of respectability, then passengers on board the vessel. In justice to the rights of their citizens, and in pursuance of the principles which the United States have assumed, such an occurrence as that under consideration cannot be allowed to pass over in the manner in which it has been treated by her Majesty's government. It would be foreign to the purposes of this communication to raise questions of law out of the occurrence which gave rise to the complaint of the United States. The circumstances under which the right of boarding and visiting vessels at sea is usually enforced are defined with sufficient clearness; and, even where the right is admitted, usage among civilized nations has prescribed with equal precision the manner in which it is to be exercised. The motive of this communication is, that the British government should be clearly made sensible that the United States cannot, in justice to their own citizens, permit the recurrence of such causes of complaint. If, in the treaties concluded between Great Britain and other powers, the latter have thought fit, for the attainment of a particular object, to surrender to British cruisers certain rights and authority not recognised by maritime law, the officers charged with the execution of those treaties must bear in mind that their operation cannot give a right to interfere, in any manner with the flag of nations not parties to them. The United States not being such a party, vessels legally sailing under their flag can in no case be called upon to submit to the operation of said treaties; and it behooves their government to protect and sustain its citizens in every justifiable effort to resist all attempts to subject them to the rules therein established, or to any consequent deductions therefrom. The United States cannot look with indifference upon the laudable exertions made by Great Britain and her allies, in the suppression of the slave trade, towards the attainment of the great object in view; and so long as those efforts are confined within their proper sphere, they will command applause and good wishes from the people and government of the United States. But they must be considered as exceeding their appropriate limits whenever they shall lead to such acts as those which form the subject of this communication. The President has been advised that on frequent occasions the flag of the United States, as well as those of other nations, has been fraudulently used by the subjects of other countries to cover illicit commerce, and elude the pursuit of British and other cruisers employed in the suppression of the African slave trade, and that a pretext has thereby been afforded for boarding, visiting, and interrupting vessels bearing the American flag. The

several complaints to which the subject has given rise should convince her Majesty's government of the great abuse to which the practice is liable, and make it sensible of the propriety of its immediate discontinuance. It is a matter of regret that this practice has not already been abandoned. The President, on learning the abuses which had grown out of it, and with a view to do away every cause for its longer continuance, having now directed the establishment of a competent naval force to cruise along those parts of the African coast which American vessels are in the habit of visiting in the pursuit of their lawful commerce, and where it is alleged that the slave trade has been carried on under an illegal use of the flag of the United States, has a right to expect that positive instructions will be given to all her Majesty's officers to forbear from boarding or visiting vessels under the American flag. This expectation is now distinctly signified to her Majesty's government, in the belief that it will see the propriety of confining the action of its agents to the vessels of nations with whom her Majesty's government has formed stipulations authorizing a departure from the rules prescribed by the public law, and thereby prevent the recurrence of circumstances inevitably productive of causes of irritation, and deeply endangering the good understanding now existing between the two nations, and which it is so much the interest of both to maintain unimpaired.

The undersigned, &c.

A. STEVENSON.

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[Enclosure.]

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *August* 17, 1840.

SIR: With reference to the representations which I have received from you upon the subject of the conduct pursued towards the American sloop "Edwin," by officers in her Majesty's naval service, I have to acquaint you that her Majesty's government have now received from Commander Elliot, of her Majesty's sloop "Columbine," a detailed statement of the circumstances under which the American brig in question was visited by the "Columbine," and of the events which took place on that occasion; and I do myself the honor to transmit to you, for communication to the United States government, a copy of that statement, together with a copy of the statement of Lieutenant Tatham, the officer who executed the orders of Commodore Tucker to visit the "Edwin."

It appears to her Majesty's government, and her Majesty's government hope that it will also appear to the United States government, that these papers give a satisfactory explanation of the conduct of Commander Elliot and of Lieutenant Tatham, on the occasion referred to.

I have, &c.,

PALMERSTON.

A. STEVENSON, Esq., *&c. &c. &c.*

[Sub-enclosure]

H. M. S. COLUMBINE,
Simons's Bay, April 30, 1840.

SIR: In obedience to directions from the Hon. George Elliot, dated April 25, forwarding to me your letter of the 20th February, and its enclosures, relative to the American brig "Edwin," I have to acquaint you, for the information of the Lords Commissioners of the Admiralty, that on the 22d July, 1839, a vessel was reported to me, and chased, which vessel proved to be the "Edwin," of New York. Her evident desire to avoid us, her disinclination to exchange colors, and her being found off the slave port of Ambriz, induced me to suspect her having no claim to the protection of the American flag; and having had occular proof that the American flag was unlawfully made use of by the Portuguese on the coast, in order to carry on the slave trade, I, on closing her, hailed her, and expressed my suspicions, and demanded that she should be hove to and submit to a search. This was refused; and the gross and insulting language of her master more fully confirmed my suspicions about her. I was about to enforce a search, when he hove to. I then sent a boat with Lieutenant Tatham on board her, and ordered him to demand his papers, and to bring the master on board to me. The conduct of this master was so outrageous, that I was obliged to place two marines to prevent his carrying his threats into execution. His language was of the grossest nature, and without the slightest provocation, as I did not use one insulting word to him. I forward a corroboration of the above facts, detailed by Lieutenant Tatham.

I have the honor to inform you, that, were the American flag to be a security to all vessels on that coast that might hoist it, it would be impossible to suppress the slave trade and acts of piracy. The American schooner "George Crooks," of Baltimore, was twice boarded whilst lying in Cabinda bay, by boats of her Majesty's sloop—only one American on board, and fitted for the reception of slaves. She afterwards sailed, to my certain knowledge, with a cargo of slaves, under the Portuguese flag.

I have, &c.,
GEO. ELLIOT, *Commander.*

The SECRETARY OF THE ADMIRALTY.

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[Sub-enclosure.]

SIMONS'S BAY, *April* 22, 1840.

SIR: In obedience to your orders, and in reply to the documents forwarded by their lordships of the admiralty, in reference to the circumstances under which the American brig "Edwin" was boarded by her Majesty's sloop "Columbine," I have the honor to state the following facts:

On July 22, 1839, her Majesty's sloop was standing in for the slaving port of Ambriz, when a sail was seen on the lee bow, and the weather being hazy, all sail was made to close. On nearing her, we perceived she was a brig standing on a wind; and when close to her, as she hoisted no colors, a gun was fired. After a time the brig hoisted the American flag, but continued on her course, carrying all sail. This disinclination to

show colors, or heave to, excited strong suspicions that the vessel was engaged in the slave trade, and not entitled to the protection of the flag she hoisted. Sufficient sail was kept on her Majesty's sloop to close her; and, on getting alongside, Captain Elliot hailed, and desired the master to heave to. "Heave to?" was the reply of the master. "I'll see you damned first, you no-nation bugger," was the second reply. The language of the American which followed was of the lowest and grossest description, much of which I do not now retain in memory. I remember, however, his hailing and saying, "My flag is as good as your bloody piratical one," and some reference to a lesson he stated we had already received on the right of search, and which we should have again.

The language and conduct of the master giving additional suspicion of his vessel not being American, Captain Elliot continued running abreast by her, and urging, by every argument, the necessity of his ascertaining that he had a right to the flag he hoisted, and that he had no slaves on board; adding, "You are aware I can compel you by firing; but while you hoist that flag, I shall abstain, if possible; but board your vessel I am determined to do."

This was replied to by the most violent and abusive language. Captain Elliot now said, "Come on board, then, yourself, and bring your papers," which the master of the brig replied to with these words: "I'll see you buggered first." Soon after which, the crew of the brig hove her to, apparently without any orders from the master.

Captain Elliot now ordered me to bring the master on board with his papers, to ascertain if he was American, leaving Mr. Wells (master of her Majesty's ship "Columbine") on board the "Edwin."

On boarding the brig, I told the master the orders I had received. He, however, was most violent and abusive, declaring no one should see his papers, and no one should force him from his vessel. I told him I had no wish to use any force, but that his conduct had excited suspicions, which he, as an American citizen, should be anxious to disprove. With the assistance of the mate, he was at last persuaded, and got into the boat with his papers. On our way to her Majesty's sloop, I recognised the master as a person I had seen at the factories of Ambriz; and on this recognition he gave me his papers, and appeared more tranquil. I now told him I was sure Captain Elliot would allow him to return immediately he ascertained he was an American.

On gaining the "Columbine's" quarter-deck, I delivered the papers to Captain Elliot immediately, followed by the master of the "Edwin," who advanced, shaking his fist, and grasping at the papers in Captain Elliot's hands, making use of the most abusive language. Mr. Carpenter, (1st lieutenant,) as also myself, stepped in between him and Captain Elliot, to prevent the personal violence and indignities threatened by the master of the "Edwin" to the commander of her Majesty's sloop, on her Majesty's quarter-deck. So violent, however, was his conduct, that Captain Elliot ordered two marines to stand between him and the master of the "Edwin," who even then pushed forward in the most outrageous manner to grasp his papers, or to strike Captain Elliot, but was prevented by the marines.

Captain Elliot having satisfied himself that he was entitled to the protection of the flag he hoisted, explained that he regretted the steps forced on him to disprove suspicions, principally founded on the conduct he (the master of the "Edwin") had pursued; and, giving him his papers, he re-

turned to his brig, soon after which her Majesty's sloop made sail and anchored at Ambriz.

Captain Elliot and myself immediately landed and repaired to the American factory, where we were received by a Mr. Cox, who stated he was in the same employ with Mr. Daly, the master of the "Edwin," and expressed much concern at what had happened, remarking that he must have been drunk or mad.

Mr. Cox, suffering under a bad case of African fever, attended with most serious symptoms, our surgeon attended him by order of Captain Elliot, who, in his anxiety to show, by every possible means, the feeling which he held towards American citizens, sat by his bedside several hours, and paid him every possible attention during our stay. Under the advice of our surgeon Mr. Cox recovered, and nothing could surpass the anxiety shown by him to evince his gratitude.

I further beg to state, that during the past year it has been my duty as boarding officer to visit several American vessels, and on no occasion have they shown the least objection to produce their papers. On the contrary, the very best feeling possible has existed; and the case now referred to was alike deplored by ourselves, as by the American citizens trading at Ambriz.

It is further my duty, in explanation, to state that additional reason for suspicion in this case was excited from the ascertained fact, that many of the slavers sailing from Ambriz and the coast near have American papers and are under the American flag. In the month of June last I boarded the "George Crooks," of Baltimore, a schooner anchored at Cabinda, and in every way prepared to receive a cargo of slaves.

This vessel produced papers, signed by the American consul at Havana, from which place she last sailed. On mustering her crew, they were found all Spaniards but the master.

On the 6th of July, only a fortnight previous to meeting the "Edwin," I again boarded the "George Crooks," which I found still in the same state of preparation, but the papers produced as an American prevented further steps being taken.

On our return to Cabinda, we were informed that the schooner "George Crooks" had sailed with a cargo of slaves.

I have, &c.,

EDWD. TATHAM,

Second Lieutenant of H. M. sloop "Columbine."

Rear Admiral GEORGE ELLIOT, *C. B., &c. &c. &c.*

[Enclosure.]

Mr. Stevenson to Lord Palmerston.

32 UPPER GROSVENOR STREET,
August 24, 1840.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States of America, begs leave to inform Lord Palmerston, her Majesty's principal secretary of state for foreign affairs, that he had the honor to receive, on his return to town, his lordship's note of the 17th instant, transmitting to the undersigned, for communication to his govern-

ment, sundry documents containing a detailed statement of the circumstances under which the American brig "Edwin," of New York, was boarded and searched, on the coast of Africa, by the officers of her Majesty's sloop-of-war the "Columbine," and which had been made the subject of complaint to her Majesty's government in February last.

The undersigned will take an early opportunity of transmitting these papers to his government, with whom it alone rests to decide upon the sufficiency of the explanation which has been given of this transaction by her Majesty's naval officers.

The undersigned, &c.,

A. STEVENSON.

The Right Hon. LORD PALMERSTON, *&c. &c. &c.*

Mr. Martin to Mr. Stevenson.

DEPARTMENT OF STATE,
Washington, August 28, 1840.

SIR: By direction of the President I herewith transmit to you copies of the papers in the case of the brig Douglas, of Duxbury, Massachusetts, Alvin Baker master, with instructions to make it the subject of an immediate demand upon the British government for redress and indemnity to the owners and sufferers. The despatches which you have already received from this department on kindred subjects, render it unnecessary that I should say anything in elucidation of the principles involved in this case. You will perceive, however, from the accompanying papers, that the circumstances of unwarrantable search, detention, ill usage, and consequent injury to property and life, are of peculiar aggravation; and the President, therefore, indulges the hope that the British government will, at once, recognise the propriety and justice of prompt and satisfactory retribution for these unjustifiable acts of its officers, which have not only inflicted great private wrong, but are calculated to interrupt that harmony which it is for the advantage, as it is no doubt the desire, of both governments to preserve.

I have, &c.,

J. L. MARTIN, *Acting Secretary.*

ANDREW STEVENSON, *&c. &c. &c.*

Mr. Stevenson to Mr. Forsyth.

[Extract.]

LEGATION OF THE UNITED STATES,
London, December 1, 1840.

I herewith transmit a copy of the note which I addressed to Lord Palmerston on the 13th ult, in relation to the seizure and detention of the brig "Douglas," of Massachusetts, on the coast of Africa, by the British cruiser "Termagant," with Lord Palmerston's reply to it. You will see that I presented the case as one of a highly offensive and unwarrantable character, and calling for the immediate action of her Majesty's government. The answer of Lord Palmerston was prompt, but confined to an assurance of an immediate and searching inquiry into the facts of the case.

[Enclosure.]

Mr. Stevenson to Lord Palmerston.

32 Upper Grosvenor street,
November 13, 1840.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States, has been instructed by his government to transmit to Lord Palmerston, her Majesty's principal secretary of state for foreign affairs, the accompanying papers, containing the evidence of another unwarrantable search, detention, and ill usage, of an American vessel and her crew, on the coast of Africa, by one of her Majesty's cruisers employed for the suppression of the slave trade, and which, in the opinion of the President, forms a proper subject for complaint and satisfactory retribution.

The following are the prominent facts of the case:

The American brig "Douglas," of Duxbury, Massachusetts, of 210 tons burden, and commanded by Alvin Baker, master, and William Arnold, mate, sailed from the Havana on the 5th of August, 1839, laden with a cargo of merchandise, and having sundry passengers on board, bound for the port of the river Bras.

That, on the 21st of October, this brig, whilst pursuing her voyage, was boarded by Lieutenant Seagram from her Majesty's brigantine cruiser the "Termagant," with some of her crew, who proceeded, forthwith, to overhaul the ship's papers and passengers' passports; ordered the hatches, which were closed, to be broken open; the American flag, which was then flying, to be hauled down, and the vessel seized as a slaver. That the captain's papers and log-book were then demanded and taken on board the "Termagant," and the "Douglas" committed to the charge of a master and crew from the British cruiser, who immediately ordered the sails to be set, and proceeded to sea. At six o'clock, p. m., ten men were sent on board with arms and provisions, and the passengers taken to the "Termagant," and both vessels then made sail and stood to the westward.

That, on the 23d of October, about daylight, a boat from the "Termagant" came alongside of the "Douglas," with the purser and one of her passengers, for stores and provisions, and then returned to the cruiser.

That, from the 21st to the 26th of October, the American brig continued in charge of her Majesty's cruiser, when they parted and lost sight of each other; the brig, however, still continuing in possession of the officer and men from the "Termagant."

That, on the 29th, and to the westward of Popoe, on the African coast, the "Termagant" again appeared alongside of the "Douglas," and hove to, sent the supercargo and purser on board, ordered Captain Baker on board the cruiser, and Lieutenant Seagram then delivered to him his papers, with permission to proceed on his voyage.

The passengers were also permitted to return to the "Douglas," and the "Termagant" having taken her prize crew and officer on board, the "Douglas" made all sail for the river Bras.

That, on the 6th of November, the "Douglas" anchored in the Nun, (a river on the African coast,) which she left on the 14th of December,

and proceeded, in ballast, to Curaçoa, where she arrived on the 22d of January, 1840.

That, on the 6th of February, she sailed from Curaçoa, with a cargo of salt for the Havana, which she reached on the 21st of that month.

That, on the passage from the pestilential coast of Africa to Curaçoa, the "Douglas" lost three of her crew—two American seamen, viz: Hamilton Day, of Providence, and Andrew Clough, of Boston, and Frederick Walton, a British subject—who were taken ill and died.

That the "Douglas" at the time of her sailing from the Havana, was tight, stanch, and strong—had her hatches well caulked and covered, and was well and sufficiently manned and provided with all things needful for her voyage, and was in that state when she was boarded and literally captured by the British cruiser.

Such are the facts detailed in the protest of the captain and mate, herewith transmitted, and which, it is presumed, can leave no doubt as to the unprovoked and flagrant character of the proceeding, or the reparation due to the rights of the United States and the honor of their flag. In presenting the subject to the notice of her Majesty's government, it cannot be needful that the undersigned should do more than refer Lord Palmerston to the correspondence which has heretofore taken place between the two governments, and more especially to the three notes which the undersigned had the honor of addressing to his lordship, under dates of the 5th of February, 15th of May, and the 11th of August last; and to express the painful regret which the government of the United States feel, that the remonstrances which have been heretofore made should have proved unavailing in preventing the repetition of such abuses as those which have so repeatedly been made the subject of complaint against her Majesty's naval officers.

Her Majesty's government cannot be insensible of the strong desire which the government of the United States and the nation at large feel in the complete annihilation of the African slave trade.

The course pursued for the last thirty years is best calculated to mark the feelings and opinions of the government and people of the United States in relation to a traffic now properly regarded by most civilized nations as alike repugnant to justice and humanity, and which, in relation to the United States, is not the less so to all the dictates of a sound policy.

It is true that the American government have declined to become a party, in treaties with other nations, for the suppression of the slave trade. Although repeatedly urged by her Majesty's government to do so, the United States have been forced to decline all conventional arrangements, by which the officers of ships-of-war of either country should have the right to board, search, or capture, or carry into foreign ports for adjudication, the vessels of each other engaged in the slave trade. Indeed, it may be well doubted, apart from other considerations, whether the constitutional powers of the American government would be competent to carry into effect those portions of the existing system so indispensably necessary to give it the character of just reciprocity.

These objections, on the part of the United States, have been repeatedly and frankly made known to her Majesty's government, and are doubtless well understood by the British cabinet, and the more especially so, as it was an obstacle proceeding from the same principle which, it is presumed, prevented Great Britain herself from becoming formally a party to the Holy

Alliance. It will not, however, be understood that the United States have been insensible to the friendly spirit of confidence with which these applications have been made on the part of her Majesty's government, or that they have ceased to feel that strong solicitude for the total annihilation of the traffic which has distinguished the whole course of their policy. On the contrary, having been the first to abolish, within the extent of their authority, the transportation of the natives of Africa into slavery, by prohibiting the introduction of slaves, and by punishing their own citizens for participating in the traffic, and having moreover taken the steps which it deemed to be proper to prevent the abuse of their flag by the subjects of other powers, the government of the United States cannot but feel sincere gratification at the progress made by the efforts of other nations for the general extinction of this odious traffic, and consequently undiminished solicitude to give the fullest efficacy to their own laws and regulations on the subject.

They cannot, however, consent that the provisions of the treaties in force between Great Britain and other powers for its abolition, and to which they are not a party, shall be made to operate upon the commerce and citizens of the United States. It cannot but be apparent to her Majesty's government that these treaties are of a nature which cannot, and ought not to be applied to the United States under any restrictions or modifications whatever, and the more especially as they have neither colonies nor the means of carrying out those measures of maritime policy and surveillance which form the basis of these treaties, and are so indispensably necessary to their execution.

In withholding its assent, therefore, from the existing system, and abstaining from all conventional arrangements, yielding the right of search to the armed vessels and cruisers of each other, her Majesty's government must be sensible that the United States have been influenced alone by considerations arising out of the character of their institutions and policy, and that, having taken the measures which it deemed to be expedient and proper in relation to this subject, the government of the United States can only leave to other nations to pursue freely the course which their judgment or policy may dictate, and in relation to which the United States certainly can have no disposition to interfere.

The undersigned has, therefore, been instructed, in presenting this case to Lord Palmerston's notice, again, in the most earnest manner, to assure his lordship that these continued violations of the flag of the United States, and unprovoked wrongs inflicted by British cruisers upon the rights and property of its citizens, under whatever color or pretext, cannot longer be permitted by the government of the United States; and that he has accordingly been instructed to express to his lordship the confident expectation of the President that her Majesty's government will not only at once recognise the propriety and justice of making prompt retribution for the unwarrantable conduct of Lieutenant Seagram, in the present case, but that it will take suitable and efficient means to prevent future recurrence of all such abuses, involving, as they too often do, not only great private wrong, and consequent injury to property and life, but calculated to interrupt that harmony which it is for the advantage, as it is no doubt the desire, of both governments to preserve.

The undersigned, &c.,

A. STEVENSON.

[Enclosure.]

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *November* 19, 1840.

The undersigned, her Majesty's principal secretary of state for foreign affairs, has received the note which Mr. Stevenson, envoy extraordinary and minister plenipotentiary from the United States of America at this court, addressed to him on the 13th instant, complaining, on the part of the United States government, of the conduct of Lieutenant Seagram, of her Majesty's brigantine "Termagant," in having detained the United States brig "Douglas." The undersigned has to assure Mr. Stevenson that her Majesty's government will, at all times, be desirous of repressing and preventing any violation of the flag of the United States by officers of the British navy.

With this view, indeed, her Majesty's government, previously to the receipt of Mr. Stevenson's note of the 13th instant, had, on receiving from Lieutenant Seagram an account of the transaction referred to, called upon that officer to explain more fully and particularly the grounds upon which he had considered himself justified in detaining a ship under American colors, and with papers showing her to be American property.

Her Majesty's government have now directed a prompt and searching inquiry to be made into the facts of the case, as stated in Mr. Stevenson's note, and the undersigned will not fail to communicate further with Mr. Stevenson upon the subject so soon as her Majesty's government shall have learnt the result of the inquiries instituted.

The undersigned, &c.,

PALMERSTON.

Mr. Forsyth to Mr. Stevenson.

DEPARTMENT OF STATE,
Washington, December 3, 1840.

SIR: The accompanying papers were transmitted to the department, through the honorable James Buchanan, by Messrs. Eldridge, Ramsey, & Co., merchants of St. Thomas, West Indies. They relate to the seizure, detention, and consequent pillage of the schooner Iago, of New Orleans, by her Britannic Majesty's brigantine Termagant, Lieutenant Seagram master. I am directed by the President to instruct you to bring the circumstances to the attention of the British government, and to found thereon a demand of redress for the outrage and damage suffered through these unjustifiable acts.

I am, &c.,

JOHN FORSYTH.

ANDREW STEVENSON, Esq., *&c. &c. &c.*

Mr. Forsyth to Mr. Stevenson.

DEPARTMENT OF STATE,
Washington, December 26, 1840.

SIR: I transmit to you herewith an extract from a letter addressed to this department on the 28th ultimo, by the consul of the United States for Havana, and a copy of the accompanying protest of the master of the schooner "Hero," of New Orleans, against an outrage perpetrated upon this vessel by her Britannic Majesty's brig "Lynx," in August last, on the coast of Africa.

The circumstances attending this violation of our flag, as set forth under oath by the captain, mate, and a portion of the crew of the American schooner, are of a character so wantonly insulting and injurious as to demand prompt redress. It is the President's wish, therefore, that you lose no time in making a representation of this case to her Britannic Majesty's government, with a view to the punishment of the officer in command of the "Lynx" at the time of the detention and robbery of the schooner "Hero," and to the indemnification of her master and owners for the losses and damages they have sustained by the acts of violence committed.

I am, &c.,

JOHN FORSYTH.

ANDREW STEVENSON, Esq., *&c. &c. &c.*

Mr. Forsyth to Mr. Stevenson.

DEPARTMENT OF STATE,
Washington, January 6, 1841.

SIR: I transmit to you, enclosed, the copy of a letter dated the 22d ultimo, addressed to me by Mr. A. A. Frazar, the claimant in the case of the brig "Douglas," of Duxbury, Massachusetts, which formed the subject of my despatch to you, numbered 76, together with one of the papers referred to in his communication. The other, being an authenticated copy of the protest entered by the master, &c., at the United States consulate at Havana, in March last, is an instrument with which you have already been furnished. This letter and accompanying memorandum of Lieutenant Seagram are placed at your disposal, to be used at your discretion, either in the prosecution or in the ultimate arrangement of this claim on the British government.

I am, &c.,

JOHN FORSYTH.

ANDREW STEVENSON, Esq.,
&c. &c. &c.

[Enclosure No. 1.]

BOSTON, *December* 22, 1840.

SIR: I beg leave to transmit to you the accompanying documents relating to the seizure and detention, by Lieutenant Seagram, the commanding officer of her Britannic Majesty's brigantine "Termagant," of the

brig "Douglas," of Duxbury, in this commonwealth, Baker, master, on the coast of Africa, in October last, and to ask the interposition of the government of the United States to obtain from the British authorities a proper indemnity therefor.

The brig was engaged in a perfectly lawful trade, without the most remote participation in, or connexion with, traffic in slaves; and there was no just ground to suppose that she was in pursuit of any unlawful object. All the proceedings of Lieutenant Seagram in this respect were, if not a wanton, at least a reckless violation of private rights and of the American flag.

Though the brig was held in custody but three days, she was, during that time, kept sailing down the coast, where she was borne along by a strong current at so rapid a rate that it took her twenty-eight days after her release to return to the place of her seizure. In the meantime the officers and crew of the brig were taken sick, in consequence of their long exposure under the burning suns of that region; from which sickness three of the crew died on their homeward passage, and the captain still remains an invalid, and probably will so remain during his life. The loss occasioned by the detention of the brig was much more than the mere loss of time and expenses during thirty-one days, as the purposes and objects of the voyage were much deranged, and finally partially defeated.

It is difficult to say what sum, under the circumstances, would be a just and proper indemnification for the injuries sustained; and I do not suppose that a full remuneration can be obtained without wearisome delay and much inconvenience, by going into the details and more remote consequences of the transaction. I would prefer that the matter should be adjusted speedily, and at a loss, rather than that a protracted negotiation should be entered into, though a larger amount should be ultimately obtained.

With these views I would relinquish my claim to the British government for five thousand dollars, though a considerably larger sum would not fully repair the damages I have sustained in the premises.

If any further information or proof shall be needed by your department in the case, may I ask of you the favor to inform me what it is? and if it be in my power to do so, I will promptly furnish it.

I have, &c.,

A. A. FRAZAR.

Hon. JOHN FORSYTH,
Secretary of State of the United States.

[Enclosure No. 2.]

The American brig "Douglas," from the Havana, bound to the rivers Bras and Bonney, was detained by her Majesty's brigantine "Termagant," on the 21st instant, having a suspicious cargo on board.

I have now allowed her to proceed on her voyage, finding that no information is yet received from the United States respecting the American flag.

Given under my hand on board her Majesty's brigantine "Termagant," off Popoe, this 29th day of October, 1839.

H. F. SEAGRAM,
Lieutenant and commander.

Mr. Forsyth to Mr. Stevenson.

DEPARTMENT OF STATE,
Washington, March 1, 1841.

SIR: I send you, enclosed, the copy of a letter this day addressed to Mr. Fox from this department, and transcripts of the papers therein mentioned, relating to the case of the "Tigris," an American vessel recently brought into the port of Salem, Massachusetts, in the charge of a British officer and prize-crew. They are transmitted to place you in possession of an outline of the transaction, with a view to secure, at the earliest moment practicable, the attention of the British government to Commander Matson's conduct on the occasion. As Mr. Fox will doubtless immediately present the subject to her Britannic Majesty's government, it may be only necessary, before you leave London, to urge prompt attention to it.

I am, &c.,

JOHN FORSYTH.

ANDREW STEVENSON, Esq.,
&c. &c. &c.

Mr. Forsyth to Mr. Stevenson.

No. 90.] DEPARTMENT OF STATE,
Washington, March 2, 1841.

SIR: I transmit to you herewith the papers relating to the case of the American barque "Jones," which was forcibly taken possession of at St. Helena in September last by her Britannic Majesty's brigantine "Dolphin." The circumstances of this seizure, which you will find amply detailed in the protest and other documents herewith communicated, appear to be of an aggravated character; and I am directed by the President to instruct you to address, without delay, to the British government, a demand for proper redress.

I transmit to you, at the same time, the papers relating to the seizures of the brig "Tigris" and ship "Seamew." You will receive, also, for your information and for inquiry, the copy of a letter from the master of the barque William and Frances, detailing an outrage offered to her by an armed force, from a vessel supposed to be a British man-of-war, during her voyage from Havana to the river Bras in October last. By direction of the President, you will make the cases of the "Tigris" and "Seamew" the subjects of a similar demand upon the British government, the persistence of whose cruisers in these unwarrantable proceedings is not only destructive of private interests, but must inevitably destroy the harmony of the two countries.

I am, sir, &c.,

JOHN FORSYTH.

ANDREW STEVENSON, Esq.,
&c. &c. &c.

Mr. Stevenson to the Secretary of State.

[Extract.]

"LEGATION OF THE UNITED STATES,
"*London, March* 3, 1841.

"I have received the despatches from your department of the 6th and 7th of January, (Nos. 85 and 86.) and now enclose a copy of my note to Lord Palmerston, transmitting the additional evidence in the case of the brig "Douglas," of Massachusetts. I also transmit the copy of a note in the cases of the "*Iago*" and "Hero," two American vessels seized and detained by a British cruiser on the African coast, under pretence of being engaged in the slave trade. The frequent repetition of these outrages upon our vessels and commerce, in the African seas, cannot, I presume, be regarded in any other light than as matter of grave complaint. You will see, by reference to the correspondence between Lord Palmerston and myself, and my despatches to your department, that I have taken every opportunity of presenting the subject, in the strongest manner, to the notice of this government, and urging upon it the importance and necessity of taking suitable and prompt measures to prevent the repetition of such conduct by their naval officers. I regret, however, to say that, as yet, my efforts have not been attended with any beneficial results. In my last note to Lord Palmerston, a copy of which is now transmitted, you will perceive that I allude to a communication from the British government to that of Hayti, on the subject of searching and detaining foreign vessels, on the ground of being slavers, which may be regarded as decisive of the question of right in the opinion of Great Britain, and leave no doubt as to the final decision. Although the delay which has already taken place in deciding these cases and putting a stop to such vexatious and ruinous interruptions to our vessels and commerce in the African seas, has been made the subject of special complaint, it may be necessary that it should again be brought to the notice of this government. Should it, therefore, be the wish of the President that any further step should be taken by me, I shall expect your instructions."

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[Enclosure]

Mr. Stevenson to Lord Palmerston.

32 UPPER GROSVENOR STREET,
March 1, 1841.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States, had the honor, on the 13th of November last, of presenting to the notice of her Majesty's government, by the direction of the President, a complaint in relation to the seizure and detention of the American brig "Douglas," of Duxbury, Massachusetts, on the African coast, by Lieutenant Seagram, of her Majesty's brigantine the "Termagant," on the charge of having on board a suspicious cargo, and intended for slave trade.

Since the submission of this case, the undersigned has received two

additional documents, herewith enclosed, the one consisting of a letter addressed to the Secretary of State of the United States, by A. A. Frazar, the claimant; the other, the copy of a certificate of Lieutenant Seagram, under date of the 29th of October, 1839, admitting the seizure and detention of the brig, and her surrender and departure.

In transmitting these papers to Lord Palmerston, the undersigned avails himself of the occasion to express an earnest hope that her Majesty's government will not fail to see the justice and importance of coming to an early decision, not only of the present case, but those of a similar character, which have heretofore been presented to its consideration.

The undersigned, &c.,

A. STEVENSON.

[Enclosure.]

Mr. Stevenson to Lord Palmerston.

32 UPPER GROSVENOR STREET,
February 27, 1841.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States, has the honor to acquaint Lord Viscount Palmerston, her Majesty's principal secretary of state for foreign affairs, that he has received the instructions of his government to add two other cases to those which he has heretofore presented to the notice of her Majesty's government in relation to the seizure and detention of American vessels, on the African coast, by British cruisers, on the alleged grounds of being either equipped for, or actually engaged in, the African slave trade.

It will not be necessary that the undersigned should do more at present than give a brief statement of the facts of these cases, and such as they appear to have been from the documents now transmitted, to manifest the highly improper character of the proceedings in both cases, and insure their prompt consideration by her Majesty's government.

The first case is that of an American schooner, the "Iago," of New Orleans, commanded by Captain Adolphe Dupony.

This vessel sailed from Matanzas, in the island of Cuba, in November, 1838, for the cape of Mesurado, on the coast of Africa, for the purpose of trading in palm oil, wood, and other African produce.

That, after proceeding on her voyage to different parts of the coast, she arrived at Cape St. Paul, where the captain landed his cargo, and from whence he was preparing to go into the interior of the country to trade, having bought for that purpose a quantity of oil and produce.

That, on the 21st of February, 1839, and whilst within 5 degrees 46 minutes north latitude, and 0° 55 minutes east, and whilst Capt. Dupony was on shore, the schooner was boarded by Lieutenant S. Seagram, commanding her Majesty's brigantine of war the "Termagant," and during his absence his trunk was broken open, and a sum of money, amounting to 116 Spanish doubloons and 54 dollars, was taken therefrom, as also his chronometer and watch, and that a large quantity of wine was drunk, destroyed, and lost. That all his men had been conveyed on board the "Termagant," except the mate; that the captain thereupon asked leave

of Lieutenant Seagram to search the sailors, and on doing so found upon them a sum amounting to 114 doubloons and 19 dollars, and that the sailors informed him that they had taken the money because they were afraid that they would be set on shore and abandoned, and the schooner destroyed. That all the captain's clothes were left on shore, and have been wholly lost.

That all the crew, and a passenger by the name of Bourjolli, an American citizen, and native of the State of Maryland, were put on shore at Cape St. Paul, and that Captain Dupony was detained and brought to Sierra Leone, where he arrived on the 18th of March, 1839.

That Lieutenant Seagram then endeavored to proceed against the captain of the "Iago," in the British and Spanish mixed court of justice, established in the colony for the prevention of illicit traffic in slaves; but the court would not allow such proceeding, and that accordingly on the 30th of March, 1839, Captain Dupony was put in possession of his vessel, which was done in the presence of four masters of vessels, who signed a receipt for the vessel, and who were present when an inventory was taken of the articles on board the said schooner.

Amongst the documents herewith transmitted, are two certificates of Lieutenant Seagram—the one admitting the capture of the vessel, and the other stating the amount of money found in the possession of the crew, and left in charge of the prize-master.

The other case is that of the schooner "Hero," of New Orleans, commanded by Captain James B. M'Connell.

It appears that this schooner sailed from the Havana in June, 1840, with a cargo of assorted merchandise, bound to Wydah, on the African coast. That on her voyage, on the 9th of August, she was boarded by her Majesty's brig the "Lynx," and brought to anchor; her hatches were broken open and overhauled, and the commander of the "Lynx" then determined to send the schooner into Sierra Leone. That after removing a part of the crew of the schooner on board the cruiser, and sending his own men to take charge of the "Hero," who robbed her of a part of her supplies, the commander of the "Lynx" determined to surrender the schooner and permit her to pursue her voyage. That on the arrival of the schooner at Wydah, her cargo was found to have been greatly damaged by the crew of the "Lynx," during her capture and detention by the British commander.

These are the material facts in relation to the two cases now submitted. The previous communications which the undersigned has had the honor heretofore of addressing to Lord Palmerston on subjects of a similar character, will relieve him from the necessity of recurring to the peculiar circumstances under which these repeated outrages upon the vessels and commerce of American citizens have been perpetrated, or discussing the principles under which her Majesty's officers have attempted to justify their conduct.

Of the right of one nation to search or detain the ships of any other, (who may not be a party to the treaties for the suppression of the slave trade,) on the ground of their being engaged in slave trade, the undersigned can only repeat that there is no shadow of pretence for excusing, much less justifying, the exercise of any such right. That it is wholly immaterial whether the vessels be equipped for, or actually engaged in, slave traffic or not; and consequently the right to search or detain even

slave vessels must be confined to the ships or vessels of those nations with whom it may have treaties on the subject.

This doctrine the undersigned has heretofore asserted in his notes to Lord Palmerston, and especially in that of the 13th of November last, and it is believed to have been admitted and sanctioned by her Majesty's government in its intercourse with other nations. He begs leave to refer Lord Palmerston to a recent and strong case, in relation to the Haytien government, as conclusive on the subject. As late as 1839, that government passed a law declaring the slave trade piracy, which was submitted for the information of her Majesty's government. By that law there was a provision that any vessel, whether Haytien or otherwise, found in the act of slave trading, should be seized and brought in for adjudication and condemnation.

In a communication from Lord Palmerston, under date of the 27th of January, 1840, to the Haytien government, his lordship held the following language: "*Her Majesty's government wish to draw the attention of the Haytien government to a matter of form in this law, which may possibly give rise to embarrassments. The law enacts that all vessels, whether Haytien or foreign, which may be found in the act of slave trading, shall be seized and brought into a Haytien port. Now Hayti has undoubtedly a full right to make such an enactment about her own citizens and ships, but her Majesty's government apprehend that Hayti has no right so to legislate for the ships and the subjects or citizens of other States. That in time of peace no ships belonging to one State have a right to search and detain ships sailing under the flag of and belonging to another State, without the permission of that State, which permission is generally signified by treaty; and if Haytien cruisers were to stop, search, and detain, merchant vessels sailing under the flag of and belonging to another country, even though such vessels were engaged in slave trade, the State to which such vessels belonged would have just grounds for demanding satisfaction and reparation from Hayti, unless such State had previously given to Hayti, by treaty, the right of search and detention.*"

Under this doctrine the two cases now submitted, as well as those which have heretofore been presented, justify the strongest appeal for the interference of her Majesty's government.

Of the actual seizure and detention of these vessels, and of their national character, there can be no doubt; some of which were not only turned from their original destination, and their cargoes plundered and destroyed, but actually carried into foreign ports for condemnation, and the lives of the crew sacrificed by the pestilence of the climate and the delay which took place.

The undersigned has therefore been instructed to bring the whole subject again to the notice of her Majesty's government, and to ask that the injuries which have been sustained by these proceedings of her Majesty's officers may be adequately redressed, and that suitable measures may be promptly taken to mark with disapprobation and punishment the individuals concerned, in such manner as to prevent their recurrence in future.

The undersigned, &c.,

A. STEVENSON.

Mr. Webster to Mr. Stevenson.

[Extract]

DEPARTMENT OF STATE,
Washington, April 12, 1841.

Your despatch No. 117, together with the accompanying papers, has been received and laid before the President, by whom I am directed to convey to you his full approbation of that part of your correspondence with the British foreign office which has been brought to his attention, regarding certain outrages on the flag of the United States—committed by her Majesty's cruisers—in the seizure and detention of American vessels on the coast of Africa, on suspicion of their having been concerned in the African slave trade.

Mr. Stevenson to Mr. Webster.

[Extract.]

LEGATION OF THE UNITED STATES,
London, April 19, 1841.

In compliance with the instructions received from your predecessor, I addressed to Lord Palmerston a note upon the subject of the seizure, on the African coast, of the four vessels, the "Tigris," "Seamew," "Jones," and "William and Frances." A copy of my note I have now the honor to transmit. My previous despatches will have informed you of the steps I had taken on this subject previous to your taking charge of our foreign relations. Most of the cases which have been submitted to this government, you will see, have remained unanswered, notwithstanding every effort on my part to obtain justice for the claimants and get a decision.

[Enclosure.]

Mr. Stevenson to Lord Palmerston.

32 UPPER GROSVENOR STREET,
April 16, 1841.

MY LORD: It is with unfeigned regret that I have the honor of acquainting your lordship that it has been made my duty again to invite the attention of her Majesty's government to the subject of the continued seizure and detention of American vessels by British cruisers on the high seas, and to express the painful surprise with which the government of the United States have learned that the repeated representations which have heretofore been made on the subject have not only remained without effect in obtaining a favorable decision, but have failed to receive the attention which their importance merited. That a series of such open and unprovoked aggressions as those which have been practised, for the last two or three years, by her Majesty's cruisers, on the vessels and com-

merce of the United States, and which were made the subject of complaint, would have been permitted to have remained so long undecided, was not to have been anticipated. On the contrary, my government had confidently expected that the justice of the demands which had been made, would either have been acknowledged or denied, or satisfactory reasons for the delay adduced. This was to have been expected, not less from the justice of her Majesty's government, than the respect which was due to that of the United States. Her Majesty's government, however, have not seen fit to adopt this course, but have permitted a delay to take place of so marked a character as not only to add greatly to the individual injuries which have been sustained, but to become itself a fit subject of complaint. It is in this view that I have been especially instructed to make another appeal to your lordship, and, in doing so, to accompany it with four additional cases of seizure of American vessels on the African coast, of a character more violent and aggravated than those which I have before had the honor of presenting to the notice of her Majesty's government. These are the cases of the brig "Tigris" and ship "Seamew," of Massachusetts, and the barques "Jones" and "William and Frances," of New York. For the more clear and satisfactory understanding of each particular case, I beg leave to refer your lordship to the documents which I have received, copies of which I have now the honor of transmitting. These papers require no comment. I shall therefore refrain from troubling your lordship with a recapitulation of the details which they contain. The only inquiry which, I presume, it will be necessary to make, will be, whether the vessels were the property of American citizens, under the protection of the flag of the United States, and were actually seized and detained by her Majesty's cruisers. Now, of the national character of the four vessels, your lordship will at once perceive that the evidence is conclusive. They were documented, according to the laws of the United States, as the property of their citizens, and were under the protection of the American flag at the time of seizure. In the case of the "Tigris" she was not only literally captured, but sent with a prize crew from the coast of Africa to the United States for condemnation, upon the alleged ground of having on board an African boy, whom Lieutenant Matson chose to consider as sufficient evidence of her being engaged in the slave trade, and consequently liable to capture and condemnation. This he admits in a letter addressed by him to the officer of the circuit court of the United States, under date of the 19th of October, 1840, a copy of which will be found amongst the papers transmitted. Now I do not mean to enter into the discussion of the right of her Majesty's officers to enforce the existing treaties for the suppression of the slave trade against the vessels and citizens of the United States on the high seas. The subject has been too repeatedly urged upon the consideration of your lordship and her Majesty's government, to render a recapitulation of the arguments either necessary or proper. The determination of the United States has been distinctly announced, that they could admit no cognizance to be taken by foreign ships of those belonging to their citizens on the ocean and under their flag, either for the purpose of ascertaining whether their papers were genuine or forged, or whether the vessels were slavers or not; that the admission of any such pretension would, in effect, be surrendering the right of search. This opinion your lordship will find has been repeatedly made known to her Majesty's government, not only in the communica-

tions which I have had the honor of addressing to you, but in those of the Secretary of State to Mr. Fox, her Majesty's minister, and which, doubtless, were communicated by him for the information of his government. It becomes my duty, therefore, again distinctly to express to your lordship the fixed determination of my government, that their flag is to be the safeguard and protection to the persons and property of its citizens and all under it, and that these continued aggressions upon the vessels and commerce of the United States cannot longer be permitted. Nor is there in this course anything which can justly be considered as at all in conflict with the laws and policy of the United States on the subject of the African slave trade. In prohibiting, under the severest penalties, the participation of their citizens and vessels in that trade, there is no pretence for the exercise of a right of search on the part of foreign nations. The violation of the laws of the United States is a matter exclusively for their own authorities, and however sincere the desire of their government may be, as in truth it is, to punish those of their citizens who participate in the trade, it cannot permit foreign nations to interfere in the enforcement of their penal laws. Yielding, as the United States readily do, to other nations, the undoubted and full exercise of their sovereign rights, their own dignity and security require the vindication of their own. For the abolition of the slave trade, the United States have adopted such measures as were deemed most efficacious and proper. If they have not been such as her Majesty's government wished to have seen adopted, it may be cause for regret, but not for intervention. Each nation must be left to judge for itself; each be the arbiter of its own justice. This, it is needless to remind your lordship, is an essential right of sovereignty, which no independent nation will consent to yield to another. It should also be borne in mind, that in making the slave trade piracy, the government of the United States have not thereby made it an offence against the law of nations, inasmuch as one nation cannot increase or limit offences against the public law. Reluctant, then, as the United States must always be to take any course which, in the opinion of her Majesty's government, might have the effect of throwing obstacles in the way of the total abolition of this inhuman and detestable traffic, it can never consent, even for such a purpose, to allow foreign vessels the right of entering or searching those of the United States, or violating the freedom of her flag.

I have accordingly been instructed to bring the subject again under your lordship's notice, and to express the confident expectation of my government that these outrages upon the vessels and property of its citizens by her Majesty's naval officers will not only be disavowed by her Majesty's government, and the individuals concerned in their perpetration punished, but that ample redress for the injuries sustained will be made with as little delay as possible. In making this appeal, I need not again remind your lordship of the length of time which has elapsed since many of these cases were presented, or how repeatedly and earnestly they have been pressed upon the consideration of her Majesty's government. It must now be apparent that neither the dignity of the government of the United States, nor the duty which it owes its citizens, can justify any further delay in their final disposition. Indeed, such continued and unprovoked aggression upon the rights and persons of American citizens, so contrary to every principle of common justice and right, and in violation of all the principles of public law, is becoming a matter of so much

importance as to involve considerations of the deepest interests to both governments, and cannot fail, if longer delayed, to interrupt the amicable relations of two countries which it is so much the desire and interest of both governments to cultivate and preserve.

I pray your lordship, &c.

A. STEVENSON.

Mr. Stevenson to Mr. Webster.

[Extract]

LEGATION OF THE UNITED STATES,
London, May 18, 1841.

* * * * * * * * * *

In the course of this interview, I took occasion to draw Lord Palmerston's attention to the subject of the African seizures, and again urged upon him the importance of an immediate decision of the cases which had been submitted to her Majesty's government. I expressed the continued disappointment of my government at the delay which had already been allowed to take place, and hoped it would not continue; that the feelings of our people were strongly excited upon the subject, and the consequence of any further delay would be to create unfriendly national feeling. Lord Palmerston promised an early attention to the subject, assuring me, at the same time, that her Majesty's government was most desirous of repressing all violations of the flag of the United States by officers of the British navy; that orders had been given, as he had before assured me, to the commandants of their cruisers employed for the suppression of the slave trade, not to interfere with vessels belonging to nations with which Great Britain had no treaty giving the right of search. He remarked, however, upon the continued abuse of our flag by nations engaged in the slave trade, and of vessels being built in the United States expressly for this traffic; that unless some measures could be adopted for the purpose of ascertaining whether the vessels and flag were American, the laws and treaties for the suppression of the slave trade could not be enforced. His lordship then intimated an opinion that the right existed of ascertaining, in some way or another, the character of the vessel, *and that by her papers, and not the colors or flag which might be displayed.* I at once assured him that under no circumstances would the government of the United States consent to the exercise of the right, on the part of any foreign nation, to interrupt, board, or search their vessels on the high seas; that to admit the right of a foreign naval officer to decide upon the genuineness of the papers of American vessels, by boarding them, or bringing their captains on board of British cruisers, was in effect allowing the right of search, and therefore utterly indefensible; that my government would never consent to it, under any form, however limited or modified. His lordship said that it could not be regarded as amounting to a right of search—that was not desired by her Majesty's government; that it was the wish of both governments to see the traffic in slaves abolished, and he did not see how it ever could be accomplished unless some mode was adopted of ascertaining the real

character of vessels suspected of being slavers, and preventing the abuse of our flag. This was the substance of a brief conversation on the subject.

Mr. Webster to Mr. Stevenson.

[Extract.]

DEPARTMENT OF STATE,
Washington, June 8, 1841.

The President has read, with interest, the account you give of your conversation with Lord Palmerston, on the subject of the harassing visits of American ships by British cruisers on the coast of Africa. With the most earnest desire to suppress the slave trade, the President is strongly impressed with the view which you have presented to the British government of the objections to such proceedings as have taken place. We wait for the expected written communication from his lordship; and, in the mean time, you will take notice of the President's language respecting the subject of the slave trade in his late message to Congress. The government of the United States is determined to protect its flag, as well as its character, from any interference in this nefarious traffic.

Mr. Stevenson to Mr. Webster.

[Extracts.]

LEGATION OF THE UNITED STATES,
London, June 18, 1841.

* * * * * * * * *

In relation to the cases of the African seizures, I have been unable to get any answer, although, as you will perceive, I have pressed the subject with every degree of urgency. I shall make another effort, when Lord Palmerston returns to town, to obtain a decision. * * *

In connexion with the remarks contained in my last despatch on this subject, I must call the attention of the government to Lord Palmerston's speech in the debate of the 18th of May, relative to the commercial policy of Great Britain, and their foreign relations. You will not fail to mark that part of it which relates to our country, the slave trade, and the right of search.

Mr. Stevenson to Mr. Webster.

[Extracts.]

LEGATION OF THE UNITED STATES,
London, July 3, 1841.

* * * * * * * * *

I informed you, in my last despatch, that I intended, on Lord Pal-

merston's return to London, to make another effort to obtain a decision on the subject of the late seizures and interruptions of American vessels, in the African seas, by British cruisers. Immediately on his lordship's return, I sought and obtained an interview. In this conference, I again urged, in the strongest manner, the importance of an immediate decision, and did not fail to represent, as I had frequently done, the serious injury and embarrassments which must result from the delay, on the part of her Majesty's government, to decide the cases which had been presented to its consideration. Lord Palmerston repeated the assurances he had formerly given me, that his attention had been drawn to the subject, and that there was every reason to expect that he would soon be able to give me an answer. He took occasion to say that the delay had been wholly unavoidable, and had proceeded from no indisposition to obviate, if practicable, the difficulties which might be in the way of a satisfactory adjustment of the cases. In the course of conversation, he again expressed a hope that some arrangement on the subject of the abuse of our flag in the slave trade might be made, compatible with the interests of the two countries, and without which the treaties for the abolition of the traffic could not, he said, be enforced. I replied, of course, as I had before done, that I could express no opinion on the subject; that any proposition which her Majesty's government might deem it proper to make would no doubt be considered by that of the United States with the respect and importance it would doubtless merit; but that I was quite sure that the right of search under no modification would be acquiesced in. * *

I referred Lord Palmerston to the language of the President, respecting the slave trade, in his late message to Congress, to which it seems his attention had not been particularly drawn.

Mr. Stevenson to Mr. Webster.

[Extract.]

LEGATION OF THE UNITED STATES,
London, August 18, 1841.

* * * * * * * *

I have the honor to forward to you copies of two notes received from Lord Palmerston, in relation to the seizure of our three vessels, the "Douglas," the "Iago," and the "Hero," by her Majesty's cruisers. I deemed it proper to abstain from any other reply to these communications than to say that they would be forwarded to my government, with whom it would rest to decide upon the sufficiency of the explanations given. A copy of my note is herewith also transmitted. You will no doubt be struck with the fact (which, I presume, is now for the first time communicated) of an agreement having been entered into between the commandant of her Majesty's forces on the African coast and one of our naval officers, giving the right of detaining all vessels engaged in slave traffic; and which, it would seem, is mainly relied on to justify or excuse the seizure and detention of American vessels by British cruisers. Of the particular character or nature of this agreement I have no other information than that

contained in Lord Palmerston's communications. I had hoped to have been able to have obtained a copy of it in time for the steamer, but have been disappointed. Among the important considerations which belong to this subject is the striking fact, that in most of these complaints for alleged misconduct on the part of her Majesty's cruisers towards the vessels of the United States, no matter how strongly supported by proofs, this government rely on the *ex parte* and informal statements of the individuals inculpated as a sufficient justification, apart from all evidence in support of the complaint. I have deemed it my duty more than once, as you will see by reference to the files of your department, to protest in the most solemn manner against the justice and propriety of this course. Complaints of official misconduct ought to be met and decided on evidence not less strong and formal than that by which the application is supported. The party accused ought not to be permitted to become the witness and judge in his own case. This, however, is a matter for the consideration of the President and yourself.

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[Enclosure.]

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *August* 5, 1841.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has received two notes, addressed to him on the 13th November, 1840, and on the 1st March last, by Mr. Stevenson, envoy extraordinary and minister plenipotentiary of the United States, complaining of the search and detention of the United States vessel "Douglas," and of the ill-treatment of her crew, by Lieut. Seagram, of her Majesty's brig "Termagant," employed on the coast of Africa in suppressing the slave trade.

In these two communications from Mr. Stevenson it is stated, that on the 21st October, 1839, Lieut. Seagram boarded the "Douglas" while she was pursuing her voyage on the coast of Africa, examined the ship's papers and the passengers' passports, broke open the hatches, hauled down the American flag, and seized the vessel as a slaver; that he kept possession of her during eight days, namely, from the 21st October, 1839, to the 29th of the same month; that the officers and men of the "Douglas" became ill from their exposure to the sun; and that, in consequence, three of them died, and the captain is still in bad health; and Mr. Stevenson expresses the confident expectation of the President of the United States that her Majesty's government will make prompt reparation for the conduct of Lieutenant Seagram in this case, and will take efficient means to prevent the recurrence of such abuses.

The undersigned has, in reply, to state, that in pursuance of the wish expressed by Mr. Stevenson, on the part of his government, a strict investigation has, by order of the lords of the admiralty, been made into the particulars of this case, and the result is as follows:

Lieut. Seagram, commanding her Majesty's ship "Termagant," employed in suppressing the slave trade on the coast of Africa, had been apprised, by the commanding officer of her Majesty's ships on that coast, of an agreement entered into by that officer with commander Paine, of the

United States navy, for searching and detaining ships found trading in slaves under the United States flag; and Lieut. Seagram having, on the 21st October, 1839, met with the ship "Douglas," carrying the flag of the Union, he boarded her and made inquiries as to the voyage on which she was bound. Lieut. Seagram was received on board the "Douglas" with great incivility, and a disinclination was shown to reply to any questions relating to her voyage; but he ascertained that she was bound to the river Brass, and he found on board of her seven Spaniards who were going to that river, where no trade but the slave trade is carried on.

Lieut. Seagram requested to see the papers of the "Douglas;" but the captain of the "Douglas" could produce no custom-house clearance, and had made an entry on his log that, on leaving the Havana, he could not procure one, and that he had returned to the harbor to obtain such a paper, but had left the harbor again without it. This circumstance appeared suspicious to Lieut. Seagram; and, on examining the papers produced by the captain of the "Douglas," he found that the "Douglas" was consigned to a well-known slave trader, Don Pablo Teixas, who was then on board of her, and to whom the slaving vessels "Asp" and "Lark," which had been recently condemned for slave trade, had been consigned.

Lieut. Seagram pressed for permission to examine the hold of the vessel, and the consignee gave him permission to examine her freight, because he conceived it was protected by the United States flag; and, under the same impression, he acknowledged to Lieut. Seagram that her cargo was Spanish, and had been shipped as American solely for the purpose of avoiding seizure.

The hatches of the vessel having then been opened, and Lieut. Seagram having proceeded to examine her, it was discovered that she was fitted out for the slave trade, with leaguers, hoops, and staves, a slave deck in planks, and three complete slave coppers.

Lieut. Seagram reports that, under these circumstances, he should have sent the "Douglas" to the United States, to be delivered up to the authorities of that country, but that he had received orders from the commanding officer of her Majesty's vessels on the coast of Africa, not to send any vessels to the United States until he should have been informed what course the United States government took as to the slave vessels, the "Eagle" and "Clara," which had been sent to the United States by the commanding officer, with a view to assist the American government in preventing the abuse of the national flag of the Union.

But Lieut. Seagram, not having received any information on this point at the end of eight days after the detention of the "Douglas," thought it his duty then to release the "Douglas," instead of detaining her longer, or sending her to the United States.

From the facts above stated, there appears little doubt that, if the "Douglas" had been sent to the United States, she would have been condemned for trading in slaves under the flag of the Union; and had she been tried by the mixed commission at Sierra Leone, the proofs that the slave-trading voyage on which she was engaged was in fact a Spanish enterprise, were strong enough to have warranted her condemnation, in the British and Spanish court, as a Spanish slaver.

With respect to the assertion that three men died from the effects of exposure to the sun, in consequence of the detention of the vessel, the undersigned has to state, that it appears that the vessel remained, on her

own account, in the African seas two months after her detention by Lieut. Seagram; and as none of her men died until after those two months, there seems no reason to suppose that the death of the two men in question was occasioned by the detention of the vessel by Lieut. Seagram.

With respect to the statement that Lieut. Seagram ordered the American flag to be hauled down, it is to be observed that the master of the "Douglas," in his protest, declares that he himself, and not Lieut. Seagram, ordered the United States flag to be hauled down.

As to any loss of provisions or stores, it is stated by the American master that the English prize-crew brought their provisions with them to the "Douglas;" and he does not even assert that they consumed any provisions belonging to the "Douglas," or that any of the stores of that vessel were lost.

With respect to the allegation of the American master, that the prize-crew had secreted one demijohn of rum, (forming part of the cargo of the vessel,) it seems probable that there is an error in that allegation, because the hatches of the vessel were opened and closed again in the presence of Lieut. Seagram, and no complaint was made to that officer, either by the master or the consignee, that any loss or damage had been done to the cargo. Indeed, the master, on resuming charge of his vessel, declared to Lieut. Seagram that he had no complaint to make.

From the foregoing statement, it will appear that the visit, the search, and the detention of the "Douglas" by Lieut. Seagram, took place under a full belief, on the part of that officer, that he was pursuing a course which would be approved by the government of the United States; and in his conduct towards the crew of the vessel, he appears scrupulously to have avoided any act which would justly give cause of offence to a friendly power.

The undersigned has, therefore, to express the confident hope of her Majesty's government, that, upon a consideration of the whole case, the government of the United States will be of opinion that, although the act of Lieut. Seagram, in detaining a United States slave-trading vessel, was, in the abstract, irregular, yet the impression under which he did it, and the motives which prompted him to do it, exempt him from any just blame.

But the undersigned cannot refrain from requesting Mr. Stevenson to draw the serious attention of the government of the United States to this case, which affords a striking example of the manner in which the vessels and flag of the United States are employed by Spanish, Portuguese, and Brazilian criminals to protect their piratical undertakings, in utter contempt of the laws of the Union, and in open defiance of the federal government.

The undersigned, &c.

PALMERSTON.

A. STEVENSON, Esq., *&c. &c. &c.*

[Enclosure.]

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *August* 5, 1841.

The undersigned, her Britannic Majesty's Secretary of State for Foreign Affairs, has received the note which Mr. Stevenson, envoy extraor-

dinary and minister plenipotentiary from the United States of America, addressed to him on the 27th of February last, complaining that the schooner "Iago," bearing the United States flag, and commanded by Mr. Adolphus Dupony, had been detained by her Majesty's brigantine "Termagant," Lieut. Seagram, and that the schooner "Hero," under the United States flag, and commanded by Mr. B. McConnell, had been detained by her Majesty's brig "Lynx."

Mr. Stevenson complains, in the first place, that injury was done in these cases to the purposes of the voyage, and to the cargo and stores on board the vessels detained; and he contends, in the second place, that her Majesty's naval officers had no excuse, and much less any justification, for detaining these vessels; and he adds, that it is wholly immaterial whether the vessels detained were equipped for, or actually engaged in, slave traffic, or not.

With regard to the allegation of damages done to the cargoes of these vessels, the undersigned begs to remind Mr. Stevenson that the papers which he transmitted to the undersigned show that in the case of the "Iago," the money which was lost was stolen by the crew of the "Iago" while the master was absent on shore, and that it was not abstracted by the crew of the detaining vessel; and it is fair to presume that the chronometer and the watch (which were also lost on board that vessel) were taken by the same persons who stole the money. With respect to the damage said to have been done to the cargo of the "Hero" during the search of that vessel, the undersigned has requested the board of admiralty to cause inquiries to be made upon that matter, and he will acquaint Mr. Stevenson with the result.

With respect to the justification which the British officer had for detaining these American vessels, with regard to the detention of which Mr. Stevenson says that there is "no shadow of pretence for exercising, much less justifying, the right of search or detention of vessels under the United States flag by vessels of her Majesty's navy," the undersigned has to state that a formal agreement was entered into on the 11th March, 1840, by the commanding officer of her Majesty's ships on the coast of Africa, and the officer commanding the vessel sent by the United States government to suppress the slave trade of the United States on the African coast; and, by that agreement, those officers, for the purpose of "carrying into execution the orders and views of their respective governments respecting the suppression of the slave trade, requested each other and agreed" to detain all vessels, under the United States flag, found to be fully equipped for, and engaged in, slave trade; and it was agreed that such vessels should eventually be handed over to the United States cruisers, if proved to be United States property; and to British cruisers, if proved to be Spanish, Portuguese, Brazilian, or English property.

The undersigned would, therefore, submit that the commanding officers of her Majesty's vessels had no reason to suppose that, when giving effect to this agreement, by detaining vessels bearing the United States flag, and engaged in slave trade, they were doing a thing which would be disagreeable to the government of the United States.

With respect to the "Iago," the undersigned has to observe, that that vessel was fully equipped for slave trade; that the papers found on board of her were of a suspicious character; that all her crew but two were Spaniards; and her Majesty's Advocate General, to whom the case was

referred, has reported it to be his opinion that the commissioners at Sierra Leone would have been justified in proceeding to the adjudication of the vessel; and that, if the case had been investigated by them, sufficient proof would have been afforded that the vessel was, in reality, Spanish and not American property, and that consequently she was liable to condemnation.

The undersigned trusts that the foregoing statement will show that there is good reason for doubting that any wilful damage was done to the cargo of either of the two vessels in question, by the crews of the detaining ships; and that, although it is indisputable that British cruisers have no right, as such, to search and detain vessels which are the property of citizens of the United States, even though such vessels may evidently be engaged in slave trade, yet in these cases the British naval officers acted in pursuance of a special agreement with a naval officer of the United States; and they were, therefore, justified in believing that, instead of doing anything which would be complained of by the government of the United States, they were furthering the views and forwarding the wishes of that government.

Such cases cannot, however, happen again; because positive orders were sent by the admiralty, in February last, to all her Majesty's cruisers, employed for the suppression of the slave trade, not again to detain or meddle with the United States vessels engaged in the slave trade.

These orders have been sent by her Majesty's government with great pain and regret, but as an act due by them to the rights of the United States. Her Majesty's government, however, cannot bring themselves to believe that the government of Washington can seriously and deliberately intend that the flag and vessels of the Union shall continue to be, as they now are, the shelter under which the malefactors of all countries perpetrate with impunity crimes which the laws of the Union stigmatize as piracy, and punish with death. But, unless the United States government shall consent to make, with the other powers of Christendom, some agreement of the nature of that which their naval officer on the coast of Africa spontaneously entered into with the British naval commander on that station, these abuses will not only continue to exist, but will increase in magnitude every day; and the end will be that the slave trade will be carried on exclusively under the shelter of the flag, and by the special protection of the executive government, of that nation whose legislature was among the first to pronounce the crime infamous, and to affix to it the severest penalties.

The undersigned, &c.

PALMERSTON.

A. Stevenson, Esq., *&c. &c. &c.*

P. S.—I return to you, according to your request, the original papers enclosed in your note of the 27th February last, on the subject of the "Iago."

[Enclosure.]

Mr. Stevenson to Lord Palmerston.

32 Upper Grosvenor St., *August* 9, 1841.

My Lord: On my return to London, after a temporary absence of a few days, I found the two communications which your lordship did me the honor to address to me, under date of the 5th instant, in answer to my notes of the 13th of November, the 27th February, and the 1st of March last, complaining of the seizure and detention of three American vessels, the "Douglas," "Iago," and "Hero," and the ill treatment of their crews, by her Majesty's cruisers employed on the African coast in suppressing the slave trade.

Having, in my previous communications, said all that I deemed important on the subject of these repeated aggressions upon the vessels and commerce of the United States and the rights of their flag, I can have no inducement at this time to trouble your lordship with any further remarks, and shall, therefore, content myself with transmitting to my government, at the earliest day, copies of your lordship's notes, with whom it will rest to decide upon the sufficiency of the explanations which they contain, in justification of the conduct of the commanders of her Majesty's brigs of war the "Termagant" and the "Lynx."

It is proper, however, that I should seize the earliest opportunity to acquaint your lordship, that in relation to the *agreement* which it is alleged was entered into between the commander of the British squadron on the African coast and the officer in command of the vessel sent by the government of the United States to suppress the slave trade, allowing the mutual right of searching and detaining all British and American vessels found trading in slaves, I have no other information than that communicated in your lordship's notes, and have had no reason to suppose that such authority had been confided by the American government to any of its officers.

I pray your lordship, &c.

A. STEVENSON.

Mr. Stevenson to Mr. Webster.

Legation of the United States,
London, August 18, 1841.

Sir: Since closing my despatch of to-day, I have received from Lord Palmerston a copy of the agreement referred to in his lordship's notes of the 5th instant, and which appears to have been made between Commandant Tucker, of her Majesty's schooner "Wolverine," and Lieutenant Paine, of the United States navy. I now hasten to transmit copies of this agreement, with Lord Palmerston's note, for the information of our government.

I am, &c.,

A. STEVENSON.

[Enclosure.]

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *August* 17, 1841.

Viscount Palmerston presents his compliments to Mr. Stevenson, and, with reference to Mr. Stevenson's note of the 9th instant, has the honor to transmit herewith to Mr. Stevenson a copy of the agreement entered into between Captain Tucker, of her Majesty's sloop "Wolverine," and Lieutenant Paine, of the United States ship of war "Grampus," which was referred to in the notes addressed by Viscount Palmerston to Mr. Stevenson on the 5th instant, on the subject of the detention of the vessels the "Douglas," the "Iago," and "Hero," by her Majesty's cruisers.

A. STEVENSON, Esq., *&c.*

[Sub-enclosure.]

Commander William Tucker, of her Britannic Majesty's sloop "Wolverine," and senior officer, west coast of Africa, and Lieutenant John S. Paine, commanding the United States schooner "Grampus," in order to carry as far into execution as possible the orders and views of their respective governments respecting the suppression of the slave trade, hereby request each other, and agree, to detain all vessels under American colors found to be fully equipped for, and engaged in, the slave trade; that, if proved to be American property, they shall be handed over to the United States schooner "Grampus," or any other American cruiser; and that, if proved to be Spanish, Portuguese, Brazilian, or English property, to any of her Britannic Majesty's cruisers employed on the west coast of Africa for the suppression of the slave trade, so far as their respective laws and treaties will permit.

Signed and exchanged at Sierra Leone this 11th day of March, 1840.

WILLIAM TUCKER,
Commander of her Majesty's ship "Wolverine,"
And senior officer, west coast of Africa.

JNO. S. PAINE,
Lieutenant commanding the U. S. schooner "Grampus."

Mr. Stevenson to Mr. Webster.

[Extract]

LEGATION OF THE UNITED STATES,
London, August 31, 1841.

* * * * * * * * *

I also received yesterday two other notes from Lord Palmerston on the subject of the African seizures. Instead of disavowing and making atonement for the injuries done to our vessels and commerce by the commandants of their cruisers, they excuse and justify them, and now assert

a right of detaining and examining the papers of all vessels sailing under the American flag, to see if they are genuine and protected with documents entitling them to the protection of the country under whose flag they are sailing; in other words, that the British cruisers employed for the purpose of suppressing the slave trade still have the right of stopping any American vessel on the high seas, and determining whether their papers be genuine or not. The right asserted in these notes amounts to that of search and detention, and in a manner the most offensive and injurious to the rights and honor of our country and the vessels and property of its citizens. I shall acknowledge the receipt of these communications as soon as the new ministry come into power, and will immediately forward copies of them, with my answer, for the information of the government. I shall refrain from all further discussion, and content myself with a protest against the exercise of any such power as that claimed, and a reiteration of the determination of my government that its flag shall cover all that sails under it.

Mr. Stevenson to Mr. Webster.

[Extract.]

LEGATION OF THE UNITED STATES,
London, September 18, 1841.

* * * * * * * * *

I likewise transmit copies of the two communications received from Lord Palmerston in relation to the African seizures referred to in my last despatch, with my answer to them. Regarding the right asserted by this government as one of a most unwarrantable character, I felt it to be my duty to seize the earliest opportunity of protesting against it in the strongest manner, and stating to Lord Aberdeen that my government would not fail to regard such an attempt over the vessels of the United States on the high seas as violating its rights of sovereignty and the honor of its flag, and affecting most deeply the commercial and navigating interests of its citizens. In making my note, however, as strong as I could well do to be respectful, I took care, as you will perceive, to do it in a manner to leave no doubt of the undiminished desire of the United States to unite in all measures best calculated to preserve the pacific relations of the two countries upon the foundations of justice, friendship, and mutual rights.

I need not say that I have acted in accordance with what I believed to be the wishes of the government, and shall feel gratified if my course meets the approbation of the President. I have long looked to this subject as one out of which difficulties were likely to arise between the two governments. This opinion I have more than once expressed in my communications to our government. The course of this government has been influenced in a great measure, no doubt, by the *abolition feeling*, which is deep and strong here, and the mistaken opinions so generally entertained by the British public as to the extent and influence of the same feelings in the United States.

Having failed to get the American government to unite in yielding the qualified right of search, this government are now disposed to exercise it

under another and more offensive form. Whether the present ministry will go the full length of the doctrines asserted in Lord Palmerston's note is to be seen. No answer has yet been given to my note to Lord Aberdeen. I presume one may soon be expected.

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[Enclosure]

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *August* 27, 1841.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the note from Mr. Stevenson, envoy extraordinary and minister plenipotentiary from the United States at this court, dated the 14th August, 1840, in reply to the note of the undersigned, dated the 23d April, 1840, on the subject of a complaint made by the American government against the officer in command of her Majesty's brig "Grecian," for having boarded the American merchant ship "Susan," when off the light of Cape Frio, in the month of April, 1839.

The undersigned begs leave to state to Mr. Stevenson, in reply to the remarks contained in his last note, that her Majesty's government do not pretend that her Majesty's naval officers have any right to search American merchantmen met with in time of peace at sea; and if, in some few cases, such merchantmen have been searched when suspected of being engaged in slave trade, this has been done solely because the British officer who made the search imagined that he was acting in conformity with the wishes of the United States government, in endeavoring to hand over to the United States tribunals ships and citizens of the Union found engaged in a flagrant violation of the law of the Union. Such things, however, will not happen again, because orders have been given which will prevent their recurrence.

But there is an essential and fundamental difference between searching a vessel and examining her papers to see whether she is legally provided with documents entitling her to the protection of any country, and especially of the country whose flag she may have hoisted at the time; for, though, by common parlance, the word "flag" is used to express the test of nationality, and though, according to that acceptation of the word, her Majesty's government admit that British cruisers are not entitled in time of peace to search merchant vessels sailing under the American flag, yet her Majesty's government do not mean thereby to say that a merchantman can exempt himself from search by merely hoisting a piece of bunting with the United States emblems and colors upon it. That which her Majesty's government mean is, that the rights of the United States flag exempt a vessel from search when that vessel is provided with papers entitling her to wear that flag, and proving her to be United States property, and navigated according to law.

But this fact cannot be ascertained unless an officer of the cruiser, whose duty it is to ascertain this fact, shall board the vessel, or unless the master of the merchantman shall bring his papers on board the cruiser; and this examination of papers of merchantmen suspected of being engaged in

slave trade, even though they may hoist a United States flag, is a proceeding which it is absolutely necessary that British cruisers, employed in the suppression of the slave trade, should continue to practise, and to which her Majesty's government are fully persuaded that the United States government cannot, upon consideration, object; because, what would be the consequence of a contrary practice?

What would be the consequence if a vessel, engaged in the slave trade, could protect herself from search by merely hoisting a United States flag? Why, it is plain that in such case every slave-trading pirate, whether Spanish, Portuguese, or Brazilian, or English, or French, or of whatever nation he might be, would immediately sail under the colors of the United States; every criminal could do that, though he could not procure genuine American papers; and thus all the treaties concluded among the Christian powers for the suppression of slave trade would be rendered a dead letter; even the laws of England might be set at defiance by her own subjects, and the slave trade would be invested with complete impunity. Her Majesty's government are persuaded that the United Sates government cannot maintain a doctrine which would necessarily lead to such monstrous consequences; but the undersigned is bound in duty frankly to declare to Mr. Stevenson, that to such a doctrine the British government never could or would subscribe. The cruisers employed by her Majesty's government for the suppression of slave trade must ascertain, by inspection of papers, the nationality of vessels met with by them under circumstances which justify a suspicion that such vessels are engaged in slave trade, in order that, if such vessels are found to belong to a country which has conceded to Great Britain the mutual right of search, they may be searched accordingly; and if they be found to belong to a country which, like the United States, has not conceded that mutual right, they may be allowed to pass on free, and unexamined, to consummate their intended iniquity. Her Majesty's government feels convinced that the United States government will see the necessity of this course of proceeding.

But her Majesty's government would fain hope that the day is not far distant when the government of the United States will cease to confound two things which are in their nature entirely different—will look to things and not to words; and, perceiving the wide and entire distinction between that right of search which has heretofore been a subject of discussion between the two countries and that right of search which almost all other Christian nations have mutually given each other for the suppression of the slave trade, will join the Christian league, and will no longer permit the ships and subjects of the Union to be engaged in undertakings which the law of the Union punishes as piracy.

The undersigned avails himself of this occasion to renew to Mr. Stevenson the assurance of his distinguished consideration.

PALMERSTON.

A. STEVENSON, Esq., *&c. &c. &c.*

[Enclosure.]

Lord Palmerston to Mr. Stevenson.

FOREIGN OFFICE, *August* 27, 1841.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has had under his consideration the note which Mr. Stevenson, envoy extraordinary and minister plenipotentiary of the United States, did him the honor to address to him under date of the 15th May, 1840, complaining of the detention of a brig, under American colors, called the "Mary," by her Majesty's ship "Forester."

In this note Mr. Stevenson, assuming the information furnished to the United States government by Mr. Trist, their consul at the Havana, to be complete and correct, prefers a claim for indemnity to the owners of the "Mary," and asks for the exemplary punishment of the commander of the "Forester," and those concerned in the proceedings taken by that officer against the "Mary;" proceedings which, in Mr. Stevenson's opinion, seem to want nothing to give them the character of a most flagrant and daring outrage, and very little, if any thing, to sink them into an act of open and direct piracy.

The undersigned has now the honor to inform Mr. Stevenson that the more particular information which has been furnished to her Majesty's government as to this vessel places the question in a very different light from that in which it has been presented to the government of the United States; and the undersigned trusts that the following statement will satisfy Mr. Stevenson that although the vessel herself, being ill-built, might not have been intended actually to convey negroes from the coast of Africa, yet she was in reality the property of a Spanish slave dealer, and was employed by him for the purposes of slave trade.

The papers found on board this vessel by the commander of the "Forester" showed that on the 24th January, 1839, a bill of sale was prepared at the Havana by Mr. J. A. Smith, the vice-consul of the United States at that port, setting forth that a permanent American register, No. 48, had been granted to the brig "Mary," of Philadelphia, on the 17th June, 1837, and that the brig was at that time owned by Joseph J. Snowden, of Philadelphia, and was commanded by J. H. Haven.

Joseph J. Snowden, the original owner, then gave a power of attorney and substitution to Charles Snowden, who again nominated Pedro Manegat, the notorious slave dealer, but who was described in that document merely as a merchant at the Havana, to sell and transfer the "Mary."

Eight days afterwards, Pedro Manegat professedly sold the "Mary" to a person named Pedro Sabate, of New Orleans, who, on the 2d May, appointed as her master Charles Snowden, the same person who three months before had named Pedro Manegat as his agent to sell the "Mary;" and on the 18th June Pedro Sabate replaced Snowden, by appointing David Tomlinson to the command.

This Pedro Manegat, the pretended seller but real purchaser of the "Mary," is the same individual who, in like manner, owned the following nominally American vessels, namely, the "*Hyperion*," which left the Havana in December, 1838, as an American vessel, and was afterwards condemned as the Spanish schooner "Isabel;" the schooner "*Hazard*," which was detained and erroneously released in February, 1839, under

circumstances similar to those which mark the case of the "Mary;" and the "*Octavia*," also condemned as Spanish property; which last named vessel Pedro Manegat had only employed, as he did the "Mary," namely, to carry goods, for the purchase of slaves, to agents on the coast.

The Spanish master, Thomas Escheverria, and a Spanish crew, were shipped on board the "Mary" as passengers; among them were several individuals who were recognised as having been formerly captured in slave vessels—Escheverria himself having been master of the Spanish schooner "Norma," when that vessel was captured with 234 slaves on board.

The ship's articles set forth that the crew was engaged to navigate the "Mary" from the port of Havana to the Gallinas, *or wherever else the master may direct.*

In two of three papers which the master, *David Tomlinson*, produced, to prove his American citizenship, he is styled *Pils B. Tomlimerty*, and in the third *P. B. Tomlinson*, while in the log enclosed in Mr. Stevenson's note he is called Captain *Thomason.*

The clearance and bills of lading showed that the owners of the cargo were Blanco and Carvalho; Pedro Martinez and Company; Pedro Manegat and Thomas Escheverria, the Spanish captain—all well known slave traders; and the consignees, Thomas Rodriguez Buron, Ignacio P. Rolo, and Theodore Canot, of the Gallinas, long and well known to the naval officers employed in suppressing the slave trade on the coast as factors for the purchase and shipment of slaves.

Thus the papers produced to the captain of the "Forester," by Tomlinson, were of themselves sufficient to show that this was one of the then frequent cases in which the flag of the United States had been fraudulently assumed, and all doubt was removed as to the real character of the undertaking on which the vessel was employed; when, on further search, there were found on board of her slave coppers, two bags of shackles, large water-leaguers, and a slave deck; the latter being noted as shipped under the denomination of 500 feet of lumber.

Under these circumstances, the undersigned is of opinion that the commander of her Majesty's ship "Forester" was fully justified in considering the "Mary" to be a Spanish vessel, and consequently in taking her before the British and Spanish court; and, accordingly, when the British commissioners reported to her Majesty's government that the judges had refused to allow the "Mary" to be libelled in that court, under the impression that the mere fact of having the American flag hoisted should have protected her from visitation and search by a British cruiser, the British commissioners were told that there was, in the opinion of her Majesty's government, reason to suppose that the "Mary" was a Spanish and not an American vessel, and that the judges ought, therefore, to have allowed her to be libelled in the British and Spanish court; for, that although British ships of war are not authorized to visit and search American vessels on the high seas, yet if a vessel which there is good reason to suppose is in reality Spanish property, is captured and brought into a port in which a mixed British and Spanish court is sitting, the commissioners may properly investigate the case; and, upon sufficient proof being adduced of the Spanish character of the vessel, and of her having been guilty of a breach of the treaty between Great Britain and Spain for the suppression of the slave trade, the court may condemn her, notwith-

standing that she was sailing under the American flag and had American papers on board.

With respect to the general question of the search of vessels under the American flag by British cruisers, the undersigned begs to refer Mr. Stevenson to his other note, of this day's date, relative to the case of the "Susan," in which the undersigned has fully, and he hopes satisfactorily, replied to the representations made by Mr. Stevenson on that subject.

The undersigned begs to return to Mr. Stevenson the log kept by John Hutton, while acting as mate on board the "Mary," and avails himself, &c.

PALMERSTON.

[Enclosure.]

Mr. Stevenson to Lord Aberdeen.

32 Upper Grosvenor St., *September* 10, 1841.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States, has the honor to acquaint the Earl of Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs, that he has had the honor to receive the two communications addressed to him by Lord Viscount Palmerston, her Majesty's late principal Secretary of State for Foreign Affairs, under date of the 27th ultimo, upon the subject of the improper and harassing conduct of British cruisers towards the vessels and flag of the United States in the African seas. In communicating the decision of her Majesty's government upon the claims submitted to its consideration, it would have given the undersigned great satisfaction to have represented that decision as one calculated to do justice to the individual claimants and in accordance with the just rights and interests of his country. He had indulged a confident hope that the complaints which had been made upon the subject would have been followed, not only by suitable atonement and reparation, but by an immediate abandonment of the system of wrong and violence to which the vessels and commerce of the United States had been so long exposed, through the misconduct of British cruisers in the African seas.

This course he had expected, not less from the justice of her Majesty's government than the friendly relations subsisting between the two countries. It is, therefore, with painful surprise and regret that the undersigned now learns from Lord Palmerston's communications that these proceedings of her Majesty's cruisers have not only been approved and justified, and the injuries which ensued to remain unredressed, but that a right is now asserted by her Majesty's government over the vessels and flag of the United States, involving high questions of national honor and interest, of public law and individual rights. Having heretofore, in his correspondence with Lord Palmerston, discussed the merits of these claims and the principles involved in them, and presented the views and expectations of his government upon the subject, the undersigned does not feel it incumbent upon him, at this time, to open again the general discussion, or recapitulate the particular circumstances by which these

cases might justly claim to be distinguished. Referring Lord Aberdeen to the previous correspondence which has taken place, the undersigned will refrain from the further discussion of the individual cases, and content himself with a brief examination of those parts of Lord Palmerston's notes in which a power is, for the first time, distinctly asserted by her Majesty's government over the vessels and flag of the United States in time of peace on the high seas. In order to ascertain the precise nature and character of this new and extraordinary power, it may be proper to quote those parts of his lordship's communication in which it is asserted. They are in the following words: "*The undersigned begs leave to state to Mr. Stevenson, in reply to the remarks contained in his last note, that her Majesty's government do not pretend that her Majesty's naval officers have any right to search American merchantmen met with in time of peace at sea. But there is an essential and fundamental difference between searching a vessel and examining her papers, to see whether she is legally provided with documents entitling her to the protection of any country, and especially of the country whose flag she may have hoisted at the time. For though, by common parlance, the word 'flag' is used to express the test of nationality, and though, according to that acceptation of the word, her Majesty's government admit that British cruisers are not entitled, in time of peace, to search merchant vessels sailing under the American flag, yet her Majesty's government do not mean thereby to say that a merchantman can exempt herself from search by merely hoisting a piece of bunting with the United States emblems and colors upon it. That which her Majesty's government mean is, that the rights of the United States flag exempt a vessel from search when that vessel is provided with papers entitling her to wear that flag, and proving her to be United States property and navigated according to law.*" And again: "*The cruisers employed by her Majesty's government for the suppression of slave trade must ascertain, by inspection of the papers, the nationality of vessels met with by them, under circumstances which justify a suspicion that such vessels are engaged in slave trade, in order that if such vessels are found to belong to a country which has conceded to Great Britain the mutual right of search, they may be searched accordingly; and that if they be found to belong to a country which, like the United States, has not conceded that mutual right, they may be allowed to pass on free and unexamined to consummate their intended iniquity.*"

Here is the direct assertion of a right on the part of British cruisers *to board and detain* all vessels sailing under the flag of the United States, whether American or not, for the purpose of ascertaining, by an examination of their papers, their national character, and deciding whether they are entitled to the protection of the flag of the country under which they sail. Now it is proper to remark that the attempt which his lordship makes to distinguish between the right of search, (a right, however, which he disclaims,) and that which he asserts, is wholly fictitious. They are essentially the same, for all the purposes of the present discussion. Indeed, the right to *board*, *detain*, and *decide* upon the national character of vessels navigating the ocean, in time of peace, may justly be regarded as more odious and insulting, and giving place to wider and more important injuries, than the right of search, which is purely a belligerant right, and cannot be enforced in time of peace. But if the distinction was admitted to be a sound one, yet nothing would be gained in support of the right

which Lord Palmerston claims for her Majesty's government. The inquiry must still arise, whether a power even of *visitation* or *detention* can be rightfully and lawfully exercised by one nation over the ships of another, in time of peace, upon the high seas. That it cannot, the undersigned will now proceed briefly to show.

And, first, as to the principles of public law and the usage of nations. By these it is expressly declared that the vessels of all nations, in time of peace, navigating the ocean, shall be exempt from every species and purpose of *interruption and detention*, unless engaged in some traffic contrary to the law of nations, or expressly provided for by treaty or compact. Now, although piracy is admitted to be an offence against the public law, and therefore punishable in every country and by every nation, no matter where committed, it must yet be borne in mind that all piracies are not offences against the law of nations. Piracy, therefore, by international law, and that which may be made so by the municipal law of particular States, are essentially of a different character, and to be treated accordingly. Hence it is that offences declared to be piracy by the municipal laws of any State, can only be tried and punished by the country within whose jurisdiction, or on board of whose ships, on the ocean, the offence may have been committed. Now, slave trade is not cognizable under the laws of nations. Although prohibited by most nations, and declared to be piracy by their laws, and especially by the statutes of Great Britain and the United States, it is yet not an offence against the public law, and its interdiction cannot be enforced by the ordinary right of *visitation, detention, or search*, in the manner that it might be if it was piracy by the law of nations. That this is the acknowledged doctrine of international law, cannot, it is presumed, be doubted. It is so expressly declared by all writers upon the law of nations, and has been acknowledged by the British government through its highest judicial tribunals. Her annals are full of instruction on the subject. The following is the language held by one of her most distinguished jurists: "*We are disposed to go as far in discountenancing this odious traffic as the law of nations and the principles recognised by English tribunals will allow us in doing; but beyond these principles we do not feel at liberty to travel. Formal declarations have been made and laws enacted in reprobation of this practice, and plans, ably and zealously conducted, have been taken to induce other countries to follow our example, but at present with insufficient effect; for there are nations which adhere to the practice under all the encouragement which their own laws give. What is, then, the doctrine of our own courts of the laws of nations? Why, that this practice is to be respected; the slaves, if taken, to be restored to their owners; and, if not taken under innocent mistake, to be restored with costs and damages.*" Again: "*It would be indeed a most extravagant assumption in any court of the law of nations, to pronounce that this practice—the tolerated, the approved, the encouraged object of law ever since man became subject to law—was legally criminal.*" Does her Majesty's government now mean to contend that the slave trade is contrary to the law of nations? On the contrary, is not the trade lawful to all governments who have not forbidden it; and, consequently, no right given to any one nation over the slave ships of another, in time of peace, independent of express treaty stipulations by which the extent of the power to be exercised must be regulated? The right, then, which Lord Palmerston asserts, derives no support from the principles of the

public law, but is left to stand upon the grounds of *expediency* and *necessity* as the means of executing the existing treaties for the suppression of the slave trade, and without which, his lordship asserts, they would *become a dead letter*. Whether this be so or not, the undersigned has no means of judging, and deems it, therefore, unnecessary either to admit or deny it. The question is not whether the power asserted might be necessary or expedient, but whether any such power exists. It is incumbent, then, upon her Majesty's government to show upon what principles of justice and right it claims the power of deciding upon the right of an independent nation to navigate the ocean in time of peace; and this, too, for the purpose of executing treaties to which such nation is not a party, and consequently not bound. The signal error of Lord Palmerston is in assuming the *necessity and expediency* of the power as proof of its existence! Was such a power ever before asserted in the manner or to the extent which is now done? On the contrary, has not the right of visitation and search been always regarded as exclusively one of a belligerant character? In proof of this, the undersigned need only refer Lord Aberdeen to the authority of Great Britain herself on the subject. "*I can find no authority* (says the late Sir William Scott) *that gives the right of interruption to the navigation of States upon the high seas, except that which the right of war gives to belligerants against neutrals. No nation can exercise a right of visitation and search upon the common and unappropriated parts of the ocean except upon the belligerant claim.*" And again: "*No nation has the right to force their way for the liberation of Africa, by trampling upon the independence of other States, on the pretence of an eminent good, by means that are unlawful, or to press forward to a great principle by breaking through other great principles which stand in their way.*" Now, of all the principles ever attempted to be established in the past history of the dominion of the sea, few probably could be selected of more offensive and objectionable character than those asserted in Lord Palmerston's note. Indeed, it is difficult to believe that his lordship, or her Majesty's government, could seriously expect that any independent nation could for a moment acquiesce in doctrines involving the extravagant supposition of yielding to another the right of determining upon the terms and conditions upon which it should navigate the ocean in a time of general and profound peace. Such a power once submitted to, and there would be no species of national degradation to which it might not lead. That such would be the consequence, the undersigned feels himself at liberty to suppose; but if it were admitted, for the purpose of illustration, that such a right was even doubtful, still the United States, as well as other commercial nations, would be bound to demand its discontinuance if attempted to be exercised in the manner indicated in Lord Palmerston's note. Under what restrictions and limitations could such a power be enforced? What competent tribunal would there be to determine upon the degree of suspicion which is to justify the boarding and detention, and the right of determining the national character of all vessels under the flag of the United States? Would it not make every subordinate commander of a British cruiser the exclusive judge, and not only lead to angry and exciting irritations upon the ocean, but to painful discussions between the two governments? What security would American merchantmen have against decisions made without evidence, or where all the rules of evidence might be violated with impunity? Would it not, from its very

nature, be a power the exercise of which, in whatever form it might be guarded, could admit of no just limitation? The answers to these questions will best show how inconsistent with the peace of Great Britain and the rights of other States the exercise of any such power would be attended; but it is unnecessary to press this view of the subject further upon Lord Aberdeen's attention. The objection is one of *principle*, and not of *expediency*, and is, therefore, wholly incapable of being overcome by the manner or discretion with which the power might be exercised, or the limitations thrown around it. However softened in terms, or restricted, it must still be regarded as imposing restrictions upon the lawful commerce of neutral nations, and an innovation upon the liberty of the seas—a power which no independent State could ever submit to, without surrendering its independence and sovereignty, and disregarding the high obligations of duty which it owes to itself and the other nations of the world.

Nor is there any force in the view alleged by Lord Palmerston, and upon which great reliance is placed, that the flag of the Union is grossly abused by other nations as a cover to their slave traffic. To what extent the flag of the United States may have been used for this purpose, the undersigned and his government have no means of judging. That it has been grossly abused, however, there is too much reason to believe and deplore; but, whatever this abuse may have been, it can have no just influence either to strengthen or weaken the right asserted by her Majesty's government.

In relation to the conduct of other nations, who seek to cover their infamous traffic by the fraudulent use of the American flag, the government of the United States cannot be responsible. It has taken the steps which it deemed best to protect its flag, as well as its character, from abuse, and will follow it up by such other measures as may appear to be called for.

The government of the United States are not insensible to the force of the considerations which belong to the subject of the African slave trade, nor have they failed to manifest their sensibility to whatever concerns its abolition. Nothing is further from the wish of the American government than a desire to increase the difficulties, or throw obstacles in the way of the execution of the existing treaties, for its final extinction. This the undersigned has, upon more than one occasion, had the honor of assuring her Majesty's government, and takes leave now to repeat to Lord Aberdeen. Anxious, however, as the government of the United States are to promote the views of her Majesty's government on this subject, it cannot consent to do so by sacrificing the rights of its citizens, or the honor of its flag.

Her Majesty's government cannot be insensible of the importance and value of guarding the rights of neutrality from every species of violation. This duty belongs especially to great and powerful nations, such as Great Britain and the United States, not only as the best means of preserving peace, but giving security to weaker communities, under the shadow of impartial justice. Among neutral nations, there is probably not one more deeply interested than the United States. Their attitude is that of a neutral and peaceful power. The consistent and persevering policy of their government has been displayed in defence of the rights of neutrality and the liberty of the seas. Desirous to manifest cordial good will to all nations, and maintain with each not only relations of the most perfect amity,

but those of a commercial character, upon the basis of a fair, equal, and just reciprocity, the United States will continue to give to their system of policy a sincere and steady adherence. Upon this basis, the relations between Great Britain and the United States, as well as all other nations, can alone be expected to continue. The undersigned, therefore, is happy to see, in these relations, as well as the justice of her Majesty's government and the firmness of his own, the best reason to expect not only an abandonment of the power which is now asserted, with the whole system of vexatious interruption and surveillance to which the vessels and commerce of the United States have been subjected, but the future relations of the two countries placed upon the solid foundation of mutual interest and comity, and a more enlarged and liberal policy.

These are the views which the undersigned has deemed it his duty to submit to Lord Aberdeen's consideration, upon the doctrines contained in Lord Palmerston's note, of a character so new and alarming to national sovereignty and sensibility, and the friendly relations of the two countries. He has presented them with the frankness and earnestness which their importance merited, and with the high respect due to her Majesty's government. He has, therefore, no other duty now to perform than to transmit copies of Lord Palmerston's communications to his government, and to protest, in the most solemn manner, against their doctrines, as alike inconsistent with the principles of public law, with the rights and sovereignty of the United States, and with that sense of justice and right which belongs to the British nation.

The undersigned, &c.

A. STEVENSON.

The Earl of Aberdeen, *&c. &c. &c.*

Mr. Stevenson to Mr. Webster.

[Extract.]

Legation of the United States,
London, October 22, 1841.

I now forward a copy of Lord Aberdeen's answer to my note of the 10th of September, on the subject of the African seizures. Although I was in the midst of preparations for my departure for the United States, I deemed it proper to reply to his lordship's note. You will perceive that Lord Aberdeen affirms, in effect, the right, asserted in Lord Palmerston's note, of detaining and examining all vessels in the African seas, (whether American or not,) wearing the flag of the United States. The issue may, therefore, be considered as now fairly made between the two governments on this important subject.

[Enclosure.]

Lord Aberdeen to Mr. Stevenson.

FOREIGN OFFICE, *October* 13, 1841.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has had the honor to receive the note of Mr. Stevenson, envoy extraordinary and minister plenipotentiary of the United States of America, dated on the 10th of September, in continuation of a correspondence with the predecessor of the undersigned in this office, and relating to the visitation of vessels bearing the American flag, and suspected of being engaged in the African slave trade.

If the undersigned feels it necessary to offer some remarks upon the note of Mr. Stevenson, he is desirous of doing so in the manner best calculated to insure a candid and impartial consideration; for he would deeply regret that any harshness or asperity of expression should aggravate the difficulties of a subject which is at all times but too liable to produce excitement and irritation. The undersigned is aware of the susceptibility of national feeling, in all that affects national honor; and he requests Mr. Stevenson to believe that it is with the most unfeigned respect for the rights, honor, and independence of the United States, that he now proceeds to address him.

The undersigned will forbear from entering into any particulars of the visitation of the vessels which has formed the principal matter of Mr. Stevenson's complaint to her Majesty's government, and which has been fully discussed in his correspondence with the predecessor of the undersigned.

That proceeding may have been justifiable or otherwise; and the undersigned will be prepared, if necessary, to enter with Mr. Stevenson into the details of the question, but his present object is that of a more general nature. He is desirous of placing very briefly before Mr. Stevenson the consequences of those principles which he has laid down, and to appeal to his candor, (the undersigned had almost said to the dictates of plain sense,) in order to reject such a conclusion as that which must necessarily flow from the arguments contained in Mr. Stevenson's note.

Mr. Stevenson claims for the American flag an absolute exemption from all interference, and utterly denies the right of the British government, under any circumstances whatever, to visit, in time of peace, merchants' vessels bearing the flag of the Union.

Mr. Stevenson quotes the opinion delivered by Lord Stowell upon this subject, who declares that, in order to extirpate this odious traffic, it would not be lawful to capture vessels, even if they had slaves on board; and also, that for the same purpose, however laudable, no right of search could be admitted to exist.

Now, the undersigned is the last person who would presume to question the authority of the distinguished jurist to whom Mr. Stevenson has referred. But Mr. Stevenson will recollect that the judgment of Lord Stowell was delivered in the case of a French vessel, which had actually been captured, and was condemned by a British tribunal. The sentence was reversed by Lord Stowell, in the year 1817. At that period, Great Britain had no reason to presume that the slave trade was regarded as criminal by the whole civilized world, or that all nations had united their efforts for its suppression. And even if such had been the case, it would

have been very far from affording any justification of the sentence reversed. But the undersigned must observe that the present happy concurrence of the States of Christendom in this great object not merely justifies, but renders indispensable, the right now claimed and exercised by the British government. The undersigned readily admits, that to visit and search American vessels in time of peace, when that right of search is not granted by treaty, would be an infraction of public law, and a violation of national dignity and independence. But no such right is asserted. We sincerely desire to respect the vessels of the United States; but we may reasonably expect to know what it really is that we respect. Doubtless the flag is *prima facie* evidence of the nationality of the vessel; and if this evidence were in its nature conclusive and irrefragable, it ought to preclude all further inquiry. But it is sufficiently notorious that the flags of all nations are liable to be assumed by those who have no right or title to bear them. Mr. Stevenson himself fully admits the extent to which the American flag has been employed for the purpose of covering this infamous traffic. The undersigned joins with Mr. Stevenson in deeply lamenting the evil; and he agrees with him in thinking that the United States ought not to be considered responsible for this abuse of their flag. But, if all inquiry be resisted, even when carried no further than to ascertain the nationality of the vessel, and impunity be claimed for the most lawless and desperate of mankind, in the commission of this fraud, the undersigned greatly fears that it may be regarded as something like an assumption of that responsibility which has been deprecated by Mr. Stevenson.

While Mr. Stevenson deplores the prevalence of this abuse, and the nefarious character of the trade, can he be satisfied that no remedy should be applied or attempted? The undersigned hopes and believes that the number of *bona fide* American vessels engaged in the trade is very small; and thus the danger of interference with such vessels by British cruisers must be of rare occurrence. Mr. Stevenson will admit that his objection to this interference would, under any circumstances, tend in its consequences to the protection of an abominable traffic, stigmatized by the whole Christian world; but the confession of Mr. Stevenson, that the trade is extensively carried on under the fraudulent use of the American flag, does in truth justify the whole claim put forward by the British government. It constitutes that reasonable ground of suspicion which the law of nations requires in such a case. The admitted fact of this abuse creates the right of inquiry.

The undersigned renounces all pretension on the part of the British government to visit and search American vessels in time of peace; nor is it as Americans that such vessels are ever visited; but it has been the invariable practice of the British navy, and, as the undersigned believes, of all navies in the world, to ascertain by visit the real nationality of merchant vessels met with on the high seas, if there be good reason to apprehend their illegal character.

In certain latitudes, and for a particular object, the vessels referred to are visited, not as American, but either as British vessels engaged in an unlawful traffic, and carrying the flag of the United States for a criminal purpose, or as belonging to States which have by treaty conceded to Great Britain the right of search, and which right it is attempted to defeat, by fraudulently bearing the protecting flag of the Union; or, finally, they are

visited as piratical outlaws, possessing no claim to any flag or nationality whatever.

Now, it can scarcely be maintained by Mr. Stevenson that Great Britain should be bound to permit her own subjects, with British vessels and British capital, to carry on, before the eyes of British officers, this detestable traffic in human beings, which the law has declared to be piracy, merely because they had the audacity to commit an additional offence by fraudulently usurping the American flag; neither could Mr. Stevenson, with more reason, affirm that the subjects of States which have granted to Great Britain the right of search should be enabled to violate the obligation of their treaties by displaying the flag of the Union contrary to the will, and in defiance of the American government itself. Still less would Mr. Stevenson pretend to claim immunity for piratical adventurers, who should endeavor to shelter their lawless proceedings under the ensign of the United States.

But, unless Mr. Stevenson be prepared to maintain these propositions, the whole fabric of his argument falls to the ground. For the undersigned admits, that if the British cruiser should possess a knowledge of the American character of any vessel, his visitation of such vessel would be entirely unjustifiable. He further admits, that so much respect and honor are due to the American flag that no vessel bearing it ought to be visited by a British cruiser, except under the most grave suspicions and well founded doubts of the genuineness of its character.

The undersigned, although with pain, must add, that if such visit should lead to the proof of the American origin of the vessel, and that she was avowedly engaged in the slave trade, exhibiting to view the manacles, fetters, and other usual implements of torture, or had even a number of these unfortunate beings on board, no British officer could interfere further. He might give information to the cruisers of the United States, but it would not be in his own power to arrest or impede the prosecution of the voyage and the success of the undertaking.

It is obvious, therefore, that the utmost caution is necessary in the exercise of this right claimed by Great Britain. While we have recourse to the necessary, and, indeed, the only means for detecting imposture, the practice will be carefully guarded, and limited to cases of strong suspicion. The undersigned begs to assure Mr. Stevenson that the most precise and positive instructions have been issued to her Majesty's officers on this subject.

The United States have stigmatized this abominable trade in terms of abhorrence as strong as the people of this country. They are also actively engaged in its suppression. But if, instead of joining their efforts to those of Great Britain, and laboring with her for the attainment of this great blessing to humanity, the United States had wished to follow a different course, the reasoning employed in Mr. Stevenson's note is precisely such as would be resorted to for its defence and justification.

The undersigned, with his conviction of the perfect good faith and sincerity of the government of the United States, would almost fear to offend Mr. Stevenson even by disclaiming any such suspicion; but he believes Mr. Stevenson will agree with him in lamenting that the effects of the policy of the United States should have any tendency to create a different impression in the minds of those who are disposed to think less favorably and less justly upon this subject.

Great Britain makes no pretension, claims no right, which she is not ready and desirous to concede to the United States. A mutual right of search, regulated in such a manner as to prevent the occurrence of any irritating circumstances, has always appeared to the undersigned to be the most reasonable, the most simple, and most effectual method of attaining the great object which both governments have in view. But this proposal has already been rejected by the United States, and the undersigned is not instructed again to offer it for consideration. It is for the American government alone to determine what may be due to a just regard for their national dignity and national interests; but the undersigned must be permitted to express his conviction, that rights which have been mutually conceded to each other by the governments of Great Britain and France can scarcely be incompatible with the honor and independence of any State upon the face of the earth.

The undersigned, &c.

ABERDEEN.

A. STEVENSON, Esq., *&c. &c. &c.*

[Enclosure.]

Mr. Stevenson to Lord Aberdeen.

32 UPPER GROSVENOR STREET,
October 21, 1841.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States of America, has the honor to acknowledge the receipt of the note which Lord Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs, did him the honor to address to him, under date of the 13th instant, in answer to the one from the undersigned of the 10th of September, relative to the visitation and interruption to which the vessels and commerce of the United States have been subjected by British cruisers in the African seas, and which has been made the subject of complaint to her Majesty's government; and having considered, with the attention which their importance merits, the arguments presented by Lord Aberdeen's note, the undersigned has now the honor to submit to his lordship's consideration the observations which he feels himself called upon to make.

Before proceeding to do so, however, the undersigned will take occasion to remark, that he shares fully in the opinion expressed by Lord Aberdeen as to the importance of avoiding, in the discussion of grave questions of national character, every thing calculated to embarrass or throw difficulties in the way of impartial and dispassionate consideration. The undersigned, therefore, with great sincerity, assures Lord Aberdeen of the readiness and zeal with which he is disposed to conduct the negotiations between the two countries, on his part, in a manner the most conciliatory, and best calculated to preserve peace; and that he should equally deplore with Lord Aberdeen that any harshness or asperity of expression should be suffered to mingle in the discussion of a question involving national sensibility and feeling, and so liable, as his lordship justly supposes, to produce excitement and irritation. He begs Lord Aberdeen, therefore, to

believe that it is under the influence of such feelings, and with the most perfect respect both for himself and her Majesty's government, that he now proceeds to reply to those parts of his lordship's note which he deems it his duty to notice.

To enable him to do this, it may be important to ascertain what is the real question in issue between the two governments, and the precise nature of the power asserted by her Majesty's government over the vessels and commerce of the United States. It may be thus briefly stated:

The government of Great Britain, with that of other nations, regarding the African slave trade as a great evil, united in measures for its abolition. For that purpose laws were passed and treaties concluded, giving to the vessels of each of the contracting parties the mutual right of search, under certain limitations. Independent of these treaties, and under the principles of public law, this right of search could not be exercised. The United States were invited to become a party to these treaties; but, for reasons which they deemed satisfactory, and growing out of the peculiar character of their institutions and systems of government, they declined doing so. They deemed it inexpedient, under any modification, or in any form, to yield the right of having their vessels searched, or interfered with, in time of peace, upon the high seas. With the history of the negotiations which took place on this subject between the two governments, Lord Aberdeen is doubtless informed. In the mean time, some of the powers who were parties to these treaties, and others who refused to become so, continued to prosecute their slave traffic; and to enable them to do so with more effect, they resorted to the use of the flags of other nations, but more particularly that of the United States. To prevent this, and enforce her treaties, Great Britain deemed it important that her cruisers in the African seas should have the right of detaining and examining all vessels navigating those seas, for the purpose of ascertaining their national character. Against this practice the government of the United States protested; and the numerous cases out of which the present discussion has arisen became subjects of complaint and negotiation between the two governments. Her Majesty's government, however, having refused to make reparation in any of the cases, and still asserting the right of her cruisers to continue the practice of detaining and examining all vessels on the coasts, and in the African seas, it becomes important that the precise character and extent of the right thus claimed should be clearly ascertained. In the last note which the undersigned had the honor of addressing to Lord Aberdeen, he attempted to show, in the first place, that the right asserted by her Majesty's government, in Lord Palmerston's note of the 27th of August, was substantially *a right of search;* and, in the next place, that if it was not, still the right of interference, in the manner asserted, with the vessels or flags of other nations not parties to these treaties, was not less unlawful and unjustifiable.

Now, Lord Aberdeen disclaims the right of searching American vessels on the high seas, and admits that to do so would be a gross infraction of the public law, and a violation of national sovereignty and independence; but his lordship contends that, in requiring vessels sailing under the flag of the United States to submit to the operation of examination, in the manner and for the objects proposed by his government, there would be no violation of national rights or honor, and consequently nothing to which the government of the United States ought rightfully to object. Upon

this branch of the subject the undersigned does not intend to repeat the arguments contained in his previous correspondence with her Majesty's late principal Secretary of State for Foreign Affairs. Referring Lord Aberdeen to that correspondence, he will content himself with submitting such additional observations as his lordship's last note has rendered necessary.

Is the right, then, claimed by her Majesty's government, less an infraction of the principles of public law and the rights of independent States than that of search, which is disclaimed?

Now, Lord Aberdeen will remark, that the right asserted by his predecessor for her Majesty's government is clear and explicit. It is thus stated in Lord Palmerston's note: "That her Majesty's government have decided that the flag of the United States shall exempt no vessel (whether American or not) from search by her Majesty's cruisers in the African seas, unless such vessel shall be found provided with papers entitling her to the protection of the flag she wears, and proving her to be United States property, and navigating the ocean according to law." Of what law, however, whether public or municipal, his lordship does not state, but leaves to be inferred. This doctrine Lord Aberdeen is understood to affirm. Now, in the first place, here is an actual denial of the right of vessels of the United States to navigate the ocean in time of peace, without being subjected to detention and examination, and without proof of their being the property of citizens of the United States, and documented according to law. It constitutes the commandant of every British cruiser the exclusive judge to decide whether such vessels, in the language of his lordship, be "*properly provided with papers entitling them to the protection of the flag they wear, and proving them to be United States property, and navigating the ocean according to law.*" What essential difference, then, is there between the right of search, in its harshest form, and that of arresting the vessels of an independent nation on their voyage, compelling their officers to leave their vessels, and subjecting them and their papers to the examination and decision of every subordinate naval commander? Is it not the right of placing British cruisers on any part of the ocean that her Majesty's government may select, and prescribing the terms upon which other nations are to participate in the freedom of the seas? Is it not, in effect, a claim of jurisdiction over the whole of the African coasts and seas, as exclusive as that which could only be enjoyed within the acknowledged limits of local sovereignty? To these questions but one answer can be given. It must be in the affirmative! But to what consequences would not such a power lead, if once submitted to? Where would it end? If Great Britain can exercise such a power, why may not other nations do the same? What is there to prevent those States, especially, who have entered into treaties for the abolition of slavery, from subjecting the vessels and commerce of the United States to similar interruptions and embarrassments?

Why should not Hayti (who has lately been induced to prohibit the slave trade) authorize her cruisers to follow the example of her Majesty's government? By one of her recent laws upon the subject, she did assert a similar right, but it was afterwards changed, at the instance of Great Britain, upon the ground that no nation had the right, in time of peace, to enforce the provisions of their laws and treaties against States who were not parties to them, and consequently not bound by them. In the note

addressed by the undersigned to Lord Palmerston, under date of the 27th of February, 1841, and referred to in the one to Lord Aberdeen, allusion was made to the proceedings of her Majesty's government, under which the Haytian government were induced to change their laws. At that time, at least, it is presumed, her Majesty's government had not determined to assert this right of dominion over the sea. But again: Why might not the right of search for seamen and deserters, and that of impressment, be defended upon the principles of the present claim? Let it be supposed, for purposes of illustration, that Great Britain had entered into treaties with other nations, by which the right of search for seamen or deserters was given to the vessels of each other, and that some of the contracting States, in order to evade their engagements, should resort to the fraudulent use of the flags of other nations; and suppose, also, that with the view of enforcing these treaties, it should be deemed expedient to assert a right of boarding and examining, upon the high seas, the vessels of nations who had not surrendered the right, and were not parties to the treaties; does Lord Aberdeen, or her Majesty's government, believe that such a power would be tolerated by any independent nation upon the face of the earth? And yet what difference would there be between such a case and the one under consideration, except that the one would relate to slavery and the other to impressment? subjects probably equally important in the view of her Majesty's government.

It was against the exercise of any such right that the distinguished jurist, to whom reference has been made, declared (whilst sitting as a court under the law of nations) "that no authority could be found which gave any right of *visitation or interruption* over the vessels and navigation of other States, on the high seas, except that which the right of war gives to belligerants against neutrals; and that Great Britain had no right to force her way to the liberation of Africa by trampling upon the rights and independence of other nations, for any good, however eminent."

Upon what principles, then, of public law, or of common right or justice, such a power as that now asserted is to be defended or justified, her Majesty's government have not deemed it expedient to state. As yet, it has been left to stand for its whole efficacy upon the grounds of expediency. The undersigned must, therefore, repeat the opinion expressed in his note to Lord Aberdeen, that there is no essential difference whatever between the right of search and that now asserted for her Majesty's government. But Lord Aberdeen contends, that in resisting the exercise of this right in the form in which it has been made, the undersigned is necessarily compelled to claim not only immunity for the flag of the United States, and all the piratical adventurers who are endeavoring to shelter themselves under it, but to maintain that Great Britain herself would be bound to permit her own subjects, with British vessels and British capital, to carry on their traffic under their own eyes, provided it was done under the fraudulent use of an American flag; and his lordship further declares, that unless the undersigned is prepared to maintain to their full extent these propositions, the whole fabric of his argument must fall to the ground. Now, the undersigned begs to observe that Lord Aberdeen has greatly misapprehended the principles and arguments contained in the note which he had the honor of addressing to his lordship, and which it becomes proper to seize the earliest moment of correcting. This the undersigned will the more readily do, because he is per-

suaded, from the spirit in which Lord Aberdeen's note is written, that he will take pleasure in correcting any misapprehension into which he may unintentionally have been drawn. Indeed, the undersigned must have expressed himself very imperfectly, if, in denying the right of interfering with vessels under the American flag, he did not convey the opinion that he intended to limit his objection to vessels *bona fide* American, and not to those belonging to nations who might fraudulently have assumed the flag of the United States. With the vessels of other nations, whether sailing under their own or another flag, the government of the United States can have no authority or desire to interfere. The undersigned, therefore, did not mean to be understood as denying to Great Britain, or any other nation, the right of seizing their vessels or punishing their subjects for any violation of their laws or treaties; provided, however, it should be done without violating the principles of public law or the rights of other nations. Nor are such the consequences which can fairly be deduced from the argument which he had the honor of addressing to Lord Aberdeen, and which his lordship seems so greatly to have misapprehended. Great Britain has the undoubted right, and so have all other nations, to detain and examine the vessels of their own subjects, whether slavers or not, and whether with or without a flag purporting to be that of the United States; but in doing this, it must be borne in mind that they have no color of right, nor will they be permitted, to extend such interference to the vessels or citizens of the United States sailing under the protection of the flag of their country.

If Great Britain, or any other nation, cannot restrain the slave traffic of their own people upon the ocean without violating the rights of other nations and the freedom of the seas, then, indeed, the impunity of which Lord Aberdeen speaks will take place. This may be deplored, but it cannot be avoided. But Lord Aberdeen asserts that it has been the invariable practice of the British navy, and he believes of all the navies in the world, to ascertain by visit the real character of merchant vessels met with on the high seas, if there be good reason to apprehend their illegal character. Now, the undersigned must be excused for doubting whether any such practice as that which Lord Aberdeen supposes, certainly not to the extent now claimed, has ever prevailed in time of peace. In war, the right of visitation is practised, under the limitations authorized by the laws of nations, but not in peace. What other nation than Great Britain has ever asserted or attempted to exercise it? None, it is believed.

There is another misapprehension, also, into which Lord Aberdeen seems to have fallen, that it may be important to correct. It relates to an admission which his lordship supposes the undersigned to have made as to the extent of the abuse of the American flag for purposes of slave traffic. Now, the undersigned would submit that he did not intend to express, nor did he, any opinion as to the extent to which the flag of the United States was abused by other nations. So far from it, he expressly stated, as Lord Aberdeen will perceive by reference to his note, that neither he nor his government had the means of forming any opinion on the subject. He admitted the abuse of the flag, and deplored it; but to what extent, he gave no opinion.

Nor can the undersigned yield to the force of the reasoning employed by Lord Aberdeen, arising out of the limited number of *bona fide* Amer-

ican vessels engaged in the slave trade, to prove that the danger of interference with American vessels will be of rare occurrence. He readily admits, with Lord Aberdeen, that there are few American vessels, if any, engaged in the slave trade; but, in admitting the fact, he does not perceive very clearly what bearing it can have upon the present discussion, or how the smallness of the number of American slavers can at all guard against the evils which Lord Aberdeen supposes. For if it be true, as his lordship contends, that the abuse by other nations of the flag of the United States is one of increasing extent, and that it can in no way be prevented but by the examination of all vessels sailing under the flag of the United States; and as it must also be admitted that there are numerous American vessels engaged in lawful commerce in the African seas, which with other vessels are to be subjected to detention and examination, what possible effect can the number of American slavers have in preventing the interference to that more numerous class of merchantmen who are to be found engaged in commerce throughout the whole of the African seas? If there was not a single vessel of the United States engaged in the slave trade, the evils and interruptions which Lord Aberdeen is so desirous of avoiding must still take place, whenever the right shall be attempted to be enforced against those vessels that are not slavers. But the great caution which is to be observed in the exercise of the right, and the careful manner in which it will be guarded, is greatly relied on by Lord Aberdeen in its defence. Indeed, his lordship declares that so much honor and respect is due to the flag of the United States, that it is only to be exercised in certain latitudes, and exclusively confined to cases where the strongest suspicion and well founded doubts exist. Now the undersigned would respectfully ask, of what consequence can it be to the United States if their rights or the honor of their flag are violated, whether it be done upon one part of the ocean or another? In relation to the well founded suspicion to which Lord Aberdeen refers, it might have been desirable (if the manner of exercising an unlawful power can excuse it) that his lordship should have stated what the particular character and degree of the suspicion was to be which was alone to justify the interference of her Majesty's cruisers. That such a right as that claimed, if it existed, could not safely be confided to those of her Majesty's cruisers who have heretofore been in the habit of exercising it, the undersigned feels himself warranted in supposing. This he presumes will be satisfactorily shown, by the cases which he has heretofore presented to her Majesty's government, and for which no reparation has yet been made. These cases will show the embarrassments and injuries to which the trade and commerce of the United States, throughout the whole of the African seas, have already been subjected, by the vexatious seizures and detentions of her Majesty's cruisers, and in most of them without justification or excuse.

That the right asserted by her Majesty's government may be regarded as important, may not be doubted. Indeed, the undersigned would not act frankly towards Lord Aberdeen, if he were to pretend that the consequences of refusing the exercise of the right by the American government might not throw very great difficulties in the way of executing the existing treaties for the abolition of the slave trade. But, as he has taken occasion heretofore to observe, the admission can neither strengthen the

claim of right, nor diminish the force of the objections to it, on the part of the United States.

There remains only one other part of Lord Aberdeen's note which the undersigned deems it necessary at this time to notice: it is that in which his lordship expresses the opinion, that any right of search which shall have been conceded by two such governments as France and Great Britain can scarcely be considered as incompatible with the honor and independence of any nation upon earth. Now, if Lord Aberdeen's remark was intended to apply to the proposal which was made by her Majesty's government to that of the United States for a mutual right of search, secured and guarded by treaty stipulations, the undersigned has no observation to make; but if this opinion of his lordship was intended to apply to the right now asserted by Great Britain, and proposed by her government to be exercised in the absence of all conventional arrangement, then the undersigned must be allowed to express his decided dissent. That the exercise of mutual rights properly secured might not be incompatible with national honor and sovereignty, he readily admits, inasmuch as the contracting parties would stand upon the footing of equality and security. This he presumes to be the case between France and Great Britain; but such would not be the case between Great Britain and the United States. The undersigned must, therefore, after the most careful consideration of the arguments advanced in Lord Aberdeen's note, repeat the opinion which he has heretofore expressed, that if a power such as that which is now asserted by her Majesty's government shall be enforced, not only without consent, but in the face of a direct refusal to concede it, it can be regarded in no other light, by the government of the United States, than a violation of national rights and sovereignty, and the incontestable principles of international law.

That its exercise may lead to consequences of a painful character, there is too much reason to apprehend. In cases of conflicting rights between nations, the precise line which neither can pass, but to which each may advance, is not easily found or marked, and yet exists, whatever may be the difficulty of discerning it. In ordinary cases of disagreement, there is little danger: each nation may, and often do, yield something to the other: such, however, it is to be feared, is not the present case. The peculiar nature of the power asserted, and the consequences which may be apprehended from its exercise, make it one of an important and momentous character. Involving, as it does, questions of high and dangerous sovereignty, it may justly be regarded as deeply endangering the good understanding of the two countries. Ought her Majesty's government, then, under such circumstances, to insist upon its enforcement? That it will not, the undersigned cannot permit himself to doubt. He will, therefore, continue to cherish the hope, that upon a careful review of the whole subject, her Majesty's government will see the importance of adopting other measures for the suppression of the slave trade than those now proposed, and which will be far better calculated not only to accomplish the object desired, but to preserve the friendly relations of the two countries upon principles consistent with the interest and honor of both.

The undersigned, &c.

A. STEVENSON.

To the EARL OF ABERDEEN, *&c. &c. &c.*

Mr. Everett to Mr. Webster.

[Extracts.]

LEGATION OF THE UNITED STATES,
London, December 28, 1841.

While at Paris, I received a letter from Lord Aberdeen of the 2d December, with sundry accompanying documents, relative to an extraordinary outrage on the person of Captain Endicott, of the American barque Lintin, in Macao roads. On my return to London, I acknowledged the receipt of this communication, and herewith transmit you a copy of Lord Aberdeen's note and my reply, and of all the documents in the case. I should have been pleased to confine my answer to a simple expression of satisfaction at the promptness of the action of her Majesty's government. But I deemed it but just to Captain Endicott to make an observation in answer to that part of Lord Aberdeen's note in which the burden of the provocation was assumed to be on Captain Endicott's side.

I received, on the 23d instant, a note from Lord Aberdeen on the African seizures, in reply to one addressed to him by Mr. Stevenson in the last hours of his residence in London, and which, as it appears, did not reach Lord Aberdeen's hands till Mr. Stevenson had left London. As some time must elapse before I could give a detailed answer to this communication, I thought it best at once to acknowledge its receipt, to express my satisfaction at its dispassionate tone, and to announce the purpose of replying to it at some future period. The President, I think, will be struck with the marked change in the tone of the present ministry, as manifested in this note and a former one addressed by Lord Aberdeen to Mr. Stevenson, contrasted with the last communication from Lord Palmerston on the same subject. The difference is particularly apparent in Lord Aberdeen's letter to me of the 20th instant. Not only is the claim of Great Britain, relative to the right of detaining suspicious vessels, stated in a far less exceptionable manner than it had been done by Lord Palmerston, but Lord Aberdeen expressly declines being responsible for the language used by his predecessor.

You will observe that Lord Aberdeen disclaims, in a more distinct manner than it has ever been done, all right to search, detain, or in any manner interfere with American vessels, whether engaged in the slave trade or not; that he limits the pretensions of this government to boarding vessels strongly suspected of being those of other nations unwarrantably assuming the American flag; and promises, when this right has been abused to the injury of American vessels, that full and ample reparation shall be made. As the United States have never claimed that their flag should furnish protection to any vessels but their own, and as very strict injunctions have been forwarded to the cruisers on the coast of Africa not to interfere with American vessels, I am inclined to think that cases of interruption will become much less frequent. And if this government should redeem in good faith Lord Aberdeen's promise of reparation where injury has been done, I am disposed to hope that this subject of irritation will in a great measure cease to exist. I shall not engage in the discussion of the general principles as now avowed and explained by this government till I hear from you on the subject, and know what the President's views are; but I shall confine myself, chiefly, to urging the claim for redress in the cases of the Tigris, Seamew, Jones, and William and

Francis, which were the last submitted by my predecessor, and on which no answer has been received from this government.

Among the reasons for supposing that fewer causes of complaint will hereafter arise, is the circumstance that the seizures of last year took place under the agreement of Commodore Tucker, the British commander on the African station, and the officer in command of the American cruiser. I find nothing on the files of the legation showing what order, if any, has been taken by our government on the subject of this arrangement. It is taken for granted by this government that this agreement is disavowed by that of the United States; and since February last positive orders have been given to the British cruisers in the African seas not to interfere with American ships, even though known to be engaged in the slave trade. I shall await with much anxiety the instructions of the President on this important subject.

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[Enclosure.]

FOREIGN OFFICE, *December* 2, 1841.

SIR: I have the honor to inform you that the Lords Commissioners of the Admiralty have communicated to me a despatch and its enclosures, which their lordships have recently received from Commodore Sir J. Gordon Bremer, dated Hong Kong, the 9th of August last, relative to the improper conduct of Mr. Bean, master and commanding officer of her Majesty's ship "Herald," towards the master of the American barque "Lintin," while at anchor in the Taypa roads, near Macao. It appears from these papers, (copies of which I have the honor to enclose, for the information of your government,) that some altercation having taken place respecting the mooring of their respective vessels, the master of the "*Herald*," in the afternoon of the 24th July, manned and armed a boat, and sent the mate of the "*Herald*" alongside the "*Lintin*" with orders to require the master of that vessel to go on board the "*Herald*;" and that upon his refusing to go, he was forcibly conveyed thither, and there detained for some hours.

Although it would appear, from the details given in the enclosed papers, that the master of the "*Lintin*" brought this indignity upon himself by his own irritating and contemptuous conduct towards the commander of the "*Herald*," yet her Majesty's government consider such provocation as no justification for the proceeding adopted by Mr. Bean, and the Lords Commissioners of the Admiralty have accordingly signified to that officer their high displeasure at his indefensible conduct upon this occasion, and have ordered him to be dismissed from her Majesty's service and sent home.

I have, &c.,

ABERDEEN.

EDWARD EVERETT, Esq.

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[Sub-enclosure.]

WELLESLEY, HONG KONG, *August* 9, 1841.

SIR: It is with considerable regret that I have to acquaint their lordships with the particulars of an affair which has recently occurred at Macao.

On the 24th of July, his excellency Captain Elliot placed in my hands a letter he had received from a Mr. Henlie, an American merchant residing at Macao, in which it was stated, that about half-after 3 o'clock in the afternoon of that day a boat, manned and armed from her Majesty's ship "Herald," had gone alongside the American barque "Lintin," and forcibly taken the master out of her; that he was conveyed on board the "Herald," and placed abaft the mizenmast, and kept a prisoner for some time. He was afterwards returned to his ship.

I immediately sent to Captain Nais, who was on shore in consequence of ill health, and stated the circumstances. He told me he had just seen a lieutenant of the "Herald," who had been attending the funeral of one of the men, and had received no intimation that such a circumstance had occurred, and I therefore did not attach any credit to the report. As it was the evening, I ordered him to go on board at an early hour next morning and investigate the business. He returned about noon, accompanied by Mr. Bean, the master of the "Herald," Lieutenant Shettle, Mr. Calor, mate, and one or two of the petty officers, and reported that the facts were as stated, and that Mr. Bean had acted in the way he did in consequence of what he considered gross provocation. The circumstances were stated by Mr. Bean, as follows:

The "Herald," moored in the Taypa, had during the late hurricane drifted a little, and it became necessary to lift her small bower and remove her. On the morning of the 24th a boat from the American barque "Lintin" was about to lay out a kedge; the commanding officer of the "Herald" hailed her, and told the master that he was going to shift his berth, and if he placed his kedge in that direction he would overlay the "Herald's" small bower. Nothing further passed until the afternoon. About four o'clock, the "Lintin" being then very close, and right ahead of the "Herald," the master of the former stood up on the taffrail, and, in a loud tone of provoking insolence, hailed the "Herald"—ahoy! Mr. Bean, master and commanding officer, (one lieutenant was on duty and the other at sick quarters,) answered in the usual manner; when the master of the American barque said, "When are you going to shift your berth?" Mr. Bean replied, "Perhaps to-morrow, or possibly next day." The master of the "Lintin" then said, "Why did you not tell me so in the morning? why don't you let people know what you are about? You ought to give three or four days' notice, so that we may understand what you mean to do;" or words to that effect. The tone, manner, and attitude of the man caused an immediate exclamation from the crew of the "Herald," then on deck, (who were loud in their expressions of indignation;) and to all the officers present it seemed the result of a preconcerted determination to offer insult.

I should state that the "Lintin" is one of the many vessels in this river which change owners and colors as occasions seem to require; that she had been for a considerable time in the charge of Chinese coolies only, and was apparently almost abandoned—lying at single anchor in that narrow harbor, with fifty fathoms of chain out.

In consequence of the impression on the minds of the officers of the "Herald," Mr. Bean manned and armed a boat, and sent Mr. Calor, mate, on board the "Lintin," with orders to request the master to come on board the "Herald;" but if he refused, Mr. Calor was to take him by force; and this, unfortunately, was done. On the "Herald's quarter-deck the master was violent, challenged Mr. Bean to fight, and told him

"he would send a Kentucky bullet through him;" using other terms of gross abuse, which induced a belief on the minds of the officers that he was intoxicated.

These circumstances were admitted by Mr. Bean, Mr. Calor, and one or two of the petty officers.

During the investigation the master of the "Lintin," accompanied by the master of a small American schooner, came into my room in Captain Elliot's house—unannounced and uninvited, he forced himself—and, advancing towards me, held out his hand with coarse familiarity; and, on being told to sit down, he commenced his complaint in the same violent terms, repeatedly expressing his desire to fight. I told him that I regretted the circumstance that Mr. Bean had suffered himself to be drawn into an act entirely unwarrantable; that I took the occasion of his being present to reprimand Mr. Bean in the severest terms for his conduct; and that I expected he would offer an apology to him (the master of the "Lintin.") I was, however, bound to express my firm conviction that he had brought the matter upon himself by his insolent, irritating, and contemptuous conduct. Mr. Bean immediately expressed his regret that, in a season of excited feeling, occasioned by conduct calculated to lower him in the estimation of the crew of her Majesty's ship to which he belonged, he had been betrayed into an act which I had pronounced to be unwarrantable, and which he freely admitted to be so. This did not satisfy the master, who again signified his desire to fight. I concluded the conversation by telling him that I could do no more; if he was not satisfied, he must proceed as he thought fit; and that I would suggest the propriety of his thinking the matter over. I received the next day a letter, (a copy of which is enclosed,) and which I found it impossible to notice.

On the 5th of August I also received a letter from the American vice consul, accompanying a protest from that functionary, which I enclose in the original.

I may here observe that this seems to be only one of a series of affronts to the British, determined on by certain Americans resident at Macao: one instance occurred just before.

The small schooner I have mentioned was lying in the narrow anchorage of the Taypa, close to the "Herald." Captain Nais sent on board to tell the master that if it came to blow from the northward he feared the "Herald" would swing foul of her, and he should be sorry to injure so pretty a vessel; therefore, if the master had no objection, the "Herald's" boat's crew should lift his schooner's anchor, and place her in a more secure berth inshore. The mate, who was in command, acceded to the removal; and on heaving up, the cable was found to be coiled round the fluke of the anchor in such a way as to have rendered it certain the vessel would have gone on shore had a gale come on. The mate expressed his thanks upon the occasion, and in a day or two went over to Macao. The vessel speedily returned to the Taypa, and anchored so close to the "Herald" that her jib-boom barely cleared. On inquiry, it was found that the parties adverted to had ordered her to return and take up her original position "exactly," and that if the Herald or any other British boat boarded her, the master was instantly to abandon her. I mention this circumstance, and have entered thus largely on the subject, in order to show the feelings of animosity which seem to exist; the reason for which I am en-

tirely unable to define, considering that the American merchants in China have had especial cause of thankfulness to British authorities.

In conclusion, I would beg to observe that Mr. Bean, master of the "Herald," is an active, zealous officer, and one whom I have had the satisfaction to recommend to their lordships, for his exertions in sounding the various channels in the approach to Canton, by which the ships were enabled to menace that city.

I have, &c.,

J. GORDON BREMER.

R. M. O'FARRELL, Esq., *M. P.*

[Enclosure.]

LEGATION OF THE UNITED STATES,
London, December 20, 1841.

MY LORD: I had the honor duly to receive at Paris your lordship's communication of the 2d instant, with the papers accompanying it, relative to an outrage committed by the commanding officer of her Majesty's ship "Herald" on the master of the American barque "Lintin," while at anchor in the Taypa roads, near Macao.

I shall lose no time in forwarding these documents to the government of the United States, for whose information they are transmitted by your lordship; and I have no doubt the President will view with great satisfaction the promptness of her Majesty's government in signifying their high displeasure at the conduct of the commanding officer of the "Herald," and in ordering him to be dismissed from her Majesty's service.

Awaiting the instructions of the President on your lordship's communication, I deem it my duty only at this time to remark, that, in the present state of our information, it would appear to be unjust towards the commander of the "Lintin" to assume as certain that the unexampled indignity to which he was subjected was brought upon him by his own irritating and contemptuous conduct towards the commander of the "Herald."

Previous to the afternoon of the 24th of July the parties appear to have been on civil terms, and the circumstances of the hailing are stated very differently by Captain Endicott and Mr. Bean; and neither party is an unprejudiced witness in the case. The act of Mr. Bean, which has incurred the just displeasure of her Majesty's government, indicates great violence of temper and recklessness of consequences. It would seem, therefore, as probable, that if there was anything justly offensive in Captain Endicott's manner of hailing the "Herald," it may have been provoked (though not justified) by the claim of Mr. Bean in reference to the right of anchorage, or the manner of asserting it, as that Captain Endicott, in an unarmed neutral vessel, should have offered an unprovoked and gratuitous insult to the commanding officer of a ship of-war.

I have, &c.,

EDWARD EVERETT.

The EARL OF ABERDEEN, *&c. &c. &c.*

[Enclosure.]

FOREIGN OFFICE, *December* 20, 184\.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has the honor of addressing to Mr. Everett, envoy extraordinary and minister plenipotentiary of the United States, the observations which he feels called upon to make in answer to the note of Mr. Stevenson, dated on the 21st of October.

As that communication only reached the hands of the undersigned on the day after the departure of Mr. Stevenson from London, on his return to America, and as there has since been no minister or chargé d'affaires from the United States resident in this country, the undersigned has looked with some anxiety for the arrival of Mr. Everett, in order that he might be enabled to renew his diplomatic intercourse with an accredited representative of the republic. Had the undersigned entertained no other purpose than to controvert the arguments of Mr. Stevenson, or to fortify his own, in treating of the matter which has formed the subject of their correspondence, he would have experienced little impatience; but as it is his desire to clear up doubt, and to remove misapprehension, he feels that he cannot too early avail himself of the presence of Mr. Everett at his post, to bring to his knowledge the true state of the question at issue.

The undersigned agrees with Mr. Stevenson in the importance of arriving at a clear understanding of the matter really in dispute. This ought to be the first object in the differences of States, as well as of individuals; and, happily, it is often the first step to the reconciliation of the parties. In the present case this understanding is doubly essential, because a continuance of mistake and error may be productive of the most serious consequences.

Mr. Stevenson persists in contending that the British government assert a right which is equivalent to the claim of searching American vessels in time of peace. In proof of this, Mr. Stevenson refers to a passage in a former note of Viscount Palmerston, addressed to himself, against which he strongly protests, and the doctrine contained in which he says that the undersigned is understood to affirm.

Now, it is not the intention of the undersigned to inquire into the precise import and force of the expressions of Viscount Palmerston. These might have been easily explained to Mr. Stevenson by their author at the time they were written; but the undersigned must request that his doctrines upon this subject, and those of the government of which he is the organ, may be judged of exclusively from his own declarations.

The undersigned again renounces, as he has already done in the most explicit terms, any right on the part of the British government to search American vessels in time of peace. The right of search, except when specially conceded by treaty, is a purely belligerant right, and can have no existence on the high seas during peace. The undersigned apprehends, however, that the right of search is not confined to the verification of the nationality of the vessel, but also extends to the object of the voyage, and the nature of the cargo. The sole purpose of the British cruisers is, to ascertain whether the vessels they meet with are really American or not. The right asserted has, in truth, no resemblance to the right of search, either in principle or in practice. It is simply a right to satisfy the party who has a legitimate interest in knowing the truth, that the vessel actually

is what her colors announce. This right we concede as freely as we exercise. The British cruisers are not instructed to detain American vessels, under any circumstances whatever; on the contrary, they are ordered to abstain from all interference with them, be they slavers or otherwise. But where reasonable suspicion exists that the American flag has been abused for the purpose of covering the vessel of another nation, it would appear scarcely credible, had it not been made manifest by the repeated protestations of their representative, that the government of the United States, which has stigmatized and abolished the trade itself, should object to the adoption of such means as are indispensably necessary for ascertaining the truth.

The undersigned had contended, in his former note, that the legitimate inference from the arguments of Mr. Stevenson would practically extend even to the sanction of piracy, when the persons engaged in it should think fit to shelter themselves under the flag of the United States. Mr. Stevenson observes, that this is a misapprehension on the part of the undersigned; and he declares that, in denying the right of interfering with vessels under the American flag, he intended to limit his objection to vessels *bona fide* American, and not to those belonging to nations who might fraudulently have assumed the flag of the United States. But it appears to the undersigned that his former statement is by no means satisfactorily controverted by the declaration of Mr. Stevenson. How is this *bona fide* to be proved? Must not Mr. Stevenson either be prepared to maintain that the flag alone is sufficient evidence of the nationality of the vessel, (which, in the face of his own repeated admissions, he cannot do,) or must he not confess that the application of his arguments would really afford protection to every lawless and piratical enterprise?

The undersigned had also expressed his belief that the practice was general of ascertaining, by visit, the real character of any vessel on the high seas against which there should exist reasonable ground of suspicion. Mr. Stevenson denies this; and he asks, what other nation than Great Britain had ever asserted, or attempted to exercise, such a right. In answer to this question, the undersigned can at once refer to the avowed and constant practice of the United States, whose cruisers, especially in the Gulf of Mexico, by the admission of their public journals, are notoriously in the habit of examining all suspicious vessels, whether sailing under the English flag or any other. In whose eyes are these vessels suspicious? Doubtless, in those of the commanders of the American cruisers. But, in truth, this right is quite as important to the United States as to Great Britain; nor is it easy to conceive how the maritime intercourse of mankind could safely be carried on without such a check.

It can scarcely be necessary to remind Mr. Everett that the right thus claimed by Great Britain is not exercised for any selfish purpose. It is asserted in the interest of humanity, and in mitigation of the sufferings of our fellow-men. The object has met with the concurrence of the whole civilized world, including the United States of America; and it ought to receive universal assistance and support.

The undersigned cannot abstain here from referring to the conduct of an honorable and zealous officer commanding the naval force of the United States on the coast of Africa, who, relying on the sincere desire of his government for the suppression of the slave trade, and sensible of the abuse of the American flag, entered into an engagement on the 11th of

March, 1840, with the officer in command of her Majesty's cruisers on the same station, by which they mutually requested each other, and agreed, to detain all vessels under American colors employed in the traffic. If found to be American property, such vessels were to be delivered over to the commander of any American cruiser on the station; or, if belonging to other nations, they were to be dealt with according to the treaties contracted by her Majesty with the respective States. The undersigned believes—and, indeed, after the statement of Mr. Stevenson, he regrets to be unable to doubt—that the conduct of this gallant officer, however natural and laudable in its object, has been disavowed by his government.

It is not the intention of the undersigned at present to advocate the justice and propriety of the mutual right of search, as conceded and regulated by treaty, or to weigh the reasons on account of which this proposal has been rejected by the government of the United States. He took occasion, in a former note, to observe, that concessions sanctioned by Great Britain and France were not likely to be incompatible with the dignity and independence of any other State which should be disposed to follow their example. But the undersigned begs now to inform Mr. Everett that he has this day concluded a joint treaty with France, Austria, Russia, and Prussia, by which the mutual right of search, within certain latitudes, is fully and effectually established forever. This is, in truth, a holy alliance, in which the undersigned would have rejoiced to see the United States assume their proper place among the great powers of Christendom, foremost in power, wealth, and civilization, and connected together in the cause of mercy and justice.

It is undoubtedly true that this right may be abused, like every other which is delegated to many and different hands. It is possible that it may be exercised wantonly and vexatiously; and should this be the case, it would not only call for remonstrance, but would justify resentment. This, however, is in the highest degree improbable; and if, in spite of the utmost caution, an error should be committed, and any American vessel should suffer loss and injury, it would be followed by prompt and ample reparation. The undersigned begs to repeat, that with American vessels, whatever be their destination, British cruisers have no pretension, in any manner, to interfere. Such vessels must be permitted, if engaged in it, to enjoy a monopoly of this unhallowed trade; but the British government will never endure that the fraudulent use of the American flag shall extend the iniquity to other nations, by whom it is abhorred, and who have entered into solemn treaties with this country for its entire suppression.

In order to prove to Mr. Everett the anxiety of her Majesty's government to prevent all reasonable grounds of complaint, the undersigned believes that he cannot do better than to communicate to him the substance of those instructions under which the British cruisers act in relation to American vessels when employed on this service:

If, from the intelligence which the officer commanding her Majesty's cruiser may have received, or from the manœuvres of the vessel, or from other sufficient cause, he shall have reason to believe that, although bearing the American flag, the vessel does not belong to the United States, he is ordered, if the state of the wind and weather shall admit of it, to go ahead of the suspected vessel, after communicating his intention by hailing, and to drop a boat on board of her to ascertain her nationality, with-

out detaining her if she shall prove to be really an American vessel. But should this mode of visiting the vessel be impracticable, he is to require her to be brought to for this purpose. The officer who boards the vessel is merely to satisfy himself of her nationality by her papers, or other proofs; and should she really be an American vessel, he will immediately quit her, offering, with the consent of her commander, to note on her papers the cause of suspecting her nationality, and the number of minutes she was detained (if detained at all) for the object in question. All the particulars are to be immediately entered on the log-book of the cruiser, and a full statement of them is to be sent, by the first opportunity, direct to England.

These are the precautions taken by her Majesty's government against the occurrence of abuse in the performance of this service; and they are ready to adopt any others which they may think more effectual for the purpose, and which shall at the same time be consistent with the attainment of the main object in view.

Mr. Stevenson has said that he had no wish to exempt the fraudulent use of the American flag from detection; and this being the case, the undersigned is unwilling to believe that a government like that of the United States, professing the same object and animated by the same motives as Great Britain, should seriously oppose themselves to every possible mode by which their own desire could be really accomplished.

The undersigned, &c.

ABERDEEN.

EDWARD EVERETT, Esq., &c. &c. &c.

Mr. Everett to Mr. Webster.

[Extracts.]

LEGATION OF THE UNITED STATES,
London, December 31, 1841.

At a late hour on the evening of the 26th, I received a note from the Earl of Aberdeen, requesting an interview for the following day, when I met him at the Foreign Office agreeably to the appointment. After one or two general remarks upon the difficulty of bringing about an adjustment of the points of controversy between the governments by a continuance of the discussions hitherto carried on, he said that her Majesty's government had determined to take a decisive step towards that end, by sending a special minister to the United States, with a full power to make a final settlement of all matters in dispute. * * * * *

This step was determined on from a sincere and earnest desire to bring the matters so long in controversy to an amicable settlement; and if, as he did not doubt, the same disposition existed at Washington, he thought this step afforded the most favorable, and indeed the only means of carrying it into effect. In the choice of the individual for the mission, Lord Aberdeen added that he had been mainly influenced by a desire to select a person who would be peculiarly acceptable in the United States, as well as eminently qualified for the trust; and that he persuaded himself he had found one who, in both respects, was all that could be wished.

He then named Lord Ashburton, who had consented to undertake the mission.

Although this communication was of course wholly unexpected to me, I felt no hesitation in expressing the great satisfaction with which I received it. I assured Lord Aberdeen that the President had nothing more at heart than an honorable adjustment of the matters in discussion between the two countries; that I was persuaded a more acceptable selection of a person for the important mission proposed could not have been made; and that I anticipated the happiest results from this overture.

Lord Aberdeen rejoined that it was more than an *overture;* that Lord Ashburton would go with full powers to make a definitive arrangement on every point in discussion between the two countries. He was aware of the difficulty of some of them, particularly what had incorrectly been called the right of search, which he deemed the most difficult of all; but he was willing to confide this and all other matters in controversy to Lord Ashburton's discretion. He added that they should have been quite willing to come to a general arrangement here, but they supposed I had not full powers for such a purpose.

This measure being determined on, Lord Aberdeen said he presumed it would be hardly worth while for us to continue the correspondence here on matters in dispute between the governments. He of course was quite willing to consider and reply to any statement I might think proper to make on any subject; but, pending the negotiations that might take place at Washington, he supposed no benefit could result from a simultaneous discussion here.

I inquired what was to be Lord Ashburton's rank; and Lord Aberdeen answered, the usual rank of minister plenipotentiary, justly adding that nothing could be added to his weight of character by any higher rank.

We then engaged in some conversation on the African seizures. I told him the sensibility of the people in the United States had been awakened by the gross abuses which had been committed on American vessels by her Majesty's cruisers; that I was sensible there was sometimes exaggeration and misstatement in the accounts of the parties injured, smarting under a sense of wrong, but that there was an equally strong motive on the part of the cruising officers guilty of the abuse to palliate their own conduct. I told him that there were cases in which I could not, and did not, doubt the most high-handed abuses had been committed, far exceeding that which occurred last summer in Macoa roads, and which had so promptly been rebuked by her Majesty's government; cases, I added, of which, though submitted by Mr. Stevenson as long ago as April last, no notice had yet been taken. Lord Aberdeen assured me, with great promptness, that he would give his attention with the utmost cheerfulness to the consideration of any such case, and desired me to give him, on the spot, the names of those I had in my mind. I gave him the names of the "Tigress," the "Seamew," and the "Jones," promising to add a fourth on my return home, being the four which formed the subject of a communication from Mr. Stevenson of the 16th April last, and of which no explanation had yet been given by her Majesty's government. Lord Aberdeen observed that I was aware it took some time to get an answer to inquiries from the coast of Africa, but that henceforward the cruisers had been ordered, instead of making periodical returns, to report instantly each case of a vessel detained, searched, or captured, as it occurred. On

my return home I despatched a note to Lord Aberdeen containing the name of the fourth vessel, the "William and Francis," and expressing the opinion that nothing would contribute so much to allay the excitement caused in the United States by these seizures on the coast of Africa, nor prepare so effectually for a final and satisfactory adjustment of the controversy, as that prompt and ample reparation which, in his note of the 20th instant, his lordship had promised in cases of abuse.

P. S.—January 3, 1842. Since the foregoing despatch was written, I have received from Lord Aberdeen a note (of which a copy is herewith transmitted) in reply to my memorandum of the 27th of December, relative to the cases of the "Tigress," the "Seamew," "Jones," and "William and Francis." You will be struck with the promptitude evinced by Lord Aberdeen, compared with the delay on the part of Lord Palmerston, who did not refer these same cases to the admiralty till more than four months after his attention had been called to them by Mr. Stevenson.

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[Enclosure]

32 Upper Grosvenor Street,
December 27, 1841.

My Lord: The cases of American vessels to which I alluded this morning are those of the "Tigris," "Seamew," "Jones," and "William and Francis." They were brought to the notice of Lord Palmerston by a letter of my predecessor of the 16th of April last, accompanied by numerous documents. I earnestly commend them to your lordship's attention, in the full persuasion that nothing would contribute so much to allay the excitement caused in the United States by these seizures in the African seas, nor prepare so effectually for a final and satisfactory adjustment of the controversy, as that prompt and ample reparation where error has been committed, and any American vessel has suffered loss and injury, which is promised in your lordship's note of the 20th instant.

I have, &c.,
EDWARD EVERETT.

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[Enclosure.]

Foreign Office, *December* 31, 1841.

Sir: I have had the honor to receive your letter of the 27th instant, upon the subject of the cases of the vessels the "*Tigris*," the "*Seamew*," the "*Jones*," and the "*William and Francis*," brought to the notice of Viscount Palmerston by a letter of the 16th April last from your predecessor, Mr. Stevenson.

I have to acquaint you that on the 31st August last, the board of admiralty were moved by Lord Palmerston to institute a strict inquiry into the allegations made against her Majesty's officers in these cases, and to report to this office the result.

The result of that inquiry has not yet been received; but I have directed that the board of admiralty should be reminded of the desire al-

ready intimated, and be moved to transmit to this office as soon as may be the information they may be enabled to procure upon the subject.

Her Majesty's government is very desirous to give to the United States government, with the least possible delay, an answer upon these and any other cases which may require explanation. But, upon reference to Mr. Stevenson's note, and to the documents which accompanied it, you will perceive that the inquiry may naturally be expected to occupy a considerable time, since the transactions referred to in that note are said to have occurred at various and very distant places.

No time will be lost in obtaining all the details which can be procured; and as soon as her Majesty's government shall have received the necessary information, I shall have the honor to address you again upon the subject.

I have, &c.,

ABERDEEN.

EDWARD EVERETT, Esq., *&c. &c. &c.*

Mr. Webster to Mr. Everett.

[Extracts]

DEPARTMENT OF STATE,
Washington, January 29, 1842.

By the "Britannia," arrived at Boston, I have received your despatch of the 28th December, (No. 4,) and your other despatch of the 31st of the same month, (No. 5,) with a postscript of the 3d of January.

The necessity of returning an early answer to these communications (as the "Britannia" is expected to leave Boston the first of February) obliges me to postpone a reply to those parts of them which are not of considerable and immediate importance.

* * * * * *

The President has read Lord Aberdeen's note to you of the 20th December, in reply to Mr. Stevenson's note to Lord Palmerston of the 21st of October, and thinks you were quite right in acknowledging the dispassionate tone of that paper. It is only by the exercise of calm reason, that truth can be arrived at in questions of a complicated nature; and, between States, each of which understands and respects the intelligence and the power of the other, there ought to be no unwillingness to follow its guidance. At the present day, no State is so high as that the principles of its intercourse with other nations are above question, or its conduct above scrutiny. On the contrary, the whole civilized world, now vastly better informed on such subjects than in former ages, and alive and sensible to the principles adopted and the purposes avowed by the leading States, necessarily constitutes a tribunal august in character and formidable in its decisions. And it is before this tribunal, and upon the rules of natural justice, moral propriety, the usages of modern times, and the prescriptions of public law, that governments which respect themselves and respect their neighbors must be prepared to discuss, with candor and with dignity, any topics which may have caused differences to spring up between them.

Mr. Webster to Mr. Everett.

[Extract.]

DEPARTMENT OF STATE,
Washington, February 24, 1842.

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I also transmit to you additional evidence received at this department, in the cases of the ships "Seamew" and "Tigris," which you will use at your discretion in the prosecution and adjustment of these claims.

Mr. Everett to Mr. Webster.

[Extract.]

LEGATION OF THE UNITED STATES,
London, March 1, 1842.

* * * * * * *

I received by the Britannia your despatch No. 8, with the accompanying documents, relative to the case of the "*Creole*." As my note to the British government on this subject must of necessity be somewhat long, I have thought it better to make the other matters referred to in your despatch the subject of a separate communication to Lord Aberdeen. This communication I addressed to him on the 21st of February, and a copy of it is herewith enclosed.

[Enclosure.]

Mr. Everett to Lord Aberdeen.

[Extracts.]

LEGATION OF THE UNITED STATES,
February 21, 1842.

The note of the Earl of Aberdeen to the undersigned of the 20th of December, in reply to Mr. Stevenson's to his lordship of the 21st of October, has been read by the President with satisfaction at the dispassionate tone with which Lord Aberdeen has discussed the delicate and important subject of that communication. The President considers that it is only by the exercise of calm reason that truth can be arrived at in questions of a complicated nature; and between States, each of which understands and respects the intelligence and the power of the other, there ought to be no unwillingness to follow its dictates. At the present day, no State is so high as that the principles of its intercourse with other nations are above question, or its conduct above scrutiny. On the contrary, the whole civilized world, now vastly better informed on such subjects than in former ages, and alive and sensible to the principles adopted and the purposes avowed by the leading States, necessarily constitutes a tribunal august in character and formidable in its decisions. It is before this tribunal, and upon the rules of natural justice, moral propriety, the

usages of modern times, and the prescriptions of public law, that governments which respect themselves and respect their neighbors must, in the apprehension of the President, be prepared to discuss, with candor and with dignity, any topics which may have caused differences to spring up between them; and he places an undoubting reliance on the concurrence of her Majesty's government in these views of the principles which must govern the intercourse of nations.

* * * * * *

The President of the United States has approved the conduct of the undersigned in forbearing, at the suggestion of the Earl of Aberdeen, to pursue the discussion here of topics which would form the subjects of negotiation between Lord Ashburton and the government of the United States at Washington. It is the duty, however, of the undersigned, to make an observation to Lord Aberdeen on the subject of American vessels detained, searched, and captured, which were enumerated in the note of the undersigned of December 27th. The undersigned is aware of the delay necessarily incident to official inquiries into transactions occurring in distant seas, and has every reason to be satisfied with the promptness with which Lord Aberdeen called the attention of the Lords of the Admiralty to these cases. Firmly persuaded, however, that the success of any attempt to negotiate on this subject, in any form, will depend upon the promptness with which redress is afforded in cases where wrong and injury have been inflicted, and with a view of presenting to her Majesty's government, disconnected with other matters, a case which, it would seem to the undersigned, carries almost in its statement the materials for a safe opinion on its merits, the undersigned would respectfully invite the attention of Lord Aberdeen to the case of the "*Tigris.*" In this case, on slender grounds of suspicion that the vessel was engaged in the slave trade—grounds which, as the undersigned understands, were immediately overruled by the circuit court of the United States for the circuit of Massachusetts, before which the proceedings were had—the American vessel the "*Tigris*" was, on the 7th October, 1840, by Lieutenant Matson, the commander of her Majesty's brig "*Waterwitch*," searched, captured, taken out of her course, her voyage broken up, and the vessel sent home, with a prize crew, under a very young and (as is alleged) intemperate officer. The peculiarity of this case is, that in a letter addressed by Mr. Matson "to the secretary or registrar of either of the circuit courts of the United States," he uses the following language: "These, sir, are my reasons *for taking upon myself the responsibility of detaining the 'Tigris,'* but, in doing so, I find myself placed in a very delicate position, *not having received any orders or instructions to interfere with vessels belonging to citizens of the United States, whatever their employment might be.*" This admission appears to deprive Lieutenant Matson of the justification relied upon in some cases in other respects similar, viz: that which consisted in the agreement or understanding between Commodore Tucker and Lieutenant Commandant Paine, authorizing each other to institute a mutual search of British and American vessels engaged in the slave trade. Mr. Matson alleges no knowledge of that agreement, but expressly states that he acted on his own responsibility, and without orders or instructions.

In separating this case from the others, it is not the purpose of the undersigned to make a distinction in their merits, but to call the attention

of her Majesty's government to a case, which, from the peculiar circumstances mentioned, would seem to admit a summary proceeding.

Mr. Everett to Mr. Webster.

[Extracts.]

LEGATION OF THE UNITED STATES,
London, March 23, 1842.

The Queen's first levee was held on the 16th of March. While waiting in the room appropriated to the foreign ministers, Lord Aberdeen took me aside and informed me that he had an agreeable communication to make to me; which was, that the government had determined to indemnify the owners of the "*Tigris*" for the damage sustained by the detention of that ship on the coast of Africa by the "*Waterwitch*." He said he had examined the subject sufficiently to make up his mind that the claim was just, and that he would immediately address me a note to that effect, which he did the next day. A copy of his note and of my answer are herewith enclosed. Whether the documentary evidence in my hands, a copy of which accompanies my note to Lord Aberdeen, will be deemed sufficient, remains to be seen; but, at all events, the matter is in a happy train of adjustment.

I deem this an event of very great importance. You will bear in mind that the "*Tigris*" was one of four cases submitted by Mr. Stevenson to the British government in May last. Lord Palmerston did not refer them to the admiralty till four months afterwards. In my interview with Lord Aberdeen of the 27th December, I found that his attention had not been drawn to these cases. I gave him their names, which he took down at the time, and, on my return home, I sent him a memorandum of them. Although I considered, with Lord Aberdeen, that the discussion of the question of search was, by the mission of Lord Ashburton, transferred to Washington—a view of the subject which the President has been pleased to approve—I deemed it highly important to keep the individual instances of outrage constantly before the government here, with whom, of course, the reports of their cruisers on the coast of Africa are deposited. I seized the opportunity, when addressing a note to Lord Aberdeen in obedience to the instructions contained in your despatch of the 29th January, expressing the satisfaction with which the mission of Lord Ashburton was regarded by the government of the United States, again to urge the case of the "*Tigris*" upon his consideration; this appearing to me the case admitting the readiest decision. I took care, however, to guard against any inference unfavorable to the strength of the other claims which might be drawn from putting this case prominently forward; and I shall urge the others, at the proper time, in the manner best calculated to cause them to be favorably considered.

[Enclosure.]

FOREIGN OFFICE, *March* 17, 1842.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has had the honor to receive the note addressed to him on the 21st

ultimo by Mr. Everett, envoy extraordinary and minister plenipotentiary of the United States of America; and the undersigned has now the honor to acquaint Mr. Everett that her Majesty's government have fully considered the case of the United States vessel "Tigris," adverted to in that note, as having been detained on the coast of Africa by the commander of her Majesty's brig "Waterwitch," and sent to the United States of America for trial.

From the statement which the officer commanding the "Waterwitch" made in this case to the registrar of the United States court, it appears that he was conscious of not being authorized, either by "instructions or orders" from his own government, "to interfere with vessels belonging to citizens of the United States, whatever their employment might be;" but that, in the course he adopted for enabling the courts of the United States to deal with a crime which the law has deemed to be a piracy, the commander of the "Waterwitch" believed he was performing "a duty which a British officer owed to the government of the United States."

The principle upon which this officer acted may, perhaps, in the eyes of the government of a friendly power, afford some ground of extenuation for the erroneous view which he took of his duty.

But her Majesty's government acknowledge that the act of the officer commanding the "Waterwitch" was not justifiable upon any principle of international law, or by any existing treaty between Great Britain and the United States, and that the case is one in which compensation may justly be demanded by the United States government from the government of Great Britain.

The undersigned has accordingly the honor to request that Mr. Everett will direct the owners of the "Tigris" to send a statement, accompanied by documentary evidence, of the damage which they have sustained by the unauthorized act of the British officer, in order that the account, as soon as it shall have been substantiated to the satisfaction of her Majesty's government, may at once be settled.

The undersigned avails himself of this occasion to renew to Mr. Everett the assurance of his distinguished consideration.

ABERDEEN.

E. EVERETT, Esq., *&c. &c. &c.*

[Enclosure.]

46 GROSVENOR PLACE, *March* 29, 1842.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acknowledge the receipt of the note of the Earl of Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs, dated 17th March instant, in which Lord Aberdeen informs the undersigned that her Majesty's government acknowledge that the act of the officer commanding the "*Waterwitch*," in detaining the American ship "*Tigris*" on the coast of Africa, was not justifiable on any principle of international law, or by any existing treaty between Great Britain and the United States, and that the case is one in which compensation may justly be demanded by the United States government from the government of Great Britain.

The undersigned has received this communication from the Earl of Aberdeen with the highest satisfaction, and will lose no time in transmitting it to his government. The President of the United States, the undersigned is persuaded, will regard it as a signal manifestation of the principles of justice which animate her Majesty's government, and of a determination to repair the wrongs which have been inflicted upon the American flag and commerce in the African seas. From such a determination, thus manifested, the happiest influence on the relations of the two governments may be confidently anticipated.

In reference to the request of Lord Aberdeen to be furnished with a statement by the owners of the "*Tigris*," accompanied with documentary evidence, of the damage which they have sustained by the unauthorized act of the British officer, the undersigned has the honor herewith to transmit, for more convenient perusal, a copy of such a statement, which has lately been received from Washington. The original, duly authenticated, is also in the hands of the undersigned, and will be sent to Lord Aberdeen whenever a wish to that effect may be expressed by his lordship.

The undersigned has the honor to tender to Lord Aberdeen the assurance of his distinguished consideration.

EDWARD EVERETT.

The Earl of Aberdeen, *&c. &c. &c.*

Mr. Everett to Mr. Webster.

[Extracts.]

Legation of the United States,
London, June 1, 1842.

Having received a letter from the owners of the "*Tigris*," enclosing an additional statement of their claim, I addressed a note to Lord Aberdeen transmitting a copy of the letter and statement. This will serve, for the present, to keep the subject before the government. If, within a reasonable time, I do not hear from them in reference to this claim, I shall press for its prompt adjustment, and at the same time inquire what progress has been made in the investigation of the other cases. A copy of my note to Lord Aberdeen on this subject is herewith transmitted. * * * * *

He (Lord Aberdeen) then observed that he had, within a day or two, received the statement of the officer by whom the "*Tigris*" was detained, and found that he was quite justified in her detention. I asked, on what ground? He replied, that he acted in virtue of the special agreement between Lieutenant Paine and Commodore Tucker; adding, "This, to be sure, makes no difference in the question as between the two governments, since that agreement was disavowed by yours; but it will relieve the officer of the personal responsibility, and throw it on the government." As this observation has a very important bearing on several cases of detention and capture which were discussed by Mr. Stevenson and Lord Palmerston, I must request your instructions on the subject of that agreement. * * * * * * * *

Meantime, you will please to understand that Lord Aberdeen distinctly

stated that he did not intend, in consequence of the British officer (Lieutenant Matson, of the "*Waterwitch*") having acted under Lieutenant Paine's arrangement, to depart from his agreement to indemnify the owners of the "*Tigris*."

I observed to Lord Aberdeen, that, though it was not my business to interfere in any question between Lieutenant Matson and his government, I could not but remark to him that this officer himself, in a kind of circular letter, which he sent with the "*Tigris*," addressed to the courts of the United States, affirmed that he had taken upon himself the responsibility of detaining the "*Tigris*," and that he had received no orders or instructions to interfere with vessels belonging to citizens of the United States, whatever their employment might be. I added, that it seemed to me extraordinary that he should thus express himself, if, in fact, he was acting under specific instructions from the British Commodore, given in consequence of the agreement with Mr. Paine. It looked like an afterthought on Mr. Matson's part. Lord Aberdeen was of a different opinion, but did not appear to have adverted particularly to the terms of Lieutenant Matson's letter, although they were quoted by me in the note which I addressed to him on the 21st February.

[Enclosure.]

46 Grosvenor Place, *May* 26, 1842.

Mr. Everett presents his compliments to the Earl of Aberdeen, and has the honor to inform his lordship that on the receipt of Lord Aberdeen's note of the 17th March, Mr. Everett lost no time in acquainting the owners of the "*Tigris*" with the purpose of her Majesty's government to indemnify them for the losses sustained by the capture of their vessel. In conformity with the request of the Earl of Aberdeen, Mr. Everett desired the owners of the "*Tigris*" to transmit to him an authenticated statement of the damage they had sustained. This had been, in part, already done in the statement previously received by Mr. Everett from the Department of State at Washington, a copy of which was communicated by Mr. Everett to the Earl of Aberdeen on the 29th of March.

Mr. Everett has within a few days received a letter from the owners of the "*Tigris*," enclosing an additional statement of their losses, which letter and the accompanying statement are herewith enclosed, in further compliance with Lord Aberdeen's request.

The Earl of Aberdeen, *&c. &c. &c.*

Mr. Everett to Mr. Webster.

[Extract.]

London, *June* 17, 1842.

In my last despatch I repeated a conversation which took place between Lord Aberdeen and myself, at the levee on the 1st instant, on the

subject of compensation for the "*Seamew*," another of the vessels detained, searched, and sent out of her course in the African seas. Having waited a reasonable time without hearing further from Lord Aberdeen on the subject, I addressed him a note on the 13th instant, a copy of which is enclosed. I received on the 15th a private note from Lord Canning, the First Under Secretary of State, informing me that I should have an official answer to mine of the 13th in time for the next mail steamer. Accordingly, I received last evening a note from Lord Aberdeen, dated the 16th, which I herewith transmit, and which contains the official annunciation that this government will indemnify the owners of the "*Seamew*" for the loss sustained by the detention of their vessel. Lord Aberdeen's note contains some remarks on the subject of the treatment of the crew of the "*Seamew*" while on board the "*Persian*," (the British cruiser,) the object of which is to show that the statement of the mate of the "*Seamew*," in reference to that matter, is false or exaggerated. It is of no great importance to pursue the discussion of such a point, although we must not allow it to be taken for granted that the statements of their people are necessarily true, and those of our officers and men false. I shall, in acknowledging the receipt of Lord Aberdeen's note, take care to protest against any such assumption.

As I am furnished in advance with documentary evidence, which I suppose will be sufficient to establish the amount of the loss in the case of the "*Seamew*," as well as that of the "*Tigris*," I anticipate no unreasonable delay in the final liquidation of the claims.

When the various modes are considered in which it would have been possible, pending the general negotiations at Washington, to postpone all final action on any cases of this kind without a positive denial of justice, I think the President will find, in the handsome manner in which reparation has been promised in these two cases, the proof of a sincere willingness on the part of the present ministry to do us justice.

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[Enclosure.]

LEGATION OF THE UNITED STATES,
46 *Grosvenor Place, June* 13, 1842.

MY LORD: At her Majesty's levee, on the 1st instant, your lordship remarked to me that, from a cursory examination of papers recently transmitted from the admiralty to the Foreign Office, relative to the detention and search of American vessels in the African seas, your lordship was led to think that, besides the case of the "Tigris," there was another case (your lordship thought that of the "*Seamew*") in which compensation would be found due from her Majesty's government to the owners. I have now the honor respectfully to inquire whether there is any objection to my communicating this expression of your lordship's opinion to the government of the United States and the owners of the vessel, in my despatches to be forwarded on the 19th instant.

The salutary influence of the annunciation in the United States of the decision of her Majesty's government in the case of the "*Tigris*," and a persuasion that this influence would be greatly increased by the information I am desirous o :communicating, form, with my conviction of the

justice and reasonableness of the claims in question, my motives for submitting the present inquiry.

I have the honor to tender your lordship the assurance of my most distinguished consideration.

EDWARD EVERETT.

The Earl of Aberdeen, &c. &c. &c.

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[Enclosure]

Foreign Office, *June* 16, 1842.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has the honor to refer Mr. Everett, envoy extraordinary and minister plenipotentiary of the United States of America, to the several communications which have passed between her Majesty's government and the legation of the United States relative to the case of the United States vessel "*Seamew*," detained by her Majesty's ship "Persian," Commander Quin.

The undersigned has now the honor to inform Mr. Everett, that her Majesty's government, having received the information collected on this subject, and having fully considered the case, have come to the conclusion that the seizure and detention of the "Seamew" by her Majesty's ship "Persian" was not warranted either by the general law of nations, or by any particular treaty between this conntry and the United States of America.

There appears to be no doubt that the "Seamew" was not merely sailing under American colors, but that she was also *bona fide* American property, and manned by an American crew. A British cruiser had, therefore, no right to capture her, and her Majesty's government acknowledge that the case is one in which compensation may justly be demanded by the government of the United States.

The undersigned, however, is glad to have it in his power to inform Mr. Everett, that while the evidence given in the course of the inquiry instituted into this case shows that Commander Quin was by no means justified in interfering with the "Seamew," it satisfactorily disproves the evidently inflamed and exaggerated statements made by some of the crew of that vessel as to the conduct of the officers of her Majesty's ship "Persian," and their own personal sufferings on the voyage to St. Helena.

It is due to the memory of Commander Quin, and to the other officers of her Majesty's navy concerned in this matter, to state that all possible care was taken in moving the cargo of the "Seamew" during the search; that it was restored safe and in good condition, exactly as before; and that the charge of carousing and riotous conduct preferred against the officer and petty officer of her Majesty's ship "Persian" is most positively and fully denied.

With regard to the treatment experienced by the crew of the "Seamew" on board the "Persian," it may be sufficient to state that they were placed in the messes of the lower deck of that sloop, which were on full allowance of all provisions; and that, so far from any complaint being made, or any dissatisfaction shown by them, they, on the decease of Commander Quin, asked and obtained permission to show their respect for

that officer by following his body to the grave; and that, finally, Mr. Shreve, the second mate of the "Seamew," was landed with his own men at St. Helena, at his own request; and, before he left the vessel, came to the officer in command of the "Persian," on the quarter-deck, and thanked him for the kindness they had received while on board that sloop.

It now only remains for the undersigned to inform Mr. Everett that the statement made by the owners of the "Seamew" as to the losses they have sustained, and which was enclosed in Mr. Everett's note to the undersigned of the 29th of March last, will be transmitted to the proper department, in order that, as soon as the account shall have been substantiated to the satisfaction of her Majesty's government, it may at once be settled.

The undersigned avails himself of this occasion to renew to Mr. Everett the assurance of his distinguished consideration.

ABERDEEN.

EDWARD EVERETT, Esq., *&c. &c. &c.*

Mr. Everett to Mr. Webster.

[Extract.]

LEGATION OF THE UNITED STATES,
London, July 1, 1842.

* * * * * * * * *

With my last despatch I transmitted a note from the Earl of Aberdeen, announcing the purpose of this government to make compensation to the owners of the "*Seamew.*" I now beg leave to send you my answer to Lord Aberdeen's note. Although the discussion of the conduct of the British boarding officers is of no great interest, I thought it necessary to reply to the remarks of Lord Aberdeen on that point.

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[Enclosure.]

LEGATION OF THE UNITED STATES,
June 30, 1842.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acknowledge the receipt of a note of the 16th instant from the Earl of Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs, announcing the intention of her Majesty's government to make compensation to the owners of the "Seamew," for the loss sustained by them in consequence of the detention of their vessel on the coast of Africa, on the 27th October, 1840.

The undersigned has had great pleasure in transmitting this note to his government, by whom he is sure it will be regarded as a new and highly satisfactory proof of the purpose of the government of her Majesty to render full and prompt justice to the citizens of the United States, who have suffered losses by the detention and capture of their vessels by her Majesty's cruisers in the African seas.

The undersigned supposes that the documents already transmitted by him to the Earl of Aberdeen, relative to the "*Tigris*" and "*Seamew*"—the property of the same owners—will be deemed to contain a satisfactory statement of the nature and amount of their losses. The originals of those documents will be furnished to Lord Aberdeen whenever his lordship may be pleased to express a wish to that effect. The undersigned is persuaded the moderation of the estimates will not escape Lord Aberdeen's notice, and will contribute to a speedy and satisfactory settlement of the claims.

In reference to Lord Aberdeen's remark on what his lordship considers "the evidently inflamed and exaggerated statements made by some of the crew of the *Seamew*," the undersigned will observe that if such be indeed the character of their statements, it ought to be remembered that, on any supposition as to facts, the provocation was extreme. If the master and crew of an unarmed merchantman, unlawfully dispossessed of their vessel, and their property contained in it, carried by force on board a foreign cruiser, and finally compelled to find their way home as they can, should relate what had happened in terms of exaggeration, and even bitterness, the candor of Lord Aberdeen will admit that it would not be matter of reproach or wonder.

The most serious of the complaints against the officers of the "*Persian*" are made on oath by the captain and mate of the "*Seamew*." The undersigned admits that they are not impartial witnesses, but they have no strong interest to exaggerate the ill-treatment which they say they received. Without any desire to impeach the credibility of the evidence given in behalf of the officers of the "*Persian*," if, as the undersigned supposes, their personal liability depends in some degree upon their conduct in boarding and overhauling the vessel, they have a direct and powerful interest to represent their behavior in the most favorable manner.

That the cargo of the "*Seamew*" "was restored safe and in good condition exactly as before," would seem to be, in the nature of things, scarcely possible. It could not be believed, but on the strongest and most unexceptionable evidence, that a man-of-war's crew, overhauling a foreign merchantman in a distant sea, under suspicion of being concerned in the slave trade, and displacing and replacing her whole cargo in one operation, should perform it with the same care with which that cargo was gradually laid in by those whose livelihood depends on the manner in which their work is performed—men admitted to be the most prudent and careful mariners in the world. It appears, moreover, from the report of the persons by whom the "*Seamew*" was surveyed at St. Helena—two of whom were American and two British captains of vessels—that the cargo, on the arrival of the vessel there, was actually found in a condition in which scarce any evidence would persuade the undersigned that a Salem shipmaster had originally stowed it.

The undersigned, &c.

EDWARD EVERETT.

The Earl of Aberdeen, *&c. &c. &c.*

Mr. Webster to Mr. Everett.

DEPARTMENT OF STATE,
Washington, July 26, 1842.

SIR: I transmit to you enclosed copies of a letter recently received from the consul of the United States at Rio de Janeiro, dated the 20th of May last, together with the documents therein referred to, and other papers communicated to this department by the collector of the customs at Baltimore, relating to the unjustifiable conduct of Lieutenant Commandant Matson, of her Britannic Majesty's brig "Waterwitch," in having caused possession to be taken in March last, while at sea, of the American barque "John A. Robb," and in having subsequently forcibly taken from the same vessel, notwithstanding the remonstrances of the master, a seaman named Peter Hutchinson, regularly shipped at the port of Rio. You will perceive, on perusing these papers, that the proceeding of the British officer is such as cannot be justified; and you will therefore lose no time in presenting the case to her Britannic Majesty's government, in order that the conduct of Lieutenant Commandant Matson on this occasion may meet that reprehension of his superiors which it obviously calls for, and that proper measures may be adopted on the part of her Majesty's government to prevent the recurrence of similar cause of complaint.

I also send you the memorial, with depositions annexed, received at this department from the owners of the American barque "Jones," and copies of other papers relating to the same subject. This is one of the cases to which you have already invited the attention of the British Government; but these papers may still prove useful to you in the prosecution and adjustment of this claim.

I am, &c.,

DANIEL WEBSTER.

EDWARD EVERETT, Esq., *&c. &c. &c.*

Mr. Webster to Mr. Everett.

[Extract]

DEPARTMENT OF STATE,
Washington, August 17, 1842.

You will receive with this despatch copies of a letter addressed to me on the 15th of June last, by J. P. Healy, esq., of Boston, and of the accompanying affidavit of the master of the brig "Douglas," of Duxbury, Massachusetts, regarding certain circumstances attending the seizure of that vessel on the African coast by a British cruiser. This case, as you will have learned from the records in the legation at London, has already been presented to the British government for indemnification; and this further evidence in support of the claim is placed in your possession, to be used in pressing for a prompt and favorable decision upon it.

Mr. Everett to Mr. Webster.

[Extracts.]

LONDON, *September* 16, 1842.

* * * * * * * * *

I now send you my note to Lord Aberdeen, transmitting the additional papers in the case of the barque "*Jones.*"

* * * * * * * * *

I have prepared a note to Lord Aberdeen, on the case of the seaman taken from the "*John A. Robb,*" by Lieutenant Commandant Matson, of the "*Waterwitch,*" a copy of which I have also the honor herewith to transmit.

I have received by the steamer of the 1st instant your despatch No. 20, containing additional papers in the case of the "*Douglas.*" You are aware that this case was the subject of correspondence between Mr. Stevenson and Lord Palmerston. The object of the supplementary papers now transmitted is to invalidate the statements contained in Lord Palmerston's letter to Mr. Stevenson of the 5th of August, 1841, and the explanations given by the captain of the "*Douglas*" would not probably be deemed satisfactory by a tribunal authorized to adjudicate his case. There was, however, great impropriety in the conduct of the British officer in detaining his vessel eight days, and then discharging him; and the reasons assigned by Lord Palmerston for this course are not only unsatisfactory, but offensive. I shall transmit these supplementary papers to Lord Aberdeen, with the necessary reply to Lord Palmerston's letter.

I intend, on the return of Lord Aberdeen from Scotland, which is expected to take place in a day or two, to make an effort for the prompt and general adjustment of all these cases. The moment is propitious, and it must, I think, be as much the desire as it is the interest of this government to relieve itself at once from the continual burden of these claims.

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[Enclosure.]

46 GROSVENOR PLACE, *September* 16, 1842.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has been directed to lay before the Earl of Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs, the accompanying documents relative to the capture of the barque "*Jones,*" in addition to those which were communicated to Viscount Palmerston with Mr. Stevenson's note of 16th April, 1841.

The case of this vessel is one of those to which the undersigned had the honor of calling the attention of Lord Aberdeen in a memorandum of the 27th of December last.

It will be recollected that the "*Jones*" was seized at St. Helena by Lieutenant Littlehales, of her Majesty's brigantine "*Dolphin,*" her captain and a great part of her crew removed, and the vessel, with a prize crew, sent to Sierra Leone for trial.

It may be proper to observe, that this act on the part of Lieutenant Littlehales was unwarranted even by the private agreement between

Commodore Tucker and Lieutenant Paine, which has been urged in justification of the capture by British cruisers of other American vessels suspected of being engaged in the slave trade. By that agreement, it was stipulated that if the vessels detained by any of her Majesty's ships-of-war "proved to be American property, they should be handed over to the United States schooner *Grampus*, (the vessel commanded by Mr. Paine,) or any other American cruiser."

It will not of course be maintained that an agreement of this kind, or any agreement between officers of the two countries on the African station, could confer on the commander of one of her Majesty's cruisers the right of taking possession of any American vessel, with a valuable cargo, at anchor in a British port; of excluding her captain from his own ship, and sending her for trial before the court of mixed commission at Sierra Leone —a tribunal in which the United States are not represented, and to which no American vessel is amenable.

Circumstances of gratuitous violence and outrage are set forth in the affidavits heretofore submitted to Viscount Palmerston, and in those of which copies accompany the present communication. The undersigned is aware of the overstatement which naturally finds its way into depositions made by the injured parties in cases of this kind. Without the intention to misrepresent or deceive, the feelings naturally excited by the occasion give a warmth and coloring to their testimony. The undersigned, however, need not observe, that this source of error is fully counterbalanced by the strong interest of the opposite party in representing his conduct to his government in a favorable light, and in presenting a case which will exonerate him from individual responsibility, and save him from punishment. At all events, the unjustifiable and offensive conduct ascribed to Mr. Littlehales, and detailed in the numerous affidavits of the American consular agent at St. Helena, of the captain of the "*Jones*," and of several of the crew, has, the undersigned trusts, long since been the subject of strict investigation on the part of her Majesty's government, and will, if established, be visited with condign punishment.

The documents submitted to Viscount Palmerston by Mr. Stevenson brought the case down only to the time of the seizure of the vessel at St. Helena. Among the papers herewith transmitted the Earl of Aberdeen will find statements relative to her fate on arriving at Sierra Leone, and her present condition. The undersigned invites his lordship's special attention to the affidavit of Thomas Henry, the cook of the "*Jones*." From this, and the testimony of Captain Seymour, it appears that, in March last, the "*Jones*" was lying at Sierra Leone, hastening rapidly to decay, with a part of the cargo still on board. What disposition has been [made] of the residue of her valuable cargo, and what judicial procedings have been had upon her, cannot be clearly gathered from any of these papers, and is a subject, of course, on which the owners of the property and the government of the United States are warranted, after a lapse of full two years from the date of the capture, in looking to her Majesty's government for particular information, without further loss of time.

In the cursory examination which the undersigned has been able to make of the voluminous collection of papers on the suppression of the slave trade, kindly communicated to him by order of Lord Aberdeen, he has found no report of any proceedings at Sierra Leone in reference to the

"*Jones*" down to the 31st December, 1841—a period of more than sixteen months from the capture of the vessel.

The undersigned has received, through the Department of State, at Washington, a corrected estimate by the owners of the "*Jones*" of their loss by the capture of their vessel, which he will be happy to submit to the Earl of Aberdeen whenever he shall receive the information—which he trusts will not be much longer delayed—that her Majesty's government is prepared to make compensation in this case, as in those of the "*Tigris*" and "*Seamew.*"

Meantime the Earl of Aberdeen is requested by the undersigned to cause a report of the proceedings which may have been had at Sierra Leone, in reference to the "*Jones*" and her cargo, to be communicated to him for the information of his government.

The undersigned, &c.

EDWARD EVERETT.

The Earl of Aberdeen, *&c. &c. &c.*

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[Enclosure.]

46 Grosvenor Place, *September* 19, 1842.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has received the instructions of his government to give information to the Earl of Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs, of an outrage on the American vessel "*John A. Robb,*" committed by Lieutenant Commandant Matson, of her Majesty's armed vessel the "*Waterwitch.*"

It appears from the papers in the case, copies of which are herewith transmitted, that about the 27th of last March the aforesaid vessel was taken possession of at sea by an armed force from the "*Waterwitch;*" and that a few days afterwards, viz: on the 5th April last, she was boarded by Mr. Matson, and one of her ship's company, Peter Hutchinson, forcibly taken out, against the will and in opposition to the protest of the master of the "*John A. Robb.*"

The fact of the removal of the seaman is admitted by Mr. Matson in the certificate furnished by him, which will be found among the papers accompanying this note. The justification of the outrage alleged by Mr. Matson, viz: that "no agreement whatever was made by the seaman," if intended to mean that he was not regularly and legally shipped, is disproved by the testimony of the American consul at Rio de Janeiro, and by the documents herewith transmitted.

On what evidence Mr. Matson proceeded to rebut that of the vessel's papers, in support of the extremely improbable suggestion, that "the seaman was on board the vessel without any agreement whatever," is not stated, nor very easy to conceive.

This point, however, is not important to be settled, as it does not change the character of the transaction. The act of Lieutenant Commandant Matson was entirely unwarranted on his own statement of the case, and will, the undersigned has no doubt, be promptly disavowed by her Majesty's government. He has been directed to lose no time in representing the case to the Earl of Aberdeen, in order that the conduct of Mr.

Matson may receive that reprehension from his superiors which it obviously calls for, and that proper measures may be taken by her Majesty's government to prevent the recurrence of similar cause of complaint.

It may be proper to observe, that the American consul at Rio de Janeiro, whose report of the transaction is found among the papers herewith transmitted, is one of the officers whose character and conduct are so honorably noticed in the letter of her Majesty's chargé d'affaires at Rio de Janeiro, of 31st August, 1841, and in the despatch of the Earl of Aberdeen to Mr. Fox, of the 19th of last November.

The undersigned, &c.

EDWARD EVERETT.

The EARL OF ABERDEEN, *&c. &c. &c.*

Mr. Everett to Mr. Webster.

[Extract.]

LONDON, *October* 19, 1842.

* * * * * *

I transmit herewith copies of two communications which I have received from the Foreign Office since the date of my last despatch; the one relative to the case of the "*Jones*," and the other on the affair of the seaman forcibly taken from the "*John A. Robb*" by Lieutenant Commandant Matson. You will, in the former case, be struck with the fact that for two years since the capture of that vessel at St. Helena no report on the subject has reached this government. It is also to be remembered, that after reports of this kind from the cruising officers, or the courts of mixed commission, are received, considerable time must be expected to elapse before the subject is acted upon by the government here. If, in the first response made to our reclamations by this government on the faith of these reports, facts are alleged not admitted or controverted by us, another reference to cruising officers stationed in the African seas, or to the court sitting at Sierra Leone, Rio de Janeiro, or the Havana, becomes necessary, as is actually the case at the present moment with the "*Douglas.*" When such circumstances are considered, a delay of more than two years in making the original report of the transaction appears in its true light as a grievance of a most serious character, and forming of itself a just cause of complaint, and a strong illustration of the inexpediency of admitting, under any pretence, a right on the part of a foreign power to search an American vessel.

[Enclosure.]

FOREIGN OFFICE, *October* 5, 1842.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the notes addressed to him on the 16th and 22d September last by Mr. Everett, envoy extraordinary and minister plenipotentiary from the United States, enclosing fur-

ther documents relative to the capture of the barque "*Jones*," by her Majesty's brigantine "Dolphin," and requesting to be furnished with a report of the proceedings which may have been had at Sierra Leone in reference to that vessel and her cargo.

The undersigned, in reply, begs to inform Mr. Everett that it is from the want of the report in question that her Majesty's government have been unable as yet to come to a decision upon the case. A renewed application has this day been made to the proper department on the subject; and so soon as her Majesty's government shall have received the necessary information, the undersigned will lose no time in communicating to Mr. Everett the decision of her Majesty's government on this case.

The undersigned, &c.

ABERDEEN.

EDWARD EVERETT, Esq., *&c. &c. &c.*

[Enclosure]

FOREIGN OFFICE, *October* 5, 1842.

The undersigned, her Britannic Majesty's principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the note of Mr. Everett, envoy extraordinary and minister plenipotentiary of the United States of America, dated the 19th ultimo, complaining of the conduct of Lieutenant Matson, of her Majesty's brig "*Waterwitch*," in boarding the American vessel "*John A. Robb*," and forcibly removing from that vessel one of the ship's company, named Peter Hutchinson.

The undersigned has not failed to refer Mr. Everett's complaint to the Lords Commissioners of the Admiralty for investigation. It appears that their lordships have not as yet received any information upon the subject of this transaction; but they have lost no time in calling upon the commander-in-chief of her Majesty's ships on the Cape of Good Hope station forthwith to require from Lieutenant Matson such explanation as that officer may have to give relative thereto; and, as soon as the answer shall have been received and communicated to this office, the undersigned will have the honor of addressing a further note to Mr. Everett upon the subject.

The undersigned, &c.

ABERDEEN.

EDWARD EVERETT, Esq., *&c. &c. &c.*

Mr. Everett to Mr. Webster.

[Extract.]

LONDON, *November* 18, 1842.

SIR: I transmit herewith the copy of a note which I have addressed to the Earl of Aberdeen on the subject of the detention and search of the "*Douglas*," in October, 1839. You will be struck with the extraordinary inadvertence, hitherto apparently overlooked, in the letter of Lord

Palmerston to Mr. Stevenson, of the 5th of August, 1841, containing the reply of his lordship to Mr. Stevenson's representation of this case, viz: in setting up the agreement between Messrs. Paine and Tucker, which was entered into in March, 1840, as the justification of a transaction which took place in October, 1839. It would naturally be inferred from the language of Lord Palmerston, that Mr. Seagram himself, the commander of the "*Termagant*," and the officer by whom the "*Douglas*" was detained and searched, had set up this plea in justification. This, however, I can scarcely think possible. I rather suppose the error to have been on Lord Palmerston's part, in representing, as a justification actually made, what, from a misrecollection of the dates, he supposed might have been made by that officer. At all events, as the discovery of this error completely subverts the defence of the search and detention of the "*Douglas*," contained in Lord Palmerston's note, I have some hopes that, on its being pointed out, a favorable reconsideration of the case may be obtained of the present ministry.

Although my impression is very strong as to the unwarrantableness of the detention and search of the "*Douglas*," (as I trust is sufficiently apparent from my note to Lord Aberdeen on the subject,) I think it my duty to call the attention of the department to the nature of the voyage in which there is too much reason to think she was engaged, in reference to the further measures which it may be deemed expedient to adopt, to prevent any participation in the slave trade on the part of citizens of the United States. The captain of the "*Douglas*" positively denies, on oath, that his vessel, as asserted by Lieutenant Seagram, was provided with leaguers, a slave deck, slave coppers, or any other articles usually found in vessels actually employed in transporting slaves. This vessel, however, was bound to the rivers Bonny and Bras, great marts of the slave trade. It is not pretended that she went in search of, or that she brought away any of the articles of lawful commerce which are to be obtained on this part of the African coast, but came away in ballast. Nor is it denied that among the passengers whom she took with her from the Havana was Don Pablo Frexas, alleged by Lord Palmerston to be a notorious slave trader, and who was on board as the consignee of the *Douglas*, as he had also been of the "*Asp*" and the "*Lark*," previously condemned as slave traders by the court of mixed commission at Sierra Leone. When these facts relative to the voyage are considered in connexion with the explanations given by Mr. Trist, late consul of the United States at the Havana, as to the mode in which the slave trade is carried on from that port, the presumption is very strong that the "*Douglas*" was chartered to convey a slave trader and his associates to one of the principal seats of the slave trade on the coast of Africa, with an assorted cargo, adapted for its prosecution. While this circumstance affords no justification for the detention and search of the "*Douglas*" by a British cruiser, it may be deemed worthy of the attention of the government of the United States, in any further provisions, legislative or executive, which it may be necessary to adopt, to prevent the American flag from being used as a cover for this inhuman and piratical traffic.

[Enclosure.]

46 GROSVENOR PLACE, *November* 12, 1842.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to transmit to the Earl of Aberdeen, her Britannic Majesty's principal Secretary of State for Foreign Affairs, the accompanying papers, lately received from Washington, relative to the capture of the American brig "*Douglas*," in the African seas, by her Majesty's vessel of war the "*Termagant*," Lieutenant Seagram, commander. The detention and search of this vessel formed the subject of a correspondence between Viscount Palmerston and Mr. Stevenson, to which the undersigned would refer for a history of the affair. He has been instructed to bring it anew under the consideration of her Majesty's government; to point out the unsatisfactory nature of Lord Palmerston's explanations; and, in transmitting to the Earl of Aberdeen the additional papers in the case, to press upon her Majesty's government the justice of making the so long-delayed compensation.

This case was first submitted to Lord Palmerston in a letter from Mr. Stevenson, of the 13th of November, 1840. It appears by his lordship's reply of the 19th of November, that before any reclamation on the part of the American government or the private parties injured, the attention of her Majesty's government had been drawn to the affair of the "*Douglas*," by the report of Lieutenant Seagram, containing an account of the transaction; and that officer had been called upon "to explain more fully and particularly the grounds upon which he had considered himself justified in detaining a ship *under American colors, with papers showing her to be American property*." Lord Palmerston adds, that "her Majesty's government have now directed a prompt and searching inquiry to be made into the facts of the case, as stated in Mr. Stevenson's note; and the undersigned will not fail to communicate further with Mr. Stevenson on the subject, so soon as her Majesty's government shall have learned the result of the inquiries instituted."

On the 5th of August, 1841, a note was addressed by Lord Palmerston to Mr. Stevenson, containing the result of these inquiries. In this note, after reciting Mr. Stevenson's statement of the case, Lord Palmerston proceeds to observe, that—

"The undersigned has, in reply, to state that, in pursuance of the wish expressed by Mr. Stevenson on the part of his government, a strict investigation has, by order of the lords of the admiralty, been made into the particulars of this case, and the result is as follows:

"Lieutenant Seagram, commanding her Majesty's ship the '*Termagant*' employed in suppressing the slave trade on the coast of Africa, had been apprized by the commanding officer of her Majesty's ships on that coast of an agreement entered into by that officer with Commander Paine, of the United States navy, for searching and detaining ships found trading in slaves under the United States flag; and Lieutenant Seagram having, on the 21st October, 1839, met with the ship '*Douglas*,' carrying the flag of the Union, he boarded her and made inquiries as to the voyage on which she was bound." Toward the close of Lord Palmerston's letter, after reviewing and explaining the facts of the case, his lordship, evidently referring again to the above-mentioned agreement between Commanders Paine and Tucker, remarks, that, "from the foregoing state-

ment, it will appear that the visit, the search, and the detention of the '*Douglas*' by Lieutenant Seagram took place under a full belief, on the part of that officer, that he was pursuing a course which would be approved by the government of the United States." The entire justification of Lieutenant Seagram for searching a vessel which he does not allege to have been suspected of being other than American, and for detaining her eight days after this search proved her to be furnished with papers "showing her to be American property," consists in this reference to Lieutenant Paine's agreement. But the search and detention of the "*Douglas*" took place on the 21st—29th October, 1839, and the agreement between Commanders Tucker and Paine bears date 11th March, 1840.

With this observation, the undersigned might dismiss the argument, and earnestly call upon her Majesty's government, without longer delay, to redress a wrong the justification of which has so long rested on a foundation purely imaginary. But inasmuch as this agreement of Commanders Paine and Tucker has, on other occasions, been made to fill a very prominent place in the discussions between the two governments relative to the detention of American vessels in the African seas, the undersigned will make a single observation on its nature, viz: that, being a personal agreement between the two officers, neither of whom, probably—certainly not the American—was authorized to commit his government to any general arrangement on the subject, it could never, under any circumstances, be fairly construed to have any other reference than to the individuals themselves by whom it was concluded, and to whom in terms it exclusively applied. Its words are, "Commander William Tucker, of her Britannic Majesty's sloop '*Wolverine*,' and senior officer, west coast of Africa, and Lieutenant John S. Paine, commanding the United States schooner '*Grampus*,' in order to carry as far into execution as possible the orders and views of their respective governments respecting the suppression of the slave trade, hereby request *each other*, and agree, to detain all vessels under American colors found to be fully equipped for and engaged in the slave trade; that if proved to be American property, they may be handed over to the United States schooner '*Grampus*,' or any other American cruiser." Though somewhat loosely expressed, this agreement, alike in its spirit and its language, is far from having the extension which some of her Majesty's officers seem disposed to have given it. It is matter of surprise that an agreement of this kind—personal in its terms, entered into by a lieutenant of the navy acting under the usual orders of officers cruising on the African station, without special instructions or full powers—should, by any person, have been regarded as a public compact, abandoning the principles in reference to the right of search which the government of the United States had so long and strenuously maintained—principles well known to have formed at the moment the subject of direct and animated discussion between the highest functionaries of the two governments at Washington and London.

But it is unnecessary to pursue this train of remark, since, whatever the true character of the agreement in question, it was not entered into till nearly five months after the search and detention of the "*Douglas*" by Lieutenant Seagram, and can, of course, furnish no justification for the conduct of that officer.

In the note of Lord Palmerston of 5th August, 1841, after alleging the agreement above alluded to as Mr. Seagram's justification, his lordship

proceeds to relate the circumstances of the search. It is sufficient, on this subject, to remark that the statements of Mr. Seagram are positively denied, on oath, by the captain of the "*Douglas*," in the affidavit herewith transmitted to the Earl of Aberdeen. It is not necessary that the undersigned should inquire into the comparative credibility of the two accounts, because the facts alleged by Mr. Seagram would, though established, form no justification of his conduct.

For a similar reason, the undersigned forbears to engage in a discussion as to the manner in which the searching party conducted itself on board the "*Douglas*." The captain of that vessel adheres to his first representation; and, as the details in question are not the material parts of the injury complained of, it is of no great consequence to compare the opposite accounts. The undersigned will only observe, that the statement that the American flag was hauled down by the captain of the "*Termagant*" was evidently a mere inadvertence in Mr. Stevenson's original representation of the case. It is, as Lord Palmerston correctly observes, declared by the captain of the "*Douglas*" that he pulled down the flag himself, in consequence of being deprived, by force, of the possession and control of his vessel.

The conduct of Lieutenant Seagram resolves itself into two parts, which may be separately considered, viz: the original boarding and search of the "*Douglas*," and the subsequent detention and discharge of that vessel without trial.

As it is not alleged by Lieutenant Seagram that he suspected the vessel to be other than American, and as the justification attempted to be drawn from Lieutenant Paine's agreement wholly fails, the act of boarding was, from the first, unwarrantable, and, as the undersigned supposes, entirely unauthorized by his instructions. On the search, the vessel was, in the language of Lord Palmerston derived from Mr. Seagram's original report, found to be furnished "with papers which showed her to be American property." It might have been expected that, when this discovery was made, the vessel would have been promptly discharged. The reason for her further detention, after she was found and admitted to be American property, is stated in these words in Lord Palmerston's letter to Mr. Stevenson:

"Lieutenant Seagram reports, that, under these circumstances, he should have sent the '*Douglas*' to the United States, to be delivered up to the authorities of that country, but that he had received orders from the commanding officer of her Majesty's vessels on the coast of Africa not to send any vessels to the United States, until he should have been informed what course the United States government took as to the slave vessels the '*Eagle*' and the '*Clara*,' which had been sent to the United States by that commanding officer, with a view to assist the American government in preventing the abuse of the national flag of the Union. But Lieutenant Seagram, not having received any information on this point, at the end of eight days after the detention of the '*Douglas*,' thought it his duty then to release the '*Douglas*,' instead of detaining her longer or sending her to the United States."

It is unnecessary to dwell on the extremely unsatisfactory character of this explanation. The two countries having now happily agreed upon a method of co-operation for the suppression of the slave trade, the undersigned will not comment at length upon the highly objectionable intima-

tion contained in this part of Mr. Seagram's report. It need not be said that nothing could be more unreasonable than to expect, at the latter end of October, to receive upon the coast of Africa information of the result of an admiralty process against vessels arriving in the United States on the 12th of June.

Nor is the inconsequence less apparent of inferring, from the result of such a process against two *Spanish* vessels, (pronounced to be such by her Majesty's minister at Washington,) what course would be pursued, in the courts of the United States, towards an American vessel suspected of the slave trade. The undersigned is persuaded that it is unnecessary for him to urge at length, that, in finally discharging the "*Douglas*" for a reason like this, without bringing her before any tribunal, Lieutenant Seagram furnished the strongest condemnation of his own conduct in detaining her eight days after her character as American property was satisfactorily ascertained.

The undersigned will observe, in conclusion, that it would be unjust to measure the extent of injury inflicted upon the "*Douglas*" merely by the length of time for which she was detained. During the eight days that she was in possession of the prize crew, she was sailing before the wind and off her course; so that to the time she was actually detained must be added that required to regain her original position.

A moment's reflection will satisfy Lord Aberdeen, that an additional period of two or three weeks passed in the neighborhood of these pestiferous coasts, in a state of painful excitement and anxiety, must have had a most prejudicial influence on the health of the ship's company, and may well be supposed to have laid the foundation of those diseases, which, on the return voyage, carried off three of the crew, and left Captain Baker himself reduced from a state of athletic health to one of extreme debility—to the assistance of a single seaman in navigating his ship to the Havana. In addition to all the other losses occasioned by the delay, the charterer of the "*Douglas*" failed a few days before the return of the vessel, with a consequent loss to her owner of the sum for which she was chartered.

The undersigned persuades himself that, in giving a candid consideration to the foregoing statements, and especially in adverting to the failure of the sole justification set up for the capture and search of the "*Douglas*," her Majesty's government will come to the conclusion that compensation is due to the owners of that vessel for the losses suffered by them in consequence of detention.

The undersigned avails himself of this occasion to renew to the Earl of Aberdeen the assurance of his distinguished consideration.

EDWARD EVERETT.

The Earl of Aberdeen, *&c. &c. &c.*

Mr. Everett to Mr. Webster.

[Extracts.]

London, *November* 29, 1842.

I received, a short time since, from Messrs. Brookhouse & Hunt, of Salem, the owners of the "*Tigris*" and "*Seamew*," a letter, complaining of

the delay which had taken place on the part of this government in making the promised compensation for the losses suffered by those gentlemen, in consequence of the capture and detention of their vessels in the African seas. Being myself of opinion that their complaint was founded in reason, I deemed the reception of their letter a fit occasion for addressing Lord Aberdeen again on the subject. I accordingly prepared and transmitted a note, reminding him of his promise, and of the delay which had taken place in its fulfilment, and sending him a copy of the letter of Messrs. Brookhouse & Hunt. * * * * *

My note to Lord Aberdeen received a very early reply, from which it appears that he has addressed another communication to the treasury, probably accompanied with a copy of my note to himself on this subject. The promptitude of his answer induces me to hope that he will have presented the subject to the treasury in such a light as will bring that department to prompt action on the claim. A copy of the correspondence accompanies this despatch.

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[Enclosure.]

46 GROSVENOR PLACE, *November* 22, 1842.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to transmit to the Earl of Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs, a copy of a letter just received from the owners of the "*Tigris*" and "*Seamew.*" Lord Aberdeen will recollect that on the 5th of August a former letter from the same quarter was communicated to his lordship by the undersigned, and that the subject of these letters has repeatedly formed a topic of conversation between them in the course of the summer and autumn.

Lord Aberdeen will perceive from the letter now transmitted of Messrs. Brookhouse & Hunt, that they feel themselves aggrieved by the delay which has taken place in finally settling a claim of which her Majesty's government has admitted the justice and has promised payment.

It is now more than eight months since the intention of her Majesty's government to make compensation in the case of the "*Tigris*" was announced to the undersigned, and more than five months since a similar annunciation was made in reference to the "*Seamew.*" Nothing, within the knowledge of the undersigned, has since been done towards carrying this purpose into effect, nor has he been made acquainted with any cause for a delay so unexpected and to the interests of the owners so injurious.

On first receiving the promise of Lord Aberdeen in reference to the "*Tigris*," the undersigned, placing an entire confidence in the disposition of Lord Aberdeen promptly to fulfil the engagement, took upon himself to assure the owners of the vessel that no unreasonable delay would take place in the final settlement of their claim. The confidence then felt by the undersigned is in no degree impaired by the delay which has unfortunately taken place, and which he cheerfully ascribes to causes beyond Lord Aberdeen's control; but he submits to Lord Aberdeen that unless this delay is really unavoidable, it is a matter of just and very serious complaint.

It is one of the greatest aggravations of the wrong inflicted on American commerce by interruption in the African seas, that the great distance from which information is to be had necessarily occasions considerable delay in investigating the cases, as in the instance of the "*Jones*," where, though two years have elapsed since the original capture, no report has yet been received from her Majesty's officers. The unavoidable delay thus produced should form a very strong inducement for proceeding with all possible promptitude, when the case has passed the stage of inquiry abroad and awaits only the action of the appropriate department of the government at home.

Lord Aberdeen will also feel that from the moment the justice of the claim is allowed, the relation between her Majesty's government and the parties interested is changed. Till this takes place the wrong, when wrong has been done, is the unauthorized act of the cruising officer; and the willingness and intention of her Majesty's government are presumed, to make redress as soon as the wrong is satisfactorily established. If, after this is done and compensation has been promised, a further unnecessary delay takes place, the responsibility rests with her Majesty's government, and a just cause of dissatisfaction arises, not merely on the part of the individuals whose fortunes may be ruinously affected by the disappointment of calculations formed on the basis of the promised indemnity and the detention of their property by a foreign power, but also on the part of the government of the United States, whose duty it is to watch over the interests and rights committed to its protection.

The happy adjustment by the treaty of Washington of the principal subjects in controversy between the two governments, and especially the arrangement which, it may be safely hoped, will preclude for the future all complaints of injuries of this kind, furnish very strong reasons for bringing to a final close, with the least possible delay, the correspondence which has so long been carried on in reference to the past. The happy effect of the treaty, in restoring a good understanding between the two countries, may be seriously impaired by the necessity which this correspondence creates of keeping in fresh remembrance those parts of the former discussions on which the sensibilities of the two countries were most alive; and the undersigned cannot too strongly express his hope to Lord Aberdeen that his lordship will enable the undersigned, by the packet of the 4th December, to make a satisfactory communication to his government on the subject of the present note.

The undersigned, &c.

EDWARD EVERETT.

The Earl of Aberdeen, *&c. &c. &c.*

[Enclosure.]

Foreign Office, *November* 23, 1842.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the note addressed to him, on the 22d instant, by Mr. Everett, envoy extraordinary and minister plenipotentiary of the United States, with its enclosure, calling the attention of her Majesty's government to the length of time which has elapsed

since the undersigned communicated to Mr. Everett the determination of her Majesty's government to grant to the owners of the American vessels "Tigris" and "Seamew" compensation for the losses they had sustained by the detention of those vessels by her Majesty's ships "*Waterwitch*" and "*Persian.*"

With respect to the case of the "*Tigris,*" the undersigned has the honor to inform Mr. Everett, that, on the 29th April last, he addressed a letter to the lords of her Majesty's treasury, accompanied by copies of all the documents relating to the case, informing their lordships that her Majesty's government had admitted the justice of the demand for compensation in the case, and requesting that their lordships would take the necessary steps for having the account of damages said to have been sustained by the owners of the "*Tigris*" investigated, in order that the governments of Great Britain and the United States might come to a final settlement upon this matter without any unnecessary delay.

And the undersigned has further to state to Mr. Everett, that, on the 9th July last, he addressed to the lords of her Majesty's treasury a communication upon the case of the "*Seamew,*" similar to his communication respecting the "*Tigris.*"

All that remains, therefore, is the investigation of the accounts of the loss occasioned by the detention of these two vessels.

This proceeding, as Mr. Everett is aware, must necessarily occupy some time; but the undersigned has now further the honor to state to Mr. Everett that a communication has, by his direction, been this day addressed to her Majesty's treasury, repeating that the undersigned considers it highly desirable that no unnecessary delay should occur in a final settlement of these matters, and expressing a hope that the undersigned would be enabled shortly to make a satisfactory communication to Mr. Everett upon these points, in conformity with the desire expressed in Mr. Everett's note of the 22d instant.

The undersigned, &c.

ABERDEEN.

EDWARD EVERETT, Esq., *&c. &c. &c.*

Mr. Everett to Mr. Webster.

[Extracts.]

LONDON, *December* 30, 1842.

On the 19th of this month a note was addressed to me by Lord Aberdeen, informing me that Mr. William Rothery had been appointed, on behalf of the treasury, to investigate the amount of the claims of the owners of the "Tigris" and "Seamew" for compensation, in order to ascertain the sum properly due to them by this government. Mr. Rothery is one of the solicitors of the treasury, and is usually employed by the English government on business of this kind, as in settling the amount to be paid to the owners of the slaves on board the "Comet" and "Encomium," liberated some years ago in the British West Indies. * * * *

2d January, 1843.—Since the foregoing was written, I have received

two notes from Lord Aberdeen, relative to the cases of the "Tigris," "Seamew," and "Douglas." I have passed one morning with Mr. Rothery in attempting to settle the amount due to the owners of the first-named vessels; but I find the inquiry enters so much into detail on the subject of demurrage, insurance, freight, and other questions of a commercial nature, that I cannot do justice to the interests concerned without the assistance of a practical merchant. I shall accordingly put the business into the hands of a gentleman of that description, a citizen of the United States, and allow him a moderate compensation out of the fund which may be received from this government. As this arrangement is manifestly for the benefit of the owners of those vessels, I anticipate no objection to it on their part. I am somewhat disappointed in the character of Lord Aberdeen's answer in the case of the "Douglas." He led me to think it would be favorable, as was indeed almost a matter of course, after the manner in which Lord Palmerston's justification of the capture of that vessel, contained in his letter to Mr. Stevenson of 5th August, 1841, was overturned in my note to Lord Aberdeen of 12th November, 1842. Accordingly, Lord Aberdeen's reply admits, to the fullest extent, that the detention of the vessel was not warranted by the law of nations, nor by any treaty, and that compensation may therefore be justly demanded; but this admission is qualified by a reference to the government of the United States, through the British minister at Washington, of several documents from the cruising officers on the African station, designed to show that the "Douglas" was pursuing a voyage connected with the slave trade; and with a very strong intimation, that the information contained in these documents will cause the demand for compensation to be withdrawn. You will immediately perceive that these papers, though not, I believe, sent to Mr. Stevenson with Lord Palmerston's note of the 5th August, add nothing to the facts contained in that note, of which they furnished the principal materials. The most important of those facts, as I have already stated, are denied on oath by the owner and master of the "Douglas."

As Lord Aberdeen admits that the validity of the claim for compensation is not impaired by the nature of the voyage, it is not necessary to comment on that subject.

You may recollect that, in my despatch of the 18th of November, I pointed out the suspicious circumstances relative to the voyage, not as justifying the detention of the vessel by the British cruiser, but as a subject which might be deemed worthy the attention of our own government, in its endeavors to prevent the abuse of the American flag.

The ground to be taken on the subject since the reference of it to Washington, is a matter exclusively for the President's decision. I shall keep the subject, however, under consideration; and should it appear to me that there are any views of it which can with propriety be pressed by me, I shall not fail to do so.

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[Enclosure.]

FOREIGN OFFICE, *December* 19, 1842.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has the honor to state to Mr. Everett, envoy extraordinary and

minister plenipotentiary of the United States of America, that he has had further communications with the lords of her Majesty's treasury on the subject of the United States vessels "Tigris" and "Seamew," and that their lordships have concurred with the undersigned in opinion that it will be advisable that a person should be appointed on the part of her Majesty's treasury to confer with Mr. Everett, or some person authorized by Mr. Everett, for the purpose of investigating the claims which have been brought forward by the owners of the United States vessels "Tigris" and "Seamew," and of determining the amount of compensation which is properly due to them for the detention of those vessels by her Majesty's ships "Waterwitch" and "Persian."

The undersigned has the honor to invite the attention of Mr. Everett to the expediency of adopting this measure; and in the event of Mr. Everett concurring in the arrangement, Mr. William Rothery, who has been selected by the lords of her Majesty's treasury for the purpose, will wait upon Mr. Everett, or upon a person authorized by Mr. Everett, to confer with him on any day and at any hour which may be appointed.

The undersigned avails himself of this occasion to renew to Mr. Everett the assurance of his high consideration.

ABERDEEN.

EDWARD EVERETT, Esq., *&c. &c. &c.*

[Enclosure.]

46 GROSVENOR PLACE, *December* 23, 1842.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acknowledge the receipt of the notes of the Earl of Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs, of the 23d of November and of the 19th instant, on the subject of the "Tigris" and "Seamew." In the first of these notes the Earl of Aberdeen acquaints the undersigned that his lordship, on the 29th of April, addressed a communication to the lords of the treasury, transmitting the various documents relative to the case of the "Tigris," informing their lordships that her Majesty's government had admitted the justice of the demand for compensation in the case, and requesting that their lordships would take the necessary steps for having the account of damages said to have been sustained by the owners of the "Tigris" investigated, in order that the governments of the United States and Great Britain may come to a final settlement of this matter, without any unnecessary delay. In the same note Lord Aberdeen further acquaints the undersigned that a similar communication, in reference to the "Seamew," was addressed by his lordship to the lords of her Majesty's treasury, on the 9th of July.

It does not appear, from the Earl of Aberdeen's note of the 23d of November to the undersigned, that up to that time any step had been taken by the treasury, in pursuance of Lord Aberdeen's communications above referred to.

In his note of the 19th instant, the Earl of Aberdeen informs the undersigned that further communication had been had with the lords of the treasury on the subject of the "Tigris" and "Seamew," and that their lordships had concurred with Lord Aberdeen in the opinion that it will

be advisable that a person be appointed on behalf of her Majesty's treasury to confer with the undersigned, or some person authorized by him, for the purpose of investigating the claims of the owners of the "Tigris" and "Seamew," and determining the amount of compensation properly due for the detention of those vessels; and Lord Aberdeen acquaints the undersigned that, should he concur in this arrangement, Mr. William Rothery, the person selected by the lords of her Majesty's treasury for the purpose, will wait upon the undersigned, or upon any person authorized by him, to confer with him at any time which may be appointed.

The length of time which has been permitted by her Majesty's treasury to elapse before entering upon this investigation makes it the duty of the undersigned, in signifying his concurrence in the proposed measure, to express the hope that the Earl of Aberdeen will cause the case of the "Douglas" to be included in the investigation with those of the "Tigris" and "Seamew." The undersigned understood Lord Aberdeen, in their late conversation on the subject, to express the opinion, subject to the concurrence of the law authorities of the crown, that compensation is due also in the case of that vessel; and, as she was captured and detained more than three years ago, the undersigned is sure that Lord Aberdeen will feel the hardship of subjecting her owner to the possibility of an additional delay like that which has occurred in entering upon the adjustment of the claims in the cases of the "Tigris" and "Seamew."

The undersigned will be happy to see Mr. Rothery at the office of the United States legation, 46 Grosvenor Place, on Friday, the 30th instant, at half-past eleven o'clock, a. m., at which time the originals of the documents of which copies have been transmitted to the Foreign Office, in the cases of the "Tigris" and "Seamew," shall be submitted to Mr. Rothery; and the undersigned hopes it will be in Mr. Rothery's power, in the interval, to make himself acquainted with the items of which the account of the damages sustained by the owners of the vessels in question is composed.

The undersigned avails himself of this opportunity of renewing to Lord Aberdeen the assurance of his highest consideration.

EDWARD EVERETT.

The Earl of Aberdeen, *&c. &c. &c.*

[Enclosure.]

Foreign Office, *December* 29, 1842.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the notes which Mr. Everett, envoy extraordinary and minister plenipotentiary of the United States of America, addressed to the undersigned on the 12th of November last and on the 23d instant, pressing upon her Majesty's government the justice of granting compensation to the owners of the American vessel "Douglas" on account of her detention by the commander of her Majesty's sloop "Termagant" off the coast of Africa in the month of October, 1839.

Her Majesty's government have taken this case into their serious consideration, and the undersigned is bound to admit that the "Douglas"

being an American vessel with American papers, and sailing under the American flag, the act of Lieutenant Seagram in seizing her and sending a prize crew on board, who kept possession of her during eight days, was not justifiable by the law of nations, or by any treaty between this country and the United States.

Such being the case, the undersigned fully admits that the government of the United States have a right to claim compensation for the owners of the "Douglas" on account of the losses which they sustained by reason of the detention of their vessel; but it will be satisfactory to her Majesty's government, and doubtless not less so to the government of the United States, that this claim should not be made without a full knowledge of the circumstances under which the detention took place, and of the nature of the voyage which it interrupted.

Accordingly, the undersigned has the honor to transmit herewith to Mr. Everett copies of a despatch and of its enclosures addressed by the senior officer of her Majesty's naval forces on the coast of Africa to the admiralty, containing the result of the inquiry instituted in consequence of the representation addressed to her Majesty's government by the minister of the United States on the 13th of November, 1840.

The undersigned feels it to be his duty to submit these documents, through her Majesty's minister at Washington, to the government of the United States. If, after having considered them, the United States government should repeat the claim for compensation to the owners and others interested in the voyage of the "Douglas,' the undersigned will be ready to proceed at once with Mr. Everett to examine the amount of the claim with a view to its immediate settlement.

In that case, her Majesty's government will at least have the satisfaction of knowing that they have not willingly lent themselves to the indirect sanction of a slave-trading speculation, or withheld from the government of the United States any information which it was in their power to give respecting the real character of the "Douglas," or of the adventure in which she was engaged.

The undersigned avails himself of this occasion to renew to Mr. Everett the assurance of his high consideration.

ABERDEEN.

EDWARD EVERETT, Esq., *&c. &c. &c.*

[Sub-enclosure]

HER MAJESTY'S SHIP "TERMAGANT,"
Off New Cestos, October 28, 1840.

SIR: In answer to your letter, dated the 3d instant, directing me to inform you, for the information of my Lords Commissioners of the Admiralty, more fully and particularly of the grounds on which I considered myself justified in detaining a ship under American colors, and with papers showing her to be American property, I have the honor to state that the slave trade was carried on under the American flag, and that on boarding the brig "Douglas" (from the Havana to the river Nun) I discovered a great number of Spaniards on board amongst her crew, and that the cargo was consigned to one of them, bound to the river Nun; that the

property on board was a slave cargo, consisting of leaguer staves and hoops, slave tiers, and pannicans; that I detained her for the purpose of delivering her over to the American authorities, as I knew that the court at Sierra Leone was closed against the American flag, having on a former occasion sent up the "Iago" (Spanish property) under those colors, and completely equipped for the slave trade. Two vessels under that flag were at that period on their way to New York, sent over in charge of her Majesty's brig "Buzzard" by the senior officer on the west coast, who had expressed a desire that no other vessel should be sent over until the result of his proceedings was known.

I was desirous of getting the sanction of the senior officer to send her to New York, and for that purpose I detained her until the day of my rendezvous, which passed without our meeting; I therefore liberated the vessel.

The vessel proceeded to the river Nun, where the consignee now resides as a slave factor.

I have, &c.,

H. F. SEAGRAM,
Lieutenant and Commander.

Commander the Hon. JOSEPH DENMAN, *&c. &c. &c.*

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[Sub-enclosure.]

HER MAJESTY'S SLOOP "WOLVERINE,"
At sea, lat. 4° 14' *N., long.* 8° 44' *W., March* 18, 1841.

SIR: In obedience to the orders of the Lords Commissioners of the Admiralty conveyed in your letter of the 25th November, 1840, with its enclosure from the Foreign Office, I have the honor to report, for their lordships' information, that I yesterday met her Majesty's brigantine "Termagant" off the Kroo coast, and immediately held an inquiry into the detention of the American brig "Douglas" by Lieutenant Seagram, the result of which I now transmit in the annexed papers, to which I beg you will attach, according to date, Lieutenant Seagram's expositions of his reasons for detaining her, dated the 28th October, 1840, and transmitted in my letter of the 16th December, 1840, (No. 110,) which, together, will, I trust, give all the information on the subject it is possible to gain: with reference to which I feel it due to Lieutenant Seagram, and the officers commanding her Majesty's ships and vessels of the squadron under my orders, to state that, during the two years I have had the honor of holding the command of this station, I have ever found them exceedingly anxious to perform their duties most zealously and correctly, as well as their bearing and conduct to the vessels navigating under the flags of powers in friendly alliance with our government as to the vessels navigating under our own, of which sufficient proofs have, I trust, been given; and that I am convinced neither Lieutenant Seagram, nor any other officer commanding under my orders, would have taken any measures with vessels navigating under the American, French, or other flags, but those by which they considered they were, as British officers, in the absence of the naval officers of the powers in friendly alliance with England, assisting the governments of those flags in preventing the glaring abuses of

their national flags, believing it was as strictly their duty to do so as it is to assist the merchant vessels belonging to those powers, to the utmost of their ability, whenever and wherever they may require it; for which they felt convinced, whilst so acting, they would receive the approbation of those governments.

With reference to the case in point, I beg to call their lordships' attention to the strong suspicions against the "Douglas" of her being actually engaged in the slave trade; as strong, apparently, as in the cases of the "Eagle" and "Clara," which I ordered to be taken to New York early in 1839—which the American government could not take cognizance of, being Spanish property, although sailing under the American flag—and in the cases of the "Asp" and "Lark," detained by me in the river Nun, in January, 1840, for being fully equipped for the slave trade under American colors, which were condemned by the mixed commission at Sierra Leone, being Spanish property; which two vessels followed the "Douglas" out, and were consigned to the Spanish factor Don Pablo Frexas, who was a passenger on board the "Douglas;" the freight of which vessel was to purchase the slaves for the cargoes of the "Asp" and "Lark," and of the other vessels, namely, the "Palmira" and "Recurso," taken off the Nun since, and condemned by the mixed commission at Sierra Leone.

I beg also to call their lordships' attention to the strong circumstantial evidence of the illegality of the "Douglas's" voyage, and of her aiding and abetting in the slave trade by her sailing without a custom-house clearance; by her returning to obtain one, and sailing again without one; and by her having a complete slave equipment on board, and seven Spaniards, the same as the vessels above mentioned condemned as Spanish property.

So glaring was the case, I am firmly convinced that, had I not expressed a desire to Lieutenant Seagram and the other officers commanding, that they should not send to America any vessels they might find equipped for the slave trade under the American flag, until I had received information of the result of my sending the "Eagle" and "Clara" to New York, to be given up to the American government, Lieutenant Seagram would have sent the "Douglas" to New York, and that the American government would have confiscated the vessel, and punished its citizens found on board. I therefore hope the government and citizens of the United States will believe that Lieutenant Seagram, in this case, as myself, and the other officers commanding in the other cases, had not the slightest intention whatever of violating the rights and laws of America, but had as great and as friendly a regard (I may venture to say brotherly regard) and consideration for the honor of the American flag as any citizen of America could wish. That such was, and I truly hope still is, the opinion of one of its own naval officers, I transmit the following copy of the agreement made by Lieutenant Paine, commanding the United States schooner-of-war "Grampus," and myself, on the 11th of March, 1840; a copy of which was transmitted in my letter to you of the 12th March, 1840:

"Commander William Tucker,(6) of her Britannic Majesty's sloop 'Wolverine,' and senior officer on the west coast of Africa, and Lieutenant John S. Paine, commanding the United States schooner-of-war

'Grampus,' in order to carry as far into execution as possible the orders and views of their respective governments respecting the suppression of the slave trade, hereby request each other, and agree, to detain all vessels under the American flag found to be fully equipped for, and engaged in, the slave trade; that if proved to be American property, they shall be handed over to the United States schooner 'Grampus,' or any other American cruiser; and that if proved to be Spanish, Portuguese, Brazilian, or English property, to any of her Britannic Majesty's cruisers employed on the west coast of Africa for the suppression of the slave trade, so far as their respective laws and treaties will permit.

Signed and exchanged at Sierra Leone, this 11th day of March, 1840.

WILLIAM TUCKER,(6)
Comm'r of her Majesty's sloop Wolverine, and senior officer, coast of Africa.
JOHN S. PAINE,
Lieutenant comm'g U. S. schooner Grampus."

I have the honor, &c &c.,

WILLIAM TUCKER,
Captain and senior officer.

R. More O'Ferral, Esq., *M. P., &c. &c. &c., admiralty.*

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[Sub-enclosure.]

At an inquiry held on board her Majesty's sloop "Wolverine," at sea, in latitude 4° 45′ north, longitude 8° 44′ west, on the 17th day of March, 1841, by William Tucker, esq., captain and senior officer in command of her Majesty's ships and vessels employed on the west coast of Africa, pursuant to the orders of the Lords Commissioners of the Admiralty, dated the 25th November, 1840, respecting the detention of the American brig "Douglas," by her Majesty's brigantine "Termagant," Lieutenant H. F. Seagram commanding:

Lieutenant Seagram appeared, and having heard the letter of the American minister, and protests of the American master (A. Baker) and mate (W. Arnold) read, declared as follows, viz: That the American brig 'Douglas" was boarded by him, and detained as a vessel engaged in the slave trade, as shown in the accompanying extracts from the log and boarding book of her Majesty's brigantine under his command. That the circumstances of the detention of the said brig were immediately forwarded to the commander-in-chief, Rear Admiral the Hon. Geo. Elliot, C. B., as per his letter of the 30th October, 1839, and in a further exposition in his letter to Commander the Hon. Jos. Denman, of the 28th October, 1840.

He declared, further, that on boarding the said vessel he was received with great incivility, and a disinclination was shown on the part of the master to reply to any questions relating to his voyage; and strong suspicions were excited by the appearance of a number of Spaniards being on board her, (having come from the Havana,) and going to a river where no trade but the slave trade is carried on; added to which, on demanding

the custom-house clearance it could not be produced, which created a still much greater suspicion as to the legality of her proceedings; and his suspicions were still further excited, and he may say confirmed, by having found Don Pablo Frexas, a notorious and well known slave dealer, to be the consignee, who gave him permission to examine his freight, under the impression that it was well protected by the American flag. He was therefore determined to examine the hold, although the master objected to it with very strong and insulting language, being convinced that the American government, and the American citizens at large, would be pleased at his attempt to discover and prevent the abuse of their flag. A stronger case of its abuse, in the protection of a slave cargo, never was known on the coast of Africa; for, in addition to the agreement in her charter-party, she had leaguers, hoops and staves, slave tiers, plank, and other fittings for a slave ship, and he has since learnt that three complete slave coppers were in her hold at the time: upon which it was his intention at the time, as indicated in his letter to the commander-in-chief, to deliver her over to the government of the United States, but for the reasons therein explained; in addition to which, from the statement of Don Pablo Frexas, she was so leaky, full of rats, and badly found, that he was fearful of making a return voyage in her, loaded as she then was. That he was also informed by Don Pablo Frexas that the cargo was Spanish property, shipped as American, in order to escape seizure; that during the period of detention, and while in charge of the officer, (Mr. Hancorn, second master,) that the master, mate, and crew were treated with every consideration; and that Mr. Alvin Baker declared to him, on board the "Termagant," that he had not one cause of complaint to make. That with regard to the charge of one demijohn of rum having been embezzled from the cargo, he has no means of ascertaining the truth of it, the officer who had charge having been invalided; but he believes it cannot have taken place, the hatches having been opened and closed in his (the declarer's) presence; in addition to which, he received no complaint from the master (A. Baker) or consignee, Don Pablo Frexas. That the charge relative to the loss of the three men is as futile as that of detaining, vexatiously, a legal trader of America; and that the charge contained in the letter from the American minister, of hauling down the flag of the United States, is corrected by Alvin Baker, who has stated in his protest that he ordered the flag to be hauled down himself, and that in his (the declarer's) intercourse with vessels of the United States he has always endeavored to prove, by his conduct, the high respect and consideration he entertained for their national flag and honor.

H. F. SEAGRAM.

Signed and declared before me, on board her Majesty's sloop "Wolverine," at sea, in latitude 4° 45' north, longitude 8° 44' west, this 17th day of March, 1841.

WILLIAM TUCKER,
Captain and senior officer in command.

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[Sub-enclosure.]

George D. Nobbs, clerk in charge of H. M. brig "Termagant," having heard the letter of the American minister, and protest of the American master (A. Baker) and mate (Wm Arnold) read, declared as follows, viz:

That, having seen papers and log of the American brig "Douglas" produced, found, on the examination of the same, that she had left the Havana with a cargo consigned to two Spaniards on board, who were going to the rivers Brass and Bonny. The cargo consisted of equipment for a slave factory, and also for vessels engaged in the abominable traffic in slaves. Capt. A. Baker could not produce his custom-house clearance, but had made a notation in his log, on leaving the Havana, that he could not procure one, and returned to the harbor for the same, but left again without it.

On the commander placing a party of men, with an officer, on board to take charge, the Spaniards were taken on board the "Termagant," and our table and spare cabins were given to the two factors. During the time there, they appeared anxious to get stock and provisions for their own use, which the commander sanctioned, and ordered him to go with him to observe that nothing else occurred. The boat returned with the fowls, &c., which they consumed at the gun-room table.

The Spanish factor, Don Pablo Frexas—the one going to the Brass—said in my hearing that the cargo was for the purpose of slaving, but it was protected by the American flag, which prevented the commander making her a prize.

GEORGE D. NOBBS.

Signed and declared before me, on board H. M. sloop "Wolverine," at sea, in latitude 4° 45′ N., and longitude 8° 44′ W., this 17th day of March, 1841.

WILLIAM TUCKER,
Captain and senior officer in command.

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[Sub enclosure.]

Thomas Crawford, assistant surgeon H. M. brig "Termagant," having heard the letter of the American minister, and protests of the American master (A. Baker) and mate (William Arnold) read, declared as follows:

That soon after the detention of the American brig "Douglas," seven Spaniards were received from her, two of whom were received into the gun-room mess, and seemed perfectly satisfied with their treatment. After coming on board, one of the factors, Don Pablo Frexas, asked permission to be allowed to bring some stock on board for himself and the use of his crew. He went in company with Mr. Nobbs, clerk in charge on board the "Douglas," and returned with a few articles, part of which he distributed among his men; the remainder he kept for his own use.

Don Pablo Frexas, one of the factors, told him, the declarer, that it was his last trip to the coast, and that he would not have ventured now had he not heard that the vessel detained by the "Buzzard," under American colors, had been liberated in America.

He also stated that he would not put a cargo of slaves on board the "Douglas," for she sailed badly, and that he had some beautiful vessels coming out which would outstrip our cruisers in sailing.

THOMAS CRAWFORD.

Signed and declared before me, on board H. M. sloop "Wolverine," at

sea, in latitude 4° 45′ N., longitude 8° 44′ W., this 17th day of March, 1841.

WILLIAM TUCKER,
Captain and senior officer in command.

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[Sub-enclosure.]

Extracts from the log-book of H. B. M. brig "Termagant."

MONDAY, *October* 21, 1839.

A. M. 8h. 30m., observed a sail NE.; made sail in chase; lost sight of chase 10h., got sight of chase ahead. 11h., hove to, and boarded the American brig "Douglas." 12h., light airs and cloudy, with rain; sent an officer and party to examine brig; found her with slave cargo. Noon, lat. 4° 30′ N., long. 4° 34′ E., Whydah N. 56°, W. 194′. P. M., 2h., captain of brig came on board with papers; sent an officer and party of men to take charge of the brig, being engaged in the slave trade. 5h., received seven Spaniards calling themselves passengers; victualled ditto on two-thirds allowance; made sail. 8h., calm and fine; brig in company.

Tuesday 22d October, 1839.—A. M., light airs. 4h., do. weather, brig ahead. Noon, lat. 4° 13′ N., long. 3° 56′ 15″ E., Whydah N. 42°, W. 175′. P. M., calm and fine. 4h., do. weather, brig bearing W. by N. 8h., calm and fine; brig W. ½ S.

Wednesday, 23d October, 1839.—A. M., 4h., calm and clear; brig in company. 12h., calm and fine; brig in company. Noon, lat. 4° 10′ N., long. 3° 42′ E., Whydah N. 40°, W. 159′. P. M., 4h., calm and fine; brig in company. 7h. 30m., in gaff-foresail, backed main-topsail; sent a boat on board brig. 8h., light airs and fair; up boat and made sail; brig in company. 12h., light airs and fine; brig astern.

Thursday, 24th October, 1839.—A. M., light airs and fine; brig in company. Noon, lat. 4° 30′ N., long. 3° 17′ E., Whydah N. 41°, W. 110′. P. M., 4h., light airs and fine; brig in sight, bearing E. by S. 6h., wind and cloudy; brig in company.

Tuesday, 29th October, 1839.—A. M., 10h., hove to and communicated with the brig "Douglas;" sent prisoners on board; do. 11h., gave up charge of the brig to her captain. 11h. 30m., up boat and made sail to the eastward.

True extracts:

H. F. SEAGRAM,
Lieutenant commanding.

Certified as correct, having been read over in my presence.

WILLIAM TUCKER,
Captain H. M. S. "Wolverine," and senior officer in command.

[Sub-enclosure.]

Extract from the boarding-book of her Majesty's brig "Termagant."

Date.	Where.	Name of vessel.	Name of master.	Name of owner.	How rigged.	Under what colors.	No. of men.	No. of guns.	No. of tons.	Where from.	Where bound.	Where belonging.	No. of days out.	Cargo.	To whom consigned.	Intelligence.
Oct. 21	At sea	Douglas	A. Baker	Fayer & Co.	Brig	American	9	2	209	Havana & Cape de Verdes.	River Brass, or Bonny.	Duxbury	70	Rum, tobacco, & plank.	Supercargo	Detained this vessel, having slave equipments on board.

A true extract:

Certified as correct, having been read in my presence.

H. F. SEAGRAM, *Lieutenant commanding.*

WILLIAM TUCKER, *Captain, and senior officer in command.*

[Sub-enclosure]

HER MAJESTY'S BRIG "TERMAGANT,"
West Coast of Africa, October 30, 1839.

SIR: I have the honor to inform you that on the 21st instant I detained the American brig named the "Douglas," of Duxborough, United States, Alvin Baker master, carrying two guns, and kept possession of her until the 29th, in expectation of obtaining some intelligence from the senior officer at the rendezvous that would enable me to proceed against her. I learnt from the "Waterwitch" (which vessel I met on the 28th) that no intelligence had yet arrived from the United States respecting the American flag; and knowing the mixed commission court at Sierra Leone has no power over that flag, and the senior officer had already taken such steps as would lead to the settlement of the question, I felt constrained to liberate the vessel.

The above-named American brig "Douglas" was chartered from the Havana for the rivers Brass and Bonny, with a large slave cargo, (Spanish property.) There were seven Spaniards on board. Two of these men were to act as factors at the two rivers; the principal man (the supercargo) at the Brass.

The vessels to receive the slaves were to arrive from the Havana in a short time; they were to be built on the newest and most approved construction, at Baltimore, for the express purpose, and to sail under the Spanish flag, without equipments for slaves, in order to make certain of their safe arrival without obstruction from any cruisers.

I felt regret at the want of power to crush a project of such importance towards the suppression of the slave trade, especially as, from the skill and enterprise shown on the occasion, there is every chance of its success.

I have, &c.,

H. F. SEAGRAM,
Lieutenant Commanding.

Rear Admiral the Hon. GEORGE ELLIOT, *C. B.*,
Commander-in-Chief.

[Enclosure.]

FOREIGN OFFICE, *December* 29, 1842.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, with reference to the note which Mr. Everett, envoy extraordinary and minister plenipotentiary of the United States of America, addressed to him on the 23d instant, upon the subject of the United States vessels "Tigris," "Seamew," and "Douglas," has the honor to state to Mr. Everett that Mr. Rothery has received directions to wait upon Mr. Everett on Friday, the 30th instant, at half-past eleven o'clock, conformably to the arrangement proposed by the undersigned, and accepted by Mr. Everett, in respect to the United States vessels "Seamew" and "Tigris."

With reference to Mr. Everett's proposal respecting the "Douglas," the undersigned begs to refer Mr. Everett to his other note of this day's date.

The undersigned avails himself of this occasion to renew to Mr. Everett the assurance of his high consideration.

ABERDEEN.

EDWARD EVERETT, Esq., *&c. &c. &c.*

Mr. Everett to Mr. Webster.

[Extract.]

LONDON, *January* 28, 1843.

I informed you, in my last despatch, that I should avail myself of the assistance of some skilful practical merchant, in adjusting, with the Solicitor of the British treasury, the claims of the owners of the "Tigris" and "Seamew." I put the business into the hands of Mr. John Hillard, of Boston, a gentleman for some time established in business here, and possessing all the qualities required for the purpose. His report, containing the result of the joint examination instituted into the claims by himself and Mr. Rothery, is herewith enclosed, for your information and that of the parties interested. You will perceive that a reference to those parties for further evidence and explanation, touching some items of the claim, became necessary. Of other items, some are wholly agreed to by the Solicitor of the Treasury, some allowed in part, some altogether rejected as inadmissible. I do not consider myself authorized to abandon any part of the claim as originally advanced by the owners of the "Tigris" and "Seamew," whatever my opinion may be of those items in reference to which Mr. Hillard and Mr. Rothery concur. It will remain for the government of the United States, after considering such further evidence and explanation as the owners may offer as to the contested items, to decide how far they shall be compromised. In whatever may be left to my own discretion, I shall be very much guided by Mr. Hillard's views as they have been already expressed, or may be, on the receipt of further evidence.

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[Enclosure]

LONDON, *January* 24, 1843.

DEAR SIR: Since I had the honor of an interview with you, I have met Mr. Rothery, appointed by the treasury to investigate, on the part of the British government, the claims of Messrs. Brookhouse & Hunt, in the cases of the "Tigris" and the "Seamew;" and I now beg to wait upon you with the result of my conferences, which will appear in the reports herewith submitted.

I distinctly stated to Mr. Rothery that I was not authorized to make any definite settlement of the question, but that upon your return to town the papers would be laid before you, for your consideration and determination.

The papers submitted are drawn at some length, and the claims appear rather plausible; but many of the claims and proofs will not bear the test of closer examinations, being loosely drawn up, and depending entirely on the declarations of the captains of the several ships, without any corroborative testimony whatever.

These remarks will refer more particularly to claims for not being allowed to fulfil contracts and effect sales.

The *sixth* claim in the case of the "Tigris," and the *seventh* claim in the case of the "Seamew," rest entirely on the declarations of the captain, and are entirely unsupported by any other evidence. These two

claims are, at present, rejected entirely by Mr. Rothery, and to recover any thing upon them will require proofs of the contract having been made, and proofs of the state of the market at Ambris, and that actual sales could have been and had been made at the prices quoted.

In the *third* claim of the case of the "Seamew," the evidence that the whole of the damaged coffee was thrown into the sea is exceedingly defective. It appears that one hundred and fifteen bags, and some loose coffee, were more or less damaged; and the captain declares that he threw all the damaged coffee into the sea, but he does not declare that he threw the whole 14,000 lbs. of coffee, more or less damaged, into the sea.

On the other hand, suspicion is excited by the purchase at St. Helena of 120 gunny bags; and the question naturally suggests itself, for what purpose were these gunny bags to be used, unless to repack the coffee, or the greater part of it, which it was said was contained in 115 bags, with some loose coffee, all more or less damaged? Mr. Rothery will require proof from St. Helena that all the coffee said to be damaged was actually thrown into the sea, and became a total loss.

My own opinion of the several claims is imbodied in the remarks submitted in the reports of each case, which accompany this. Whatever claims Messrs. Brookhouse & Hunt may have, morally or equitably, to further allowances than those recommended, they cannot, in the statements as submitted, it appears to me, establish them either in a mercantile or legal point of view. The claims for insurance are rejected, because, in fact, the British government were the insurers themselves during the time of capture; claims for demurrage are generally supposed to cover some of the losses of imagined profits. It may be objected that an allowance has been offered in the seventh claim of the "Tigris," which rested upon no better evidence than the sixth claim in this case, and the seventh claim in the case of the "Seamew." To this I reply that great opposition was made to this very claim for want of proper proofs, and the principle was insisted upon that there should be other evidence than that of the declaration of the captain. The next claim in the case of the "Tigris" is for damage of goods depreciated by their return, and other causes, as set forth. In this case, it is insisted that the account sales of the goods, if actually sold, should have been sent, or that they should have been sold, the account sales produced, and claim made for actual loss.

It was only after great difficulty, and pressing the matter, that the offer was made in these two cases.

Before acting upon my suggestions, you may wish to place them before some other mercantile person, of perhaps more experience than myself, for his opinion. This would be more agreeable to me than to have the matter settled upon my own judgment, although I have bestowed much attention upon the papers, and have endeavored to give an honest and unbiassed opinion.

It rests, therefore, with you, to adopt the report which I have made, which claims more than Mr. Rothery is disposed to allow, or to refer the papers back to Messrs. Brookhouse & Hunt for further proof, as allowances proposed are so much less than the claims. This will be, perhaps, the course most likely to satisfy the parties concerned.

Respectfully submitting the papers to you, I have, &c.,

JOHN HILLARD.

EDWARD EVERETT, Esq., *&c. &c. &c.*

Mr. Everett to Mr. Webster.

[Extract.]

LONDON, *February* 28, 1843.

I was in hopes to have it in my power to communicate to you by this steamer the decision of the British government in the case of the barque "Jones," which formed the subject of my note to Lord Aberdeen of the 16th September, 1842. At that time no report on this case had reached the government, although two years had elapsed since the capture of the vessel. In an interview which I had with Lord Aberdeen on other matters, a short time since, he informed me that he had at length received a full report in the case of the "Jones." Not hearing from him further on the subject, and having received, by the last steamer, a letter of inquiry from the owners of the "Jones," I transmitted to Lord Aberdeen a copy of it, with a short note expressing the hope that he would enable me to make a satisfactory communication relative to this vessel to my government by the steamer of the 4th of March. To this note I have received no reply.

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[Enclosure.]

46 GROSVENOR PLACE,
February 20, 1843.

Mr. Everett presents his compliments to the Earl of Aberdeen, and has the honor to transmit to his lordship a copy of a letter received by the "Caledonia" from the owners of the barque "Jones." M. Everett hopes that Lord Aberdeen will have it in his power to authorize Mr. Everett to make a satisfactory communication to his government, in reference to this vessel, by the 4th of March.

Lord ABERDEEN.

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[Sub-enclosure.]

SALEM, *January* 30, 1843.

SIR: Some months since, Mr. Simmons, of Boston, at our request, addressed you on the subject of our claim upon the British government for the unlawful seizure, by one of their public armed vessels-of-war, of our barque "Jones" and cargo, at St. Helena, and your reply to his letter was communicated to us as soon as it was received. Since that time, we have heard nothing of the progress made in the examination of our claim, and we are still wholly uninformed of the nature of the objections to it which delay its settlement. The pecuniary situation of the claimants is such as makes it a matter of the most vital importance to them that their rights in relation to this claim should be promptly established, and they are assured by the Department of State that such is the wish and intention of the government. We are, therefore, induced again to

take the liberty of entreating your excellency to take all such measures as your wisdom shall know to be proper and effectual to bring it to an adjustment at the shortest possible time, and we shall esteem it a particular favor if we may be informed of the nature and extent of the objections made to it by the British government.

With the highest respect, we remain, &c.,

P. J. FARNHAM & CO.

His Excellency EDWARD EVERETT,
&c. &c. &c.

Mr. Webster to Mr. Everett.

DEPARTMENT OF STATE,
Washington, March 9, 1843.

SIR: I transmit to you, herewith, the copy of an explanatory statement received from the owners of the barque "Jones," of New York, to whom transcripts of the depositions, referred to in your No. 23, of four of the crew of that vessel, taken by consul Aspinwall, in December, 1840, were recently communicated.

I also enclose the copy of a letter, dated the 14th of August, 1841, addressed to the Navy Department by Lieutenant Commandant John S. Paine, of the United States schooner "Grampus," in relation to the seizure, &c., of the barque "Jones." From the character of the writer, it is not doubted that his observations regarding the proceedings in this case will have due weight with the British government, to which he is favorably known.

In the adjustment and settlement of this claim, these papers may prove useful to you; and you are accordingly authorized to make such use of them as shall appear to you best calculated to promote the interests of justice.

I am, &c.,

DAN'L WEBSTER.

EDWARD EVERETT, Esq., *&c. &c. &c.*

Mr. Everett to Mr. Webster.

[Extract.]

LONDON, *March* 28, 1843.

Since the date of my last despatch, I have received Lord Aberdeen's answer to the repeated applications which have been made for compensation for the capture of the "Jones," together with the papers in the case. From these, it will appear that this vessel was, in September, 1840, seized while at anchor in the port of St. Helena, by Lieutenant Littlehales, commanding the British vessel of war "Dolphin," on two charges—one of being found in a British port without papers establishing a national character; the other of being engaged in the slave trade. On the ground that the vice admiralty court at St. Helena was illegally constituted, Mr.

Littlehales put a prize crew on board the "Jones," and sent her, with her mate and a portion of her company, to Sierra Leone, where she was proceeded against in the vice admiralty court of that place. Notwithstanding the great disadvantage to the owners, with which the trial was necessarily conducted, before a tribunal where there was nobody to appear for them, the court decided strongly in their favor on both points, and decreed the restitution of vessel and cargo. On the ground, however, that the search, lawfully instituted by Mr. Littlehales, to ascertain the character of the vessel, was resisted by the captain of the "Jones," costs were decreed to the captors. The cargo being perishable, and the vessel going rapidly to decay, and no one appearing on behalf of the owners to take possession, under the decree of restitution, vessel and cargo were successively sold under orders of court, and the sum of £1,635 3*s.* 7*d.*, the amount produced by the sale, deducting expenses, together with twelve bags of coin in Macuta pieces, which were on board at the time of the capture, is now in the registry at Sierra Leone, subject to the order of any person entitled to receive it.

I have not yet been able to obtain all the information necessary to the preparation of my answer, but I am not without hopes of being able to complete it before the sailing of the steamer of April 4th. Lord Aberdeen, in conversation with me on the subject, admitted that it was a hard case, and I have some expectation of procuring the reversal of the unfavorable decision contained in his note of March the 2d. You will, of course, observe that the case differs from most or all of those, otherwise similar, which have formed the subject of so much of my correspondence with this government, in this circumstance—that the search and seizure took place in British waters, for an alleged breach of British law. I regard the conduct, however, of Lieutenant Littlehales as wholly illegal, unwarrantable, and oppressive, and the capture of the vessel without even a color of justification.

Mr. Webster to Mr. Everett.

DAPARTMENT OF STATE,
Washington, March 28, 1843.

SIR: I transmit to you with this despatch a message from the President of the United States to Congress, communicated on the 27th of February, and accompanied by a report made from this department to the President, of the substance of a despatch from Lord Aberdeen to Mr. Fox, which was by him read to me on the 24th ultimo.

Lord Aberdeen's despatch, as you will perceive, was occasioned by a passage in the President's message to Congress at the opening of its late session. The particular passage is not stated by his lordship; but no mistake will be committed, it is presumed, in considering it to be that which was quoted by Sir Robert Peel and other gentlemen, in the debate in the House of Commons on the answer to the Queen's speech, on the 3d of February.

The President regrets that it should have become necessary to hold a diplomatic correspondence upon the subject of a communication from the head of the executive government to the legislature, drawing after it, as

in this case, the further necessity of referring to observations made by persons in high and responsible stations in the debates of public bodies. Such a necessity, however, seems to be unavoidably incurred in consequence of Lord Aberdeen's despatch; for, although the Presdent's recent message may be regarded as a clear exposition of his opinions on the subject, yet a just respect for her Majesty's government, and a disposition to meet all questions with promptness, as well as with frankness and candor, require that a formal answer should be made to that despatch.

The words in the message at the opening of the session which are complained of, it is supposed, are the following: "Although Lord Aberdeen, in his correspondence with the American envoys at London, expressly disclaimed all right to detain an American ship on the high seas, even if found with a cargo of slaves on board, and restricted the British pretension to a mere claim to visit and inquire; yet it could not well be discerned by the Executive of the United States how such visit and inquiry could be made without detention on the voyage, and consequent interruption to the trade. It was regarded as the right of search, presented only in a new form, and expressed in different words; and I therefore felt it to be my duty distinctly to declare, in my annual message to Congress, that no such concession could be made, and that the United States had both the will and the ability to enforce their own laws, and to protect their flag from being used for purposes wholly forbidden by those laws, and obnoxious to the moral censure of the world."

This statement would tend, as Lord Aberdeen thinks, to convey the supposition, not only that the question of the right of search had been disavowed by the British plenipotentiary at Washington, but that Great Britain had made concessions on that point.

Lord Aberdeen is entirely correct in saying that the claim of a right of search was not discussed during the late negotiation, and that neither was any concession required by this government, nor made by that of her Britannic Majesty.

The 8th and 9th articles of the treaty of Washington constitute a mutual stipulation for concerted efforts to abolish the African slave trade. This stipulation, it may be admitted, has no other effects on the pretensions of either party than this: Great Britain had claimed as a *right* that which this government could not admit to be a *right*, and, in the exercise of a just and proper spirit of amity, a mode was resorted to which might render unnecessary both the assertion and the denial of such claim.

There probably are those who think that what Lord Aberdeen calls a right of visit, and which he attempts to distinguish from the right of search, ought to have been expressly acknowledged by the government of the United States: at the same time, there are those on the other side who think that the formal surrender of such right of visit should have been demanded by the United States as a precedent condition to the negotiation for treaty stipulations on the subject of the African slave trade. But the treaty neither asserts the claim in terms, nor denies the claim in terms; it neither formally insists upon it, nor formally renounces it. Still, the whole proceeding shows that the object of the stipulation was to avoid such differences and disputes as had already arisen, and the serious practical evils and inconveniences which, it cannot be denied, are always liable to result from the practice which Great Britain had asserted to be lawful. These evils and inconveniences had been acknowledged by both

governments. They had been such as to cause much irritation, and to threaten to disturb the amicable sentiments which prevailed between them. Both governments were sincerely desirous of abolishing the slave trade; both governments were equally desirous of avoiding occasion of complaint by their respective citizens and subjects; and both governments regarded the 8th and 9th articles as effectual for their avowed purpose, and likely, at the same time, to preserve all friendly relations, and to take away causes of future individual complaints. The treaty of Washington was intended to fulfil the obligations entered into by the treaty of Ghent. It stands by itself—is clear and intelligible. It speaks its own language, and manifests its own purpose. It needs no interpretation, and requires no comment. As a fact—as an important occurrence in national intercourse—it may have important bearings on existing questions respecting the public law; and individuals, or perhaps governments, may not agree as to what these bearings really are. Great Britain has discussions, if not controversies, with other great European States, upon the subject of visit or search. These States will naturally make their own commentary on the treaty of Washington, and draw their own inferences from the fact that such a treaty has been entered into. Its stipulations in the mean time are plain, explicit, and satisfactory to both parties, and will be fulfilled on the part of the United States, and, it is not doubted, on the part of Great Britain also, with the utmost good faith.

Holding this to be the true character of the treaty, I might perhaps excuse myself from entering into the consideration of the grounds of that claim of a right to visit merchant ships for certain purposes, in time of peace, which Lord Aberdeen asserts for the British government, and declares that it can never surrender. But I deem it right, nevertheless, and no more than justly respectful towards the British government, not to leave the point without remark.

In his recent message to Congress, the President, referring to the language of Lord Aberdeen in his note to Mr. Everett of the 20th of December, 1841, and in his late despatch to Mr. Fox, says: "These declarations may well lead us to doubt whether the apparent difference between the two governments is not rather one of definition than of principle."

Lord Aberdeen, in his note to you of the 20th of December, says: "The undersigned again renounces, as he has already done in the most explicit terms, any right on the part of the British government to search American vessels in time of peace. The right of search, except when specially conceded by treaty, is a purely belligerant right, and can have no existence on the high seas during peace. The undersigned apprehends, however, that the right of search is not confined to the verification of the nationality of the vessel, but also extends to the object of the voyage and the nature of the cargo. The sole purpose of the British cruisers is to ascertain whether the vessels they meet with are really American or not. The right asserted has, in truth, no resemblance to the right of search, either in principle or practice. It is simply a right to satisfy the party who has a legitimate interest in knowing the truth, that the vessel actually is what her colors announce. This right we concede as freely as we exercise. The British cruisers are not instructed to detain American vessels, under any circumstances whatever; on the contrary, they are ordered to abstain from all interference with them, be they slavers or otherwise. But where reasonable suspicion exists that the American

flag has been abused for the purpose of covering the vessel of another nation, it would appear scarcely credible, had it not been made manifest by the repeated protestations of their representative, that the government of the United States, which has stigmatized and abolished the trade itself, should object to the adoption of such means as are indispensably necessary for ascertaining the truth."

And in his recent despatch to Mr. Fox, his lordship further says, "that the President might be assured that Great Britain would always respect the just claims of the United States. That the British government made no pretension to interfere in any manner whatever, either by detention, visit, or search, with vessels of the United States, known or believed to be such; but that it still maintained, and would exercise when necessary, its own right to ascertain the genuineness of any flag which a suspected vessel might bear; that if, in the exercise of this right, either from involuntary error, or in spite of every precaution, loss or injury should be sustained, a prompt reparation would be afforded; but that it should entertain, for a single instant, the notion of abandoning the right itself, would be quite impossible."

This, then, is the British claim, as asserted by her Majesty's government.

In his remarks in the speech already referred to, in the House of Commons, the first minister of the crown said: "There is nothing more distinct than the right of visit is from the right of search. Search is a belligerant right, and not to be exercised in time of peace, except when it has been conceded by treaty. The right of search extends not only to the vessel, but to the cargo also. The right of visit is quite distinct from this, though the two are often confounded. The right of search, with respect to American vessels, we entirely and utterly disclaim; nay, more, if we knew that an American vessel were furnished with all the materials requisite for the slave trade; if we knew that the decks were prepared to receive hundreds of human beings within a space in which life is almost impossible; still we should be bound to let that American vessel pass on. But the right we claim is to know whether a vessel pretending to be American, and hoisting the American flag, be *bona fide* American."

The President's message is regarded as holding opinions in opposition to these.

The British government, then, supposes that the right of visit and the right of search are essentially distinct in their nature, and that this difference is well known and generally acknowledged; that the difference between them consists in their different objects and purposes: one, the visit, having for its object nothing but to ascertain the nationality of the vessel; the other the search, by an inquisition, not only into the nationality of the vessel, but the nature and object of her voyage, and the true ownership of her cargo.

The government of the United States, on the other hand, maintains that there is no such well known and acknowledged, nor indeed any broad and generic difference between what has been usually called visit and what has been usually called search; that the right of visit, to be effectual, must come, in the end, to include search, and thus to exercise, in peace, an authority which the law of nations only allows in times of war. If such well known distinction exists, where are the proofs of it? What writers of authority on the public law, what adjudications in courts of admiralty,

what public treaties, recognise it? No such recognition has presented itself to the government of the United States; but, on the contrary, it understands that public writers, courts of law, and solemn treaties have, for two centuries, used the words "visit" and "search" in the same sense. What Great Britain and the United States mean by the "right of search," in its broadest sense, is called by continental writers and jurists by no other name than the "right of visit." Visit, therefore, as it has been understood, implies not only a right to inquire into the national character, but to detain the vessel, to stop the progress of the voyage, to examine papers, to decide on their regularity and authenticity, and to make inquisition on board for enemy's property, and into the business which the vessel is engaged in. In other words, it describes the entire right of belligerant visitation and search. Such a right is justly disclaimed by the British government, in time of peace. They nevertheless insist on a right which they denominate a right of visit, and by that word describe the claim which they assert. It is proper, and due to the importance and delicacy of the questions involved, to take care that, in discussing them, both governments understand the terms which may be used in the same sense. If, indeed, it should be manifest that the difference between the parties is only verbal, it might be hoped that no harm would be done; but the government of the United States thinks itself not justly chargeable with excessive jealousy, or with too great scrupulosity in the use of words, in insisting on its opinion that there is no such distinction as the British government maintains between visit and search; and that there is no right to visit in time of peace, except in the execution of revenue laws, or other municipal regulations, in which cases the right is usually exercised near the coast, or within the marine league, or where the vessel is justly suspected of violating the law of nations by piratical aggression; but wherever exercised, it is a right of search. Nor can the United States government agree that the term "right" is justly applied to such exercise of power as the British government thinks it indispensable to maintain in certain cases.

The right asserted is a right to ascertain whether a merchant vessel is justly entitled to the protection of the flag which she may happen to have hoisted, such vessel being in circumstances which render her liable to the suspicion—first, that she is not entitled to the protection of the flag; and, secondly, that if not entitled to it, she is, either by the law of England, as an English vessel, or under the provisions of treaties with certain European powers, subject to the supervision and search of British cruisers.

And yet Lord Aberdeen says, "that if, in the exercise of this right, either from involuntary error, or in spite of every precaution, loss or injury should be sustained, a prompt reparation would be afforded."

It is not easy to perceive how these consequences can be admitted justly to flow from the fair exercise of a clear right. If injury be produced by the exercise of a right, it would seem strange that it should be repaired, as if it had been the effect of a wrongful act. The general rule of law certainly is, that, in the proper and prudent exercise of his own right, no one is answerable for undesigned injuries. It may be said that the right is a qualified right; that it is a right to do certain acts of force at the risk of turning out to be wrongdoers, and of being made answerable for all damages. But such an argument would prove every trespass to be matter of right, subject only to just responsibility. If force were allowed to such reasoning in other cases, it would follow that an individual's right in his

own property was hardly more than a well founded claim for compensation if he should be deprived of it. But compensation is that which is rendered for injury, and is not commutation or forced equivalent for acknowledged rights. It implies, at least in its general interpretation, the commission of some wrongful act.

But without pressing further these inquiries into the accuracy and propriety of definitions and the use of words, I proceed to draw your attention to the thing itself, and to consider what these acts are which the British government insists its cruisers have a right to perform, and to what consequences they naturally and necessarily tend. An eminent member of the House of Commons thus states the British claim, and his statement is acquiesced in and adopted by the first minister of the crown:

"The claim of this country is for the right of our cruisers to ascertain whether a merchant vessel is justly entitled to the protection of the flag which she may happen to have hoisted, such vessel being in circumstances which rendered her liable to the suspicion—first, that she was not entitled to the protection of the flag; and, secondly, if not entitled to it, she was, either under the law of nations or the provisions of treaties, subject to the supervision and control of our cruisers."

Now the question is, *by what means* is this ascertainment to be effected?

As we understand the general and settled rules of public law in respect to ships-of-war sailing under the authority of their government, "to arrest pirates and other public offenders," there is no reason why they may not approach any vessels descried at sea for the purpose of ascertaining their real characters. Such a right of approach seems indispensable for the fair and discreet exercise of their authority; and the use of it cannot be justly deemed indicative of any design to insult or injure those they approach, or to impede them in their lawful commerce. On the other hand, it is as clear that no ship is, under such circumstances, bound to lie by, or wait the approach of any other ship. She is at full liberty to pursue her voyage in her own way, and to use all necessary precautions to avoid any suspected sinister enterprise or hostile attack. Her right to the free use of the ocean is as perfect as that of any other. An entire equality is presumed to exist. She has a right to consult her own safety, but at the same time she must take care not to violate the rights of others. She may use any precautions dictated by the prudence or fears of her officers, either as to delay or the progress or course of her voyage; but she is not at liberty to inflict injuries upon other innocent parties simply because of conjectural dangers.

But if the vessel thus approached attempts to avoid the vessel approaching, or does not comply with her commander's order to send him her papers for his inspection, nor consent to be visited or detained, what is next to be done? Is force to be used? And if force be used, may that force be lawfully repelled? These questions lead at once to the elemental principle—the essence of the British claim. Suppose the merchant vessel be in truth an American vessel engaged in lawful commerce, and that she does not choose to be detained. Suppose she resists the visit. What is the consequence? In all cases in which the belligerant right of visit exists, resistance to the exercise of that right is regarded as just cause of condemnation both of vessel and cargo. Is that penalty, or what other penalty, to be incurred by resistance to visit in time of peace? Or suppose that force be met by force, gun returned for gun, and the commander of

the cruiser, or some of his seamen, be killed; what description of offence will have been committed? It would be said, in behalf of the commander of the cruiser, that he mistook the vessel for a vessel of England, Brazil, or Portugal; but does this mistake of his take away from the American vessel the right of self-defence? The writers of authority declare it to be a principle of natural law, that the privilege of self-defence exists against an assailant who mistakes the object of his attack for another whom he had a right to assail.

Lord Aberdeen cannot fail to see, therefore, what serious consequences might ensue if it were to be admitted that this claim to visit, in time of peace, however limited or defined, should be permitted to exist as a strict matter of right; for if it exist as a right, it must be followed by corresponding duties and obligations, and the failure to fulfil those duties would naturally draw penal consequences after it, till ere long it would become in truth little less, or little other than the belligerant right of search.

If visit or visitation be not accompanied by search, it will be in most cases merely idle. A sight of papers may be demanded, and papers may be produced. But it is known that slave traders carry false papers, and different sets of papers. A search for other papers, then, must be made where suspicion justifies it, or else the whole proceeding would be nugatory. In suspicious cases, the language and general appearance of the crew are among the means of ascertaining the national character of the vessel. The cargo on board also often indicates the country from which she comes. Her log-book, showing the previous course and events of her voyage, her internal fitment and equipment, are all evidences for her, or against her, on her allegation of character. These matters, it is obvious, can only be ascertained by rigorous search.

It may be asked, if a vessel may not be called on to show her papers, why does she carry papers? No doubt she may be called on to show her papers; but the question is, where, when, and by whom? Not in time of peace, on the high seas, where her rights are equal to the rights of any other vessel, and where none has a right to molest her. The use of her papers is, in time of war, to prove her neutrality when visited by belligerant cruisers, and in both peace and war to show her national character, and the lawfulness of her voyage in those ports of other countries to which she may proceed for purposes of trade.

It appears to the government of the United States that the view of this whole subject which is the most naturally taken is also the most legal, and most in analogy with other cases. British cruisers have a right to detain British merchantmen for certain purposes; and they have a right, acquired by treaty, to detain merchant vessels of several other nations for the same purposes. But they have no right at all to detain an American merchant vessel. This Lord Aberdeen admits in the fullest manner. Any detention of an American vessel by a British cruiser is therefore a wrong—a trespass; although it may be done under the belief that she was a British vessel, or that she belonged to a nation which had conceded the right of such detention to the British cruisers, and the trespass therefore a voluntary trespass. If a ship-of war, in thick weather, or in the darkness of the night, fire upon and sink a neutral vessel, under the belief that she is an enemy's vessel, this is a trespass—a mere wrong; and cannot be said to be an act done under any right, accompanied by responsibility for damages. So if a civil officer on land have process against one indi-

vidual, and through mistake arrest another, this arrest is wholly tortious: no one would think of saying that it was done under any lawful exercise of authority, subject only to responsibility, or that it was anything but a mere trespass, though an unintentional trespass. The municipal law does not undertake to lay down beforehand any rule for the government of such cases: and as little, in the opinion of the government of the United States, does the public law of the world lay down beforehand any rule for the government of cases of involuntary trespasses, detentions, and injuries at sea; except that in both classes of cases law and reason make a distinction between injuries committed through mistake and injuries committed by design: the former being entitled to fair and just compensation—the latter demanding exemplary damages, and sometimes personal punishment. The government of the United States has frequently made known its opinion, which it now repeats, that the practice of detaining American vessels subject to just compensation, however guarded by instructions, or however cautiously exercised, necessarily leads to serious inconvenience and injury. The amount of loss cannot be always well ascertained. Compensation, if it be adequate in the amount, may still necessarily be long delayed; and the pendency of such claims always proves troublesome to the governments of both countries. These detentions, too, frequently irritate individuals, cause warm blood, and produce nothing but ill effects on the amicable relations existing between the countries. We wish, therefore, to put an end to them, and to avoid all occasions for their recurrence.

On the whole, the government of the United States, while it has not conceded a mutual right of visit or search, as has been done by the parties to the quintuple treaty of December, 1841, does not admit that, by the law and practice of nations, there is any such thing as a right of visit, distinguished by well known rules and definitions from the right of search.

It does not admit that visit of American merchant vessels by British cruisers is founded on any right, notwithstanding the cruiser may suppose such vessel to be British, Brazilian, or Portuguese. We cannot but see that the detention and examination of American vessels by British cruisers has already led to consequences—and it fears that, if continued, it would still lead to further consequences—highly injurious to the lawful commerce of the United States.

At the same time, the government of the United States fully admits that its flag can give no immunity to pirates, nor to any other than to regularly documented American vessels. It was upon this view of the whole case, and with a firm conviction of the truth of these sentiments, that it cheerfully assumed the duties contained in the treaty of Washington; in the hope that thereby causes of difficulty and of difference might be altogether removed, and that the two powers might be enabled to act concurrently, cordially, and effectually, for the suppression of a traffic which both regard as a reproach upon the civilization of the age, and at war with every principle of humanity and every Christian sentiment.

The government of the United States has no interest, nor is it under the influence of any opinions, which should lead it to desire any derogation of the just authority and rights of maritime power. But in the convictions which it entertains, and in the measures which it has adopted, it has been governed solely by a sincere desire to support those principles

and those practices which it believes to be conformable to public law, and favorable to the peace and harmony of nations.

Both houses of Congress, with a remarkable degree of unanimity, have made express provisions for carrying into effect the 8th article of the treaty. An American squadron will immediately proceed to the coast of Africa. Instructions for its commander are in the course of preparation, and copies will be furnished to the British government; and the President confidently believes that the cordial concurrence of the two governments, in the mode agreed on, will be more effectual than any efforts yet made for the suppression of the slave trade.

You will read this despatch to Lord Aberdeen, and, if he desire it, give him a copy.

I am, sir, &c., &c.,

DAN'L WEBSTER.

EDWARD EVERETT, Esq., *&c. &c. &c.*

[Enclosure.]

DEPARTMENT OF STATE,
Washington, February, 1843.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 22d instant, requesting that the President of the United States "communicate to that House, if not in his opinion improper, whatever correspondence or communication may have been received from the British government, respecting the President's construction of the late British treaty concluded at Washington, as it concerns an alleged right to visit American vessels," has the honor to report to the President that Mr. Fox, her Britannic Majesty's envoy extraordinary and minister plenipotentiary, came to the Department of State on the 24th instant and informed the Secretary that he had received from Lord Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs, a despatch, under date of the 18th of January, which he was directed to read to the Secretary of State of the United States. The substance of the despatch was, that there was a statement in a paragraph of the President's message to Congress, at the opening of the present session, of serious import, because, to persons unacquainted with the facts, it would tend to convey the supposition not only that the question of the right of search had been disavowed by the plenipotentiary at Washington, but that Great Britain had made concessions on that point.

That the President knew that the right of search never formed the subject of discussion during the late negotiation, and that neither was any concession required by the United States government, nor made by Great Britain.

That the engagement entered into by the parties to the treaty of Washington for suppressing the African slave trade was unconditionally proposed and agreed to.

That the British government saw in it an attempt, on the part of the government of the United States, to give a practical effect to their repeated declarations against that trade, and recognised with satisfaction an advance towards the humane and enlightened policy of all Christian States,

from which they anticipated much good. That Great Britain would scrupulously fulfil the conditions of this engagement, but that from the principles which she has constantly asserted, and which are recorded in the correspondence between the ministers of the United States in England and herself in 1841, England has not receded, and would not recede. That he had no intention to renew, at present, the discussion upon the subject. That his last note was yet unanswered. That the President might be assured that Great Britain would always respect the just claims of the United States. That the British government made no pretension to interfere, in any manner whatever, either by detention, visit, or search, with vessels of the United States, known or believed to be such; but that it still maintained, and would exercise when necessary, its own right to ascertain the genuineness of any flag which a suspected vessel might bear; that if, in the exercise of this right, either from involuntary error, or in spite of every precaution, loss or injury should be sustained, a prompt reparation would be afforded; but that it should entertain, for a single instant, the notion of abandoning the right itself, would be quite impossible.

That these observations had been rendered necessary by the message to Congress. That the President is undoubtedly at liberty to address that assembly in any terms which he may think proper; but if the Queen's servants should not deem it expedient to advise her Majesty also to advert to these topics in her speech from the throne, they desired, nevertheless, to hold themselves perfectly free, when questioned in parliament, to give all such explanations as they might feel to be consistent with their duty and necessary for the elucidation of the truth.

The paper having been read and its contents understood, Mr. Fox was told, in reply, that the subject would be taken into consideration, and that a despatch relative to it would be sent, at an early day, to the American minister in London, who would have instructions to read it to her Majesty's principal Secretary of State for Foreign Affairs.

DANIEL WEBSTER.

To the PRESIDENT.

Mr. Everett to Mr. Webster.

[Extract.]

LONDON, *April* 17, 1843.

Since the date of my last communication, I have received your despatch of 9th March, 1843, transmitting a statement of Messrs. Farnham & Co. on the subject of the "Jones," in explanation of the matters alleged against the character of that vessel and her voyage, in the depositions of the four seamen taken before Colonel Aspinwall in London in December 1840; and also a letter of Commander Paine on the subject of the capture of the "Jones," to which documents the due attention shall be given.

Mr. Everett to Mr. Webster.

[Extracts.]

LONDON, *April* 27, 1843.

On the 22d instant I called upon Lord Aberdeen, by appointment, and read to him your despatch (No. 36) on the subject of visitation and search. He expressed his satisfaction at the tone, and his concurrence with the purport of the despatch, of which I shall furnish him a copy to day, in pursuance of your instructions. * * * * *

P. S.—In an interview with Lord Aberdeen, after the foregoing was written, I alluded to his having expressed his entire satisfaction with your despatch on visitation and search. He said he wished his remark to be understood of the tone and manner in which you had discussed the question; he would not pledge himself to a concurrence in every statement. I could not gather, however, that there was any thing from which he distinctly dissented. He agreed with you in denying that there is any distinction between a right of visit and a right of search.

Mr. Legaré to Mr. Everett.

DEPARTMENT OF STATE,
Washington, May 11, 1843.

SIR: You will receive herewith an extract of a letter addressed to this department on the 6th of March last, by James Lawrence Day, the agent of the United States on the coast of Africa for captured Africans, together with a copy of the paper therein referred to, setting forth the particulars of an outrage committed on the 4th of January last, near the mouth of the river Volta, on the American barque "Rhoderick Dhu," by an officer and armed boat's crew from her Britannic Majesty's brigantine "Spy," under circumstances of peculiar aggravation.

I have to request that you will take an early opportunity of making a representation on the subject of this case to the British Secretary of State for Foreign Affairs, with a view to a strict inquiry into the alleged misconduct of the officer implicated; and that you will express the President's confident expectation, that if these charges be corroborated, proper redress will be afforded by the British government, and the offender be visited with the punishment due to such a wanton violation of the flag of the United States.

Permit me to suggest to you the propriety of turning to account this striking example of the abuses to which the pretended right of visitation is liable, by impressing upon the British government, in your conference or correspondence (as you shall judge best) with the Foreign Office, the dangerous tendency of its doctrine upon this subject. Sincerely, and even deeply, deprecating the possibility of a rupture between the two governments; appreciating, at their full value, the blessings that flow to both countries from truly amicable relations, and a commerce carried on with the confidence and in the spirit of peace, I will not dissemble to you my firm belief that the repetition of trespasses of this kind, especially if perpetrated in so offensive a form, are more calculated than the most impor-

tant causes of difference on other points to produce a hostile state of feeling in the United States: a consequence the more to be deplored, as such a state of feeling certainly does not now exist.

In the instance complained of there is, if the facts be correctly stated, a glaring disregard not only of the rights and feelings of the American people, but of what we are bound to suppose, from its assurances so recently made to us, were the express orders of his own government, by an officer acting immediately under them. It is, therefore, peculiarly fitting, as equally due to both governments, that the improprieties of conduct with which he is charged should be made a subject of strict inquiry and animadversion. I will only add, that such an example, set in the very beginning, will be a most impressive illustration of the friendly spirit in which the late treaty was conceived, and do much to infuse the same spirit into the future practice of the two countries in the fulfilment of its stipulations.

I am the more inclined to hope that the extraordinary behavior of the officer in question will meet a suitable rebuke from his government, from the terms in which you will perceive that Captain Sims, in his letter to Captain Foote, speaks of the usually courteous and decorous conduct of the British officers on that coast.

I have, &c.,

H. S. LEGARE.

Hon. EDWARD EVERETT, *&c. &c. &c.*

Mr. Everett to Mr. Webster.

[Extract.]

LONDON, *May* 16, 1843.

I at length transmit the note of Lord Aberdeen of the 2d of March, and the accompanying papers, on the subject of the "Jones," with a copy of my answer. The necessity of a minute inquiry into the facts of the case, with the unavoidable length of my reply, has prevented an earlier preparation of this paper. You will perceive that, in reference to the fact upon which the case turns, that is, the refusal of Captain Gilbert, of the "Jones," to exhibit his papers to Mr. Littlehales, the commander of the "Dolphin," they are at issue. But, as Captain Gilbert's statement is consistent with itself, in all its parts, and is corroborated in the most important particulars by the affidavits of the American consular agent at St. Helena, and especially as he had no conceivable motive to withhold his papers from the inspection of Lieutenant Littlehales, I have not hesitated to give credit to his statement.

[Enclosure.]

SLAVE TRADE.]

FOREIGN OFFICE, *March* 2, 1843.

The undersigned, her Britannic Majesty's principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of a note

from Mr. Everett, envoy extraordinary and minister plenipotentiary from the United States of America, dated the 20th instant, requesting that he may receive an early communication from her Majesty's government respecting the claim which has been made upon them by the owners of the barque "*Jones.*"

Her Majesty's government having, in the course of last month, received copies of all the documents relating to the legal proceedings of the vice-admiralty court at Sierra Leone, in the case of the "Jones," and having previously obtained from Lieutenant Littlehales a full declaration of the circumstances which occurred up to the time at which the "Jones" left St. Helena for that colony, the undersigned is now enabled to acquaint Mr. Everett with the result of the examination which her Majesty's government have made into the representations contained in Mr. Stevenson's note to Viscount Palmerston of the 16th of April, 1841, and Mr. Everett's note of the 16th of September last.

But, first, the undersigned will have the honor to state, shortly, the leading circumstances of the case.

It appears that while the barque "Jones" was at anchor in her Majesty's port of St. Helena, in September, 1840, Lieutenant Littlehales, commanding her Majesty's brig "Dolphin," received information tending to show that the character and proceedings of that vessel were such as to excite a suspicion that her presence in British waters was a contravention of British law.

Upon this, Lieutenant Littlehales considered it imperative on him to examine her papers; and accordingly, having first ascertained that they were not lodged at the custom-house, he endeavored to procure the production of them from the master of the "Jones," by a personal interview.

This interview took place in the presence of Messrs. Murray and Rowe, officers of the "Dolphin," Mr. Pike, admiralty passenger in that vessel, and Mr. Carrol, consular agent for the United States in St. Helena, who, however, it appears, had not been formally recognised in that capacity. Lieutenant Littlehales had already stated, in a previous interview with the latter gentleman, and in answer to a question as to his right to see the papers, that he did not claim the right to call for them on shore, but that afloat he had that right, and that it might be a convenience to both parties if they were shown him at once. The same question was put to Lieutenant Littlehales by the master of the "Jones," and the same answer returned. The master, however, peremptorily refused to show them at all.

The master was afterwards, on board his own vessel, again formally requested by Lieutenant Murray, the second in command of the "Dolphin," to exhibit his papers. But he again peremptorily and distinctly refused.

These circumstances, connected with a previous misrepresentation on the part of the supercargo, who stated that the papers were at the custom-house, induced Lieutenant Littlehales to give greater credence to the report he had first received respecting the suspicious character and occupation of the vessel; and he then proceeded to search her.

He took the precaution, usual in such cases, to place a guard on board, to prevent communication with the shore—not interdicting to the master and supercargo free ingress and egress, but desiring that the master, whenever he came on board, should be requested to produce the ship's papers. This was done, but the master did not produce them.

Lieutenant Littlehales, finding on board some slave irons, and a letter

making an agreement, as it appeared to him, for the purchase of slaves, and learning, moreover, from the mate and others of the crew, that the captain had exhibited a fraudulent set of ship's articles, and failing to discover any legitimate papers, thought it his duty to make seizure of the vessel, and to deny the authority of the persons claiming to be the captain and supercargo, until the required documents should be produced.

He accordingly took possession of her on the 14th of September, 1840, on the ground that she had violated two acts of British legislature: the one in being found in British waters without a national character; the other for being engaged in and equipped for the slave trade.

Being apprized by the colonial secretary at St. Helena that the vice-admiralty court there was at that time illegally constituted, and therefore not competent to try the case, Lieutenant Littlehales sent the "Jones" to Sierra Leone to be tried by the vice admiralty court in that colony. She was tried at Sierra Leone accordingly, on the 18th of November in the same year.

On the first charge of the captor, namely, that the barque "Jones" had, when at St. Helena, no national character, the judge stated the opinion of the court, that, upon the circumstances which had now been adduced before it, the barque "Jones" must be presumed to have had a national character.

On the second charge, the court considered that the captor had failed in substantiating the accusation preferred against the vessel, that she was employed in and fitted up for slave trade; and therefore pronounced her to be restored to her owners, together with all her cargo.

But upon the question of costs, the court taking further time to consider, declared its judgment, on the 14th of December following, that the master of the "Jones" had positively and repeatedly refused to produce his papers for inspection to the searching officer of the "Dolphin," and thereby had resisted that inquiry which the officers of her Majesty's navy in commission have a right to make into the character of any mercantile vessel found within British jurisdiction, and suspected of being in any way implicated in the slave trade; and that, therefore, if error was committed by the captor in her seizure, he was led into such error by the wilful misconduct of the master of the American vessel; and, accordingly, the court decreed the cost of the trial to the captor.

The judge observed, upon this occasion, in court, that if his judgment, either on this point or in decreeing restitution of the vessel and cargo, was erroneous, it could be corrected by a higher tribunal, to which the parties interested could resort, if they considered themselves aggrieved by the decision.

The undersigned has further to acquaint Mr. Everett that it appears that, on the 19th of December, 1840, the marshal of the court, in whose custody the vessel and her cargo were officially placed, represented to the court that the owners had not yet claimed the vessel and cargo; and that certain articles on board of the "Jones" were of a perishable nature, and that it was desirable, for the benefit of the owners, that these should be sold.

Upon this representation, an order was then made that these articles should be sold, and the proceeds be paid into the registry of the court.

On the 3d of February, 1842, the marshal further represented to the court that no claimant had yet appeared before it for the vessel and cargo;

that both the vessel and cargo were daily deteriorating in value, and that it would be for the benefit of the persons interested to have the same sold by virtue of a decree from the court.

Thereupon, on the 4th of the same month, the court decreed that the vessel and cargo should be sold, and that the net produce should be paid into the registry.

The proceeds of the vessel and her cargo deposited in the registry of the vice-admiralty court of Sierra Leone, after deduction of the necessary expenses, are represented to amount to £1,635 3*s*. 7*d*., besides twelve bags of coin in Macuta pieces, which were on board at the time of capture, and were retained in the registry; the whole of which will be made over to any person duly authorized by the parties interested to receive it.

Such are the principal circumstances attending the seizure and adjudication of the "Jones."

With respect to the claim for compensation which has been made upon her Majesty's government by the government of the United States on behalf of the owners of the "Jones," the undersigned has to acquaint Mr. Everett, that, having referred to the proper law adviser of the crown the whole of the papers upon this case, that officer has reported that, under all the circumstances of the case, he is of opinion that Commander Littlehales was justified in his proceedings with respect to the "Jones."

The vessel having been seized, whilst lying at anchor within British territory, for an alleged breach of British municipal law, there is no ground for the assertion made by the master in his representations to the Secretary of State for the United States as to the "insulting pretence of a right of search," or, so far as they apply to this particular case, for the numerous and repeated comments thereon in the letter of Mr. Stevenson.

As to the removal of the barque from St. Helena to Sierra Leone, that seems to have been rendered a matter of necessity by the serious doubts which are proved to have existed at the time respecting the legal constitution of the vice-admiralty court at St. Helena.

The undersigned forbears entering into the merits of the case as tried before the vice-admiralty court at Sierra Leone, because, the judge of that court having made his decree, it was the duty of the owners, and was so stated by the judge, if they were dissatisfied with his decision, to have appealed to the supreme court, in which there can be no doubt that they would have received ample justice.

As they have not availed themselves of the legal remedy thus open to them, they must be presumed to have acquiesced in the sentence pronounced by the vice-admiralty court, and can have no claim to compensation from her Majesty's government.

With respect to various charges against Lieutenant Littlehales which are conveyed in the protest of Mr. Gilbert, enclosed in Mr. Stevenson's letter of April 16, 1841, and which the court at Sierra Leone was not called upon to examine, the undersigned begs to enclose to Mr. Everett an extract from the declaration of Lieutenant Littlehales addressed to the lords of the admiralty. The undersigned entirely agrees with Mr. Everett in the opinion, that, without any intention to misrepresent, exaggerated statements will naturally find their way into the complaints brought forward upon such occasions as the present; whilst, on the other hand, the party accused will be anxious to represent his conduct to his government in the most favorable light. At the same time, the undersigned

cannot hesitate to give full weight to a distinct and emphatic denial, such as is here opposed to the charges contained in the above-mentioned protest.

The undersigned is not yet in possession of any explanation from Lieutenant Murray upon those points on which the statements enclosed in Mr. Everett's note of the 16th September last impugn the conduct of that officer, and of those under his command. But the undersigned will take the earliest opportunity of addressing Mr. Everett again upon this portion of the subject.

The undersigned has the honor, in compliance with the request of Mr. Everett, to enclose, for the information of the government of the United States, copies of all papers relating to the judicial proceedings at Sierra Leone; and begs to renew, &c.

ABERDEEN.

EDWARD EVERETT, Esq., *&c. &c. &c.*

[Sub-enclosure]

Extract of a letter addressed by Commander E. Littlehales to the secretary to the Admiralty, dated

LONDON, *August* 16, 1842.

"I beg most respectfully to call the attention of their lordships to my distinct and positive *denial* of the following assertions, viz: That the master and supercargo were *ever* threatened with death or violence of any description, or spoken improperly to, but merely told they could not be admitted, and were referred to the 'Dolphin;' that the crew were ever treated as prisoners, or plundered or robbed: on the contrary, as I conceived them to have been cajoled and deceived, they were permitted to remain on board the 'Dolphin,' with leave to absent themselves as they pleased, until they had procured passages in the different vessels they chose. That the hatches of the barque were *ever* broken open, or the contents of boxes, packages, &c., *ever* torn out or strewed about the decks, or in any way injured; or that the vessel, or anything in or belonging to her, was wilfully hurt or damaged; or that the search was carried on in any other than in a legal and orderly manner. I positively deny that Mr. Gilbert, the master, did offer to show me his papers *at any one time throughout the whole proceedings*, or to give me any information on the Monday morning following, or at any other time; and I cannot but again request their lordships' attention to that part of the statement which describes as a reason why the papers could not be shown, viz: because they were unattainable, being at the *custom-house*, which was closed; whereas, immediately afterward, on board his own vessel, the master refused to produce the papers to Mr. Murray, stating *then* that they were at the *consul's office*, in whose presence he had declined to show them to me, though I was in my proper uniform, contrary to the assertion made on that subject. I declare that the American ensign was not hauled down, it not having been hoisted at the time of seizure. That no tobacco, or shoes, or a grindstone, were ever removed from the barque;

but that a small remnant of duck was issued to her crew, they being destitute of such, and having wages due. The specie was removed to the Dolphin, as is always done, for security, and for the purpose of ascertaining its value, and was sent back to the barque on the eve of sailing. I received or held no communication with the collector of her Majesty's customs, Mr. Young, after having informed that gentleman, in the early part of the seizure, of the barque's detention. I certainly did receive a letter from, or written for, Mr. Gilbert, and signed with his name, which remained unanswered for the reasons specified; Mr. Gilbert, in that letter, never offering to produce his papers to me, or give information about them, or did he ever personally come to me. I also received a letter two days after the 'Jones' *had sailed*, applying for the wearing apparel of the master and supercargo. With regard to the chronometer mentioned in Mr. Gilbert's complaint, this watch was landed from the Jones on her first arrival, and placed in the government time office at St. Helena, for the convenience of the master's ascertaining its rate; and it is distinctly understood that the harbor master is not responsible for the same, having been informed that the chronometer in question was the property of the owners. I applied, officially, to Mr. Gulliver, harbor master, for it, and sent an officer, who brought it on board, in order that it might be sent with the vessel for adjudication.

"Some time after the Jones's departure, an action was brought by the master, Mr. Gilbert, against the harbor master, for the loss of *his* chronometer, which was admitted by his honor the judge; and I believe, for I have received no information respecting the same, the cause was gained by the plaintiff, as a check for £80, left by the officers of the 'Dolphin' and myself, to free the harbor master, was drawn as far back as June, 1841, in the event of damages being given against him. What other expenses are incidental to, or have fallen upon him, I have not yet ascertained."

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[Enclosure.]

46 Grosvenor Place, *May* 18, 1843.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acknowledge the receipt of the note of the Earl of Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs, of the 2d of March, relative to the seizure of the barque "*Jones*," an American vessel, in the port of St. Helena, on the 12th September, 1840. The undersigned would in vain seek to conceal the disappointment and regret with which, after a delay of such extraordinary duration, the causes of which remain wholly unexplained, he has received a communication on this subject of a nature so unsatisfactory.

The case of the "Jones" was first submitted to the consideration of Viscount Palmerston, by Mr. Stevenson, on the 16th of April, 1841. The undersigned infers from Lord Aberdeen's letter of the 31st December, 1841, that more than four months elapsed from the time when Lord Palmerston's attention was first called to the subject, by Mr. Stevenson, before his lordship moved the board of admiralty to institute an inquiry into the case.

One of the first objects which engaged the attention of the undersigned, on arriving in London, was to invite the attention of Lord Aberdeen to the case of the "Jones," and the other cases referred to in Mr. Stevenson's note of the 16th April; and the undersigned has great satisfaction in acknowledging the promptitude with which his communications have been attended to, as far as Lord Aberdeen is concerned. But his lordship will recollect that when, on the 16th of September last, the undersigned addressed a note to Lord Aberdeen, transmitting additional papers on the subject of the capture of the "Jones," and requesting to be furnished with a report of the proceedings at Sierra Leone in reference to that vessel, his lordship, under date of the 5th of October, informed the undersigned, in reply, that this report had not been received, nearly two years having then elapsed since the decision of the vice-admiralty court at Sierra Leone had been given in the case. It is only after a lapse of five months longer that the government of the United States received, through his lordship's note to the undersigned of the 2d March, their first information of the grounds on which a valuable vessel, with her cargo, the property of American citizens, is, while at anchor in a British port and under the protection of the civil jurisdiction of her Majesty's colonial authorities, seized by a subaltern naval officer, and sent without her captain or supercargo to a distant tribunal for an *ex parte* adjudication. In the interval, two of the annual volumes, purporting to contain a list of the vessels detained and captured by her Majesty's cruisers employed for the suppression of the slave trade, and adjudicated in the courts of mixed commission and vice admiralty in the course of the year, had been submitted to Parliament by her Majesty's command, and printed, in neither of which is there any report from Mr. Littlehales, or the court at Sierra Leone, relative to the capture and trial of this vessel. The undersigned is aware of the length of time required for the transmission of intelligence to and from the African seas. The average length of the voyage from St. Helena or Sierra Leone to London may be two months; but while this circumstance shows that some delay is unavoidable, it aggravates the injury of any delay which is unnecessary. The judgment of the court at Sierra Leone was rendered on the 18th of November, 1840. The decree of costs to the captors was made on the 4th of December following; and the report of these decisions might have been received in London, if promptly transmitted, two years ago. So lately as the 5th of last October, they appear not to have been received by her Majesty's government. The undersigned will have occasion, in the course of this note, to point out the ruinous consequences of this delay to the interests of the owners of the "Jones." He now feels it his duty, in advance, to protest against it, and to represent it to the Earl of Aberdeen as a distinct cause of grave and serious complaint.

The task of the undersigned in establishing the character of the seizure of the "Jones" is rendered easy by the decree of the court at Sierra Leone in favor of the owners. In the absence of all defence by counsel or testimony, without even a representative of their rights, in a trial on which no witnesses were heard but those whom the captors had thought fit to select from the ship's company as likely to effect her condemnation, and with an anxious desire on the part of the judge, as he admits, to give judgment for the captors—under all these inauspicious circumstances, the opinion of the court was clearly and strongly in favor of the vessel on

both the grounds on which she was seized, viz: being in the waters of a British possession without a national character, and being equipped for the slave trade.

It might have been expected, under these circumstances, that a decision would have been given by the court which would mitigate, as far as possible, to the owners of the vessel, the loss to which they were subjected by the groundless seizure of their property. So far, however, is this from being the case, that by throwing upon them the costs of the proceedings, a judgment nominally in their favor is made in reality to amount almost to a decree of confiscation. No account of the costs appears among the papers transmitted to the undersigned with Lord Aberdeen's note of the 2d of March; but their amount may be conjectured from the fact, that a sum of less than eight thousand dollars is reported in his lordship's note to be all that remains from the sale of a valuable vessel and cargo.

The grounds of this decision are, that Lieutenant Littlehales was authorized by 5 Geo. IV, 113, 43, to visit and search the "Jones;" that this visit and search were resisted by the master of that vessel; and that, therefore, if there was error on the part of the captors, the master of the "Jones" is responsible for the consequences.

The undersigned is disposed, in the outset, wholly to question the legality of Mr. Littlehales's proceeding. The summary powers confided to her Majesty's cruising officers for the suppression of the slave trade, large and dangerous at best, must have been conferred for the purpose of being exercised upon the high seas. It cannot have been the intention of Parliament, or of any department of her Majesty's executive government, in the judgment of the undersigned, to clothe those officers with power of proceeding, without legal process, against the rights and property of peaceful traders in port. If the "Jones," being regularly entered at the custom-house of St. Helena, and consequently within the jurisdiction of that colony, incurred, in the mind of Lieutenant Littlehales, the just suspicion of being engaged in the slave trade, it was his duty (the undersigned apprehends) to lodge an information on oath before a magistrate, under whose warrant the proper legal proceedings would have been had. If this course had been pursued, the master and owners of the "Jones" would have enjoyed, what every man in a civilized country is entitled to, the protection of the laws to which he owes obedience. As abundant proof of the nationality of the vessel and the legality of her voyage existed in St. Helena, it may well be supposed that her prompt acquittal would have followed the institution of the suit.

Instead of this, as the undersigned believes, the only legal and equitable procedure, Lieutenant Littlehales took forcible possession of a regularly entered vessel; refused to inform her master on what grounds he proceeded; overturned and ransacked her cargo for four days; and then, on the most extraordinary pretence that her Majesty's court of vice-admiralty at St. Helena was illegally constituted, ordered her, without her master and supercargo, to the coast of Africa. The undersigned repeats that he believes this whole procedure to be as illegal as it was unjust and oppressive. Inasmuch, however, as there are ample means of establishing the right of the owners of the "Jones" to indemnity on broader grounds, the undersigned waives for the present this view of the case.

The 5 Geo. IV, 113, 43, being the law under which the judge at Sierra Leone decreed costs to the captors, refers exclusively to the seizure of

vessels concerned in the slave trade, and the persons held as slaves which may be found in them. It has no reference to the nationality of vessels. To the search necessary to ascertain whether the vessel was equipped for the slave trade no resistance is even alleged to have been made in the case of the "Jones." None could have been made. The vessel lay under the guns of the "Dolphin;" an armed force sent by Mr. Littlehales had possession of her; her master was excluded from the quarter-deck of his own ship at the point of the bayonet. As the court of Sierra Leone professed to adjudicate the case exclusively under the 5 Geo. IV, 113, 43, and as the search authorized by the provisions of that law was not, as it could not have been resisted, the ground on which costs were decreed to the captors wholly fails.

It is true the "Jones" was charged by the captors with another offence, viz: "in being found in British waters without any national character, having no ship's papers on board," in contravention of 2 and 3 Vic., 73. But that statute creates no such offence. It is also an act for the suppression of the slave trade. It empowers her Majesty's officers to seize Portuguese vessels concerned in the slave trade, and "other vessels engaged in the slave trade, not being justly entitled to claim the protection of the flag of any State or nation." Nothing is perceived by the undersigned in the statute which makes it *ipso facto* a crime to be in British waters without papers establishing a national character. The act evidently refers exclusively to vessels navigating the sea concerned in the slave trade.

If the "Jones," while in a British jurisdiction, was reasonably suspected of being equipped for the slave trade, she was of course subject to search by competent authority, whatever her nationality. That search was made by Mr. Littlehales, though, as the undersigned has already observed, in his opinion without authority. But the search was made without resistance; and if the 2 and 3 Vic., c. 73, is the only foundation on which the "Jones" is charged with a separate offence, for which a distinct search of papers was required, he feels authorized to pronounce it wholly unsupported.

The facts of the case are these: It is proved, by the judgment of the court at Sierra Leone, that the "Jones" was *bona fide* an American ship; her captain and crew, with one exception, American; her voyage an ordinary trading voyage. She had been, while on the coast of Africa, before arriving at St. Helena, boarded, and for two hours examined and searched by a party from the "Waterwitch," and permitted to proceed on her voyage; and the judge at Sierra Leone, anxious, as he admitted himself, to decide for the captors, and in the absence of all defence, expressed himself in this remarkable manner: "I have carefully reviewed the grounds upon which I gave a sentence of restoration in this case. I did so with a view of discovering, if possible, some probable cause of seizure, as regards this vessel's alleged equipment for the slave trade, *but I confess that I never saw a case so free from suspicion.*"

Such was the "Jones," when, on the 24th August, 1840, for the purposes of lawful commerce, she came to anchor in St. Helena roads. Having a portion of her cargo to dispose of, she was regularly entered at the custom-house. This could not be done without satisfying the collector of her national character, and depositing the manifest of her cargo at the custom-house. An attempt was made before the court of Sierra Leone to deny that any proof of nationality was given to the collector. An affida-

vit was made by Mr. Pike, an admiralty passenger on board of the "Dolphin," in which he states that he accompanied Lieutenant Littlehales to the custom-house at St. Helena, who asked to see the papers of the "Jones," but was told by a clerk that no papers of that vessel had been brought there. "I am not informed (says the Judge) why application was not made to the collector, who is a responsible officer, instead of a verbal demand made to a subordinate officer of his department. I am not satisfied with this explanation." And the judge afterwards adds: "I presume that the requisites of the law were duly complied with, such as the production of the register, for reporting and entering the ship; after which, upon payment of the tonnage due, it would, as a matter of course, be returned to the master."

No exception can be taken to this reasonable conclusion of the court. If Lieutenant Littlehales went to the office of the collector to see the ship's papers, he went to a quarter where they could not reasonably be expected nor legally kept. The *manifest* of the inward cargo must have been, by law, at the custom-house; the register and other papers must have been and were deposited with the American consul. In that portion of Mr. Littlehales's letter to the secretary of the admiralty of 16th August, 1842, which has been communicated to the undersigned, Mr. Littlehales says nothing of any such inquiry; nor does he, in any part of his statement, intimate the least doubt of the nationality of the vessel.

The "Jones" having thus legally entered the port of St. Helena, remained for about three weeks, discharging and taking in cargo. During this time controversies and ill-feeling spring up between Captain Gilbert, on the one side, and his mate and some of the crew on the other; and, apparently by way of avenging themselves on the master for real or supposed wrongs, the vessel was denounced by the latter to Mr. Littlehales as being concerned in the slave trade. The undersigned does not stop to inquire into the truth of the insinuations and charges of various kinds made by the mate and his disaffected associates against the master of the "Jones," and the character of her voyage, partly because they are immaterial to the case in its present aspects, but still more because the vessel is so amply and honorably acquitted by the vice-admiralty court at Sierra Leone; not merely of all guilt, but of all reasonable suspicion. In fact, the improbability that a vessel equipped for the slave trade would deliberately enter a British port, and voluntarily lie there for some time by the side of a British cruiser, is so great as, of itself, to create just doubts of the good faith of an officer who would capture her on that ground, especially when the court before which she is proceeded against pronounces her free from the slightest suspicion.

Lieutenant Littlehales, however, in the face of this improbability, conceived it his duty, though not acting under the municipal authorities, to take cognizance of the case. Late in the afternoon of Saturday, the 12th September, he met Captain Gilbert, the master of the "Jones," in company with Mr. Carrol, the American consul, in the streets of St. Helena. Captain Gilbert did not then know Mr. Littlehales, but was informed by the American consul who he was. According to Captain Gilbert's statement, on oath, this officer thus made known to him abruptly requested to see his *manifest*. Captain Gilbert inquired the motive of this demand. The request was repeated by Mr. Littlehales, and Captain Gilbert again inquired into his motive for making it. To this Mr. Littlehales rejoined,

that if Captain Gilbert "complied with his request, it would save much trouble to both parties." Upon this, Captain Gilbert said to Lieutenant Littlehales, "there is a custom-house at St. Helena"—meaning that the custom-house was the legal place of deposite for the manifest of every duly entered vessel. Upon this remark of Captain Gilbert, Mr. Littlehales suddenly turned away and went to the sea-side. Such is Captain Gilbert's statement, on oath, corroborated by the American consul, and highly probable in itself, because conforming to what must have been the natural object of Mr. Littlehales's inquiry, and the conditions of the law.

Mr. Littlehales, in commenting upon Captain Gilbert's statement, in his letter to the secretary of the admiralty, says: "I cannot but again request their lordships' attention to that part of the statement which describes as a reason why the papers could not be shown, because they were unattainable, being at the *custom-house*, which was closed; whereas, immediately afterward, on board his own vessel, the master refused to produce the papers to Mr. Murray, stating *then* that they were in the consul's office, in whose presence he had declined to show them to me, though I was in my proper uniform, contrary to the assertion made on that subject."

But Mr. Littlehales here misquotes Captain Gilbert's statement, which is, not that "papers" were demanded of him, but that the "manifest" was demanded; and not that they could not be got at, because they were at the custom-house, which was closed, but that (in effect) the manifest was not in his possession, because it was necessarily at the custom-house. Lord Aberdeen will observe that this is not a difference of recollection between Mr. Littlehales and Captain Gilbert, as to what occurred on the occasion in question, but a misquotation by Mr. Littlehales of that part of Captain Gilbert's affidavit.

The contradiction between Captain Gilbert's statement in the street to Mr. Littlehales, and his statement on board the "Jones," shortly afterwards, when "the papers" were demanded by Mr. Murray, rests on this misquotation, and vanishes as soon as Captain Gilbert's statement, as he really made it, is adverted to. He told Mr. Littlehales, in the street, that his "manifest" was at the custom-house; the law required it to be there; and, in the words of the court at Sierra Leone, "it is to be presumed that the requisites of the law were duly complied with." Captain Gilbert swears that he deposited it there, and there is not the slightest reason to doubt it. He told Mr. Murray on board the vessel, shortly after, that the ship's papers (meaning register, list of crew, and shipping articles, and bill of health) were at the consul's office. There the law of the United States, resembling in this point that of Great Britain, required them to be, and there they were.

It is on these facts that the charge of resisting the search is grounded by the vice-admiralty court at Sierra Leone. The undersigned thinks he should waste the time of Lord Aberdeen, and his own, by dwelling on its futility. He will only observe, in this connexion, that Captain Gilbert had not the least motive to conceal his papers. The undersigned has seen authenticated copies of them; they are, in all respects, legal and regular; and the entire course of procedure by Captain Gilbert was not merely within the law, but such as the law made requisite. After the register has been deposited with the consul, it cannot be withdrawn by the master till he exhibits a certificate of clearance. The demand of Mr. Littlehales to have the register produced on board the ship was one that could

not, in strict legality, be complied with. The only place where Mr. Littlehales could legally have seen it was the consul's office, and there he did not apply.

Some importance seems to be attached to the fact that Mr. William Carrol, the American consular agent, had not been formally recognised as such. As he was duly commissioned by the government of the United States, it was not the less the duty of every American ship-master to deposite his papers in his office. Mr. Carrol had been, as long ago as 15th February, 1833, duly recognised in his consular capacity by the court of directors of the East India company, within whose territories the island of St. Helena was at that time included; nor had his competency to act officially in that capacity ever been called in question till this occasion. The attempt to deprive the "Jones," in her hour of peril, of the official protection of the American consul, by divesting him of the character in which he had been originally recognised by the legal sovereign of the island, and in which he had acted unquestioned for seven years, forms one of the least satisfactory incidents of the transaction, extraordinary and oppressive in all its parts, on which it is the painful duty of the undersigned to dwell.

Armed possession was taken of the "Jones" on Saturday evening, the 12th September, and her master, as has already been seen, having hastened on board, replied to the demand for his papers that they were at the consul's office; adding, that if the boarding officer would wait till Monday, he would exhibit his papers and give every information as to his voyage. Leaving his vessel in the hands of the captors, he returned on shore. The following day, *Sunday*, the search commenced by an armed party from the "Dolphin," and, of course, without resistance. The captain was on shore; the mate treacherously enlisted in the service of the captors. On Monday, the 14th, the search proceeded with vigor; and on this day, according to the oath of the captain, the American ensign floating at the mizen-head was struck, and a white flag, with the device of the "Dolphin," substituted. This assertion is denied by Mr. Littlehales. In reference to his denial of this and other acts of alleged violence and outrage, Lord Aberdeen recognises the justice of a remark made by the undersigned, in his note of the 16th September last, to the effect that motives to exaggerate and misrepresent must be admitted to exist on both sides in these controversies. But still Lord Aberdeen observes, that he cannot "hesitate to give full weight to a distinct and emphatic denial, such as is opposed by Lieutenant Littlehales to the charges contained in Captain Gilbert's protest." The undersigned would willingly avoid the necessity of giving an opinion on an issue of veracity between two individuals, both alike personally unknown to him. But the observation of Lord Aberdeen just cited compels the undersigned to say, that he sees nothing in the conduct of Lieutenant Littlehales in this whole affair, on the admitted facts of the case, which entitles his word to be believed in preference to the oath of Captain Gilbert, or any other respectable American ship-master.

On Monday morning, in fulfilment of his promise, Captain Gilbert went in a boat towards the ship, with the supercargo, and was forbidden to come on board by the armed guard. This is asserted by him on oath; is confirmed by the oaths of the supercargo and of the boatman who rowed the boat, (an inhabitant of St. Helena,) and by the deposition subsequently taken in America of one of the seamen of the "Jones" who witnessed

the scene, and describes it with great particularity. The undersigned does not know whether Mr. Littlehales is to be understood as denying the main fact. It is remarked, indeed, in Lord Aberdeen's note of March 2d, apparently on the authority of some statement of Mr. Littlehales, which has not been communicated to the undersigned, that "he (Lieutenant Littlehales) took the precaution, usual in such cases, to place a guard on board to prevent communication with the shore; not interdicting to the master and supercargo free ingress and egress, but desiring that the master, whenever he came on board, should be requested to produce the ship's papers." But in the letter to the secretary of the admiralty of the 16th August, 1842, Mr. Littlehales, while he gives a distinct and positive denial to the assertion that the master and supercargo were *ever* threatened with death or violence of any description, or spoken improperly to, admits that they were "told they could not be admitted, and referred to the Dolphin." On what ground Mr. Littlehales was able to give this "distinct and positive denial" that no one of his armed seamen or marines had ever uttered a threat or an improper word, over the side of the "Jones," while forbidding the master, at the point of the bayonet, to board her, does not appear; nor is it material to the main issue.

Captain Gilbert made a second attempt to go on board his vessel on Monday, with a view to satisfy the captors of the nationality of the "Jones," and with the same want of success. Thus dispossessed of his ship and excluded from her, he applied, as his next resort, to the American consul. The consul, the same day, addressed a letter to Mr. Littlehales, reciting the leading facts of the case, describing the vessel as the "barque Jones, of New York, United States of America," and inquiring on what ground he had proceeded in taking possession of her. This letter, written in his official character and in the performance of his official duty, and for the purpose of making an inquiry in all respects reasonable and legitimate, Mr. Littlehales refused to receive, on the ground that Mr. Carrol was not recognised as the American consul; a point on which the undersigned has already given the necessary explanation. Mr. Littlehales having declined to receive the letter of Mr. Carrol, a letter of corresponding purport was addressed to him by Captain Gilbert himself. No technical objection, as in the case of the consul, existed to the reception of a letter from an American ship-master in a British port, anxiously inquiring by what right he was dispossessed of his property, and ready, as he affirms, (and there is not the slightest reason to doubt,) to give Mr. Littlehales whatever information was required. But to this letter, though couched in the most respectful language, no answer was returned.

Captain Gilbert then, in company with the supercargo and consul, waited on the collector of the port at his office, *exhibited to him the ship's register and all her other papers, and minutely stated to him the character of the voyage;* and with this information the collector professed himself entirely satisfied. After this interview, Captain Gilbert addressed a letter to the collector as having the legal control of every vessel duly entered and in port, invoking his official protection. To this appeal the answer returned was, that the collector had been informed by Mr. Littlehales that the "Jones" was detained by him. At the same time the collector called on Captain Gilbert to pay his port and other duties, one item of which was for clearance of the vessel.

On Tuesday the 15th, and Wednesday the 16th, the overhauling and ex-

amination of the cargo of the "Jones" went on. During all this time Mr. Littlehales had never in any way stated to Captain Gilbert the ground of his proceedings, nor the motive for the detention and search of the vessel. On the 16th, Captain Gilbert, having been ready for sea at the time of his seizure, repaired to the office of the collector, exhibited his outward manifest, and demanded a clearance, to which, by law, he was entitled; but it was refused, on the ground that he, the collector, had been informed by Mr. Littlehales that he had detained a vessel with the words "Jones, of New York," painted on her stern. Captain Gilbert then addressed a letter to the collector, reminding him that, on his arrival and entry, his papers had been duly exhibited to the satisfaction of him, the collector; asserting the nationality of the ship; begging him to inform Lieutenant Littlehales of these facts, and to assure him that, if he had detained the "Jones" from any doubt of her nationality, in consequence of not seeing the papers, they should be exhibited to him at any time or place, or to any one authorized to inspect them. At the same time a letter was written by Captain Gilbert to Major General Middlemore, governor of St. Helena, enclosed to the colonial secretary, in order to its being forwarded to the governor, invoking his excellency's protection. The letter of Captain Gilbert to the governor was accompanied by another of similar purport from the American consul. These letters were not answered till after the "Jones" had sailed. The collector then informed Captain Gilbert that he should transmit the whole correspondence to the commissioners of the customs in London, and in their office (if this promise was fulfilled) the letters may doubtless now be found, to confirm the statement of their contents here given.

On the 17th, Captain Gilbert received a letter from the collector, in answer to his earnest request that he would give Mr. Littlehales the information which he himself possessed of the character of the "Jones," which the collector simply declined doing. Captain Gilbert then renewed the application for his clearance, *the fee for which meantime had been demanded and received*, and it was refused. Perceiving preparations on board the "Jones" for sailing, and denied access to her himself, Captain Gilbert again wrote a pressing but respectful letter to the collector, begging him to give to Mr. Littlehales information of the character of the vessel. On the 18th it was found, in the morning, that the "Jones" had sailed, taking with her a prize crew from the "Dolphin," the mate, steward, and cook of the "Jones," whose evidence it was thought would convict her of being concerned in the slave trade, and leaving behind the rest of the ship's company, the master and supercargo, to find their way to the United States. The "Jones" sailed to Sierra Leone, was proceeded against in the vice admiralty court, and promptly and in the most honorable manner acquitted, the judge declaring that he had never seen a case so free from suspicion.

The undersigned has already referred to the pretext on which the cause was removed from St. Helena to Sierra Leone. It is as well calculated as the act itself to excite astonishment. It was that Lieutenant Littlehales entertained doubts whether the vice admiralty court at St. Helena was legally constituted; and these doubts appear to have been shared by the colonial secretary of that island. No intimation as to the foundation of these doubts is given. The court at Sierra Leone justly pronounces itself unsatisfied with this explanation. Such, and such only, is the reason assigned by a subaltern naval officer for sending away a valuable

vessel, of a friendly power, from the jurisdiction to whose protection she was entitled, where the legal proofs of her national character were deposited, and where those interested in her defence, being forcibly excluded by him from the vessel, were left behind. It is not for the undersigned to comment on the power with which the cruising officers of Great Britain, of the lowest ranks, may be clothed, but he confesses he had not supposed that it extended to an inquiry into the constitution of her Majesty's courts of vice admiralty; and when, as in the present instance, that power is exerted to the signal injury and oppression of American citizens, it is the duty of the undersigned to protest against it.

Not the least extraordinary step in this part of the case is the leaving the master, supercargo, and the greater part of the crew behind. Whether they staid voluntarily, or were excluded from the ship, is, in this point of view, immaterial. Lieutenant Littlehales captured the "Jones" under suspicion of being engaged in the slave trade. To the same extent he must have suspected her captain and crew of being concerned in that criminal traffic. If it was his duty to seize the ship, it was doubly his duty to arrest and detain the men, that they, too, might be proceeded against. A suggestion having been apparently made to that effect during the trial at Sierra Leone, the prize-master, Mr. Murray, mate of the "Dolphin," accounted for the circumstance by declaring, on oath, that he neither knew himself, nor verily believed, that the commander nor any of the officers of the "Dolphin" were aware that the master and crew of the "Jones" would be amenable to a criminal prosecution in the event of the "Jones" being condemned for having been engaged in the slave trade. Under whatever degree of ignorance the mate of the "Dolphin" might labor, it would seem impossible that an officer commanding one of her Majesty's ships-of-war on the African station could be uninformed that, within the British dominions, and by the provisions of the act (5 Geo. IV, 113, the very act under which the "Jones" was proceeded against,) it is a highly penal offence to be engaged in the slave trade.

The Jones sailed, as has been seen, from St. Helena on the 18th of September, and proceeded to Sierra Leone. On the 5th of October she was libelled by the captors in the vice admiralty court in that settlement, and, on the 18th November, acquitted in the most full and satisfactory manner. The question of costs was reserved, and, by a subsequent decree, on the ground that search was resisted, costs were given for the captors.

Not satisfied with getting costs in a case where, without counsel or witnesses, on a purely *ex parte trial*, it had been declared by the judge that they had detained a vessel under circumstances the least suspicious ever known to the court, the captors appealed from the decision by which the restitution of the vessel was decreed. There is too much reason to think that the object of this appeal (which does not appear ever to have been prosecuted) was to keep the property still within the reach of the captors, for a selfish and corrupt purpose. On this point, and the means by which, as is alleged on oath by the cook of the "Jones," (the only person who could be cognizant of the facts, and whose testimony is within reach of the owners,) the undersigned forbears to enlarge, as he has already transmitted to Lord Aberdeen the documents relative to this point of the case, with his note of the 16th September, and Lord Aberdeen has intimated to the undersigned that further inquiry has been ordered.

But this vexatious appeal was not needed to carry into effect the objects

imputed to the captors. There was, of course, no one at Sierra Leone to take possession of the property on the part of the owners. The judge, in his decree of costs to the captors, had intimated that, if the owners were dissatisfied with his decision, they had their remedy by appeal to a higher court; and Lord Aberdeen, in his note of 2d March, repeats this suggestion. But, in consequence of the conduct of Mr. Littlehales in excluding from the "Jones" the master and supercargo, and taking her to a place where the owners had no representative; of his neglect for two years to make any report to her Majesty's government of the capture; and of a similar neglect of the court at Sierra Leone, for two years, to make report of the proceedings in the trial, the owners received no authentic information of the fate of their vessel till the time in which an appeal can be taken had expired. Had Lieutenant Littlehales, or the court at Sierra Leone, made prompt report of their proceedings, it would have reached London in season to enable Lord Palmerston to answer Mr. Stevenson's note of 16th April, 1841, the day he received it. But their delay, of which no explanation has been made, has rendered the remedy by appeal as illusory as, under any circumstances, it must have been tedious and incomplete.

Of the operation, if not the design of the appeal by the captors, proof was afforded in the course of the year 1841. The supercargo having found his way to Liberia, and meeting there with Mr. Paine, the commander of a United States vessel-of-war on the African station, requested him, if he should look into Sierra Leone, to send home the "Jones," or any valuables belonging to her which the authorities of Sierra Leone might deliver up. Mr. Paine, on arriving at Sierra Leone, applied to the acting governor for this purpose, and was told that the property could not be surrendered except on paying costs and giving bonds to abide the result of the appeal. The undersigned transmits with this note a copy of a letter from Mr. Paine, (whose name is favorably known to Lord Aberdeen in connexion with the suppression of the slave trade,) from which the above statement is derived; and a letter of explanation from the owners of the "Jones," not now needed to vindicate the character of that vessel, but which may be of use in acquainting Lord Aberdeen more particularly with the sort of information on which Mr. Littlehales thought it safe to proceed.

This appeal was never prosecuted by the captors; and, after the time in which the owners might have appealed had expired, the vessel and property were successively brought to the hammer. Out of the ruins of a valuable ship and cargo, against which not a reasonable suspicion existed, a sum, amounting to about an eighth part of what she would have been worth had she been permitted to pursue her lawful voyage, is now held subject to the order of the owners in the registry of the vice admiralty court at Sierra Leone.

Lord Aberdeen, in reciting the history of the case in his note of March 2, observes, that "the judge [at Sierra Leone] stated the opinion of the court that, upon the circumstances which had been *now* adduced before it, the barque 'Jones' must be presumed to have had a national character." If Lord Aberdeen intended by this expression that the circumstances which led the court to admit the national character of the "Jones" were then *first* adduced on behalf of the vessel, the undersigned is persuaded that, on a review of the facts, Lord Aberdeen will perceive that such was not the case. There was no evidence before the court, except

what the captors brought with them and chose to adduce. The court decided in favor of her nationality, on the ground that it appeared from her log-book that she was detained and thoroughly searched by the "Water-witch" a few weeks before, (which log-book was delivered to the captors at St. Helena,) and from the circumstance that the vessel could not have been admitted to entry at St. Helena but on satisfactory proof of her nationality submitted to the collector. Some corroborating circumstances are also mentioned by the judge, but none which must not have been known at St. Helena.

Unavoidably long as this note is, the undersigned has forborne to comment on several points of extreme hardship in this case. He confidently hopes that, on a reconsideration, Lord Aberdeen will feel himself warranted in so modifying his first view of the subject as to move her Majesty's government to make full indemnification for the loss sustained by the owners of the "Jones." They are accused of no neglect or wrong but that of resisting the search, and this resistance is alleged to consist in the refusal of the master to exhibit the papers establishing the nationality of his vessel.

The undersigned thinks he has proved that no such refusal took place; that they had been exhibited to the constituted authorities of the jurisdiction where he was; that when demanded, on Saturday, September 12, 1840, on board his ship, (the only place where they could legally be demanded by a cruising officer,) they were on deposite at the office of the American consul; and that the captain offered, if the boarding officer would wait till Monday, to procure and exhibit the papers, and give all satisfaction as to the vessel and her voyage; that he was twice prevented by an armed guard from coming on board his vessel, on Monday, for that purpose; that his respectful letter to Mr. Littlehales, inquiring the cause of his detention, remained unanswered, although it was the right of Captain Gilbert to receive this information, and the duty of Mr. Littlehales to give it to him, in an authentic form; and that the persevering efforts of Captain Gilbert and the American consul, for three succeeding days, to obtain the protection of the civil authorities, to which he was entitled on every principle of the law of nations, of justice, and humanity, were unavailing.

Lord Aberdeen will not fail to consider that, though the technical offence of being in British waters without papers is charged by Mr. Littlehales against the "Jones," under the evident belief (which the undersigned presumes to be wholly erroneous) that such want of papers is of itself a cause of capture, Lieutenant Littlehales nowhere affirms that he really entertained any doubt of her nationality; nor, with the proof afforded by her log-book, and by her admission to entry, is there even a probability that he did doubt it—a consideration that makes his demand for papers, at best, vexatious.

Above all, Lord Aberdeen will reflect that Captain Gilbert could have no motive for refusing to exhibit his papers; that he had, on the contrary, every motive to exhibit them to Mr. Littlehales; that he did fully exhibit them to the collector in the progress of the affair at St. Helena; and that all the substantial parts of his account, besides being in themselves probable, and coherent in the statement, are confirmed by depositions independently taken in the United States and on the coast of Africa, and op-

posed by nothing but Mr. Littlehales's report, not on oath, and in one, and that the most important point, self-contradictory.

The undersigned dwells with great satisfaction on the encouragement which Lord Aberdeen has already held out, that he will reconsider the case. The undersigned attaches an importance to the final decision of her Majesty's government far beyond the value of the interests directly involved in the case of the "Jones;" and he cannot but fear, that if no further relief is afforded to the owners of that vessel than that which is tendered in Lord Aberdeen's note of March 2, a degree of discontent will be produced, on the part of the government and people of the United States, of a character greatly to be deprecated.

The undersigned, &c.

EDWARD EVERETT.

The Earl of Aberdeen, *&c. &c. &c.*

Mr. Everett to Mr. Legaré.

[Extract.]

London, *June* 1, 1843.

I have the honor to acknowledge the receipt of despatch No. 42, dated May 11, transmitting a copy of a letter from Captain Sims, of the American barque "Rhoderick Dhu," and a communication from Mr. Lawrence Day, agent for captured Africans on the coast of Africa, containing information relative to an outrage on the "Rhoderick Dhu" by an officer and armed boat's crew from the British brigantine the "Spy," near the mouth of the river Volta, on the 4th of last January. Having occasion to see Lord Aberdeen for another purpose yesterday afternoon, I thought it advisable to allude to this occurrence before addressing him an official note. He said he had already received a report on the subject, of which, however, he recollected only the name of the vessel, and was, of course, unable to give me any explanations. As it, however, appears that some intelligence has already been received on the subject from the coast of Africa, and a more prompt reply may be therefore expected than would otherwise be practicable, I think it may be advisable, in preparing my note, to confine myself to a simple statement of the case, as presented in your despatch and the accompanying papers, with a claim for such redress as may be due, should that account be substantiated on inquiry. This course seems to me to be rendered peculiarly expedient by the friendly tone of the most recent communications between the two governments in reference to visitation and search.

Mr. Everett to Mr. Legaré.

[Extracts.]

London, *June* 8, 1843.

There is another case—that of the "Douglas"—in reference to which it is desirable that I should receive some information from the department.

This vessel was detained eight days in the African seas by a British cruising officer, on suspicion (probably well-founded) of being engaged in the slave-trade. Her detention formed the subject of a correspondence between my predecessor and Lord Palmerston, as it has, subsequently, between Lord Aberdeen and myself. I beg leave to refer you to the copy of my letter to him, dated 12th of November last, and to Lord Aberdeen's reply of the 29th of December, and the accompanying papers. I have been informed by Lord Aberdeen that those papers were considered as creating so strong a presumption against the vessel, as not only to prevent the government of the United States from interfering in favor of her owners, but to cause the reference of the case to the prosecuting officer of the government. No information has been received by me from the department on this subject.

Mr Legaré to Mr. Everett.

[Extracts.]

DEPARTMENT OF STATE,
Washington, June 13, 1843.

I have the honor to acknowledge the receipt of your despatch No. 38, with the voluminous documents relating to the case of the "Jones."

I have read with the deepest interest your elaborate and able exposition of the facts and the law of this distressing case. Although not strictly to be classed under the head of the right of search, it involves the great system of policy on which that right is asserted, and is a striking example of the practical evils that will inevitably flow from the unchecked exercise of it. In a private letter which I addressed to you some weeks ago, I dwelt much upon the oppression and vexations to which our commerce would be subjected by suits of this kind, terminating in acquittal indeed, but without costs or damages, and perhaps with costs allowed to the captors. The case of the "Jones" is a flagrant instance to show the possible magnitude of that evil.

Want of time, and an unusual multiplicity of engagements, have prevented me, as yet, from looking fully into this matter. Besides your despatch, I have read Lord Aberdeen's last note to you. He makes out, on the showing on that side, a rather plausible case; but I quite agree with you that there is something extremely improbable in the statement of Lieutenant Littlehales. What, indeed, can appear more extraordinary than the seizing a ship now acknowledged, by a solemn judgment in law, to be beyond suspicion, in a friendly harbor, with all necessary papers, and within reach of a custom-house, by an officer acting in fulfilment of orders in their very nature calculated only for an extraordinary service? Surely the civil authority in every part of the British dominions ought to be able to dispense with the assistance of the military in a case clearly of civil jurisdiction, and within that jurisdiction.

* * * * * * * * *

I shall myself, as soon as I can command the necessary leisure, look fully into the whole case, and perhaps write to you at large upon it, in anticipation of Lord Aberdeen's expected note upon the subject.

Mr. Everett to Mr. Legaré.

[Extract.]

LONDON, *June* 14, 1843.

I transmit, herewith, the copy of a note which I have addressed to Lord Aberdeen, on the subject of the "Rhoderick Dhu." As he gave me to understand, in conversation, that they had already received a report of the case from the coast of Africa, and, from the manner in which he spoke, I was led to think that some justification had been set up by the officer who brought to and boarded the American vessel, I deemed it better not to argue hypothetically on the statement of the case, as transmitted to you by Captain Sims, but to confine myself to a simple request that the facts might be inquired into. The opportunity, however, seemed a favorable one for recalling to Lord Aberdeen's recollection two former cases of alleged violations of our flag, in reference to which no explanation has yet been received from this government.

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[Enclosure.]

46 GROSVENOR PLACE, *June* 5, 1843.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to transmit to the Earl of Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs, the copy of a letter from Mr. R. T. Sims, commanding the American barque "Rhoderick Dhu," bearing date on the coast of Africa, 9th January last, and setting forth the particulars of an outrage alleged to have been committed on that vessel by an officer and armed boat's crew from H. B. M. brigantine "Spy," on the 4th January, near the mouth of the river Volta.

In submitting this statement to Lord Aberdeen, the undersigned is instructed to request that a strict inquiry may be made into the conduct of the officer implicated, and to express the confident expectation of the President, that, if the charge be sustained, proper redress will be afforded by her Majesty's government, and the offender be visited with the punishment due to such a wanton and dangerous violation of the flag of the United States.

The undersigned considers the present as a proper opportunity to make a renewed reference to the case of the "William and Francis," originally submitted to Viscount Palmerston by Mr. Stevenson, on the 16th April, 1841, and mentioned in the note of the undersigned to Lord Aberdeen of 27th December of that year, and of the "John A. Robb," which formed the subject of a note from the undersigned to his lordship, of the 19th September last. The length of time which has elapsed since the occurrences referred to in those cases, especially the former, is so great as to warrant the confident expectation that a satisfactory explanation of the acts complained of will be shortly given, through the undersigned, to the government of the United States.

The undersigned, &c.

EDWARD EVERETT.

The EARL OF ABERDEEN, *&c. &c. &c.*

Mr. Everett to Mr. Legaré.

[Extract.]

LONDON, *July* 1, 1843.

I have read with great attention the remarks in your despatch No. 46, on the case of the "Jones," and am most happy to find that you agree with me in the general view you take of the case.

Mr. Everett to Mr. Legaré.

[Extract.]

LONDON, *July* 18, 1843.

I received yesterday from Lord Aberdeen a note in the case of the "William and Francis," which formed the subject of a complaint addressed by my predecessor to Lord Palmerston, on the 16th of April, 1841. On arriving at my post at the end of that year, I called the attention of Lord Aberdeen to this and some other cases. No answer having been returned to these complaints, I again referred to the case of the "William and Francis," in my note to Lord Aberdeen of the 5th of June. Lord Aberdeen's reply, received yesterday, condemns the conduct of the officer who boarded the "William and Francis," and tenders to the government of the United States full satisfaction for the wrongful detention and search of that vessel. Lord Aberdeen's note is accompanied by a letter from Lieutenant Norcock, the boarding officer, denying most of the acts of outrage alleged by the master of the "William and Francis." The late hour at which this communication from Lord Aberdeen reached me prevents its being transcribed in season to accompany this despatch. It shall be forwarded by the steamer of the 4th of August.

Mr. Everett to Mr. Upshur.

[Extract.]

LONDON, *August* 1, 1843.

I transmit herewith the note from Lord Aberdeen, and the accompanying report from Lieutenant Norcock, relative to the outrage committed on the American vessel "William and Francis," on the coast of Africa, in 1840. You will observe that Lord Aberdeen, at the close of his note, remarks, that the course pursued by Lieutenant Norcock was such "as compels her Majesty's government to condemn the conduct of that officer, and to tender, as they now do, to the government of the United States, full satisfaction for the wrongful detention and search of an American vessel." The nature and extent of the satisfaction which may be reasonably expected of the British government in a case of this kind, is of course a matter exclusively for the President's consideration.

It may be proper here to remark, that the "William and Francis" is

the last of four cases originally submitted by my predecessor to the consideration of Lord Palmerston, on the 16th of April, 1841, viz: the "Tigris," the "Seamew," the "Jones," and the "William and Francis." It would appear from an expression in a note of Lord Aberdeen to me, of the 31st December, 1841, that the attention of the admiralty was not called to these cases by Lord Palmerston till the 31st August preceding. In one of my first interviews with Lord Aberdeen, on entering upon the discharge of my duties, in December, 1841, I pressed these cases upon his consideration; and he cheerfully undertook again to call the attention of the lords of the admiralty, without delay, to the subject. On the 16th of the following March, Lord Aberdeen informed me that her Majesty's government had determined that indemnification was due in the case of the "Tigris." On the 16th of the following June, he made a similar communication in reference to the "Seamew." After a very long delay, owing to the failure of the cruising officer and the authorities at Sierra Leone to make a prompt report on the case, I received a note from Lord Aberdeen dated the 2d March, relative to the "Jones." He informs me that the sum accruing from the sale of that vessel and cargo at Sierra Leone will be paid to the owners. All right to further indemnification is denied, on the ground that no appeal was taken by them from the judgment of the vice-admiralty court of Sierra Leone. In an answer to this note, I have endeavored to show that the conduct of the British cruiser, in seizing the "Jones" at St. Helena, and sending her to Sierra Leone for trial, was from the first wrongful and unwarrantable; and that the owners were placed, without any agency of their own, in a position in which the remedy by appeal was altogether illusory. Lord Aberdeen has, in conversation, given me some reason to hope that, on reconsidering the subject, his first decision will be reversed.

In the case of the "William and Francis," as I have already observed, a favorable result has been obtained.

In another case, that of the "Douglas," there was a correspondence between my predecessor and Lord Palmerston, which ended in the denial of any claim to indemnification on the part of the owners of that vessel. Lord Palmerston rested the justification of the officer by whom the "Douglas" was detained and searched, on the ground of the agreement between Commodore Tucker, the British admiral commanding on the coast of Africa, and Lieutenant Paine, of the United States navy. I pointed out to Lord Aberdeen the circumstance, previously overlooked, that the detention and search of the "Douglas" preceded, by five months, the agreement in question. With the discovery of this error, the defence of the cruising officer fell to the ground; and Lord Aberdeen avowed his willingness to make indemnification to the owners of the "Douglas," if the United States government should continue to demand it, after inquiring into the circumstances, which warranted a strong suspicion that this vessel was, at the time of her search and detention, engaged in the slave trade.

[Enclosure.]

FOREIGN OFFICE, *July* 15, 1843.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, in accordance with the announcement made to Mr. Everett, envoy

extraordinary and minister plenipotentiary from the United States of America, in his note of the 3d instant, and in further reply to Mr. Everett's communication of the 5th of June, has now the honor of addressing Mr. Everett on the case of the American barque "William and Francis," which was detained and searched by the commander of her Majesty's brig "Forrester," on the 15th of October, 1840.

On the 16th of April, 1841, Mr. Stevenson, the minister of the United States at this court, forwarded to Lord Palmerston a statement of this occurrence, signed by Mr. Peter Flowery, the master of the barque. This statement has since been submitted to Lieutenant Norcock, the officer who commanded the British cruiser, and searched the barque; and Lieutenant Norcock was called upon to answer the charges preferred against himself and his officers, and to give the particulars of the whole transaction. The undersigned has now the honor to enclose to Mr. Everett a copy of Lieutenant Norcock's reply.

Owing to an accidental omission in the reference made to the admiralty, the undersigned is not yet in possession of any separate statement from the officer who first boarded the "William and Francis;" but Mr. Everett will perceive that, after the account given by Lieutenant Norcock, it is impossible for her Majesty's government to admit the truth of all the charges brought against the British officers by the master of the barque. At the same time, with respect to the most important point in the proceedings of Lieutenant Norcock, that of his having mustered the crew of the "William and Francis," and searched the vessel, in consequence of certain representations made to him by some of the seamen, her Majesty's government are ready to acknowledge that just and serious cause of offence was given to the master of the American vessel, and to the American government.

Undoubtedly Lieutenant Norcock, having had the papers of the vessel shown to him by the master, and being satisfied, as he states, that they were correct, had but one course to pursue: he should forthwith have quitted a vessel the occupation of which he had no right to question, and with the voyage of which he had interfered, thus far only, under a suspicion which had turned out to be undeserved.

Unfortunately, Lieutenant Norcock followed a different course, and one which compels her Majesty's government to condemn the conduct of that officer, and to tender, as they now do, to the government of the United States, full satisfaction for the wrongful detention and search of an American vessel.

The undersigned avails himself of this opportunity to renew to Mr. Everett the assurance of his high consideration.

ABERDEEN.

To Edward Everett, Esq., *&c. &c. &c.*

[Sub-enclosure.]

Her Majesty's Ship "Warspite,"
Bermuda, May 7, 1842.

Sir: For the information of the Lords Commissioners of the Admiralty, I beg to transmit the following statement of the circumstances connected

with the barque "William and Francis," and my most positive denial of the charge made against myself and officers.

On the 15th of October, 1840, the "Forrester" being employed off the rivers Nun and Brass, I sent two boats, at 7 a. m., to examine the latter river, in charge of Mr. Francis H. May, second master and second in command of her Majesty's brigantine, and I weighed anchor at the same time to proceed to the westward. At this period the slave trade was carried on to a great extent in these rivers by the Spaniards, whose vessels came over from the Havana under American colors, with an American master and crew. On their arrival, a Spanish master and crew proceeded on board with the slaves—the Americans going back as passengers. In February, 1840, two vessels under American colors, master and crew American, were taken out of the river Nun by her Majesty's sloop "Wolverine," Captain Tucker, in which ship I was then serving. Both these vessels were found to have Spanish papers on board as well as American; and, on finding two American cruisers on the coast, the master gave them up as Spanish property, as which they were condemned.

At 8h. 30m. a. m. of the 15th of October, 1840, a barque was observed working out of the river Brass; on which I gave chase, the boats following me. About noon I observed the boats board the stanger, who had hoisted American colors; but she did not heave to for them, although well clear of the bar, and the boats had their colors flying.

The barque anchored at about 1h. 30m. p. m., and at 2 p. m. I anchored close to her. Our boat was sent to me immediately in charge of the gunner, to report that the master of the barque refused to allow the officer of the boats to examine his papers; on hearing which I returned in the same boat.

Mr. May, second master, reported to me, "that on arriving alongside the barque, the usual civility of a ladder was not given him; that on reaching the deck, he heard the master order his crew to prevent the Englishmen from coming in, and, if necessary, to keep them out with handspikes; that on asking for his papers, the master held them up, but would not allow him to examine them; and that his manner had been most insulting the whole time. Under these circumstances, that he (Mr. May) had ordered four of his boats' crew to watch the master's proceedings, and prevent him from throwing anything overboard, (a very common thing on the coast of Africa;) and that, considering the barque very suspicious, he had brought her to anchor to await for me."

On receiving this report, I immediately remonstrated with the master for his want of civility to an English officer, and asked for his papers, which he immediately gave me; and having seen they were correct, I returned them.

The hold being empty and open, no search was requisite, even had I wished it, to ascertain her cargo; and I was on the point of leaving, when the whole crew came aft, and begged me to take them out of the vessel, as the master was in the habit of firing at them when aloft from a musket, and ill-treating them in other ways. On this account, I ordered them to be mustered, when I found that the master and first mate were the only Americans on board.

The crew, openly on deck, stated that the barque was trading illegally; had brought over a cargo of rum and specie, consigned to a noted slave-dealer in the river Brass; in payment for which, three schooners were to

come over from the Havana and take slaves in return; and that the first would arrive in a few days.

The master denied all this, and, I positively declare, offered to have the cabin searched himself, or allow me to do so, if I imagined any papers were concealed there.

The vessel being very suspicious, I searched the cabin, which did not occupy half an hour; but I most positively deny a sealed letter or cask of any sort being opened.

I further beg to assert that the master of the barque never said a word about armed men being put over him; and that he did not make a single complaint to me of the conduct of the officer of the boats; and that I heard nothing of the threat to "blow out his brains" until I received their lordships' letter.

At 3h. 30m. p. m. I left the barque, telling the master he was at liberty to proceed on his voyage.

By this statement, their lordships will observe that I detained this vessel two hours, as she anchored clear of the bar of the river at 1h. 30m. p. m., and my boats left her at 3h. 30m. p. m.; therefore, the master's account of being under charge of four armed men from 10 a. m. until 5 p. m. is entirely false.

I beg further most positively to deny making use of any improper expressions myself, or hearing any officer or men do so, towards the master of the barque; and I beg to assure their lordships, after having served upwards of three years on the coast of Africa, I never met a more suspicious vessel or more uncourteous master.

On the 21st of November the first schooner arrived off the Brass, which I captured; and on the 17th of December the second arrived, and beat off my boats.

I beg to hope that this statement will be sufficient; but should anything further be required, the officers serving in her Majesty's brigantine "Forrester," at the time of boarding the "William and Francis," were as per margin.

I have, &c.,

G. NORCOCK, *Lieutenant*,
Late Commander of her Majesty's brigantine "Forrester."

The SECRETARY TO THE ADMIRALTY.

Mr. Upshur to Mr. Everett.

[Extract.]

DEPARTMENT OF STATE,
Washington, August 8, 1843.

The claims of our citizens, founded on illegal seizures and detentions of their vessels on the coast of Africa, have not received from the English government such prompt attention as we had a right to expect. While we acknowledge that the present ministry has shown a disposition to treat these claims with fairness and candor, we have some right to complain that the delay which has occurred in settling and adjusting them has proved greatly injurious to the claimants. The information contained in

your despatches relative to the proceedings which have been agreed on in the cases of the "Seamew" and the "Tigris," induces me to hope that they have already been definitively settled. If this should not be the case, it is desirable that you should press them with as much urgency as you can properly use. Promptness as well as fairness in the settlement by the respective governments of such demands upon them will tend strongly to preserve harmony between them, by inspiring the people of each country with respect for, and confidence in, the justice of the other.

In the case of the "Douglas" there seems to be no longer any difficulty, except what has been referred to the exclusive discretion of this government. It appears, from a letter addressed by Mr. Fox to Mr. Webster in February last, that the English government acknowledges that the detention of that vessel was illegal, and offers to make compensation if this government should insist on it. A plain intimation is given, however, that it is expected that this demand will be waived in consideration of the peculiar circumstances of the case. The English government appears to entertain no doubt that the "Douglas" was engaged in the slave trade; and much pains are taken to convince this government that the British officers, in detaining her, were carrying out in good faith the laws and policy of the United States. In the present condition of the case, it is unnecessary to inquire whether the "Douglas" was, or was not, engaged in the slave trade. Let it be as it may, she was an American vessel, sailing under the American flag, and therefore the seizure, search, and detention of her cannot be justified. In point of fact, however, although the case is not wholly free from doubt, there is a decided preponderance of proof in favor of the legality of her voyage. But even if it were otherwise, this government could not properly waive the demand. In a case admitting of well founded doubt whether the rights of our flag had been violated or not, one in which all intention to violate them was disavowed, and in which the British officers appeared to have acted *bona fide* in aid of our laws and policy, this government would not be disposed to press the matter strenuously, unless some real and substantial injury had been done to the American vessel or cargo. In the present case, however, the question of national right is settled by the admission of the English government; and there seems to be no reason to doubt that very serious injury was done to the owner of the vessel by the seizure and detention of her. Under such circumstances, this government could not properly waive the claim for damages, without taking upon itself the obligation to pay them. The rights of the government are sufficiently asserted by the admission that the act complained of was unauthorized and illegal. The claim of the American citizen is for a wrong done to him individually—a claim which the government has no right to relinquish after it has been allowed.

There is not upon the files of this department any proof as to the *amount* of injury sustained. You are authorized to agree to any equitable mode of ascertaining it which may appear to you to be proper. The claimant, in a letter addressed to this department, offers to take five thousand dollars in full satisfaction; alleging, at the same time, that this sum is not equal to the actual loss and injury which he has sustained. If the English government will accept this proposition, there will be an end of the matter; if not, you will press a speedy determination of it by any other mode of settlement which may be satisfactory to you.

I have no particular instructions to give you in regard to other cases of

this character. You are already in possession of all the information which it is in the power of this department to afford, and I rely with entire confidence on your known zeal and ability to press the subject properly on the attention of Lord Aberdeen. It is for many reasons greatly to be desired that these claims should be speedily and satisfactorily settled. You are aware that there is no point on which our people are more sensitive than on this. The repeated violations by British cruisers of the rights of our flag, particularly on the coast of Africa, have created a deep and uneasy feeling in the United States, which manifests itself with increased force at every new instance of such outrage. It cannot be doubted that the temper of our people is now altogether friendly towards England, and the desire is almost universal to cultivate with her the closest relations of amity. But it is greatly to be feared, nay, it is scarcely to be doubted, that a different feeling will soon prevail, if our people shall continue to experience from those of England the injurious and insulting treatment of which they have had such frequent reasons to complain. We are altogether at a loss to perceive what necessity there is for such a state of things. The rights of our flag are now fully admitted, and no question involving them need arise between the two governments. It would seem, therefore, that nothing more could be necessary to avoid all future difficulties than that England should give precise instructions to her cruisers, and enforce them by a proper exercise of her authority. Our people begin to expect and to require some pledge that she means to do this. I cannot but apprehend serious consequences to the peace of the two countries if it shall be much longer delayed. The present is as favorable an occasion as can ever occur. Our late treaty provides that each country shall keep a naval force, of a specified size, on the coast of Africa, with the obvious view to remove all occasion for any trespass by the one upon the other. We have proceeded to execute our part of that stipulation, by sending to that coast four vessels carrying more than eighty guns, a force altogether sufficient to watch over American commerce, and to enforce the laws of the United States in relation to the slave trade. There cannot, therefore, be any pretence in future for any interference by the cruisers of England with our flag. Of course, it is not probable that there will be any further occasion for reclamations on that ground, except in such flagrant cases as will leave no room for dispute or doubts. With such a foundation for lasting harmony between the two countries, at least so far as this dangerous and exciting subject is concerned, it would seem to be an obvious dictate of prudence, as well as of propriety, to remove as speedily as possible all existing causes of complaint arising from the same source. Nothing would contribute more than this to a good understanding between the two governments and their people.

Mr. Everett to Mr. Upshur.

[Extract.]

LONDON, *August* 28, 1843.

I also forward with this despatch a communication received some time since from the Earl of Aberdeen, on the subject of a seaman taken

from the "John A. Robb," while at anchor on the coast of Africa in April, 1842. Lord Aberdeen's note was accompanied with an extract of a letter to Rear Admiral Percy, commander on the African station, from Lieutenant Matson, the captain of the "Waterwitch," the officer by whom this outrage was committed. I have delayed transmitting these papers to the department till I should be able to send with them my answer to Lord Aberdeen's note.

When I first received this note some weeks since, desirous, while the impression of the facts was recent on Lord Aberdeen's mind, to correct if possible the erroneous view, as I conceive it, which he had formed of the subject, I waited upon him for that purpose at the Foreign Office. I pointed out to him the obvious misconception under which his note was written, of the application of an important passage in Mr. Matson's letter. I exhibited to him the fragment of the original "shipping articles" of the "John A. Robb," which had been transmitted to me with despatch from the department No. 19; and I gave him a satisfactory explanation of the trifling irregularity in the "list of the crew" of that vessel, on which Mr. Matson founded a very unreasonable and disingenuous attempt to impeach the character of that paper, and insinuate a charge of perjury against those by whom it was authenticated.

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[Enclosure.]

FOREIGN OFFICE, *July* 3, 1843.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has had the honor to receive the note which Mr. Everett, envoy extraordinary and minister plenipotentiary of the United States of America, addressed to him on the 5th ultimo, on the subject of complaints preferred [against] officers and men of her Majesty's ships, for conduct alleged to have been pursued by them towards the United States vessels "Rhoderick Dhu," "John A. Robb, and "William and Francis."

With respect to the case of the "Rhoderick Dhu," the undersigned has to acquaint Mr. Everett that information having previously reached this country that the master of the "Rhoderick Dhu" had complained of the conduct which had been pursued towards that vessel by an officer of her Majesty's brig "Spy," her Majesty's government did not wait for a representation of the case by the United States minister, but at once directed an investigation to be made into the circumstances, in order that any satisfaction which may prove to be due to the United States government should be given with as little delay as possible.

Upon the receipt by the undersigned of Mr. Everett's note, her Majesty's government repeated those directions; and as Lieutenant Raymond, the commander of the "Spy," has now returned to England, the undersigned hopes to be able very shortly to reply to Mr. Everett with respect to the charges against that officer.

With respect to the charges against the boarding officer, as that person is not in this country, a longer time must necessarily elapse before his answer can be received.

In the case of the "John A. Robb," the vessel upon which Mr. Everett, in his note of the 19th of September last, complains that an outrage was

committed by Lieutenant Matson, of her Majesty's brig "Waterwitch," her Majesty's government have obtained a full report of the proceedings of Lieutenant Matson. The undersigned has the honor to enclose to Mr. Everett an extract of that report, so far as it relates to the act which forms the subject of Mr. Everett's complaint.

Her Majesty's government and the law adviser of the crown have given a careful attention to the facts there detailed, and it is their opinion that Lieutenant Matson was justified, under the circumstances, in the conduct which he pursued towards Peter Hutchinson, the seaman whom he is stated (but incorrectly) to have removed forcibly from the "John A. Robb." The facts appear to be as follows: Lieutenant Matson, after hearing the statement of Hutchinson and seeing the papers, formed an opinion that Hutchinson had been ill used on board the "John A. Robb," and that "he was as free to quit as he had been to enter that vessel;" but, notwithstanding this, he thought it right, upon the master's refusal to give up to Hutchinson his clothes and wages, to decline interfering in the matter, and he therefore informed Hutchinson that he could give him no assistance, and that it must depend entirely upon the master; he also told Hutchinson and the master to settle the question between themselves, saying that he was going on shore, and that his boat would call alongside again in her passage off to the "Waterwitch."

When the boat *afterwards* came alongside, Hutchinson, having so far settled with the master as to obtain from him his clothes, though not his wages, got into the boat and proceeded to the "Waterwitch."

Had the occurrence which is here described been accompanied by any act of violence or authority, such as to justify the character given to it in the complaint which Mr. Everett has transmitted to the undersigned, her Majesty's government would have felt bound at once to tender to the government of the United States a ready satisfaction for such a proceeding, and they would have visited the author of it with their heavy displeasure.

But, under the circumstances above stated, and stated, as her Majesty's government have reason to believe, with perfect accuracy, her Majesty's government cannot admit that there is any just ground for the charge against Lieutenant Matson of having forcibly taken Hutchinson from on board the "John A. Robb;" and they therefore feel that they cannot disavow the act of that officer, as requested by Mr. Everett, to whose government that act, and indeed the whole conduct of Lieutenant Matson in his intercourse with the "John A. Robb," has been inaccurately and very unfairly represented.

On the subject of the "William and Francis," which is also alluded to in Mr. Everett's note, the undersigned will have the honor of addressing Mr. Everett in a separate communication.

The undersigned, &c.

ABERDEEN.

EDWARD EVERETT, Esq., *&c. &c. &c.*

[Sub enclosure.]

Extract of a letter from Lieutenant Matson, commanding her Majesty's brig "Waterwitch," to Rear Admiral the Hon. J. Percy, commander-in-chief of her Majesty's naval forces, Cape of Good Hope station, dated

HER MAJESTY' BRIG "WATERWITCH,"
Simon's Bay, February 2, 1843.

I now, sir, come to the distinct charge of having forcibly taken a man out of the "J. A. Robb." After I had returned to Cabinda from the pursuit of the two slavers above mentioned, I received a letter (April 5th) signed "Peter Hutchinson," who stated that he and two other Englishmen, whom he named, had been cruelly ill treated since I left the port, and they earnestly implored my assistance. I immediately went on board the "John A. Robb," and informed the master that I had received a complaint from three British subjects who had been ill-treated by him. He asked who they were, and, on my saying the name of one was Peter Hutchinson, he declared that there *was no such person on board.* I showed him the signature to the letter. He then sent for the mate, who declared he had *never heard of such person.* I requested the master to inquire whether any of his crew answered to that name. The mate then went to the main hatchway, and called to the men who were working in the hold, "any of you there answer to the name of 'Peter Hutchinson?'" Three men then came up—one of whom declared that to be his name, and that he was the author of the letter. They all begged me to take them out of the vessel; stated that they had been cruelly ill-used—treated like dogs, because they were Englishmen, and suspected of giving information about the cargo: *one of them had been knocked down by the mate with an iron pump handle;* one of them had been *knocked down* by the master, who afterwards jumped *upon him until he was insensible;* another, because he asked the contents of one of the cases, had *been struck by the mate with a handspike*, who said, "Damn you, do you want to condemn the vessel—do you?" Neither the master nor the mate attempted to deny these statements; but the mate said that he knocked the man down with the pump-handle for attempting to collar him; and the master, that he had knocked down and jumped upon the other for sleeping on his watch. Although it was evident that these Englishmen had been shamefully ill-treated, I endeavored to make them contented with their situation, and told them that, as they were serving under a foreign flag, I could give them no assistance, and that they must abide by the agreement made with the master. They all declared that they had not agreed to come to Africa; and the master persisted that they had done so. I asked to see the agreement; on which he went into his cabin, and remained there five or ten minutes.

On his return to the quarter-deck, he produced a copy of "shipping articles," which stated that the crew were to proceed in the vessel from Baltimore to Cadiz, and any port in the Mediterranean, but it said nothing of Rio de Janeiro or Africa. It contained the names of his crew, their birth-places, their pay, &c., &c.; also their signatures.

But the name of Peter Hutchinson was written at the bottom, either in pencil or very pale ink; there was neither rate of pay nor signature, and I feel convinced that the master had that moment written it. I told the

two men who had signed the agreement that, although it did not appear they had agreed to come to Africa, they had bound themselves as the crew of the vessel, and if ill-treated by the master, they must apply to the British consul for redress on their return to Rio de Janeiro. I then asked Peter Hutchinson what verbal agreement he had made with the master. He replied that, meeting him (Ordeman) in the streets at Rio a few days before the vessel sailed, he had agreed to work on board his vessel, without stating any period; that so long as he did remain, he was to receive the same pay as the rest; that he was given to understand the vessel was going to Europe, and did not know she was coming to Africa, until he had been several days at sea. The master only remarked, "Oh! you knew it very well."

I then stated to Mr. Ordeman that I did not consider he could legally detain this man, who was as free to go out of the vessel as he was to come into her, and that if he chose to come into my boat he was perfectly at liberty to do so. The master refused to give up his clothes or wages—on which I told Hutchinson that I could give him no assistance in the matter; it must depend entirely on the master. I left them to settle this between themselves, saying that I was going on shore, and that my boat could call alongside again on her passage off to the "Waterwitch." She did so, and Hutchinson went in her, the master having given him his clothes but not his wages, and on the following day was placed on the books of the "Waterwitch."

If any consul's certificate was attached to the "shipping articles," I certainly did not see it, nor was my attention called to it by the master. When I perceived the name of Peter Hutchinson added in the manner above stated, I immediately returned it, considering it as a bungling attempt at an imposition.

I beg, sir, that you will call the attention of the Lords of the Amiralty to the "list of crew," a copy of which forms one of the enclosures in Mr. Everett's letter, but which was not produced to me on either occasion of my boarding the "John A. Robb;" I saw only a copy of the shipping articles.

This document is called a "list of persons composing the crew of the barque 'John A. Robb,' whereof is master Robert Walker, bound for Cadiz and a market;" and it is signed "Robert Walker." It contains among others the name of "Peter Hutchinson," but the fact is that Hutchinson did not join the "John A. Robb" until February, 1842, and after Mr. Walker had left her; but it appears that *on the 29th September*, 1841, Mr. Walker "solemnly, sincerely, and truly swears," that this list, *signed by himself, and in which is the name and description of Peter Hutchinson*, contains the names of the crew of the "John A. Robb." The consul's certificate, dated Rio, *on the 12th February*, 1842, could not have been attached to this document, when Mr. Walker swears to the truth of it on the *29th September*, 1841, at Baltimore; on which day it is also certified by the deputy collector of customs. It would certainly appear that either this document or its annexes were incorrect; at any rate, they do not apply to each other. Be that as it may, I declare that neither the original nor a copy of this list was produced to me on board the "John A. Robb."

These are the most minute particulars relating to those several transactions, the truth of which can be substantiated by the officers and crew of this brig; for I have on all occasions, when boarding a vessel under

these circumstances, taken care to have a witness to all I have said or done; and they are now ready to make oath to the correctness of this statement.

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[Enclosure.]

GROSVENOR PLACE, *August* 31, 1843.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acknowledge the receipt of a note of Lord Aberdeen, her Britannic Majesty's principal Secretary of State for Foreign Affairs, dated July 3, and accompanied by an extract from a letter of Lieutenant Matson, commanding her Majesty's brig "Waterwitch," to Rear Admiral the honorable J. Percy, dated February 2, 1843. In pursuance of the purpose already intimated, in conversation, to the Earl of Aberdeen, shortly after the receipt of his lordship's note, the undersigned now invites the attention of his lordship to a reconsideration of the case of the seaman removed by Lieutenant Matson from the American vessel "John A. Robb," which forms the principal topic of Lord Aberdeen's communication of the 3d ultimo.

When the undersigned first addressed the Earl of Aberdeen on this subject, in a note dated September 19, 1842, he was under the impression that the first boarding of the "John A. Robb," on the 27th March, 1842, by an armed party from the "Waterwitch," had reference, in common with all the subsequent proceedings complained of, to the removal of the seaman Peter Hutchinson. The undersigned has since learned that the act of boarding and taking possession of the American vessel on the 27th had no connexion with the removal of Hutchinson. In the extract from Lieutenant Matson's letter to Rear Admiral Sir John Percy, communicated to the undersigned, no explanation is given of the previous transactions, and the undersigned is left at a loss for the motives for such a proceeding. That he did not call the attention of Lord Aberdeen more pointedly to this part of the case, in his note of the 19th September last, was owing wholly to the impression just mentioned. Lord Aberdeen will doubtless agree with the undersigned that an explanation of this part of the conduct of Lieut. Matson is justly due to the government of the United States; and that, if it should appear that forcible possession was taken of an American vessel by this officer, it will be deemed by her Majesty's government an offence of more than ordinary aggravation.

The undersigned will now proceed to restate the case of the seaman, Peter Hutchinson; and in doing this he cannot forbear, in advance, to express the opinion that the whole proceeding, in all its parts, was unwarrantable, in direct violation of the public law, and highly offensive in its character. This opinion is independent of the accuracy of the statements made by Lieut. Matson in defense of his conduct. The undersigned will be obliged, in the course of this note, to call in question the correctness of a part of those statements; but the admission of their entire accuracy would furnish, in his judgment, no justification of the conduct of Lieut. Matson.

While the American vessel "John A. Robb" was at anchor off Cabinda, a portion of the African coast not subject to Great Britain, Lieut. Matson, well knowing the "John A. Robb" to be an American vessel, board-

ed her, caused her crew to be mustered, and proceeded to inquire into the alleged ill-treatment of three of the seamen, British subjects, who had addressed him a letter complaining that they were forcibly detained and ill-used by the master of the "John A. Robb," and soliciting him to take them on board the "Waterwitch." This he refused to do in the case of two of them, because they had agreed to return in the vessel; but he complied with the request of the third, "because he had made no agreement whatever."

The undersigned, before commenting on this account of Lieut. Matson's proceedings, must call Lord Aberdeen's attention to the extraordinary nature of this proceeding at the outset—rendered peculiarly unwarrantable by the great notoriety of the recent discussions between the two governments of the principles of public law as to the inviolability of foreign vessels. It was well known to Lieut. Matson that his government disclaimed, in the most emphatic manner, all right to board an American vessel in time of peace, knowing her to be such, for any cause whatever. Notwithstanding this knowledge, in consequence of receiving a letter from a seaman on board a vessel known by him to be an American, complaining of ill-treatment, he boards the vessel, musters the crew, inquires into their treatment, and finally accedes to the request of the seaman to be removed to the "Waterwitch," in which he was allowed to enter as a volunteer. It is plain that if the bare reception of such a letter gives to a British cruising officer the right to board an American vessel, there can be very few not subject to this exercise of power, inasmuch as one or more British seamen are found in a large portion of the merchant vessels of the United States. In fact, as nothing would be easier than for a discontented American seaman to write a letter to the commander of a British cruiser in the character of an Englishman, every American vessel that floats would be subjected, in this way, to the discretion and power of every British cruiser.

The conduct of Lieut. Matson was as destitute of excuse, from the urgency of the case, as it is of justification on any principle of public law. It happens, no doubt, occasionally in the American merchant service, as in every other, that seamen are abused, as it also happens, in that and every service, that severity is necessary to punish misconduct and preserve discipline. When a sailor on board an American ship is ill-treated, he has his remedy in the courts of law on his return, and rarely fails to find sympathy on the part of a jury. An English sailor, ill-treated on board an American vessel, would possess this remedy to the same extent as a native citizen. He would have such further remedy as his government might choose to accord him, if his case was deemed to require interference. That, in addition to these remedies, he should possess a third, in the power of invoking the summary protection of any British cruiser within his reach, is a doctrine against which it cannot be necessary for the undersigned to argue.

Lieut. Matson, in his letter to Rear Admiral Percy, states, that on his inquiry into the manner in which the seamen had been treated, the captain and mate did not attempt to deny their statements; and that "it was evident these Englishmen had been shamefully ill-treated." But it appears, from Lieut. Matson's own representation of the case, that the statements of the seamen were denied by the captain and the mate in the most material part; that is, the reasons *why* they were subjected to the treatment complained of.

There is nothing evident in the case but that complaints of ill-treatment were made by the seamen, and that the captain and mate alleged that the treatment complained of had been incurred by their own misconduct.

It is stated by Mr. Slacum, the American consul at Rio de Janeiro, that, on the arrival of the vessel at that port a few weeks afterwards, no complaint of ill-treatment was made by the two other seamen alluded to, and that he was informed by the master that they were anxious to remain on board the "John A. Robb." But the undersigned forbears to pursue this inquiry, as irrelevant to the question as to the propriety of the conduct of Lieut. Matson in boarding the American vessel and instituting an investigation of the manner in which her crew were treated.

In Lord Aberdeen's note of the 3d of July, the justification of Mr. Matson's conduct is rested on the assumption that the statement that Peter Hutchinson was *forcibly* removed from the "John A. Robb" is incorrect, and that the inteference of this officer was confined to a consent to receive Hutchinson on board the "Waterwitch," on his being voluntarily discharged by the American captain; and that "he (Lieut. Matson) informed Hutchinson that he could give him no assistance, and that it must depend entirely upon the master."

The undersigned is convinced that if Lord Aberdeen will look again at the letter of Mr. Matson, he will perceive that an expression referring exclusively to the giving up the clothes and payment of the wages of Hutchinson has been erroneously understood to apply to the whole transaction; that the matter about which Mr. Matson told Hutchinson he could give him no assistance was simply the obtaining his clothes and wages; and that Mr. Matson does not deny that he intended to cause, and did cause, the removal of Hutchinson from the ship—not, it is true, by the application of physical force, but by stating to the master that Hutchinson was at liberty to go; that he could not legally detain him; and that if he chose to come into his boat, he was at liberty to do so; and by duly sending his boat for him, and entering him as a volunteer on board the "Waterwitch."

The certificate of Mr. Matson admits of no coherent interpretation on any other supposition. It is in these words:

"This is to certify, that, having received a written complaint from three British seamen, of their having been grossly abused and beaten by the master and mate of the 'John A. Robb,' of Baltimore, I boarded that vessel on the 5th inst., when they all repeated the complaint in the presence of the master and mate, and requested to be taken on board the 'Waterwitch.' But as two of them had signed an agreement to return in the vessel to America, I refused to comply with their request; but the third (Peter Hutchinson) not having made any agreement whatever, I entered him as a volunteer on board her Majesty's brig under my command.

"CABINDA, *April* 9, 1842.

"H. J. MATSON, *Lieutenant*,
"*Commandant H. B. M. Waterwitch.*"

Had the captain of the American vessel voluntarily discharged Hutchinson, that fact, and not the absence of any agreement on the part of the seaman, would have been assigned by Mr. Matson as the reason for taking him; or, rather, if the transaction had been a voluntary one on the part of

the American captain, no certificate of reasons for removing the seaman would have been asked for or given. Mr. Matson expressly states that they all three requested to be taken on board the "Waterwitch." With respect to two the request was refused; with respect to the other it was granted; not because the captain agreed to give him up, but because, in Mr. Matson's opinion, he had no right to hold him.

In fact, so far from representing the captain of the American vessel as voluntarily giving up Hutchinson, Mr. Matson describes him as endeavoring, in his opinion, by a false entry on the ship's papers, to persuade Mr. Matson that the seaman had shipped, and was, consequently, in Mr. Matson's judgment, not liable to removal.

In full accordance with these facts the captain, as soon as he arrived in port, made a formal protest against Mr. Matson before the American consul, for having received the seaman.

But the undersigned forbears to enlarge on this point, under the impression that on a reperusal of the note to Rear Admiral Percy, Lord Aberdeen will unite in the opinion that Mr. Matson did not mean to assert that the American captain, of his own free will, voluntarily gave up the seaman. It was, of course, out of the question for the American shipmaster to attempt to detain him by force, after the commander of an armed ship had acceded to his request to be removed, and had stated to the captain of the "John A. Robb" that he could not legally hold him; that he should enter him as a volunteer on board the "Waterwitch," and send his boat alongside to receive him.

Although, in the judgment of the undersigned, the fact whether Hutchinson had shipped on board the "John A. Robb" is immaterial to the merits of the case, yet he deems it important, in order to place the conduct of Mr. Matson in a clearer light, to state the evidence on that point.

In the first place it is affirmed by the American consul, Mr. Slacum, of Rio de Janeiro, that Hutchinson was shipped in his office and in his presence, in the usual legal way, the nature of the voyage having been explained to him; and that the usual consular certificate of this fact was made on the list of the crew and the shipping articles. Mr. Slacum is favorably known to Lord Aberdeen by official report; he is personally known to the undersigned as a gentleman of superior intelligence and unquestioned probity.

An official copy of the list of the crew has been furnished to the undersigned, and a transcript of it is among the papers transmitted to Lord Aberdeen, with the original statement of the undersigned of the 19th September last. His lordship has seen on that paper, the copy of Mr. Slacum's consular certificate, that he shipped Hutchinson on board the "John A. Robb" on the 12th of February, 1842.

Lieutenant Matson, in his representation to Rear Admiral Percy, states that, when Captain Ordeman was asked to produce Hutchinson's agreement, "he went into his cabin and remained there five or ten minutes. On his return, he produced a copy of 'shipping articles.' The name of Peter Hutchinson was written at the bottom, either in pencil or very pale ink; there was neither rate of pay nor signature, and I feel convinced that the master had that moment written it. If any consul's certificate was attached to the shipping articles I certainly did not see it, nor was my attention called to it by the master. When I perceived the name of

Peter Hutchinson added in the manner above stated, I immediately returned it, considering it as a bungling attempt at imposition."

The undersigned, as Lord Aberdeen will recollect, has exhibited to his lordship at the Foreign Office a portion of the original shipping articles, (the residue having been accidentally destroyed after the return of the vessel to Baltimore,) and Lord Aberdeen has seen upon this document the names of Gardner and Hutchinson, the two persons shipped at Rio de Janeiro, with a part of Mr. Slacum's certificate directly under them, all legibly written in ink, a little darker even than those parts of the document which were written in America some months before. The undersigned admits that this document is unfortunately in such a mutilated state that it would have been of little value itself as a piece of evidence, had not its authenticity been fully sustained by Mr. Slacum's statement, that he did enter the names of Gardner and Hutchinson upon "the shipping articles," with a certificate of having shipped them.

Mr. Matson refers to the copy of the "list of the crew," as among the enclosures of the note of the undersigned of the 19th September, which had been forwarded to him. The captain of the "John A. Robb" declares, on oath, that he exhibited the list of the crew, with the shipping articles, to Mr. Matson. That officer affirms that it was not exhibited to him. Why it should have been withheld, containing as it does the official proof of the fact to be established—the enlistment of Hutchinson—is not easy to be conceived.

But Mr. Matson, after denying that he had ever seen the list of the crew, proceeds to call in question the accuracy of the document. The alleged inaccuracy consists in this—that a list of the crew containing Hutchinson's name is given, which list is signed by Robert Walker, as captain; whereas Hutchinson did not join the vessel till February, 1842, when Walker had left her; but, continues Mr. Matson, "it appears, that on the 29th September, 1841, Mr. Walker 'solemnly, sincerely, and truly swears,' that this list, signed by himself, and in which is the name and description of Peter Hutchinson, contains the names of the crew of the 'John A. Robb.' The consul's certificate, dated February 12th, 1842, could not have been attached to this document, when Mr. Walker swears to the truth of it on the 29th September, 1841, at Baltimore; on which day it is also certified by the deputy collector of customs. It would certainly appear that either this document or its annexes were incorrect; at any rate, they do not apply to each other."

It is with regret that the undersigned notices this attempt of Mr. Matson to impeach the character of Mr. Walker and Mr. Slacum in reference to this document, and without the slightest reason. The undersigned has already explained in person to Lord Aberdeen the trifling irregularity on which Mr. Matson's criticism is founded. The certificate of Walker, and that of the collector of Baltimore, of course applied to the list of the crew as shipped at Baltimore in October, 1841. In February, 1842, the captain, Walker, had left the vessel; the mate, Ordeman, succeeded him, and Gardner (as mate) and Hutchinson (as seaman) were shipped at Rio de Janeiro. This is the fact to which Mr. Slacum gives his consular certificate, in the following words: "I, the undersigned, consul of the United States at the city of Rio de Janeiro, hereby certify that W. K. Gardner and Peter Hutchinson have shipped at this consulate on board the above named vessel.

"Given under my hand and seal of office this 12th day of February, 1842.

"G. W. SLACUM, *Consul U. S. A.*"

In addition to this certificate, Mr. Slacum appears to have entered the names of Gardner and Hutchinson at the foot of the original list of the crew—an undoubted irregularity in reference to Walker's original certificate. It might have been supposed, however, but for Mr. Matson's statement, that the explanation of the case as thus given was sufficiently obvious, and the state of the facts too plain to admit any suspicion of the character of the document, or of the parties by whom it is authenticated.

But however this may be, it seems beyond doubt that Hutchinson was regularly shipped at Rio de Janeiro; and in this fact the justification set up by Mr. Matson, in the assumed absence of agreement on the part of that seaman, falls to the ground.

But, as the undersigned has observed, he deems this point, however decided, immaterial to the issue. The complaint of the American government is, that Mr. Matson boarded an American vessel, knowing her to be such, without authority, for the sake of redressing the alleged wrongs done to a British seaman, whom, at his request, and against the will of the master, he removed from the American vessel; and the undersigned persuades himself that on a revision of the case Lord Aberdeen will perceive that the expression in Mr. Matson's note, in which he was supposed to state that he informed Hutchinson that "he could give him no assistance in the matter—it must depend entirely on the master," did not refer to the main occurrence; which was, really, as far as the captain of the American vessel is concerned, compulsory.

In the closing paragraph of Lord Aberdeen's note of the 3d of July, after stating that her Majesty's government are unable to disavow the act of Mr. Matson, as requested by the undersigned, it is observed that "the whole conduct of Lieutenant Matson, in his intercourse with the 'John A. Robb,' has been inaccurately and very unfairly represented to the government of the United States."

In reply to this observation, the undersigned would observe that he trusts Lord Aberdeen, on a re-examination of the case, will come to a different conclusion. As far as the undersigned can judge, the case seems to have been correctly and truly stated to the American government. The undersigned deems it his duty further to say, that if Lieutenant Matson, before writing his letter to Rear Admiral Percy, was in possession of the documents transmitted to the Earl of Aberdeen with the note of the undersigned of the 19th September, and if he had consequently seen Mr. consul Slacum's official statement, that Hutchinson's shipment was duly entered and certified by himself on the "shipping articles," at the time when he says "I feel convinced that the master had that moment written it," (viz: the name of Hutchinson,) the undersigned cannot but consider the imputation conveyed by this remark as altogether groundless and unwarrantable; and he is also of opinion that Mr. Matson's attempt to impeach the character of the "list of the crew," on the ground of the irregularity above alluded to, is equally unreasonable and unfair.

The undersigned, &c.

EDWARD EVERETT.

The Earl of Aberdeen, *&c. &c. &c.*

Mr. Everett to Mr. Upshur.

[Extracts.]

LONDON, *September* 14, 1843.

I received some time ago a note from Lord Aberdeen, which I now transmit you, making a tender of a certain sum as compensation to the owners of the "Tigris" and the "Seamew." I have abstained from replying to this note, in the expectation of receiving some communications either from Messrs. Brookhouse & Hunt, or from the department at their instance, which would guide me as to the answer to be given. I sent to Messrs. Brookhouse & Hunt, on the 19th July, a letter from Mr. John Hillard, a respectable American merchant here, whom I employed to examine the claim, in connexion with Mr. Rothery, the solicitor of the British treasury. In that letter Mr. Hillard makes a statement of the amount which Mr. Rothery was willing to allow on the several items, and which is the same now officially tendered by Lord Aberdeen. It fell far below the sums claimed by Messrs. Brookhouse & Hunt, and they informed me by the steamer of the 19th August that they declined to accept it.

If it is possible to have copies of the papers prepared in season to accompany this despatch, I will forward you the letters of Mr. Hillard, which contain the final results of the investigation carried on by himself and Mr. Rothery, and will assist you in judging how far the various items of claim brought forward by Messrs. Brookhouse & Hunt can with propriety be insisted on by the government of the United States.

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[Enclosure.]

SLAVE TRADE.]

FOREIGN OFFICE, *August* 28, 1843.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, has the honor to inform Mr. Everett, envoy extraordinary and minister plenipotentiary of the United States, that he has received from her Majesty's treasury two reports from Mr. Rothery, the gentleman appointed by her Majesty's government to investigate and settle, with Mr. Everett, or such gentleman as might be deputed by Mr. Everett, the claims preferred by the owners of the American vessels "Tigris" and "Seamew," on account of the detention of those vessels by her Majesty's cruisers "Waterwitch" and "Persian," respectively.

Mr. Rothery, giving an account of the result of his conferences with Mr. Hillard, the gentleman deputed by Mr. Everett for this service, states that he had agreed with that gentleman that the amount to be paid by her Majesty's government as compensation in the case of the "Tigris," is twelve hundred and six pounds nineteen shillings and three pence (£1,206 19*s.* 3*d.*) sterling; and in the case of the "Seamew" is fourteen hundred and fifty-two pounds nineteen shillings (£1,452 19*s.*) sterling. The undersigned has accordingly requested the lords of her Majesty's treasury to liquidate this claim, and he has now to inform Mr. Everett that their lordships have directed the paymaster of civil services to pay the

above mentioned sums to any person whom Mr. Everett shall authorize to receive the same on account of the owners of the vessels in question.

The undersigned, &c.

ABERDEEN.

EDWARD EVERETT, Esq., *&c. &c. &c.*

Mr. Upshur to Mr. Everett.

[Extract.]

DEPARTMENT OF STATE,
Washington, October 10, 1843.

I transmit to you herewith the copy of a letter addressed to this department on the 26th ultimo, by Messrs. Brookhouse & Hunt, relating to their claim against the British government in the cases of the "Tigris" and "Seamew," together with a transcript of my note, under date of the 29th of the same month, in reply to their communication.

Mr. Everett to Mr. Upshur.

[Extracts.]

LONDON, *November* 9, 1843.

In your despatch No. 55, you direct me to renew the claim for compensation in the case of the "Douglas," and to press for a speedy determination of it.

Whilst preparing to execute your instructions in this respect, it occurred to me that Lord Aberdeen had last spring expressed great satisfaction to me at having received information from Mr. Fox that this case would not further be pressed; and, generally, that claims of this kind would not be urged in cases where the vessels detained by British cruisers were engaged in the slave trade.

* * * * I thought it necessary to ascertain whether my recollection was correct, and I found it to be so. Lord Aberdeen had received information at the time, from Mr. Fox, that Mr. Webster had informed him that the claim would not be pressed. I transmit an extract from the despatch of Mr. Fox, in which this information was conveyed to the British government.

There is, as you observe, considerable doubt whether the voyage was illegal, though I think there is great reason to believe that the vessel was chartered for an adventure directly connected with the slave trade.

I understand you to consider that the public wrong done to the flag of the United States is sufficiently repaired by the acknowledgment already made by Lord Aberdeen, that the detention of the "Douglas" was not warranted by the law of nations. With respect to the private injury suffered by the owner of the vessel, although the eventual consequences of the detention are represented by him as very serious, they are, in some respects, of a nature for which no pecuniary atonement can be made—

such as the sickness and death of some of the ship's company, occasioned, as is alleged, by the detention of the vessel eight days at sea. I am not sure that the only item of compensation which would probably be allowed in the settlement of the case by a committee of accounts in Congress would not be demurrage for the time lost in consequence of the eight days' detention.

It may deserve consideration whether it is expedient, after the intimation made by Mr. Webster, and bearing in mind that the vessel was conveying a company of slave factors and their associates to the place of their traffic, with a cargo consigned to one of them, to urge upon this government a claim of that character.

A different course might be necessary, if there were reason to apprehend a recurrence of similar cases; but the detention, you will recollect, took place under circumstances which have long ceased to exist. The instructions given to the British cruisers, under which the "Douglas" and other American vessels were detained and searched, were modified even in the time of Lord Palmerston; and since the accession of the present ministry, the most positive orders have been given in no case to interfere with American vessels.

The subject, however, is one exclusively for the President's consideration.

[Enclosure.]

Extract from a despatch from Mr. Fox of April 27, 1843.

In the course of the conversation Mr. Webster informed me, incidentally, that, in pursuance of the course he is determined to follow, no further demand for compensation will be made in the case of the American ship "Douglas," which has formed the subject of correspondence between the two governments, both through the United States legation in London, and recently through her Majesty's legation at Washington.

Mr. Everett to Mr. Upshur.

[Extract.]

LONDON, *November* 17, 1843.

I received, on the 6th instant, your despatch No. 63, with the letter of Messrs. Brookhouse & Hunt and your reply enclosed. I immediately addressed a note to Lord Aberdeen on the subject of the claim for the "Tigris" and "Seamew," rectifying the erroneous statement of Mr. Rothery, that Mr. Hillard had agreed to accept the sum which he (Mr. Rothery) was willing to report to this government as compensation to be made to the owners of those vessels for the loss suffered in consequence of their detention, and giving Lord Aberdeen to understand that, without accepting or rejecting the sum tendered, the government of the United States would expect that the matter should be left open for the production of further evidence. I transmit a copy of my note.

[Enclosure.]

46 GROSVENOR PLACE, *November* 13, 1843.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acknowledge the receipt of the note addressed to him on the 28th of August by the Earl of Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs. In this note, Lord Aberdeen acquaints the undersigned that he has received from her Majesty's treasury two reports from Mr. Rothery, the gentleman appointed by her Majesty's government to investigate and settle with the undersigned, or such gentleman as might be deputed by him, the claims preferred by the owners of the "Tigris" and "Seamew," on account of the detention of those vessels by her Majesty's cruisers "Waterwitch" and "Persian," respectively.

Lord Aberdeen informs the undersigned that Mr. Rothery, in giving an account of the result of his conferences with Mr. Hillard, the gentleman deputed by the undersigned for this service, states that he had agreed with that gentleman that the amount to be paid by her Majesty's government, as compensation in the case of the "Tigris," is twelve hundred and six pounds nineteen shillings and three pence (£1,206 19*s.* 3*d.*) sterling; and, in the case of the "Seamew," is fourteen hundred and fifty-two pounds and nineteen shillings (£1,452 19*s.*) sterling; and Lord Aberdeen further makes known to the undersigned that he had accordingly requested the lords of her Majesty's treasury to liquidate this claim, and that their lordships had directed the paymaster of civil services to pay the above mentioned sums to any person authorized by the undersigned to receive the same on account of the owners of the vessels in question.

The undersigned, in reply to the note of the Earl of Aberdeen, has the honor to state that Mr. Hillard was deputed to confer with Mr. Rothery, in order to the settlement of the claims of the owners of the "Tigris" and "Seamew;" but that he was not authorized to compromise those claims by accepting, on behalf of the owners, or of the government of the United States, any sum less than the full amount of the claims. The undersigned himself is not clothed with this power, and could not, of course, confer it on Mr. Hillard. No intimation was given by the undersigned to Mr. Rothery, in acquainting that gentleman that Mr. Hillard was deputed to confer with him, that he was authorized to compromise the claims; and Mr. Hillard has informed the undersigned that, from their first interview, he gave Mr. Rothery distinctly to understand that he was not authorized to make any settlement of the question. Accordingly, Mr. Hillard was not invited by Mr. Rothery to sign his report.

After Mr. Rothery had drawn up his report, and before submitting it to the Lords Commissioners of her Majesty's Treasury, that gentleman waited upon the undersigned and requested him to unite with himself (Mr. Rothery) in signing the said report. This the undersigned declined to do, assigning, among other reasons, for his refusal, that he had sent to the owners of the "Tigris" and "Seamew" a statement of the objections taken by Mr. Rothery to some items in their claims, in order to give them an opportunity, if possible, to furnish further evidence, or to urge additional arguments in support of the items objected to. The undersigned urged upon Mr. Rothery the propriety of waiting till these owners could be heard from in reply, and the unfairness of hastening to make a report

without allowing a little further time for so reasonable a purpose, when so much time, greatly to the injury of the claimants, had been lost by the omission of the treasury, for several months, to give effect to the Earl of Aberdeen's notification that her Majesty's government had determined to compensate the owners of the "Tigris" and "Seamew." The undersigned supposed that Mr. Rothery left him satisfied with the justice of these observations. Lord Aberdeen may perhaps recollect that the undersigned had the honor of mentioning most of these facts in an interview with his lordship at the Foreign Office, he believes on the 14th August.

The undersigned lost no time in transmitting Lord Aberdeen's letter of the 28th August to Washington; and the owners of the "Tigris" and "Seamew," having informed the Secretary of State that they had sent to the coast of Africa for further evidence in support of some portions of their claims objected to by Mr. Rothery, the undersigned has been instructed to make known this circumstance to the Earl of Aberdeen, and to express the wish, should any such evidence be received, that it may be taken into due consideration. Till the owners of the "Tigris" and "Seamew" have had this opportunity of doing justice to their claims, it will not be in the power of the government of the United States to come to a decision whether the amount of compensation tendered by her Majesty's government, in Lord Aberdeen's letter of the 28th August, ought to be declined or accepted.

The undersigned, &c.

EDWARD EVERETT.

The EARL OF ABERDEEN, *&c. &c. &c.*

Mr. Upshur to Mr. Everett.

[Extract.]

DEPARTMENT OF STATE,
Washington, December 12, 1843.

With reference to the case of the "Douglas," you will, in consequence of the assurance said to have been given by Mr. Webster to Mr. Fox, refrain from urging that claim upon the British government, until further instructions are given to you upon the subject.

Mr. Everett to Mr. Nelson.

[Extract.]

LONDON, *April* 15, 1844.

SIR: On the 29th of May last I received a despatch from the department, numbered 42, transmitting an account of an outrage alleged to have been committed upon an American vessel called the "Rhoderick Dhu," on the coast of Africa, on the 4th of January preceding. On the 5th of June I addressed a note to Lord Aberdeen representing the case, and requesting that it should be inquired into. In the answer from the Foreign Office,

dated 3d of July, I was informed that an investigation had been already ordered. On the 10th instant, the result of this investigation was sent to me in the accompanying note from Lord Aberdeen.

JOHN NELSON, Esq.,
Secretary of State ad interim.

[Enclosure.]

SLAVE TRADE.]

FOREIGN OFFICE, *April* 10, 1844.

The undersigned, her Majesty's principal Secretary of State for Foreign Affairs, with reference to the note which Mr. Everett, envoy extraordinary and minister plenipotentiary of the United States, addressed to him on the 5th of June last, and to the note which, in reply thereto, the undersigned addressed to Mr. Everett on the 3d of the succeeding month, respecting the conduct alleged to have been pursued by the officers and men of her Majesty's sloop "Spy" in visiting the United States vessel "Rhoderick Dhu," has now the honor to acquaint Mr. Everett that answers have been received to the inquiries which were made of Lieutenant Raymond, the commander of the "Spy," who ordered the visit, and of the officer of that ship who boarded the "Rhoderick Dhu," as to the facts which occurred on the occasion in question.

In the representation of this affair made by Captain Sims, master of the "Rhoderick Dhu," and transmitted in Mr. Everett's note of the 5th of June last, it is stated, that about half-past twelve, p. m., on the 4th of January, 1843, the "Rhoderick Dhu," having already passed within a cable's length of her Majesty's brig "Spy," the "Spy" tacked, and stood for the "Rhoderick Dhu," and shortly afterwards fired a shot close to her, and obliged her to bring to, notwithstanding the expressed reluctance of the master to that step; that, on her bringing to, a boat with an officer and twelve men came alongside to windward, and climbed up the main chains, the officer being the last man on deck; that the officer and crew remained on board upwards of 45 minutes, the officer behaving in the most disrespectful manner, and the crew going all over the vessel, insulting and abusing every one on board.

The commander of her Majesty's brig "Spy" admits that he compelled the "Rhoderick Dhu" to be brought to, contrary to the wishes of her master. He states that his object in doing so was to ascertain her nationality; and that the cause of his suspecting her to be other than an American vessel was, that both from her build and her rig, and from seeing very many black men on board, and only two who were not, and those two swarthy, he thought her to be Spanish, and engaged in the slave trade. He does not deny that, in compelling her to bring to, his language was peremptory; but he states that the language of the master had previously been extremely insulting; and in confirmation of this statement, he adds, that on being hailed and desired to bring to, the master answered that he "would see him damned first."

The boarding officer denies that he was the last on deck, but admits that two or three of his men were on board before him; and in explana-

tion of that circumstance he states, that on first attempting to get up, his foot slipped, and he dropped into the boat, which at that moment fell off from the ship's side; and before he could get the boat to the ship's side again, two or three men, who had succeeded in getting up, were already on deck. He states that he was not on board above fifteen minutes, and that three or four minutes were occupied in shifting the ladder over with the side ropes for him to descend on leaving the vessel. He asserts most earnestly that his demeanor on board the vessel was courteous, and his language never uncivil. He states, on the other hand, that the manner of the master was at first insulting, and that his language was that of marked rudeness. That after some delay, he (the boarding officer) was invited to go below, and that the ship's papers were shown to him; that there, also, the language and manner of the master were so insolent that he felt himself obliged to notice it, but that he did so still with urbanity; and that the moment he was satisfied by the papers that the "Rhoderick Dhu" was an American vessel, he desisted from all further interrogation; and he adds, that he and the master shook hands on leaving the vessel.

With respect to the conduct of the boat's crew, he denies that while he remained on deck they went all over the vessel, insulting and abusing every one on board; and he states that when he came up from the cabin with the master, he did not find the crew interfering in the slightest degree with anybody or any thing.

Her Majesty's government, however, consider that the grounds assigned by Lieutenant Raymond for his visiting the "Rhoderick Dhu" are insufficient, and have directed a communication to be made to Lieutenant Raymond to that effect. They have also signified their serious displeasure to the boarding officer at his having allowed his men to leave the boat on his visiting the "Rhoderick Dhu."

And although it appears, from the statements of her Majesty's officers concerned in the transaction, that, by some inadvertence not yet explained, the more strict instructions which have of late years been issued to her Majesty's ships respecting the conduct to be observed as to vessels hoisting the American flag had not reached the "Spy," it is not less the duty of her Majesty's government to express to the government of the United States their sincere regret that this visit should ever have taken place.

The undersigned, &c.

ABERDEEN.

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[Enclosure.]

GROSVENOR PLACE, *April* 16, 1844.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acknowledge the receipt of the note addressed to him by the Earl of Aberdeen, her Majesty's principal Secretary of State for Foreign Affairs, on the 10th instant, in reply to the note of the undersigned of the 5th of June last, relative to the detention and visitation on the coast of Africa of the American barque "Rhoderick Dhu," by the commander of her Britannic Majesty's brig "Spy," on the 4th of January, 1843; and the undersigned will avail himself of the earli-

est opportunity of forwarding Lord Aberdeen's note to the United States for the information of his government.

The undersigned, &c.

EDWARD EVERETT.

The Earl of Aberdeen, *&c. &c. &c.*

Mr. Cass to Mr. Webster.

Legation of the United States,
Paris, February 15, 1842.

Sir: I have not heretofore considered it necessary to write you officially respecting the state of affairs here, having relation to the question of the right of search depending between the American and British governments. But though no direct diplomatic action seemed advisable till recently, I did not the less observe the progress of events, nor neglect, by proper conversations and explanations with those who, from their position, influenced them, to convey a just notion of the subject, in its relation not only to the United States, but to all other maritime powers who do not seek the supremacy of the seas; and I have the satisfaction to believe that my exertions were not wholly useless, either with respect to public opinion or to public measures. I have kept you informed, in my private communications, of the progress of affairs, as well as of my own course of unofficial action; and I have transmitted, also, such of the French journals as seemed, in addition to the other information, best calculated to convey to you a correct idea of the state of affairs here, and of public feeling.

But I have just taken a step which renders necessary a full and free report of the condition of things here, and of the reasons which have led me to adopt this measure. My letter of the 13th instant to the Minister of Foreign Affairs (a copy of which I enclose) will make known to you my general sentiments concerning the relation in which we are placed with the French government by the signature of the quintuple treaty for the suppression of the slave trade, and by the declarations of Lord Palmerston and Lord Aberdeen concerning the measures which they claim to be indispensable to its execution. I need add nothing upon this subject.

I hesitated, at first, respecting the true course to be adopted. That it was proper to bring officially to the notice of the French government the declaration of that of Great Britain—that the conclusion of these treaties created an obligation and conferred a right to violate the flag of the United States—I did not entertain a doubt. What was true of the duty of one of the parties, was true of the duty of each of them. Either, therefore, the claim of Great Britain was well-founded, and, in that event, the government of France was about to contract new obligations, which might bring it into collision with the United States—a result I was certain it did not contemplate—or the claim was unjust, and, in that event, the treaty was about to be made the pretext of a direct attack upon our rights and honor by one of the parties, assuming to be governed by the obligations it had contracted toward the other associated powers; a state of things which gave us a right to call upon them to disavow such pretensions, and either to withdraw from an arrangement which was becoming so menacing to us, or to declare, by a solemn act, that it was not susceptible of such a

construction, and should not, with their consent, be employed for such a purpose. My first impression was, to present a formal protest against the ratification of the treaty; but, considering that I had no instructions to take so decided a measure, and that it would be more respectful to the French government, (of whose friendly disposition to the United States I have had numerous evidences,) and probably quite as useful, to state generally the bearing of the whole matter upon the United States, without claiming any specific action, I finally determined to take this course, and the letter to Mr. Guizot is the consequence.

I shall now proceed to make some remarks upon this general subject, which may not be useless in the consideration which the government will necessarily give to it. For some years the English journals have, with much art, turned the public attention of Europe from the great question of maritime right and of the freedom of the seas, involved in our discussions with Great Britain, connected with the measures to be adopted for the suppression of the slave trade, and directed it to that infamous traffic, sometimes asserting, and sometimes insinuating, that our opposition to the co-operation their government proposed originated in the miserable motive of profit—the profit to be derived from the most wretched of all commerce. But, thanks to the progress of truth, our case is now well understood upon the continent of Europe; and, as in all sudden reactions where injustice has been unwillingly done, the public sentiment here and elsewhere is setting strongly in our favor. The question has not again been presented in either of the chambers; but the indications in the journals, and in all societies, are too clear to be misunderstood.

Circumstances have placed us in a position which, if firmly maintained, will be equally honorable to ourselves, and useful to all other powers interested in the freedom of the seas. Depend upon it, we have reached one of those epochs in the progress of a nation which history looks back, if not as decisive of its destiny, at all events as influencing it, and as controlling its character and its conduct for a long series of years. England has advanced a pretension which we can never submit to without dishonor; and, in its enunciation, she has spared our pride as little as our rights. On the 27th of August, 1841, she avows the determination, and claims the right, to search our ships; and this interpolation into the law of nations is advanced with a coolness which might well surprise us, if anything could surprise us, in the march of human ambition.

The pretension is not put forth as a debatable point, to be discussed between the two governments, and to be settled in a mutual spirit of amity. But Lord Palmerston distinctly tells us that the exemption of the vessels of the United States from search *is a doctrine to which the British government never can nor will subscribe.* And he adds, with a rare comity indeed, that he hopes the day is not far distant when the government of the United States will cease to confound two things which are in their nature entirely different—*will look to things and not to words*—and, becoming wiser from the lessons thus taught, will suffer the British cruisers to search their vessels at all times and in all places, and content themselves with calling it a visit! For myself I see no mutual concession by which the parties may be brought together. A contested territory may be divided, and a claim for pecuniary injury may be reduced and satisfied, but we can not divide a great principle—one of the attributes of our independence—nor reduce the sphere of its operation. We can only demand

its inviolability with its just consequences. Under these circumstances, the first question is, if we shall yield? and that being answered in the negative, as I am satisfied it will be by the universal feeling of the country, the next is, will England yield? It is our safer course to believe that she will not, and, looking to her line of policy, that too is our most rational course. Wherever she has planted her foot, whether on marsh, moor, or mountain, under the polar circles as under the tropics, I will not say never—that word does not belong to the deeds of war—but rarely has she voluntarily withdrawn it. Whenever she has asserted a pretension, she has adhered to it through evil report and through good report, in prosperity and in adversity, with an iron will and with a firm hand, of which the history of the world furnishes perhaps no equal example since the proudest days of the Roman empire. In this consistency of purpose, and in the excess even of patriotism, which ministers to it, there is something noble and imposing; and I am among the last to deny the beautiful traits of the English character, or the benefits which England has rendered to the world by her example and her efforts. But she is not the less dangerous in her schemes of ambition from these redeeming considerations; and the time has come when we must look her designs in the face, and determine to resist or to yield. War is a great evil; but there are evils greater than war, and among these is national degradation. This we have never yet experienced, and I trust we never shall. If Lord Ashburton goes out with such modified propositions upon the various questions now pending between the two governments as you can honorably accept, the result will be a subject of lasting gratification to our country; and more particularly if, as I trust, before entering into any discussions, he is prepared to give such explanations as will show that we have misunderstood the intentions of the British government respecting this claim of a right to change the law of nations in order to accommodate it to their treaty stipulations, and its practical consequences—a claim to enter and search our vessels at all times and in all places. This preliminary proceeding would be worthy of the gravity of the circumstances, and equally honorable to both governments. It seems to me it is due to us. I allude to it in this connexion because the subject now necessarily presents itself to the French government, and because I feel confident that they are not prepared to support the pretensions of Great Britain.

We have already given one memorable example of moderation to the world in the rejection of a unanimous application from a neighboring people for admission into our confederacy; and this, too, of a territory among the most fertile and valuable upon the face of the earth, and destined to become our rival in the production of some of our richest staple articles. When accused of ambition, we may point to this proof of self-denial, and challenge an equal instance of its exercise. It is a fact worth volumes of professions of disinterestedness, and of disclaimers of all desire of self-aggrandizement.

It is not to be disguised that the quintuple treaty for the suppression of the slave trade was intended to act upon the United States by its moral force. As to France and England, their co-operation in the necessary measures for the abolition of that traffic was already secured by the treaties of 1831 and 1833; and, as to Prussia, Russia, and Austria, I suppose neither of them ever had, or ever will have, a vessel engaged in that commerce. But it was hoped, certainly by one of the parties, that this great

combination would either induce the United States to follow their example, and submit themselves to the measures indicated, or that it would lead to the establishment of some new principles of maritime law without them. But the subject is now so well understood that we have little to fear from this great combination, so long sought and so highly applauded. Its moral force, as the "Journal des Debats" justly observes, is gone. The discussion in the chamber of deputies, and the almost unanimous condemnation of the treaty, will have indicated to you the true state of feeling here, and you will not fail to appreciate the importance of the emphatic declaration of Mr. Guizot, during the debates, that the *Americans* were right, and that France, in the same circumstances, would do the same thing. The value of this testimonial to the justice of our course, made by such a statesman, in the face of Europe, can hardly be overrated.

Our true policy is to discourage all great combinations having for their object the regulation of maritime principles and police. European confederations for the regulation of European questions do not come within the sphere of our policy, as they touch neither our rights nor our interests. But when these powers extend their care and their jurisdiction over the ocean, I think the time has arrived for us to make ourselves heard. No nation is more interested than we are in the freedom of commerce, and we do not advance a single pretension which can give just cause of umbrage to any other country. If, indeed, a general congress of nations could be assembled, where all might be represented, the weak as well as the strong, then we might fairly take our place there and recognise its decisions as obligatory. But this is a measure so doubtful in itself, as well as in its consequences, that it is our interest, as it is the interest of all people who do not conceal any projects of aggrandizement in a professed desire to meliorate the maritime code of nations, to adhere to that code as they find it. This adherence to the established state of things is certainly not inconsistent with any arrangement which two nations may be disposed to make for a single purpose and for a limited time, to which they may be impelled by considerations of general benevolence. Certainly if Great Britain and the United States choose to restrain their citizens from any traffic condemned by moral considerations, and to regulate their joint action upon the subject, they may do so without subjecting themselves to any imputations of interested or ambitious motives. Each must judge for itself whether such a combined movement is in accordance with its policy or with the nature of its institutions. Both may agree to keep squadrons upon the coast of Africa to suppress the slave trade, and upon the coast of China to suppress the opium trade; branches of commerce destructive of human life and happiness—the latter of which has the advantage of being prohibited by the government of China, and the disadvantage, if we can credit but a small part of the statements of that government, of being far more injurious in its operation than the former. But these mutual agreements, dictated by the most charitable motives, would act merely upon the citizens of the respective countries, executing them without overawing others by their imposing form, and without leading to the establishment of any new principle of maritime law.

Nothing can explain to us more clearly the danger of these great combinations, if it does not reveal the object of one or more of the parties in their establishment, than the principle, so frankly developed by Lord Aberdeen, that this "happy concurrence" creates new duties and obliga-

tions, before whose *justice and necessity* the law of nations gives way, and to which the interests and independence of nations are sacrificed. I was therefore much pleased to read, in the message of the President of the United States to Congress at the commencement of the present session, his emphatic declaration that the United States would not submit to any such pretension. The powers of Europe, strong or weak, must understand, if necessary, that our country, in taking her place in the family of nations, took it with the same rights as the greatest of them, and there will maintain it unmoved by any confederation which may be formed, and wholly without the sphere of its operations.

The quintuple treaty has not yet been ratified by France, nor will it be, I think, without some essential alterations. It is understood that the English government are much dissatisfied at this determination. The Queen's speech, however, at the opening of the session, and Sir Robert Peel's remarks last week, in answer to a question of Lord Palmerston, seem to take for granted the French ratification. But, certainly, when the British premier made those remarks, he knew the discussion in the chamber of deputies and the state of public opinion here, and he ought to have known that a constitutional ministry would hesitate before they would incur the responsibility of such an act.

I observe that Lord Palmerston, in the remarks prefatory to his question, dwells upon the *disinterestedness* of his country and of the other parties to this treaty. This is the old topic of eulogy for England, as its reverse is intended to be of reproach for us. But its day has gone by. Europe fully understands the subject; and in public as in private life, it is not the most disinterested who are always avowing the purity of their intentions. One would think there were objects of misery enough at home to occupy the attention of any English statesman, without that excess of philanthropy which would tilt a spear at every nation, and light up the flames of a general war, in order to accomplish its own charitable views in its own exclusive way, almost at the end of the world. It brings forcibly to recollection one of the vagaries of Rousseau, that there are people who love those who are placed at the extremities of the earth, in order to excuse themselves for not loving their own neighbors.

In all that precedes, I believe, there is not a word which, if need be, would not be re-echoed by every American citizen in Paris. We are here in the midst of stirring circumstances, and can form a safe judgment of the dangers which menace us. If England pushes her purpose into action, we shall have a severe struggle to encounter; and the sooner and the more vigorously we prepare for it, the better. If she does not, we shall gain by our exhibition of firmness; and the very state of preparations may lead her to recede. But permit me to press upon you the necessity of instant and extensive arrangements for offensive and defensive war. All other questions, personal, local, and political, should give way before this paramount duty. England has fearful means of aggression. No man can yet tell the effect which the use of steam is to produce upon great warlike operations; and, with her accustomed sagacity, she has accumulated a large force of steam vessels. A hostile squadron might at any time carry to the United States the first news of war. And it would not be a war like the last one, conducted in many cases by incompetent officers, and feebly prosecuted; but she would put forth her utmost strength, and she would be felt, and ought to be met at every assailable

point. I cannot but hope that the excellent suggestions of the Secretaries of War and of the Navy respecting national defence may find general support.

You may naturally think that this is not a very diplomatic despatch. It is not so, certainly, so far as diplomacy consists in mystery, either of thought or expression. I have felt strongly, and I have attempted to speak plainly. I do not belong to the school of that well known French statesman who said that language was given to conceal thoughts. If necessary, I must claim your indulgence for my candor in consideration of my motives. I see the difficult position of my country, and most anxious am I that it should be seen and appreciated at home. That done, I have no fear for the result. If the sentiments I have expressed are not those of the government and people of my country, then I have lived a stirring life, and mixed with my countrymen in every situation, without having learned the American character.

You will perceive that, in my letter to Mr. Guizot, I have taken upon myself the responsibility of my interposition. Your course is perfectly free to avow or disavow my conduct. The President will decide as the public interest requires. I do not shut my eyes to the gravity of the circumstances in which I am placed. In the unforeseen emergency which presents itself, I have pursued the course that appeared to me to be dictated by the honor and interest of our country, and I have the satisfaction to believe that my measures will not be wholly without beneficial results. It is now for the government to judge what is its own duty, and to determine whether my conduct shall be approved or disapproved.

I am, &c.,

LEW. CASS.

Hon. DANIEL WEBSTER,
Secretary of State, Washington.

[Enclosure.]

LEGATION OF THE UNITED STATES,
Paris, February 13, 1842.

SIR: The recent signature of a treaty, having for its object the suppression of the African slave trade, by five of the powers of Europe, and to which France is a party, is a fact of such general notoriety that it may be assumed as the basis of any diplomatic representations which the subject may fairly require.

The United States, being no party to this treaty, have no right to inquire into the circumstances which have led to it, nor into the measures it proposes to adopt, except so far as they have reason to believe that their rights may be involved in the course of its execution. Their own desire to put a stop to this traffic is every where known, as well as the early and continued efforts they have adopted to prevent their citizens from prosecuting it. They have been invited by the government of Great Britain to become a party to the treaty, which should regulate the action of the combined governments upon the subject. But, for reasons satisfactory to themselves, and I believe satisfactory to the world, they have declined this united action, and have chosen to pursue their own measures, and to

act upon their own citizens only, without subjecting these to any kind of foreign jurisdiction.

In a communication from Lord Palmerston, her Britannic Majesty's principal Secretary of State for Foreign Affairs, to Mr. Stevenson, the American minister at London, dated 27th August, 1841, Lord Palmerston claims a right for the British cruisers, and avows the intention of his government to exercise it, to search American vessels at sea in time of peace, with a view to ascertain their national character. He adds, that "this examination of papers of merchantmen suspected of being engaged in the slave trade, even though they hoist a United States flag, is a proceeding which it is absolutely necessary that British cruisers employed in the suppression of the slave trade should continue to practise," &c., &c.

In a communication from the successor of Lord Aberdeen to Mr. Stevenson, dated October 13, 1841, the views and determination announced in the first are confirmed; and Lord Aberdeen thus states the ground upon which rests this pretension to search American vessels in time of peace: "But the undersigned must observe, that the present happy concurrence of the States of Christendom in this great object (the suppression of the slave trade) not merely justifies, but renders indispensable, the right now claimed and exercised by the British government." That is to say, the right of entering and examining American vessels, to ascertain their nationality.

It is no part of my duty to offer any comments upon this pretension, nor upon the reasons advanced in support of it. And if it were, I should find the duty far better performed for me, than I could perform it for myself, in the annual message of the [President of the] United States to Congress of December 7, 1841. In that document will be found the views of the American government upon this subject; and it is there emphatically declared that, "however desirous the United States may be for the suppression of the slave trade, they cannot consent to interpolations into the maritime code at the mere will and pleasure of other governments. We deny the right of any such interpolation to any one or all the nations of the earth, without our consent. We claim to have a voice in all amendments or alterations of that code; and when we are given to understand, as in this instance, by a foreign government, that its treaties with other nations cannot be executed without the establishment and enforcement of new principles of maritime police, to be applied without our consent, we must employ language neither of equivocal import, nor susceptible of misconstruction."

You will perceive, sir, by these extracts, that the British government has advanced a pretension which it asserts to be indispensable to the execution of its treaties for the suppression of the slave trade, and to which the President of the United States has declared that the American government will not submit. This claim of search, it will be observed, arising, as is asserted, out of existing obligations, has relation to the isolated treaties for the abolition of this traffic which were in force at the date of the communications of Lord Palmerston and of Lord Aberdeen. It is now known that the combined treaty upon this subject is more extensive in its operations, and more minute in some of the details of its execution, than the separate treaties with France which preceded it, and equally indefinite in the duration of its obligations. Of course, measures which

were not only "justifiable, but indispensable" for the execution of the latter, will find equal justice and necessity in the obligations of the former.

With this previous declaration made by one of the parties to this quintuple treaty, concerning its operations, the American government cannot shut their eyes to their true position. The moral effect which such a union of five great powers, two of which are eminently maritime, but three of which have perhaps never had a vessel engaged in that traffic, is calculated to produce upon the United States, and upon other nations who, like them, may be indisposed to these combined movements, though it may be regretted, yet furnishes no just cause of complaint. But the subject assumes another aspect when they are told by one of the parties that their vessels are to be forcibly entered and examined, in order to carry into effect these stipulations. Certainly the American government does not believe that the high powers, contracting parties to this treaty, have any wish to compel the United States, by force, to adopt their measures to its provisions, or to adopt its stipulations. They have too much confidence in their sense of justice to fear any such result; and they will see with pleasure the prompt disavowal made by yourself, sir, in the name of your country, at the tribune of the chamber of deputies, of any intentions of this nature. But were it otherwise, and were it possible they might be deceived in this confident expectation, that would not alter in one tittle their course of action. Their duty would be the same, and the same would be their determination to fulfil it. They would prepare themselves with apprehension, indeed, but without dismay—with regret, but with firmness—for one of those desperate struggles which have sometimes occurred in the history of the world, but where a just cause and the favor of Providence have given strength to comparative weakness, and enabled it to break down the pride of power.

But I have already said that the United States do not fear that any such united attempt will be made upon their independence. What, however, they may reasonably fear, and what they do fear, is, that in the execution of this treaty, measures will be taken which they must resist. How far the act of one of the parties putting its construction upon its own duties, and upon the obligations of its co-contractors, may involve these in any unlooked-for consequences, either by the adoption of similar measures or by their rejection, I do not presume to judge. Certain it is, however, that if the fact, and the principle advanced by Lord Aberdeen, are correct, that these treaties for the abolition of the slave trade cannot be executed without forcibly boarding American ships at sea in time of peace, and that the obligations created by them confer not only the right thus to violate the American flag, but make this measure a duty, then it is also the duty of France to pursue the same course. Should she put this construction upon her obligations, it is obvious the United States must do to her as they will do to England, if she persists in this attack upon their independence. Should she not, it does not become me to investigate the nature of her position with respect to one of her associates, whose opinion respecting their relative duties would be so widely different from her own. But I may express the hope that the government of his Majesty, before ratifying this treaty, will examine maturely the pretensions asserted by one of the parties, and see how these can be reconciled not only with the honor and interest of the United States, but with the received principles of the great maritime code of nations. I may make this appeal with the more confidence from the relations subsisting between France and the United States,

from a community of interest in the liberty of the seas, from a community of opinion respecting the principles which guard it, and from a community in danger should it ever be manaced by the ambition of any maritime power.

It appears to me, sir, that in asking the attention of his Majesty's government to the subject of the quintuple treaty, with a view to its reconsideration, I am requesting nothing on the part of the United States inconsistent with the duties of France to other powers. If, during the course of the discussions upon this treaty, preparatory to the arrangement of its provisions, England had asserted to the other parties the pretension she now asserts to the United States, as a necessary consequence of its obligations, I cannot be wrong in presuming that France would not have signed it without guarding against this impending difficulty. The views of England are now disclosed to you, but fortunately before its ratification. And this change of circumstances may well justify the French government in interposing such a remedy as it may think is demanded by the grave interests involved in this question.

As to the treaties of 1831 and 1833, between France and Great Britain, for the suppression of the slave trade, I do not consider it my duty to advert to their stipulations. Their obligations upon the contracting parties, whatever these may be, are now complete; and it is for my government alone to determine what measures the United States ought to take to avert the consequences with which they are threatened by the construction which one of the parties has given to these instruments.

I have the honor to transmit, herewith, a copy of the message of the President of the United States to Congress, in December last, and of the annual documents which accompanied it. Among the latter will be found the correspondence between the British Secretaries of State and Mr. Stevenson upon the subject herein referred to. From these you will learn the respective views of the American and British governments.

It is proper for me to add that this communication had been made without any instructions from the United States. I have considered this case as one in which an American representative to a foreign power should act without awaiting the orders of his government. I have presumed, in the views I have submitted to you, that I express the feelings of the American government and people. If in this I have deceived myself, the responsibility will be mine. As soon as I can receive despatches from the United States in answer to my communications, I shall be enabled to declare to you either that my conduct has been approved by the President, or that my mission is terminated.

I avail myself, &c.

LEWIS CASS.

His Excel'y Mr. GUIZOT,
Minister of Foreign Affairs.

Mr. Webster to Mr. Cass.

DEPARTMENT OF STATE,
Washington, April 5, 1842.

SIR: By the arrival of the steampacket at Boston, on the 27th day of last month, I had the honor to receive your several despatches down to

the 25th of February. The vessel had been so long delayed on the passage to America that, after the receipt here of the communications brought by her, there was not time to prepare answers in season to reach Boston before the time fixed for her departure on her return. The most I was able to do, was to write a short note to Mr. Everett, to signify that the mail from London had come safe to hand.

The President has been closely attentive to recent occurrences in Europe, connected with the treaty of the five powers, of which we received a copy soon after its signature in December. He has witnessed with especial interest the sentiments to which that treaty appears to have given rise in France, as manifested by the debates in the chambers and the publication of the Parisian press, and he is now officially informed of the course which you felt it to be your duty to take, by the receipt of a copy of the letter addressed by you to Mr. Guizot on the 13th of February.

When the President entered upon the duties of his present office, in April of last year, a correspondence, as you know, had been long pending, and was still pending, in London, between the minister of the United States and her Britannic Majesty's Secretary of State for Foreign Affairs, respecting certain seizures and detentions of American vessels on the coast of Africa by armed British cruisers, and generally respecting the visitation and search of American vessels by such cruisers in those seas. A general approbation of Mr. Stevenson's note to the British minister, in regard to this subject, was soon after communicated to that gentleman, by the President's order, from this department. The state of things in England in the early part of last summer did not appear to favor a very active continuance or prosecution of this correspondence; and, as Mr. Stevenson had already received permission to return home, no new instructions were addressed to him.

Circumstances occurred, as you are aware, which delayed Mr. Everett's arrival at the post assigned to him as minister to London; and, in the mean time, in the latter part of August, the correspondence between Lord Palmerston and Mr. Stevenson was, somewhat unexpectedly, resumed afresh, not only on the subject of the African seizures, but on other subjects.

Mr. Everett arrived in London only in the latter part of November; and, in fact, was not presented to the Queen until the 16th day of December. While we were waiting to hear of his appearance at his post, the session of Congress was fast approaching; and, under these circumstances, the President felt it to be his duty to announce, publicly and solemnly, the principles by which the government would be conducted in regard to the visitation and search of ships at sea. As one of the most considerable, commercial, and maritime States of the world, as interested in whatever may in any degree endanger or threaten the common independence of nations upon the seas, it was fit that this government should avow the sentiments which it has heretofore always maintained, and from which it cannot under any circumstances depart. You are quite too well acquainted with the language of the message, on which your letter is bottomed, to need its recital here. It expresses what we consider the true American doctrine, and that which will, therefore, govern us in all future negotiations on the subject.

While instructions for Mr. Everett were in the course of preparation, signifying to him in what manner it might be practicable to preserve the

peace of the country consistently with the principles of the message, and yet so as to enable the government to fulfil all its duties, and meet its own wishes, and the wishes of the people of the United States, in regard to the suppression of the African slave trade, it was announced that the English government had appointed Lord Ashburton as special minister to this country, fully authorized to treat of and definitely settle all matters in difference between the two countries. Of course no instructions were forwarded to Mr. Everett respecting any of those matters. You perceive, then, that up to the present moment we rest upon the sentiments of the message: beyond the fair scope and purport of that document we are not committed on the one hand nor on the other. We reserve to ourselves the undiminished right to receive or to offer propositions on the delicate subjects embraced in the treaty of the five powers, to negotiate thereupon as we may be advised, never departing from our principles, but desirous, while we carefully maintain all our rights to the fullest extent, of fulfilling our duties also as one of the maritime States of the world.

The President considers your letter to Mr. Guizot to have been founded, as it purports, upon the message delivered by him at the opening of the present session of Congress; as intending to give assurance to the French government that the principles of that message would be adhered to, and that the government of the United States would regret to see other nations, especially France, an old ally of the United States and a distinguished champion of the liberty of the seas, agree to any arrangement between other States which might, in its influences, produce effects unfavorable to this country, and to which arrangement, therefore, this country itself might not be able to accede.

The President directs me to say that he approves your letter, and warmly commends the motives which animated you in presenting it. The whole subject is now before us here, or will be shortly, as Lord Ashburton arrived last evening; and, without intending to intimate at present what modes of settling this point of difference with England will be proposed, you may receive two propositions as certain:

1st. That, in the absence of treaty stipulations, the United States will maintain the immunity of merchant vessels on the sea to the fullest extent which the law of nations authorizes.

2d. That if the government of the United States, animated by a sincere desire to put an end to the African slave trade, shall be induced to enter into treaty stipulations for that purpose with any foreign power, those stipulations will be such as shall be strictly limited to their true and single object, such as shall not be embarrassing to innocent commerce, and such especially as shall neither imply any inequality, nor can tend in any way to establish such inequality, in their practical operations.

You are requested to communicate these sentiments to Mr. Guizot at the same time that you signify to him the President's approbation of your letter; and are requested to add an expression of the sincere pleasure which it gives the President to see the constant sensibility of the French government to the maintenance of the great principles of national equality upon the ocean. Truly sympathizing with that government in abhorrence of the African slave trade, he appreciates the high motives and the comprehensive views of the true, permanent interest of mankind, which induces it to act with great caution in giving its sanction to a measure

susceptible of interpretations, or of modes of execution, which might be in opposition to the independence of nations and the freedom of the seas.

I am, &c.,

DANIEL WEBSTER.

LEWIS CASS, Esq., *&c. &c. &c.*

Mr. Cass to Mr. Webster.

LEGATION OF THE UNITED STATES,
Paris, April 30, 1842.

SIR: The quintuple treaty, purporting to be for the suppression of the slave trade, has not yet been ratified by France, and the manifestations of public opinion against it are so numerous and decisive that it seems to be too clearly the part of true wisdom to yield to them, to render it probable that that measure will ever be adopted.

Mr. Guizot has not answered my letter of the 13th February, and I have now no expectation he will do so till the course of our government upon the subject is known here. I have yet received nothing from you upon the subject, but I am expecting every day your instructions. If the President should disapprove the step I have taken, I could no longer remain here with honor to myself or with advantage to our country.

I am, &c.,

LEW. CASS.

HON. DANIEL WEBSTER,
Secretary of State, Washington.

Mr. Cass to Mr. Webster.

LEGATION OF THE UNITED STATES,
Paris, May 17, 1842.

SIR: I have the honor to acknowledge the receipt of your despatch of the 5th April, and am happy to find that the course which I considered it necessary to take in relation to the ratification, by France, of the quintuple treaty for the suppression of the slave trade, has met the approbation of the President.

Immediately on the receipt of your letter, I sought an interview with Mr. Guizot, and after some conversation with him, I placed the letter in his hands. I thought this mode of procedure far better than to trust myself to make a verbal statement, to be afterwards put in the form of an official communication to him. As you instructed me to make known the sentiments of the President upon the whole matter, I was sure I could not perform this task as well as I found it performed for me; and this view was not checked by any considerations arising out of the nature of the despatch. There was nothing in it which might not be seen by all the world.

Mr. Guizot was touched by the frankness of the proceeding, and testified his gratification after the perusal of the letter. He then asked for a

copy of it, which I did not hesitate to promise him; and since then I have sent it; and have thus, in my opinion, in the best mode in my power, carried into effect your instructions.

Mr. Guizot said nothing on the subject of an answer. If the treaty is not ratified, as I have now the confident expectation that it will not be, it is possible he may consider that the occasion for an answer has passed by.

I am, &c.,

LEW. CASS.

Hon. DANIEL WEBSTER,
Secretary of State, Washington.

Mr. Cass to Mr. Webster.

LEGATION OF THE UNITED STATES,
Paris, May 26, 1842.

SIR: Since my despatch of the 17th instant, the question of the ratification of the quintuple treaty has been discussed in the chamber of peers and in the chamber of deputies; and the sentiments expressed were unanimously against the measure. It is now well understood that the subject is at rest in France, and that no ministry will venture to recommend ratification. Efforts will no doubt now be made, and I think eventually with success, for the abrogation of the treaties of 1831 and 1833.

The question of the budget is a subject which, by the usage of the French chambers, allows great latitude of discussion. Connected with this matter, the commercial relations between France and the United States have just been warmly debated. I send you the *Moniteur*, which contains an account of the proceedings. It is well worth your examination, and I think ought to be translated and published for the information of the country. It is lamentable to find such erroneous notions prevailing in such a high place respecting the true character of the trade between France and the United States. You will see that the speakers complain of two grievances: first, of the navigation; and, second, of the duties proposed to be levied on foreign productions imported into the United States. As to the former, it is, as you know, upon a footing of perfect equality; and as to the latter, if it were, as it is not, a just subject of interference for a foreign government, France is one of the last countries which has any just right to complain. Her prohibitive system, commenced so long ago as Colbert, has been continued, with little relaxation, to this day. You cannot fail to be struck by the views advanced by most of the speakers, and the gravity with which they urge reprisals against the United States. But I assure you that these sentiments are general in France; and such are the exclusive views taken of these subjects by the press, that it is hopeless to expect to change public opinion. We have nothing to do but to pursue our own measures firmly, leaving to other governments to meet them as they think proper.

As soon as I read the debate in the *Moniteur*, I called upon Mr. Guizot to converse with him upon the subject. I found him very reasonable, though not fully acquainted with the details of the matter. He says, however, that he is looking into it, and that nothing will be hastily done. It is my decided opinion that there is no efficient remedy for the present

state of things, but by a commercial treaty which shall regulate our intercourse with France. I recommend that measures with that view be taken without delay; and I think the negotiations can be better carried on at Washington than here. If full powers and general instructions are given to the French minister there, you may calculate with a reasonable probability upon a successful termination of your efforts. He would understand the true state of things better than they are or can be understood here. The government has too many important subjects on hand, to be able to devote the proper time for the acquisition of all the necessary facts which belong to this subject.

I am, &c.,

LEW. CASS.

Hon. DANIEL WEBSTER,
Secretary of State, Washington.

Mr. Cass to Mr. Webster.

LEGATION OF THE UNITED STATES,
Paris, May 31, 1842.

SIR: I have the honor to transmit, herewith, the copy of a letter which I have received from the Minister of Foreign Affairs, in answer to my letter to him of 13th February, concerning the quintuple treaty.

I have merely said, in acknowledging the receipt of this letter, that I should transmit it to my government for its information.

I am, &c.,

LEWIS CASS.

Hon. DANIEL WEBSTER, *Sec'ry of State, Washington.*

[Enclosure—Translation.]

PARIS, *May* 26, 1842.

GENERAL: I received in due time the letter with which you honored me on the 13th of February, respecting the treaty signed on the 26th of December, between the plenipotentiaries of France, Austria, Great Britain, Prussia, and Russia, with the object of attaining a more efficient repression of the negro slave trade. You therein expressed your desire that the King's government should not ratify this treaty; and you at the same time stated that you were about to inform your government of a measure which you had thought proper to take, without authorization, upon your own responsibility; and that, as soon as you should have received the approval or the disavowal of your government, you would communicate it to me.

I have just received, with your letter of the 3d of this month, a copy of that which Mr. Webster has written to you, announcing the approval by the President of your despatch of the 13th of February; and as that despatch has thus acquired an official character, which it did not before possess, I conceive that I should no longer defer my answer, which would have been hitherto premature.

You expressed to me, sir, your apprehension that the treaty of Decem-

ber 20 might constitute, on the part of the contracting parties, an engagement to create a new principle of international law, whereby the vessels even of those powers which have not participated in the arrangement should be subjected to the right of search, as established in its stipulations. As the act in question has not been ratified by the King's government, and consequently does not exist, so far as regards France, at this moment, I might abstain from entering into any explanations on the subject. But the amicable relations subsisting between France and the United States make it my duty to come forward, and prevent all misunderstanding, by frank and complete explanations; moreover, we have always been actuated in this matter by intentions too correct and honest (droites et loyales) for us not to embrace with eagerness an opportunity to exhibit them to the world.

It is not my part to examine the value of the deductions, with regard to the private views of the cabinet of London, which you draw from certain passages of the despatches written by Lord Palmerston and Lord Aberdeen to Mr. Stevenson, but I shall not hesitate to say what was the idea of the King's government upon the serious question which you raise. The treaty of December 20, 1841, whatever hereafter might be its destiny, was founded upon no other principles than the conventions of 1831 and 1833. The stipulations of these conventions only engaged France and England; the treaty of December 20 extends them to Austria, Prussia, and Russia, with some changes more or less important, but not altering their nature. In order that the extraordinary intention of imposing upon other States the obligation to submit to them should be deduced, this intention, which is in nowise indicated in the act of December 20, might be the result of the anterior conventions. Never have we, never could we have understood them in such a sense.

I have the less hesitation in here giving the formal, and, in my opinion, entirely superfluous assurance, that the King's government, on its part, places the fullest confidence in the firm resolution so often proclaimed by the Federal government, to aid, by its most sincere endeavors, in the definitive abolition of the trade. The despatch of Mr. Webster, which you do me the honor to communicate to me, is of such a nature as to increase this confidence. It seems to show, in fact, that the cabinet of Washington foresees the probability of concluding, with the States which have adhered to the right of reciprocal search for the suppression of the slave trade, arrangements proper to attain the end which they propose.

We should attach the more value to this concurrence of views from the circumstance that, while it would hasten the entire destruction of the slave trade, it would have the effect, by placing all governments in the same situation as regards the measures adopted for the suppression, to give to the maritime laws, and the commercial activity of all nations, guarantees of security which it would be difficult to obtain, amid the complications and causes of collision which would necessarily result from opposition, or diversity of the systems. However it may be, nevertheless, should this hope not be realized—should the United States persist in their isolation—we have the conviction that they will regard it as a sacred duty to prevent that isolation from affording to the prosecutors of an infamous speculation too many chances of impunity.

Accept, General, the assurance, &c.

GUIZOT.

General Cass, *Envoy Extraordinary, &c.*

Mr. Webster to Mr. Cass.

DEPARTMENT OF STATE,
Washington, August 29, 1842.

SIR: You will see, by the enclosed, the result of the negotiations lately had in this city between this department and Lord Ashburton. The treaty has been ratified by the President and Senate.

In communicating to you this treaty, I am directed by the President to draw your particular attention to those articles which relate to the suppression of the African slave trade.

After full and anxious consideration of this very delicate subject, the government of the United States has come to the conclusion which you will see expressed in the President's message to the Senate accompanying the treaty.

Without intending or desiring to influence the policy of other governments on this important subject, this government has reflected on what was due to its own character and position, as the leading maritime power on the American continent, left free to make such choice of means for the fulfilment of its duties as it should deem best suited to its dignity. The result of their reflections has been, that it does not concern in measures which, for whatever benevolent purpose they may be adopted, or with whatever care and moderation they may be exercised, have yet a tendency to place the police of the seas in the hands of a single power. It chooses rather to follow its own laws, with its own sanction, and to carry them into execution by its own authority. Disposed to act in the spirit of the most cordial concurrence with other nations for the suppression of the African slave trade, that great reproach of our times, it deems it to be right nevertheless that this action, though concurrent, should be independent; and it believes that, from this independence, it will derive a greater degree of efficiency.

You will perceive, however, that, in the opinion of this government, cruising against slave dealers on the coast of Africa is not all which is necessary to be done, in order to put an end to the traffic. There are markets for slaves, or the unhappy natives of Africa would not be seized, chained, and carried over the ocean into slavery. These markets ought to be shut. And, in the treaty now communicated to you, the high contracting parties have stipulated "that they will unite, in all becoming representations and remonstrances, with any and all powers within whose dominions such markets are allowed to exist; and that they will urge upon all such powers the propriety and duty of closing such markets effectually at once and forever."

You are furnished, then, with the American policy in regard to this interesting subject. First, independent but cordially concurrent efforts of maritime States to suppress, as far as possible, the trade on the coast, by means of competent and well appointed squadrons, to watch the shores and scour the neighboring seas. Secondly, concurrent, becoming remonstrance with all governments who tolerate within their territories markets for the purchase of African negroes. There is much reason to believe that if other States, professing equal hostility to this nefarious traffic, would give their own powerful concurrence and co-operation to these remonstrances, the general effect would be satisfactory, and that the cupid-

ity and crimes of individuals would at length cease to find both their temptation and their reward in the bosom of Christian States, and in the permission of Christian governments.

It will still remain for each government to revise, execute, and make more effectual its own municipal laws against its subjects or citizens who shall be concerned in, or in any way give aid or countenance to others concerned in this traffic.

You are at liberty to make the contents of this despatch known to the French government.

I have, &c.,

DANIEL WEBSTER.

LEWIS CASS, Esq., *&c. &c. &c.*

Mr. Cass to Mr. Webster.

LEGATION OF THE UNITED STATES,
Paris, September 17, 1842.

SIR: The mail by the steampacket which left Boston the 1st instant has just arrived, and has brought intelligence of the ratification of the treaties recently concluded with Great Britain. All apprehensions, therefore, of any immediate difficulties with that country are at an end, and I do not see that any public interest demands my further residence in Europe. I can no longer be useful here, and the state of my private affairs requires my presence at home. Under these circumstances, I beg you to submit to the President my wish for permission to retire from this mission, and to return to the United States without delay. In the hope that there will be no objection to this measure, I shall proceed to make my arrangements to leave here about the 13th November, so as to embark in the steamer of the 19th November. I cannot delay my departure any longer, as I am anxious to finish my voyage before the winter weather.

I have, therefore, to pray you to favor me with an answer by the return steampacket, enclosing my letters of recall, and authorizing me to transfer the legation to the secretary, Mr. Ledyard, as chargé d'affaires, till a minister can be sent out. He is every way competent to discharge the duties.

I am, &c.,

LEW. CASS.

Hon. DANIEL WEBSTER,
Secretary of State, Washington.

Mr. Cass to Mr. Webster.

LEGATION OF THE UNITED STATES,
Paris, October 3, 1842.

SIR: The last packet brought me your letter of August 29, announcing the conclusion of a treaty with Great Britain, and accompanied by a copy of it, and of the correspondence between the ministers charged with the negotiations, and directing me to make known to Mr. Guizot the sentiments of the American government upon that part of the treaty which

provides for the co-operation of the United States in the efforts making to suppress the African slave trade. I thought I should best fulfil your intentions by communicating a copy, *in extenso*, of your letter. This I accordingly did yesterday. I trust I shall be able, before my departure, to transmit to you the acknowledgment of its receipt by Mr. Guizot.

In executing this duty, I felt too well what was due to my government and country to intimate any regret to a foreign power that some declaration had not preceded the treaty, or some stipulation accompanied it, by which the extraordinary pretension of Great Britain to search our ships at all times and in all places, first put forth to the world by Lord Palmerston on the 27th August, 1841, and on the 13th October following again peremptorily claimed as a right by Lord Aberdeen, would have been abrogated, as equally incompatible with the laws of nations and with the independence of the United States. I confined myself, therefore, to a simple communication of your letter.

But this reserve ceases when I address my own government; and, connected as I feel my official conduct and reputation with this question of the right of search, I am sure I shall find an excuse for what might otherwise be considered presumption, if, as one of the last acts of my official career, I submit to you, and through you to the President, the peculiar circumstances in which I am placed by the conclusion of this treaty, and by the communication of your letter to Mr. Guizot.

Before proceeding further, however, permit me to remark that no one rejoices more sincerely than I do at the termination of our difficulties with Great Britain, *so far as they are terminated.* That country and ours have so many moral and material interests involved in their intercourse, that their respective governments and inhabitants may well feel more than ordinary solicitude for the preservation of peace between these two great nations. Our past history, however, will be unprofitable, if it do not teach us that unjust pretensions, affecting our rights and honor, are best met by being promptly repelled when first urged, and by being received in a spirit of resistance worthy the character of our people and of the great trust confided to us as the depositaries of the freest system of government which the world has yet witnessed.

I had the honor, in my letter of the 17th ultimo, to solicit permission to return to the United States. That letter was written the day a copy of the treaty reached Paris; and the remark which I then made to you, that "I could no longer be useful here," has been confirmed by subsequent reflection, and by the receipt of your letter and of the correspondence accompanying it. I feel that I could no longer remain here honorably for myself or advantageously for our country.

In my letter to you of the 15th February last, transmitting a copy of my protest against the ratification of the quintuple treaty for the suppression of the African slave trade, I took the liberty of suggesting the propriety of demanding from Lord Ashburton, previously to entering into any negotiation, a distinct renunciation of this claim to search our vessels. I thought then, as I do now, that this course was demanded by a just self-respect, and would be supported by that tribunal of public opinion which sustains our government when right, and corrects it when wrong. The pretension itself was one of the most flagrant outrages which could be aimed at an independent nation; and the mode of its enunciation was as coolly contemptuous as diplomatic ingenuity could

suggest. We were told, that to the doctrine that American vessels were free from the search of foreign cruisers in time of peace, "the British government never could or would subscribe;" and we were told, too, there was reason to expect that the United States would themselves become converts to the same opinion; and this expectation was founded on the hope that "they would cease to confound two things which are in their nature entirely different, and would look to things and not to words." And the very concluding paragraph of the British correspondence tells us, in effect, that we may take whatever course we please, but that England will adhere to this pretension to board our vessels when and where her cruisers may find them. A portion of this paragraph is equally significant and unceremonious. "It is for the American government," says Lord Aberdeen, "alone to determine what may be due to a just regard for their national dignity and national independence." I doubt if, in the wide range of modern diplomacy, a more obnoxious claim has been urged in a more obnoxious manner.

This claim, thus asserted and supported, was promptly met and firmly repelled by the President, in his message at the commencement of the last session of Congress; and in your letter to me, approving the course I had adopted in relation to the question of the ratification by France of the quintuple treaty, you consider the principles of that message as the established policy of the government. Under these circumstances of the assertion and denial of this new claim of maritime police, the eyes of Europe were upon these two great naval powers, one of which had advanced a pretension, and avowed her determination to enforce it, which might at any moment bring them into collision. So far our national dignity was uncompromitted.

But England then urged the United States to enter into a conventional arrangement, by which we might be pledged to concur with her in measures for the suppression of the slave trade. Till then we had executed our own laws in our own way. But, yielding to this application, and departing from our former principle of avoiding European combinations upon subjects not American, we stipulated, in a solemn treaty, that we would carry into effect our own laws, and fixed the minimum force we would employ for that purpose. Certainly, a laudable desire to terminate this horrible man-stealing and man-selling may well justify us in going further, in changing one of the fundamental principles of our policy, in order to effect this object, than we would go to effect any other. It is so much more a question of feeling than of reasoning, that we can hardly be wrong in yielding to that impulse which leads us to desire to unite our efforts with those of other nations for the protection of the most sacred human rights. But, while making so important a concession to the renewed application of England, it seems to me we might well have said to her—*Before we treat upon this matter, there is a preliminary question connected with it, which must be settled. We will do no act which may, by any possibility, appear to be a recognition of your claim to search our vessels. That claim has arisen out of this very subject, or, at any rate, this subject has been the pretext for its assertion; and if we now negotiate upon it, and our concurrence is yielded, you must relinquish, as solemnly as you have announced, this most offensive pretension. If this is not done, by now making a conventional arrangement with you, and leaving you free to*

take your own course, we shall, in effect, abandon the ground we have assumed, and with it our rights and honor.

In carefully looking at the seventh and eighth articles of the treaty providing for our co-operation in the measures for the suppression of this traffic, I do not see that they change, in the slightest degree, the pre-existing right claimed by Great Britain to arrest and search our vessels. That claim, as advanced both by Lord Palmerston and Lord Aberdeen, rested on the assumption that the treaties between England and other European powers upon this subject could not be executed without its exercise, and that *the happy concurrence of these powers not only justified this exercise, but rendered it indispensable.* By the recent treaty we are to keep a squadron upon the coast of Africa. We have kept one there for years—during the whole term, indeed, of these efforts to put a stop to this most iniquitous commerce. The effect of the treaty is, therefore, to render it obligatory upon us, by a convention, to do what we have long done voluntarily —to place our municipal laws, in some measure, beyond the reach of Congress, and to increase the strength of the squadron employed on this duty. But if a British cruiser meet a vessel bearing the American flag, where there is no American ship-of-war to examine her, it is obvious that it is quite as *indispensable* and *justifiable* that the cruiser should search this vessel to ascertain her nationality since the conclusion of the treaty, as it was before. The mutual rights of the parties are in this respect wholly untouched; their pretensions exist in full force; and what they could do prior to this arrangement they may now do; for, though they have respectively sanctioned the employment of a force to give effect "to the laws, rights, and obligations of the two countries," yet they have not prohibited the use of any other measure which either party may be disposed to adopt.

It is unnecessary to push these considerations further; and, in carrying them thus far, I have found the task an unpleasant one. Nothing but justice to myself could have induced me to do it. I could not clearly explain my position here without this recapitulation. My protest of 13th February distinctly asserted that the United States would resist the pretension of England to search our vessels. I avowed, at the same time, that this was but my personal declaration, liable to be confirmed or disavowed by my government. I now find a treaty has been concluded between Great Britain and the United States, which provides for the co-operation of the latter in efforts to abolish the slave trade, but which contains no renunciation by the former of the extraordinary pretension, resulting, as she said, from the exigencies of these very efforts; and which pretension I felt it my duty to denounce to the French government. In all this I presume to offer no further judgment than as I am personally affected by the course of the proceedings; and I feel they have placed me in a false position, whence I can escape but by returning home with the least possible delay. I trust, therefore, that the President will have felt no hesitation in granting me the permission which I asked for.

I am, &c.,

LEW. CASS.

DANIEL WEBSTER,
Secretary of State, Washington.

Mr. Webster to Mr. Cass.

DEPARTMENT OF STATE,
Washington, October 11, 1842.

SIR: I have to acknowledge the receipt of your despatch of the 17th of September last, requesting permission to return home.

I have submitted the despatch to the President, and am by him directed to say that, although he much regrets that your own wishes should, at this time, terminate your mission to the court of France, where for a long period you have rendered your country distinguished service, in all instances to its honor and to the satisfaction of the government, and where you occupy so favorable a position, from the more than ordinary good intelligence which is understood to subsist between you, personally, and the members of the French government, and from the esteem entertained for you by its illustrious head; yet he cannot refuse your request to return once more to your home and your country, so that you can pay that attention to your personal and private affairs which your long absence and constant employment in the service of your government may now render most necessary.

I have, sir, to tender you, on behalf of the President, his most cordial good wishes, and am, &c.,

FLETCHER WEBSTER,
Acting Secretary of State.

LEWIS CASS, Esq., *&c. &c. &c.*

Mr. Cass to Mr. Webster.

LEGATION OF THE UNITED STATES,
Paris, October 29, 1842.

SIR: I have the honor to transmit, herewith, a copy of the letter of the Minister of Foreign Affairs of the 14th instant, acknowledging the reception of my letter to him of the 2d instant, enclosing a copy of your communication of August 29th, respecting the conclusion of the recent treaty with Great Britain.

I am, &c.,

LEW. CASS.

Hon. DANIEL WEBSTER,
Secretary of State, Washington.

[Enclosure—Translation.]

PARIS, *October* 14, 1842.

GENERAL: I have received, with the letter which you did me the honor to address to me on the 2d instant, a copy of the despatch wherein Mr. Webster, the Secretary of State, while communicating to you the result of his negotiations with Lord Ashburton, her Britannic Majesty's plenipotentiary, informs you of the views of the federal government with regard to the repression of the slave trade.

I thank you, sir, for this communication, and I embrace with satisfaction this opportunity to renew to you, &c.

GUIZOT.

Mr. Webster to Mr. Cass.

DEPARTMENT OF STATE,
Washington, November 14, 1842.

SIR: I have the honor to acknowledge the receipt of your despatch of the 3d of October, brought by the "Great Western," which arrived at New York on the 6th instant.

It is probable you will have embarked for the United States before my communication can now reach you; but as it is thought proper that your letter should be answered, and as circumstances may possibly have occurred to delay your departure, this will be transmitted to Paris in the ordinary way.

Your letter has caused the President considerable concern. Entertaining a lively sense of the respectable and useful manner in which you have discharged, for several years, the duties of an important foreign mission, it occasions him real regret and pain that your last official communication should be of such a character as that he cannot give to it his entire and cordial approbation.

It appears to be intended as a sort of protest, a remonstrance, in the form of an official despatch, against a transaction of the government to which you were not a party, in which you had no agency whatever, and for the results of which you were no way answerable. This would seem an unusual and extraordinary proceeding. In common with every other citizen of the republic, you have an unquestionable right to form opinions upon public transactions, and the conduct of public men. But it will hardly be thought to be among either the duties or the privileges of a minister abroad to make formal remonstrances and protests against proceedings of the various branches of the government at home, upon subjects in relation to which he himself has not been charged with any duty, or partaken any responsibility.

The negotiation and conclusion of the treaty of Washington were in the hands of the President and Senate. They had acted upon this important subject according to their convictions of duty, and of the public interest, and had ratified the treaty. It was a thing done; and although your opinion might be at variance with that of the President and Senate, it is not perceived that you had any cause of complaint, remonstrance, or protest, more than any other citizen who might entertain the same opinion.

In your letter of the 17th of September, requesting your recall, you observe, "The mail by the steampacket which left Boston the 1st inst. has just arrived, and has brought intelligence of the ratification of the treaties recently concluded with Great Britain. All apprehensions, therefore, of any immediate difficulties with that country are at an end, and I do not see that any public interest demands my further residence in Europe. I can no longer be useful here, and the state of my private affairs requires my presence at home. Under these circumstances, I beg you to submit

to the President my wish for permission to retire from this mission, and to return to the United States without delay."

As you appeared, at that time, not to be acquainted with the provisions of the treaty, it was inferred that your desire to return home proceeded from the conviction, *that inasmuch as all apprehensions of immediate differences with Great Britain were at an end*, you would no longer be useful at Paris. Placing this interpretation on your letter, and believing, as you yourself allege, that your long absence abroad rendered it desirable for you to give some attention to your private affairs in this country, the President lost no time in yielding to your request, and, in doing so, signified to you the sentiments of approbation which he entertained for your conduct abroad. You may then well imagine the great astonishment which the declaration contained in your despatch of the 3d of October, that you could no longer remain in France honorably to yourself or advantageously to the country, and that the proceedings of this government had placed you in a false position, from which you could escape only by returning home, created in his mind.

The President perceives not the slightest foundation for these opinions. He cannot see how your usefulness as minister to France should be terminated by the settlement of difficulties and disputes between the United States and Great Britain. You have been charged with no duties connected with the settlement of these questions, or in any way relating to them, beyond the communication to the French government of the President's approbation of your letter of the 13th of February, written without previous instructions from this department. This government is not informed of any other act or proceeding of yours connected with any part of the subject, nor does it know that your official conduct and character have become in any other way connected with the question of the right of search; and that letter having been approved, and the French government having been so informed, the President is altogether at a loss to understand how you can regard yourself as placed in a false position. If the character or conduct of any one was to be affected, it could only be the character and conduct of the President himself. The government has done nothing, most assuredly, to place you in a false position. Representing your country at a foreign court, you saw a transaction about to take place between the government to which you were accredited and another power, which you thought might have a prejudicial effect on the interest of your own country. Thinking, as it is to be presumed, that the case was too pressing to wait for instructions, you presented a protest against that transaction, and your government approved your proceeding. This is your only official connexion with the whole subject. If after this the President had sanctioned the negotiation of a treaty, and the Senate had ratified it, containing provisions in the highest degree objectionable, however the government might be discredited, your exemption from all blame and censure would have been complete. Having delivered your letter of the 13th of February to the French government, and having received the President's approbation of that proceeding, it is most manifest that you could be in no degree responsible for what should be done afterwards, and done by others. The President, therefore, cannot conceive what particular or personal interest of yours was affected by the subsequent negotiation here, or how the treaty, the result of that negotiation,

should put an end to your usefulness as a public minister at the court of France, or any way affect your official character or conduct.

It is impossible not to see that such a proceeding as you have seen fit to adopt might produce much inconvenience, and even serious prejudice, to the public interests. Your opinion is against the treaty—a treaty concluded and formally ratified; and, to support that opinion, while yet in the service of the government, you put a construction on its provisions such as your own government does not put upon them, such as you must be aware the enlightened public of Europe does not put upon them, and such as England herself has not put upon them as yet, so far as we know.

It may become necessary hereafter to publish your letter, in connexion with other correspondence of the mission; and although it is not to be presumed that you looked to such publication, because such a presumption would impute to you a claim to put forth your private opinions upon the conduct of the President and Senate, in a transaction finished and concluded, through the imposing form of a public despatch, yet, if published, it cannot be foreseen how far England might hereafter rely on your authority for a construction favorable to her own pretensions, and inconsistent with the interest and honor of the United States. It is certain that you would most sedulously desire to avoid any such attitude. You would be slow to express opinions, in a solemn and official form, favorable to another government, and on the authority of which opinions that other government might hereafter found new claims, or set up new pretensions. It is for this reason, as well as others, that the President feels so much regret at your desire of placing your construction of the provisions of the treaty, and your objections to those provisions, according to your construction, upon the records of the government.

Before examining the several objections suggested by you, it may be proper to take notice of what you say upon the course of the negotiation. In regard to this, having observed that the national dignity of the United States had not been compromitted down to the time of the President's message to the last session of Congress, you proceed to say: "But England then urged the United States to enter into a conventional arrangement, by which we might be pledged to concur with her in measures for the suppression of the slave trade. Till then we had executed our own laws in our own way. But, yielding to this application, and departing from our former principle of avoiding European combinations upon subjects not American, we stipulated in a solemn treaty that we would carry into effect our own laws, and fixed the minimum force we would employ for that purpose."

The President cannot conceive how you should have been led to adventure upon such a statement as this. It is but a tissue of mistakes. England did not urge the United States to enter into this conventional arrangement. The United States yielded to no application from England. The proposition for abolishing the slave trade, as it stands in the treaty, was an American proposition; it originated with the executive government of the United States, which cheerfully assumes all its responsibility. It stands upon it as its own mode of fulfilling its duties and accomplishing its objects. Nor have the United States departed, in this treaty, in the slightest degree from their former principles of avoiding European combinations upon subjects not American, because the abolition of the African slave trade is an American subject as emphatically as it is a

European subject; and indeed more so, inasmuch as the government of the United States took the first great steps in declaring that trade unlawful, and in attempting its extinction. The abolition of this traffic is an object of the highest interest to the American people, and the American government; and you seem strangely to have overlooked altogether the important fact that nearly thirty years ago, by the treaty of Ghent, the United States bound themselves, by solemn compact with England, to continue "their efforts to promote its entire abolition," both parties pledging themselves by that treaty to use their best endeavors to accomplish so desirable an object.

Again, you speak of an important concession made to the renewed application of England. But the treaty, let it be repeated, makes no concession to England whatever. It complies with no demand, grants no application, conforms to no request. All these statements, thus by you made, and which are so exceedingly erroneous, seem calculated to hold up the idea that in this treaty your government has been acting a subordinate or even a complying part.

The President is not a little startled that you should make such totally groundless assumptions of fact, and then leave a discreditable inference to be drawn from them. He directs me not only to repel this inference as it ought to be repelled, but also to bring to your serious consideration and reflection the propriety of such an assumed narration of facts as your despatch, in this respect, puts forth.

Having informed the department that a copy of the letter of the 24th of August, addressed by me to you, had been delivered to Mr. Guizot, you proceed to say: "In executing this duty, I felt too well what was due to my government and country to intimate my regret to a foreign power that some declaration had not preceded the treaty, or some stipulation accompanied it, by which the extraordinary pretension of Great Britain to search our ships at all times and in all places, first put forth to the world by Lord Palmerston on the 27th August, 1841, and, on the 13th October following, again peremptorily claimed as a right by Lord Aberdeen, would have been abrogated, as equally incompatible with the laws of nations and with the independence of the United States. I confined myself, therefore, to a simple communication of your letter." It may be true that the British pretension leads necessarily to consequences as broad and general as your statement. But it is no more than fair to state that pretension in the words of the British government itself, and then it becomes matter of consideration and argument how broad and extensive it really is. The last statement of this pretension, or claim, by the British government, is contained in Lord Aberdeen's note to Mr. Stevenson of the 13th of October, 1841. It is in these words: "The undersigned readily admits that to visit and search American vessels in time of peace, when that right of search is not granted by treaty, would be an infraction of public law, and a violation of national dignity and independence. But no such right is asserted. We sincerely desire to respect the vessels of the United States, but we may reasonably expect to know what it really is that we respect. Doubtless the flag is *prima facie* evidence of the nationality of the vessel; and, if this evidence were in its nature conclusive and irrefragable, it ought to preclude all further inquiry. But it is sufficiently notorious that the flags of all nations are liable to be assumed by those who have no right or title to bear them. Mr. Stevenson himself fully admits

the extent to which the American flag has been employed for the purpose of covering this infamous traffic. The undersigned joins with Mr. Stevenson in deeply lamenting the evil; and he agrees with him in thinking that the United States ought not to be considered responsible for this abuse of their flag. But if all inquiry be resisted, even when carried no further than to ascertain the nationality of the vessel, and impunity be claimed for the most lawless and desperate of mankind in the commission of this fraud, the undersigned greatly fears that it may be regarded as something like an assumption of that responsibility which has been deprecated by Mr. Stevenson." * * * * * * * *

"The undersigned renounces all pretension on the part of the British government to visit and search American vessels in time of peace. Nor is it as American that such vessels are ever visited; but it has been the invariable practice of the British navy, and, as the undersigned believes, of all navies in the world, to ascertain, by visit, the real nationality of merchant vessels met with on the high seas, if there be good reason to apprehend their illegal character." * * * * * *

"The undersigned admits that, if the British cruiser should possess a knowledge of the American character of any vessel, his visitation of such vessel would be entirely unjustifiable. He further admits that so much respect and honor are due to the American flag, that no vessel bearing it ought to be visited by a British cruiser, except under the most grave suspicions and well-founded doubts of the genuineness of its character.

"The undersigned, although with pain, must add, that if such visit should lead to the proof of the American origin of the vessel, and that she was avowedly engaged in the slave trade, exhibiting to view the manacles, fetters, and other usual implements of torture, or had even a number of these unfortunate beings on board, no British officer could interfere further. He might give information to the cruisers of the United States, but it could not be in his own power to arrest or impede the prosecution of the voyage and the success of the undertaking.

"It is obvious, therefore, that the utmost caution is necessary in the exercise of this right claimed by Great Britain. While we have recourse to the necessary, and indeed the only means for detecting imposture, the practice will be carefully guarded and limited to cases of strong suspicion. The undersigned begs to assure Mr. Stevenson that the most precise and positive instructions have been issued to her Majesty's officers on this subject." Such are the words of the British claim or pretension; and it stood in this form at the delivery of the President's message to Congress in December last; a message in which you are pleased to say that the British pretension was promptly met and firmly resisted.

I may now proceed to a more particular examination of the objections which you make to the treaty.

You observe that you think a just self-respect required of the government of the United States to demand of Lord Ashburton a distinct renunciation of the British claim to search our vessels previous to entering into any negotiation. The government has thought otherwise; and this appears to be your main objection to the treaty, if, indeed, it be not the only one which is clearly and distinctly stated. The government of the United States supposed that, in this respect, it stood in a position in which it had no occasion to demand any thing, or ask for any thing, of England. The British pretension, whatever it was, or however extensive, was well

known to the President at the date of his message to Congress at the opening of the last session. And I must be allowed to remind you how the President treated this subject in that communication.

"However desirous the United States may be," said he, "for the suppression of the slave trade, they cannot consent to interpolations into the maritime code at the mere will and pleasure of other governments. We deny the right of any such interpolation to any one, or all the nations of the earth, without our consent. We claim to have a voice in all amendments or alterations of that code; and when we are given to understand, as in this instance, by a foreign government, that its treaties with other nations cannot be executed without the establishment and enforcement of new principles of maritime police, to be applied without our consent, we must employ a language neither of equivocal import nor susceptible of misconstruction. American citizens prosecuting a lawful commerce in the African seas, under the flag of their country, are not responsible for the abuse or unlawful use of that flag by others; nor can they rightfully, on account of any such alleged abuses, be interrupted, molested, or detained, while on the ocean; and if thus molested and detained, while pursuing honest voyages in the usual way, and violating no law themselves, they are unquestionably entitled to indemnity."

This declaration of the President stands: not a syllable of it has been, or will be, retracted. The principles which it announces rest on their inherent justice and propriety, on their conformity to pubic law, and, so far as we are concerned, on the determination and ability of the country to maintain them. To these principles the government is pledged, and that pledge it will be at all times ready to redeem.

But what is your own language on this point? You say "this claim, (the British claim) thus asserted and supported, was promptly met and firmly repelled by the President in his message at the commencement of the last session of Congress; and in your letter to me approving the course I had adopted in relation to the question of the ratification by France of the quintuple treaty, you consider the principles of that message as the established policy of the government." And you add, "So far, our national dignity was uncompromitted." If this be so, what is there which has since occurred to compromit this dignity? You shall yourself be judge of this; because you say, in a subsequent part of your letter, that "the mutual rights of the parties are in this respect wholly untouched." If, then, the British pretension had been promptly met and firmly repelled by the President's message; if, so far, our national dignity had not been compromitted; and if, as you further say, our rights remain wholly untouched by any subsequent act or proceeding, what ground is there on which to found complaint against the treaty?

But your sentiments on this point do not concur with the opinions of your government. That government is of opinion that the sentiments of the message, which you so highly approve, are re-affirmed and corroborated by the treaty, and the correspondence accompanying it. The very object sought to be obtained, in proposing the mode adopted for abolishing the slave trade, was to take away all pretence whatever for interrupting lawful commerce by the visitation of American vessels. Allow me to refer you, on this point, to the following passage in the message of the President to the Senate, accompanying the treaty:

"In my message at the commencement of the present session of Con-

gress, I endeavored to state the principles which this government supports respecting the right of search and the immunity of flags. Desirous of maintaining those principles fully, at the same time that existing obligations should be fulfilled, I have thought it most consistent with the dignity and honor of the country that it should execute its own laws, and perform its own obligations, by its own means and its own power. The examination or visitation of the merchant vessels of one nation by the cruisers of another, for any purposes, except those known and acknowledged by the law of nations, under whatever restraints or regulations it may take place, may lead to dangerous results. It is far better, by other means, to supersede any supposed necessity, or any motive, for such examination or visit. Interference with a merchant vessel by an armed cruiser is always a delicate proceeding, apt to touch the point of national honor, as well as to affect the interests of individuals. It has been thought, therefore, expedient, not only in accordance with the stipulations of the treaty of Ghent, but at the same time as removing all pretext on the part of others for violating the immunities of the American flag upon the seas, as they exist and are defined by the law of nations, to enter into the articles now submitted to the Senate.

"The treaty which I now submit to you proposes no alteration, mitigation, or modification of the rules of the law of nations. It provides simply that each of the two governments shall maintain, on the coast of Africa, a sufficient squadron to enforce, separately and respectively, the laws, rights, and obligations of the two countries for the suppression of the slave trade."

In the actual posture of things, the President thought that the government of the United States, standing on its own rights and its own solemn declarations, would only weaken its position by making such a demand as appears to you to have been expedient. We maintain the public law of the world as we receive it, and understand it to be established. We defend our own rights and our own honor, meeting all aggression at the boundary. Here we may well stop.

You are pleased to observe, that "under the circumstances of the assertion of the British claim, in the correspondence of the British secretaries, and of its denial by the President of the United States, the eyes of Europe were upon these two great naval powers; one of which had advanced a pretension, and avowed her determination to enforce it, which might at any moment bring them into collision."

It is certainly true that the attention of Europe has been very much awakened, of late years, to the general subject, and quite alive, also, to whatever might take place in regard to it between the United States and Great Britain. And it is highly satisfactory to find that, so far as we can learn, the opinion is universal that the government of the United States has fully sustained its rights and its dignity by the treaty which has been concluded. Europe, we believe, is happy to see that a collision, which might have disturbed the peace of the whole civilized world, has been avoided in a manner which reconciles the performance of a high national duty, and the fulfilment of positive stipulations, to the perfect immunity of flags and the equality of nations upon the ocean. I must be permitted to add that, from every agent of the government abroad who has been heard from on the subject, with the single exception of your own letter, (an exception most deeply regretted,) as well as from every part of Europe

where maritime rights have advocates and defenders, we have received nothing but congratulation. And, at this moment, if the general sources of information may be trusted, our example has recommended itself, already, to the regard of States the most jealous of British ascendancy at sea; and the treaty against which you remonstrate may soon come to be esteemed by them as a fit model for imitation.

Towards the close of your despatch, you are pleased to say: "By the recent treaty, we are to keep a squadron upon the coast of Africa. We have kept one there for years—during the whole term, indeed, of these efforts to put a stop to this most iniquitous commerce. The effect of the treaty is, therefore, to render it obligatory upon us, by a convention, to do what we have long done voluntarily—to place our municipal laws, in some measure, beyond the reach of Congress." Could the effect of the treaty [be] in placing our municipal laws, in some measure, beyond the reach of Congress, it is sufficient to say that all treaties containing obligations necessarily do this. All treaties of commerce do it; and, indeed, there is hardly a treaty existing, to which the United States are party, which does not, to some extent, or in some way, restrain the legislative power. Treaties could not be made without producing this effect.

But your remark would seem simply that, in your judgment, there is something derogatory to the character and dignity of the country in thus stipulating with a foreign power for a concurrent effort to execute the laws of each. It would be a sufficient refutation of this objection to say that, if in this arrangement there be anything derogatory to the character and dignity of one party, it must be equally derogatory, since the stipulation is perfectly mutual, to the character and dignity of both. But it is derogatory to the character and dignity of neither. The objection seems to proceed still upon the implied ground that the abolition of the slave trade is more a duty of Great Britain, or a more leading object with her, than it is or should be with us; as if, in this great effort of civilized nations to do away the most cruel traffic that ever scourged or disgraced the world, we had not as high and honorable, as just and merciful a part to act, as any other nation upon the face of the earth. Let it be forever remembered, that in this great work of humanity and justice the United States took the lead themselves. This government declared the slave trade unlawful; and in this declaration it has been followed by the great powers of Europe. This government declared the slave trade to be piracy; and in this, too, its example has been followed by other States. This government—this young government—springing up in this new world within half a century, founded on the broadest principles of civil liberty, and sustained by the moral sense and intelligence of the people, has gone in advance of all other nations in summoning the civilized world to a common effort to put down and destroy a nefarious traffic, reproachful to human nature. It has not deemed, and it does not deem, that it suffers any derogation from its character or its dignity, if, in seeking to fulfil this sacred duty, it act, as far as necessary, on fair and equal terms of concert with other powers having in view the same praiseworthy object. Such were its sentiments when it entered into the solemn stipulations of the treaty of Ghent; such were its sentiments when it requested England to concur with us in declaring the slave trade to be piracy; and such are the sentiments which it has manifested on all other proper occasions.

In conclusion, I have to repeat the expression of the President's deep

regret at the general tone and character of your letter, and to assure you of the great happiness it would have afforded him, if, concurring with the judgment of the President and Senate—concurring with what appears to be the general sense of the country—concurring in all the manifestations of enlightened public opinion in Europe—you had seen nothing in the treaty of the 9th of August to which you could not give your cordial approbation.

I have, &c.,

DANIEL WEBSTER.

LEWIS CASS, Esq., *&c. &c. &c.*

Mr. Cass to Mr. Webster.

NEW YORK, *December* 11, 1842.

SIR: Upon my arrival here yesterday, the duplicate of your letter of November 14 was delivered to me. I embrace the first moment in my power to acknowledge its receipt.

I am too well aware of what is due from me to the government to renew, or unnecessarily to prolong, the discussion of the subject contained in my letter of October 3. In submitting to you the views I entertained, I fulfilled a duty which, in my opinion, circumstances imposed upon me. But I should consider myself obnoxious to the censure of improper interference, with which you have not sparingly reproached me, but from which I trust I shall satisfy you I am free, did I seek to make my correspondence with the department the vehicle for obtruding my sentiments upon the government. Still I am anxious not to be misunderstood, and more especially since you give me to understand that the communications which have passed between us upon this subject are to be published, and thus submitted to the great tribunal of public opinion, which will be called upon to decide respecting the course I have deemed it necessary to adopt, as well as the manner in which I have fulfilled the task. And as you have, in several instances, misapprehended my views, and adapted your reasoning to your constructions rather than to my sentiments, and as I have full confidence in your desire to do me justice, I must beg leave briefly to lay before you such considerations connected with my letter, and your comments upon it, as are essential to a correct judgment between us.

And, first, with respect to the procedure on my part.

You object to my whole course of action in this matter, because it appears to you to be "intended as a sort of protest or remonstrance against a transaction of the government," &c.

I have been very unhappy in the mode in which I have expressed myself, if I am justly liable to this charge. My letter is not a protest, or a remonstrance. It is a simple answer to a despatch which I had the honor to receive from you. In your letter of August 29, you communicated to me the views of the President in relation to the treaty then recently concluded with England; and you also authorized me to make known these views to the French government. This I did, both in conversation and in writing. Here was a despatch requiring my action, and which received it in good faith. But I did not coincide with you in opinion respecting

an important bearing of this treaty. I thought it left us in a worse position than it found us; and so thinking, I deemed it my right, and felt it my duty, to lay before you the impression which the whole matter had left upon my mind. I did so, and the result is before you. Under these circumstances, was I guilty of indiscretion, or of an impertinent interference, still more offensive, which, it seems to me from the tone of your letter, is the construction you put upon my action?

This question will perhaps be best answered by another. Is it the duty of a diplomatic agent to receive all the communications of his government, and to carry into effect their instructions *sub silentio*, whatever may be his own sentiments in relation to them? Or, is he not bound, as a faithful representative, to communicate freely but respectfully his own views, that these may be considered and receive their due weight in that particular case, or in other circumstances involving similar considerations? It seems to me that the bare enunciation of the principle is all that is necessary for my justification. I am speaking now of the propriety of my action, not of the manner in which it was performed. I may have executed the task well or ill; I may have introduced topics unadvisedly, and urged them indiscreetly. All this I leave without remark. I am only endeavoring here to free myself from the serious charge which you bring against me. If I have misapprehended the duties of an American diplomatic agent upon this subject, I am well satisfied to have withdrawn, by a timely resignation, from a position in which my own self respect would not permit me to remain. And I may express the conviction that there is no government—certainly none this side of Constantinople—which would not encourage, rather than rebuke, the free expression of the views of their representatives in foreign countries. But, independently of this general objection to all action on my part, you present me with another, perhaps still more formidable, but which is applicable only to the circumstances of this case. Without repeating in full the view you urge upon this part of the subject, I shall condense the objection into the proposition that the expression of my sentiments to the government upon this occasion might induce England hereafter "to rely upon my authority for a construction favorable to her own pretensions, and inconsistent with the interest and honor of the United States."

In the first place, I would remark that I have written for my own government, and not for that of England. The publication of my letter which is to produce this result is to be the act of the government, and not my act. But if the President should think that the slightest injury to the public interest would ensue from the disclosure of my views, the letter may be buried in the archives of the department, and thus forgotten and rendered harmless.

But even were immediate publicity to be given to it, I know my own insignificance too well to believe it would produce the slightest influence upon the pretensions or the course of England. The English public, and especially the English statesmen, are too sagacious to need the suggestions of any foreigner, and too pertinacious in the assertion of their claims to seek his authority for their support. When England, in her progress to that supremacy upon the ocean which has been the steady object of her ambition for centuries, and will continue to be so, abandons a single pretension after she has once advanced it, then there may be reason to believe she has adopted a system of moderation, which may be

strengthened or weakened, as the opinion of others is favorable or unfavorable to her. There is no evidence that that time is near. But were it otherwise, does it follow that in all discussions between nations it is the duty of every man to believe his own government has attained every object which the interest or honor of the country requires; or, not believing it, to remain silent, and to refrain from all representations, either to the government itself or to the public, with a view to the ultimate correction of the error, and to the relief of his country from a false position? I must confess I do not carry my patriotic devotion thus far. I agree that when nations have appealed from argument to force, and when a war is raging, it is the duty of every citizen to put all other considerations behind him, and, avoiding profitless and party discussions upon the past, to join with head, heart, and hand, to repel the common foe. At such a time, I would not speak words of censure even to my countrymen, lest I should be overheard by the enemy. And that this is not with me a barren doctrine, I trust I have given sufficient evidence in perilous times. But I was not prepared for that excess of patriotic zeal (pardon me the expression, for such it appears to me) which would carry this reserve into all the actions of the government, as well in peace as in war. I believe that in our recent treaty with England, sufficient precaution was not taken to guard against her claim to search our ships. This belief I entertain in common with many other citizens, in office and out of office; and I, as well as they, have expressed it. It has been declared in the Senate, in the public journals, in every district of our country. And I cannot feel that this avowal of our sentiments, in whatever form it is made, whether official or unofficial, justly subjects us to the charge of taking a course which may hereafter enable other governments to "set up new pretensions."

Permit me now to advert to the serious charge you have made against me of venturing upon *a statement which is a tissue of mistakes.* This statement you quote, and it is that part of my letter in which, after showing that, to a certain point of time, our national honor had been preserved inviolate, I proceed to show that the subsequent course of events had not been equally fortunate. I remark that England never urged the United States to enter into a conventional arrangement by which the joint action of the two countries in the suppression of the slave trade might be secured. You pronounce this statement a mistake, and assert that the proposition came from our government.

That the particular mode in which the governments should act in concert, as finally arranged in the treaty, was suggested by yourself, I never doubted; and, if this is the construction I am to give to your denial of my correctness, there is no difficulty upon the subject. The question between us is untouched. All I said was, that England continued to prosecute the matter; that she presented it for negotiation; and that we, therefore, consented to its introduction; and if Lord Ashburton did not come out with instructions from his government to endeavor to effect some arrangement upon this subject, the world has strangely misunderstood one of the great objects of his mission, and I have misunderstood that paragraph in your first note where you say that Lord Ashburton comes with full powers to negotiate and settle all matters in discussion between England and the United States. But the very fact of his coming here, and of his acceding to any stipulations respecting the slave trade, is conclusive proof that his government were desirous to obtain the

co-operation of the United States. I had supposed our government would scarcely take the initiative in this matter, and urge it upon that of Great Britain, either in Washington or in London. If it did so, I can only express my regret, and confess that I have been led inadvertently into an error.

You then proceed to remark, in continuation of this *tissue of mistakes*, that, in entering into this arrangement, the United States did not depart from the principle of avoiding European combinations upon a subject not American, because the abolition of the slave trade is equally an American and European subject. This may be so. I may be wrong in the application of the principle; but such an erroneous conclusion scarcely justifies the epithet of an *adventurous statement—one of a tissue of mistakes.* But, apart from this, I still think that combinations of this kind are among the "entangling alliances" against which the great statesman, whose exposition of our constitution will go down to posterity with the instrument itself, warned his countrymen; and the perpetually recurring difficulties, which are presenting themselves in the execution of the conventions between France and England upon this subject, should be a caution to nations against the introduction of new maritime principles whose operations and results it is difficult to foresee.

But is the suppression of the African slave trade one of those American objects in the attainment of which we ought to seek the co-operation of other nations, and regulate our own duties and theirs by treaty stipulations? I do not think so. In the first place, the principle would necessarily lead us to form alliances with every maritime nation. It is not England alone whose flag rides over the seas. Other countries must co-operate, if any co-operation is necessary; and, if we have made propositions to England to join us in this effort, I do not see why we stop there and deprive ourselves of the aid which the action of other nations would afford. I doubt if the people of this country are prepared for such extensive combinations.

But, again, while fully agreeing with you in all the odium you cast upon that infamous traffic, it appears to me that any object interesting to humanity, and in which nations may with propriety engage, has the same claim, if not in degree, at least in principle, upon our interference, and calls upon us for a union with other nations to effect it. It may be easily seen, not where such a doctrine would conduct us—that escapes human sagacity—but toward what ruinous consequences it leads.

You conclude this branch of the subject by informing me that you are directed by the President to bring to my "serious consideration and reflection the propriety of such an assumed narration of facts as your despatch in this respect puts forth." I shall not say one word to give the President any cause of offence; and, if I felt that I was justly obnoxious to this censure, I should submit to the rebuke in silence. He would have a right to make it, and it would be my duty to acquiesce; but I have that confidence in his innate love of justice, that he will receive my explanations, and judge me by my words, and not by unauthorized constructions.

Now, in all that I have said in the paragraph to which you allude, and which you have so strongly qualified, you have pointed out but one fact as erroneous, and that is the assertion that the introduction of the subject of the slave trade into the treaty was due to the application of England;

and whether even this was an error, depends upon the construction to be given to your explanation. All else—I repeat it, all else, to the very least idea, is matter of inference; it is my deduction from the circumstances of the case. I may be right or wrong, logically, in the conclusions I have reached; but cetainly I am not morally responsible for their correctness, as I should be if I asserted merely naked facts. It is, therefore, with not a little astonishment I have read and re-read what I wrote, and the commentary you have been pleased to make upon it. It is neither necessary nor proper that I should renew the general subject of my letter; and, therefore, I do not feel it my duty to trouble you with any remarks respecting the views you have presented me of the pretensions of the British government to search our ships; but, when you proceed to array me against myself, I must claim the right to vindicate my own consistency. You quote me, and quote me correctly, as saying that, up to the delivery of the annual message of 1841, our national dignity was uncompromitted. You then ask what has since occurred to compromit this dignity? and you add emphatically that I shall myself be the judge of this, because, in a subsequent part of my despatch, I say the mutual rights of the parties are wholly unchanged; and you ask, if they are unchanged, what ground there is on which to found a complaint against the treaty? I think that a very brief retrospect will be the best answer I can give to this question, and that it will redeem me from the implied charge of inconsistency.

I never said nor intimated in my despatch to you, nor in any manner whatever, that our government had conceded to that of England the right to search our ships. That idea, however, pervades your letter, and is very apparent in that part of it which brings to my observation the possible effect of my views upon the English government; but in this you do me, though I am sure unintentionally, great injustice. I repeatedly state that the recent treaty leaves the rights of the parties as it found them. My difficulty is not that we have made a positive concession, but that we have acted unadvisedly in not making the abandonment of this pretension a previous condition to any conventional arrangement upon the general subject. I had supposed, till I read your letter, that this view was too distinctly expressed in my despatch to admit of any misconstruction. I will condense into a small space what I deem it necessary to say in defence of my consistency.

England claimed the right, in order, as she said, to carry into effect certain treaties she had formed for the suppression of the slave trade, to board and search our vessels upon the high seas wherever she might find them. Our government, with energy and promptness, repelled this pretension. Shortly after, a special British ambassador arrived in our country, having powers to treat upon this matter of the slave trade. The negotiation terminated by an arrangement which secures the co-operation of the United States in the efforts that England is making upon this subject; but not a word is said upon the serious claim that subjects to the naval inquisition of a commercial rival our ships, which the enterprise of our merchants is sending to every part of the globe: and yet this claim arises out of the very subject-matter embraced in this treaty. We negotiate with England for the suppression of the slave trade at the very moment her statesmen are telling us, in no measured terms, that, to suppress it, she will violate our flag, and that she will never give up this pretension.

Now here, it appears to me, the government should have stopped. The English negotiator should have been told, "We abhor as much as you do the traffic in human beings, and we will do all that our peculiar institutions permit, to put an end to it; but we will not suffer this matter to be made a pretext for wounding our honor and violating our rights; we will not take a single step till you renounce this claim; we have denounced it already; and, if we should negotiate upon the subject-matter without settling this preliminary question, it may seem like an abandonment of the ground we have taken, or an indifference to the consequences."

Had this course been pursued, the sincerity of the British government would have undergone a practical test, from which there would have been no escape. It would not have been necessary to quote the last despatch of Lord Aberdeen to show what he meant in another, or Lord Palmerston in the first. If such a proposition had been made and accepted, our honor would have been vindicated, our rights secured, and a bright example of sincerity and moderation would have been given to the world by a great nation. If it had been rejected, that would have proved that our co-operation in the suppression of the slave trade was a question of minor importance, to be sacrificed to the preservation of a pretension intended to introduce an entire change in the maritime police of the world.

Why this very obvious course was not adopted, I am utterly at a loss to conjecture; and that it was not, is precisely the objection to which the whole arrangement is liable. Instead of the high ground we should then have occupied, we now find ourselves seriously discussing the question whether or not England will enforce this claim. That she will do so when her interest requires it, I have no more doubt than I have that she has already given us abundant proof that the received code of public law is but a feeble barrier when it stands in the way of power and ambition. Lord Palmerston and Lord Aberdeen both tell us she will.

You refer to that part of my letter in which I observe that the effect of the new stipulation is to place our municipal laws in some measure beyond the reach of Congress, and remark that such is often the effect of commercial treaties. It is so, and we can only expect to obtain commercial advantages by stipulations for corresponding advantages, which, while they endure, are beyond the reach of ordinary legislation. This is matter of necessity. But this necessity does not exist in the punishment of crimes. We are able to enforce our own laws; and I do not see that the power to enforce those of England gives us any just compensation for permitting her to interfere in our criminal code, whether the offence is committed upon the land or upon the water. It seems to me a principle fraught with dangerous consequences, and which a prudent government had better avoid.

There is but one other topic which I consider it necessary to advert to; but that is an important one, and I pray your indulgence while I briefly allude to it.

You speak of the ratification of the treaty by the President and Senate, and add that it does not appear to you that I had any grounds of complaint because their opinion was at variance with mine. I submit that this is making an issue for me which I have not made for myself. In no part of my letter will be found the slightest imputation upon the President or Senate, for the ratification of this treaty. I could not make such an imputation, for the plain reason that I never censured the ratification.

I am under the impression that if I had had a vote to give, I should have been found among the majority upon that occasion. This, however, would have been upon the condition that some declaration should be annexed to the act of ratification denouncing the pretension to search our ships. I would then have sent the instrument to the British government, and placed upon them the responsibility of its final rejection or ratification; and I am sure we should have had the opinion of the world with us under such circumstances.

The rejection of a treaty duly negotiated, is a serious question; to be avoided, whenever it can be without too great a sacrifice. Though the national faith is not actually committed, still it is more or less engaged; and there were peculiar circumstances, growing out of long standing difficulties, which rendered an amicable agreement of the various matters in dispute with England a subject of great national interest. But the negotiation of a treaty is a far different subject. Topics are omitted or introduced at the discretion of the negotiators, and they are responsible, to use the language of an eminent and able Senator, for "what it contains and what it omits." This treaty, in my opinion, omits a most important and necessary stipulation, and therefore, as it seems to me, its negotiation in this particular was unfortunate for the country.

In conclusion, I beg you to tender to the President my thanks for the kind appreciation he made of my services in the letter of recall, and to express to him my hope that, on a full consideration of the circumstances, he will be satisfied that if my course was not one he can approve, it at all events was such as to relieve me from the charge of an improper interference in a subject not within the sphere of my duties.

I must pray you, as an act of justice, to give the same publicity to this letter that you may give to my letter of October 3d, and to your answer.

Very respectfully, &c.,

LEW. CASS.

Hon. DANIEL WEBSTER,
Secretary of State.

Mr. Webster to Mr. Cass.

DEPARTMENT OF STATE,
Washington, December 20, 1842.

SIR: Your letter of the 11th instant has been submitted to the President. He directs me to say, in reply, that he continues to regard your correspondence, of which this letter is part, as being quite irregular from the beginning. You had asked leave to retire from your mission; the leave was granted by the President, with kind and friendly remarks upon the manner in which you had discharged its duties. Having asked for this honorable recall, which was promptly given, you afterwards addressed to this department your letter of the 3d of October, which, however it may appear to you, the President cannot but consider as a remonstrance, a protest against the treaty of the 9th of August; in other words, an attack upon his administration, for the negotiation and conclusion of that treaty. He certainly was not prepared for this. It came upon him with no small surprise, and he still feels that you must have been, at the

moment, under the influence of temporary impressions which he cannot but hope have, ere now, worn away.

A few remarks upon some of the points of your last letter must now close the correspondence.

In the first place, you object to my having called your letter of October 3d a "protest or remonstrance" against a transaction of the government, and observe that you must have been unhappy in the mode of expressing yourself, if you were liable to this charge.

What other construction your letter will bear, I cannot perceive. The transaction was *finished.* No letter or remarks of yourself or any one else could undo it, if desirable. Your opinions were unsolicited. If given as a citizen, then it was altogether unusual to address them to this department in an official despatch; if as a public functionary, the whole subject matter was quite aside from the duties of your particular station. In your letter you did not propose any thing *to be done*, but objected to what had been done. You did not suggest any method of remedying what you were pleased to consider a defect, but stated what you thought to be reasons for fearing its consequences. You declared that there had been, in your opinion, an omission to assert American rights; to which omission you gave the department to understand that you would never have consented.

In all this there is nothing but protest and remonstrance; and, though your letter be not formally entitled such, I cannot see that it can be construed in effect as any thing else; and I must continue to think, therefore, that the terms used are entirely applicable and proper.

In the next place, you say, "You give me to understand that the communications which have passed between us on this subject are to be published and submitted to the great tribunal of public opinion."

It would have been better if you had quoted my remark with entire correctness. What I said was, not that the communications which have passed between us *are to be* published, or *must* be published, but that "it may become necessary hereafter to publish your letter, in connexion with other correspondence of the mission; and, although it is not to be presumed that you looked to such publication, because such a presumption would impute to you a claim to put forth your private opinions upon the conduct of the President and Senate, in a transaction finished and concluded, through the imposing form of a public despatch; yet, if published, it cannot be foreseen how far England might hereafter rely on your authority for a construction favorable to her own pretensions, and inconsistent with the interest and honor of the United States."

In another part of your letter you observe, "The publication of my letter, which is to produce this result, is to be the act of the government, and not my act. But if the President should think that the slightest injury to the public interest would ensue from the disclosure of my views, the letter may be buried in the archives of the department, and thus forgotten and rendered harmless."

To this I have to remark, in the first place, that instances have occurred in other times, not unknown to you, in which highly important letters from ministers of the United States, in Europe, to their own government, have found their way into the newspapers of Europe, when that government itself held it to be inconsistent with the interest of the United States to make such letter public.

But it is hardly worth while to pursue a topic like this.

You are pleased to ask—"Is it the duty of a diplomatic agent to receive all the communications of his government, and to carry into effect their instructions *sub silentio*, whatever may be his own sentiments in relation to them; or is he not bound, as a faithful representative, to communicate freely but respectfully his own views, that these may be considered, and receive their due weight, in that particular case, or in other circumstances involving similar considerations? It seems to me that the bare enunciation of the principle is all that is necessary for my justification. I am speaking now of the propriety of my action, not of the manner in which it was performed. I may have executed the task well or ill. I may have introduced topics unadvisedly, and urged them indiscreetly. All this I leave without remark. I am only endeavoring here to free myself from the serious charge which you bring against me. If I have misapprehended the duties of an American diplomatic agent upon this subject, I am well satisfied to have withdrawn, by a timely resignation, from a position in which my own self-respect would not permit me to remain. And I may express the conviction that there is no government, certainly none this side of Constantinople, which would not encourage rather than rebuke the free expression of the views of their representatives in foreign countries."

I answer, certainly not. In the letter to which you were replying, it was fully stated that, "in common with every other citizen of the republic, you have an unquestionable right to form opinions upon public transactions, and the conduct of public men. But it will hardly be thought to be among either the duties or the privileges of a minister abroad to make formal remonstrances and protests against proceedings of the various branches of the government at home, upon subjects in relation to which he himself has not been charged with any duty, or partaken any responsibility."

You have not been requested to bestow your approbation upon the treaty, however gratifying it would have been to the President to see that, in that respect, you united with other distinguished public agents abroad. Like all citizens of the republic, you are quite at liberty to exercise your own judgment upon that as upon other transactions. But neither your observations, nor this concession, cover the case. They do not show that, as a public minister abroad, it is a part of your official functions, in a public despatch, to remonstrate against the conduct of the government at home, in relation to a transaction in which you bore no part, and for which you were in no way answerable. The President and Senate must be permitted to judge for themselves in a matter solely within their control. Nor do I know that, in complaining of your protest against their proceedings in a case of this kind, anything has been done to warrant, on your part, an invidious and unjust reference to Constantinople. If you could show, by the general practice of diplomatic functionaries in the civilized part of the world—and, more especially, if you could show by any precedent drawn from the conduct of the many distinguished men who have represented the government of the United States abroad—that your letter of the 3d of October was, in its general object, tone, and character, within the usual limits of diplomatic correspondence, you may be quite assured that the President would not have recourse to the code of Turkey, in order to find precedents the other way.

You complain that, in the letter from this department of the 14th of November, a statement contained in yours of the 3d of October is called a tissue of mistakes, and you attempt to show the impropriety of this appellation. Let the point be distinctly stated, and what you say in reply be then considered.

In your letter of October 3 you remark, "that England then urged the United States to enter into a conventional arrangement, by which we might be pledged to concur with her in measures for the suppression of the slave trade. Until then, we had executed our own laws in our own way; but, yielding to this application, and departing from our former principle of avoiding European combinations upon subjects not American, we stipulated in a solemn treaty that we would carry into effect our own laws, and fixed the minimum force we would employ for that purpose."

The letter of this department of the 14th November having quoted this passage, proceeds to observe, that "the President cannot conceive how you should have been led to adventure upon such a statement as this. It is but a tissue of mistakes. England did not urge the United States to enter into this conventional arrangement. The United States yielded to no application from England. The proposition for abolishing the slave trade, as it stands in the treaty, was an American proposition; it originated with the executive government of the United States, which cheerfully assumes all its responsibility. It stands upon it as its own mode of fulfilling its duties and accomplishing its objects. Nor have the United States departed in the slightest degree from their former principles of avoiding European combinations upon subjects not American; because the abolition of the African slave trade is an American subject as emphatically as it is an European subject, and indeed more so, inasmuch as the government of the United States took the first great step in declaring that trade unlawful, and in attempting its extinction. The abolition of this traffic is an object of the highest interest to the American people and the American government; and you seem strangely to have overlooked, altogether, the important fact, that nearly thirty years ago, by the treaty of Ghent, the United States bound themselves, by solemn compact with England, to continue their efforts to promote its entire abolition; both parties pledging themselves by that treaty to use their best endeavors to accomplish so desirable an object."

Now, in answer to this, you observe in your last letter, "that the particular mode in which the governments should act in concert, as finally arranged in the treaty, was suggested by yourself, I never doubted. And if this is the construction I am to give to your denial of my correctness, there is no difficulty upon the subject. The question between us is untouched. All I said was, that England continued to prosecute the matter; that she presented it for negotiation, and that we thereupon consented to its introduction. And if Lord Ashburton did not come out with instructions from his government to endeavor to effect some arrangement upon this subject, the world has strangely misunderstood one of the great objects of his mission, and I have misunderstood that paragraph in your first note, when you say that Lord Ashburton comes with full powers to negotiate and settle all matters in discussion between England and the United States. But the very fact of his coming here, and of his acceding to any stipulations respecting the slave trade, is conclusive proof that his government were desirous to obtain the co-operation of the United States.

I had supposed that our government would scarcely take the initiative in this matter, and urge it upon that of Great Britain, either in Washington or in London. If it did so, I can only express my regret, and confess that I have been led inadvertently into an error."

It would appear from all this, that that which, in your first letter, appeared as a direct statement of facts, of which you would naturally be presumed to have had knowledge, sinks at last into inferences and conjectures. But, in attempting to escape from some of the mistakes of this tissue, you have fallen into others. "All I said, was," you observe, "that England continued to prosecute the matter; that she presented it for negotiation, and that we, therefore, consented to its introduction." Now, the English minister no more presented this subject for negotiation, than the government of the United States presented it. Nor can it be said that the United States consented to its introduction in any other sense than it may be said that the British minister consented to it. Will you be good enough to review the series of your own assertions on this subject, and see whether they can possibly be regarded merely as a statement of your own inferences? Your only authentic fact is a general one, that the British minister came clothed with full power to negotiate and settle all matters in discussion. This, you say, is conclusive proof that his government was desirous to obtain the co-operation of the United States respecting the slave trade; and then you infer that England continued to prosecute this matter, and presented it for negotiation, and that the United States consented to its introduction; and give to this inference the shape of a direct statement of a fact.

You might have made the same remarks, and with the same propriety, in relation to the subject of the "Creole," that of impressment, the extradition of fugitive criminals, or anything else embraced in the treaty or in the correspondence, and then have converted these inferences of your own into so many facts. And it is upon conjectures like these, it is upon such inferences of your own, that you made the direct and formal statement in your letter of the 3d of October, that "England then urged the United States to enter into a conventional arrangement, by which we might be pledged to concur with her in measures for the suppression of the slave trade. Until then we had executed our own laws in our own way. But, yielding to this application, and departing from our former principle of avoiding European combinations upon subjects not American, we stipulated in a solemn treaty that we would carry into effect our own laws, and fixed the minimum force we would employ for that purpose."

The President was well warranted, therefore, in requesting your serious reconsideration and review of that statement.

Suppose your letter to go before the public unanswered and uncontradicted—suppose it to mingle itself with the general political history of the country, as an official letter among the archives of the Department of State, would not the general mass of readers understand you as reciting facts, rather than as drawing your own conclusions?—as stating history, rather than as presenting an argument? It is of an incorrect narrative that the President complains. It is that, in your hotel at Paris, you should undertake to write a history of a very delicate part of a negotiation carried on at Washington, with which you had nothing to do, and of the history of which you had no authentic information; and which history, as you narrate it, reflects not a little on the independence, wisdom, and public spirit of the administration.

As of the history of this part of the negotiation you were not well informed, the President cannot but think it would have been more just in you to have refrained from any attempt to give an account of it.

You observe, further: "I never mentioned in my despatch to you, nor in any manner whatever, that our government had conceded to that of England the right to search our ships. That idea, however, pervades your letter, and is very apparent in that part of it which brings to my observation the possible effect of my views upon the English government. But in this you do me, though I am sure unintentionally, great injustice. I repeatedly state that the recent treaty leaves the rights of the parties as it found them. My difficulty is, not that we have made a positive concession, but that we have acted unadvisedly in not making the abandonment of this pretension a previous condition to any conventional arrangement upon the general subject."

On this part of your letter, I must be allowed to make two remarks:

The first is, inasmuch as the treaty gives no color or pretext whatever to any right of searching our ships, a declaration against such a right would have been no more suitable to this treaty than a declaration against the right of sacking our towns in time of peace, or any other outrage.

The rights of merchant vessels of the United States, on the high seas, as understood by this government, have been clearly and fully asserted. As asserted, they will be maintained; nor would a declaration such as you propose, have increased its resolution or its ability in this respect. The government of the United States relies on its own power, and on the effective support of the people, to assert successfully all the rights of all its citizens on the sea as well as on the land; and it asks respect for these rights, not as a boon or favor from any nation. The President's message, most certainly, is a clear declaration of what the country understands to be its rights, and his determination to maintain them—not a mere promise to negotiate for these rights, or to endeavor to bring other powers into an acknowledgment of them, either express or implied. Whereas, if I understand the meaning of this part of your letter, you would have advised that something should have been offered to England which she might have regarded as a benefit, but coupled with such a declaration or condition as that, if she received the boon, it would have been a recognition by her of a claim which we make as matter of right. The President's view of the proper duty of the government has certainly been quite different. Being convinced that the doctrine asserted by this government is the true doctrine of the law of nations, and feeling the competency of the government to uphold and enforce it for itself, he has not sought, but on the contrary has sedulously avoided, to change this ground, and to place the just rights of the country upon the assent, express or implied, of any power whatever.

The government thought no skilfully extorted promises necessary in any such cases. It asks no such pledges of any nation. If its character for ability and readiness to protect and defend its own rights and dignity is not sufficient to preserve them from violation, no interpolation of promise to respect them, ingeniously woven into treaties, would be likely to afford such protection. And, as our rights and liberties depend for existence upon our power to maintain them, general and vague protests are not likely to be more effectual than the Chinese method of defending their towns, by painting grotesque and hideous figures on the walls, to fright away assailing foes.

My other remark on this portion of your letter is this:

Suppose a declaration to the effect that this treaty should not be considered as sacrificing any American rights had been appended, and the treaty thus fortified had been sent to Great Britain as you propose; and suppose that that government, with equal ingenuity, had appended an equivalent written declaration that it should not be considered as sacrificing any British right, how much more defined would have been the rights of either party, or how much clearer the meaning and interpretation of the treaty? Or, in other words, what is the value of a protest on one side, balanced by an exactly equivalent protest on the other?

No nation is presumed to sacrifice its rights, or give up what justly belongs to it, unless it expressly stipulates that, for some good reason or adequate consideration, it does make such relinquishment; and an unnecessary asseveration that it does not intend to sacrifice just rights would seem only calculated to invite aggression. Such proclamations would seem better devised for concealing weakness and apprehension, than for manifesting conscious strength and self-reliance, or for inspiring respect in others.

Towards the end of your letter you are pleased to observe:

"The rejection of a treaty, duly negotiated, is a serious question, to be avoided whenever it can be without too great a sacrifice. Though the national faith is not actually committed, still it is more or less engaged. And there were peculiar circumstances growing out of long standing difficulties, which rendered an amicable arrangement of the various matters in dispute with England a subject of great national interest. But the negotiation of a treaty is a far different subject. Topics are omitted or introduced at the discretion of the negotiators, and they are responsible, to use the language of an eminent and able senator, for 'what it contains and what it omits.' This treaty, in my opinion, omits a most important and necessary stipulation; and, therefore, as it seems to me, its negotiation, in this particular, was unfortunate for the country."

The President directs me to say, in reply to this, that in the treaty of Washington no topics were omitted, and no topics introduced, at the mere discretion of the negotiator; that the negotiation proceeded from step to step, and from day to day, under his own immediate supervision and direction; that he himself takes the responsibility for what the treaty contains and what it omits, and cheerfully leaves the merits of the whole to the judgment of the country.

I now conclude this letter, and close this correspondence, by repeating, once more, the expression of the President's regret that you should have commenced it by your letter of the 3d of October.

It is painful to him to have with you any cause of difference. He has a just appreciation of your character and your public services at home and abroad. He cannot but persuade himself that you must be aware yourself, by this time, that your letter of October was written under erroneous impressions, and that there is no foundation for the opinions respecting the treaty, which it expresses; and that it would have been far better on all accounts if no such letter had been written.

I have, &c.,

DAN'L WEBSTER.

LEWIS CASS, Esq.,
Late Minister of the U. S. at Paris.

Mr. Cass to Mr. Webster.

DETROIT, *March* 7, 1843.

SIR: I have just received your letter dated December 20, 1842, and postmarked "Washington, February 23, 1843," which commences by stating that my letter of the 11th instant (that is, my letter of December 11th, 1842) had been submitted to the President.

I had no desire to continue the correspondence which has arisen between us. I had said all I felt called upon to say in my own defence, and I had determined there to leave the subject. This determination I expressed to you immediately before I left Washington in January, when you intimated to me that you should probably answer my letter of December 11th. I should not have departed from this resolution had I not felt it due to myself that the actual date of the receipt of your letter should be established. I have reason to suppose that the correspondence between us has ere this been submitted to Congress, and that it will thus come before the nation. Your late letter has no doubt made part of these documents, and persons reading it may well suppose it was written the 20th of December last, and received by me while I was yet at Washington.

The error will, no doubt, be readily explained at the department, for I need hardly say I am sure it was unintentional. But in the meantime it may do me serious injury; for while at the seat of government, where this correspondence was well known, I more than once stated that my letter of December 11th was unanswered.

It is essential, therefore, to me that it should be known that this statement was true, and this can now only be done by spreading the correction as widely as the error has been spread.

This is my first and principal reason for again writing you, and without this reason I doubt if I should have broken the silence I intended to keep, though there are passages in your letter that might well have induced me to depart from this resolution. The correspondence has already grown to an unreasonable length, and I am very unwilling to prolong it; but as I am compelled to write, from the circumstance adverted to, I shall, without further apology, proceed to examine some of the topics presented in your last letter, and also to call to your observation some very offensive remarks contained in your despatch of November 14th, and, to my surprise, repeated in the recent one. Before doing this, however, I shall advert to one view presented in the November letter, and which the haste with which my reply was written prevented me from considering.

Even if I had entertained a desire still further to discuss the questions which have arisen between us out of the treaty of Washington, the course which events, connected with that treaty, are now taking, would have rendered such a measure wholly unnecessary for any purpose I had originally in view. All I feared and foretold has come to pass. The British pretension to search our ships, instead of having been put to rest, has assumed a more threatening and imposing form, by the recent declaration of the British government that they intend to enforce it. As you already know, the 17th of last September, the very day I read the treaty in a New York paper, I solicited my recall. I stated to you I felt that I could not remain abroad honorably for myself nor usefully for our country; and that I considered the omission of a stipulation in that treaty, which

settled the African slave trade question, to guard against the right of search or visitation, or by what other name it may please the British government and country to express this claim to violate our flag and to board our vessels, as a fatal error; considering particularly that this pretension had been first put forth and justified in connexion with that traffic. And so viewing the subject, I felt that the course I had taken in France in opposition to the ratification of the quintuple treaty, which was intended to engraft this principle upon the law of nations, had not been supported by the government as I thought it should have been.

In my protest to Mr. Guizot, of February 13th, 1842, I had staked my diplomatic situation and character upon this support.

Your letter of April 5th, 1842, conveyed the President's approval of my conduct, and this you consider, in your letter of November 14, 1842, as taking from me all further responsibility.

You say, that "having delivered my letter to Mr. Guizot, and having read the President's approbation of that proceeding, it is most manifest that you could, in no degree, be responsible for what should be done afterwards, and done by others." You add, as a corollary from this proposition, that "the President, therefore, cannot conceive what particular or personal interest of yours was affected by the subsequent negotiation here, or how the treaty, the result of that negotiation, should put an end to your usefulness as a public minister at the court of France, or in any way affect your official character or conduct."

The answer to this is so obvious that I cannot but express my surprise it has escaped your observation. A diplomatic agent, without instructions, takes a responsible step, which he thinks called for by the honor and the interests of his country. He states that he acts without the knowledge of his government, and that, if unsupported, he must return home. You think that the approval of his course by his own government absolves him from all further responsibility, and that, happen what may, his honor and usefulness are unimpaired. My opinion is far different. If his government approve his course upon paper, and abandon, in effect, the measures he advocates, he cannot represent his country as his country ought to be represented abroad. And I may safely add, that no man, fit to be sent upon a foreign mission, would hesitate a moment as to the course he ought to pursue. He would not entrench himself behind his paper approval, for, if he did, he would hear words of reproach respecting his government, which no man of honor could submit to. In my case you approved my proceedings, but, as I say and believe, you did not guard against this pretension of England to search our ships, which occasioned my interposition, as it should have been guarded against; and thus, in fact, left me unsupported.

It is by this process of feeling and reasoning that I reached the conclusion you censure in no measured terms, and I trust you will now see "how the treaty, the result of that negotiation, should put an end to my usefulness as a public minister at the court of France."

It put an end to it, because I said the American government would resist the right of search. The government said the same thing, but unfortunately went on to make a treaty respecting the slave trade with England, without saying a word about this pretension, at the very time England had announced to the world that she would search our ships, in or-

der to carry into effect the treaties she had negotiated with other nations upon this very subject-matter. And now I am gravely told that I might have remained, after this, the representative of my country, because my official conduct and character were not affected.

I am not considering which of us is right in his view of the proper course of the government respecting this treaty. I lay that out of the question. I contend that, in my opinion, I was not sufficiently supported, and this being so, that I ought to have returned. You contend that my opinion has nothing to do with the matter; that the government took upon itself the responsibility, and therefore, even if a treaty had afterwards been negotiated "containing provisions in the highest degree objectionable, however the government might be discredited," the minister was free; and that his "usefulness" could not be thereby affected.

I shall not argue this point with you. It is a question of feeling, quite as much as of reasoning, and he who would remain at a foreign court under these circumstances, to represent a "discredited" government, has no sentiments in common with me upon the subject. You state in your letter dated December 20, that a declaration guarding against this claim to search our vessels would have been "no more suitable to this treaty than a declaration against the right of sacking our towns in time of peace, or any other outrage." You enlarge upon this proposition, and, in fact, a considerable portion of your letter is occupied with the defence of the omission of such a declaration. You suppose I had advanced the idea "that something should have been offered to England as a benefit, but coupled with such a declaration or condition as that, if she received the boon, it would have been a recognition by her of a claim which we make as a matter of right."

You add, that the President, satisfied of the justice of the American doctrine, has "avoided to change this ground, and to place the just right of the country upon the assent, express or implied, of any power whatever." "The government thought no skilfully extorted promises necessary in any such cases," &c. All this, and much more in your letter upon this topic, appear to me very extraordinary. I never made a suggestion of the nature you suppose. I never, for a moment, presumed the government would hold out to England a consideration for the disavowal of this pretension. What I really said, I will here repeat from my letter to you of February 15, 1842. But, before quoting the paragraph, I will make a quotation from what immediately precedes, to show that I had a correct notion of what would be the course of England. The *holy* Chinese war is ended, and the British army has withdrawn to the east of the Indies. The *pattern republic*, as we are contemptuously called, can now be attended to.

After showing that this pretension to search our ships is a claim to which this country can never submit, I remark: "The next question is, will England yield?" "It is our safer course to believe she will not, and, looking to her line of policy, that, too, is our natural course. Wherever she has planted a foot, whether on marsh, moor, or mountain, under the polar circles as under the tropics—I will not say *never;* that word does not belong to the deeds of man—but rarely has she withdrawn it. Whenever she has asserted a pretension, she has adhered to it, through good report and through evil report, in prosperity and in adversity, with an iron will and a firm hand, of which the history of the world affords no equal ex-

ample since the proudest days of the Roman empire," &c.; "and the time has come when we must look her designs in the face, and determine to resist or to yield. War is a great evil, but there are greater evils than war, and among these is national degradation. This we have never yet experienced, and I trust we never shall."

"If Lord Ashburton goes out with such modified propositions upon the various questions now pending between the two governments as you can honorably accept, the result will be a subject of lasting gratification to our country. And more particularly if, as I trust, before entering into any discussions, he is prepared to give such explanations as will show that we have misunderstood the intentions of the British government respecting this claim of a right to change the law of nations, in order to accommodate it to their treaty stipulations and its practical consequences—a claim to enter and search our vessels at all times and in all places. This preliminary proceeding would be worthy of the gravity of the circumstances, and equally honorable to both governments."

Whether, in all I said above respecting the tenacity of England in the prosecution of her claims, new or old, I was justified by the characteristic traits of her history, let me be judged by the late emphatic declaration of the chief of the British cabinet, made to the House of Commons, and through them to the world; and which, we are significantly told, was cheered by both sides of the House; and whether I am right in saying that I never thought of proposing that a "benefit" should be offered to England for the relinquishment of this pretension, as you allege, let me be judged by my own words.

My letter of December 11 is in accordance with these views. After stating the nature of this claim, I continue: "Now here, it appears to me, the government should have stopped. The English negotiator should have been told, We abhor as much as you do this traffic in human beings, and we will do all our peculiar institutions permit, to put an end to it. But we will not suffer this matter to be made the pretext for wounding our honor and violating our rights. We will not take a single step till you have renounced this claim. We have already denounced it; and if we should negotiate upon this subject-matter without settling this preliminary question, it would seem like an abandonment of the ground we have taken, or an indifference to the consequences."

This last paragraph touches, in my opinion, the true issue between us of this part of the controversy. You say that the insertion of a declaration against the right of search "would have been no more suitable to this treaty, than a declaration against the right of sacking our towns in time of peace," &c., &c.; and hence draw the conclusion that its omission was both honorable and politic. As this sin of omission is the principal charge I make against this treaty, and as it is the one you labor most earnestly to reason away, I must be permitted again briefly to refer to it.

The British government, in order, as they said, to execute certain treaties they had formed for the suppression of the slave trade, claimed the right to board and examine American ships. The American government denied this pretension, and thus stood the parties before the world. Then comes a British negotiator to our shores, to settle the subjects in difference between the two countries. Two of these are settled. One is this slave-trade question—the very question which gave rise to the monstrous

pretension that is preparing for us so much trouble. And this is distinctly admitted in the President's message, which states that, "after the boundary, the question which seemed to threaten the greatest embarrassment was that connected with the African slave trade."

You negotiated upon the subject-matter, knowing the construction the British government had given to its other slave trade treaties, and knowing, what is clear in itself, as stated in my letter of October 3, 1842, and what Sir Robert Peel has now fully confirmed, that "if a British cruiser meet a vessel bearing the American flag, where there is no American ship to examine her, it is obvious that it is quite as *indispensable* and *justifiable* that the cruiser should search this vessel to ascertain her nationality, since the conclusion of the treaty, as it was before." The error, therefore, was in negotiating upon this very subject, leaving to the other party to say we have concluded an arrangement respecting the slave trade with you, since our mutual pretensions concerning the right of search have been made known. You were aware that our claim arose out of that subject, and, as you have not guarded against it, we shall enforce it.

As to the analogy between such a claim and one to sack a town in time of peace, it is a sufficient answer to say that when such a pretension is solemnly put forth to the world by England, I shall think any government deserving the severest reprobation which would go on and negotiate upon a subject-matter connected with the origin of such a claim without sufficient security against it; more particularly if, as in this case, the subject-matter relates to a question of general benevolence, urged upon us, no doubt, by *the most philanthropic motives*, but which no just principle requires us to intermeddle with, at the sacrifice of the first attributes of our independence.

You make some remarks upon the impropriety of requiring from any nation a solemn renunciation of an unjust pretension, and you proceed to observe that the President "has not sought, but, on the contrary, has sedulously avoided, to change the ground, and to place the just rights of the country upon the assent, express or implied, of any power whatever." "The government thought no skilfully extorted promises necessary in any such cases."

As to the extortion of promise, it is a question of ethics which has no place here. As to the propriety of requiring a nation formally to disavow an unjust pretension before entering into a negotiation with her, or, if she will not do so, of then telling her, we shall stand upon our public denial of your claim, and will not negotiate with you, it seems to me that such a course is equally honorable and politic. Is not diplomatic history full of these efforts to procure such disavowals, and who before ever expressed a doubt of the policy of these measures? Have we not, time after time, endeavored to induce England to stipulate that she would not impress seamen from our ships? And did you not, in the course of the late negotiation with Lord Ashburton, strive to procure the solemn abandonment of this claim? There is conclusive proof of this in your letter to the British minister of August 8th, 1842, where you say, after having conversed with him, that "the government of the United States does not see any utility in opening such negotiation, unless the *British government is prepared to renounce the practice in all future wars.*"

You remark, also, in the same letter, that "both before and since the war negotiations have taken place between the two governments, with the

hope of finding some means of quieting these complaints" (of impressment.) You allude also to the convention formed for this purpose by Mr. King, in 1803, and to the "utter failure of many negotiations upon this subject."

Were all these fruitless efforts, so long carried on, liable to the objection you raise, that any nation, calling upon another to disavow an unjust pretension, weakens its own cause, and "that no interpolation of a promise to respect them, (that is, our rights and dignity,) ingeniously woven into treaties, would be likely to afford such protection?"

Now, what becomes of the analogy you seek to establish, and which, by a *reductio ad absurdum*, is intended to show that these conventional disavowals of contested pretensions are "skilfully extorted promises," inconsistent with our dignity and interests? What becomes of the claim to sack our towns in time of peace, and of "protests," which you liken to Chinese figures painted on cities, to frighten away the enemy?

From the time of Washington to this day, almost every administration has sought to procure from the British government a solemn relinquishment of her claim to impress our seamen, and never before was it discovered that the effort was unworthy and dishonorable.

And, during all the period of the long war between England and France, at the close of the last century and at the beginning of this, when the laws of nations and the rights of neutrals were equally contemned, how many attempts were made by our government to induce that of Great Britain to abandon her unjust pretensions, and to stipulate that she would no more exercise them? and that, too, for a "boon." Our public documents are filled with proofs of this. I shall refer to one or two, which even you will deem conclusive.

In a letter from Mr. Madison to Messrs. Monroe and Pinkney, dated May 20th, 1807, our negotiators are told that, "without a provision against impressment, substantially such as is contemplated in your original instructions, no treaty is to be concluded."

Again, in a letter from Mr. Madison to Mr. Monroe, dated January 5th, 1804, the former remarks that "the plan of a convention, contemplated by the President, is limited to the cases of impressment of our seamen, of blockades, *of visiting and searching our vessels*, of contraband of war, and of the trade with hostile colonies, with a few other cases, affecting our maritime rights, *embracing, however, as inducements to Great Britain to do us justice* therein, a provision for the surrender of deserting seamen and soldiers, and for the prevention of contraband supplies to her enemies."

Then follows the plan of a convention for these purposes.

And this *projet* was the work of Mr. Madison, directed by Mr. Jefferson, and addressed to Mr. Monroe. The "rights and dignity" of the United States were as safe in their hands as they will ever be in mortal hands. And even if I had recommended, as I have not, a "boon," or "favor," or "benefit," to be given to England, in consideration of her relinquishment of this offensive claim, I should not have wanted higher precedents to justify me.

You object to the suggestion I made, that a declaration should have accompanied the ratification of the treaty, denying the right to search our ships; and you ask, apparently emphatically, if this had been done, and if the British "government with equal ingenuity had appended an equivalent written declaration that it should not be considered as sacrificing any

British right, how much more defined would have been the right of either party, or how much more clear the meaning and interpretation of the treaty?"

I am very unwilling to believe you do not wish to deal sincerely with me in this matter, and I must, therefore, attribute the strange error you have committed, in the construction of my language, to a hasty perusal of it. Had you read it with due care, you would have found that I spoke not of an *ex parte* declaration, but of a declaration mutually assented to, and which thereby would have become a portion of the treaty: a declaration, putting a construction upon the instrument, which would thus have been ratified with a knowledge of it. After meeting your assertion, that the tendency of my letter was to impute blame to the President and Senate for the ratification of the treaty, and showing that it was not the ratification but the negotiation I censured, I add, "I am under the impression, if I had had a vote to give, I should have been found among the majority upon that occasion. This, however, would have been upon the condition that some declaration should be annexed to the act of ratification, denouncing the pretension to search our ships. I would thus have sent the instrument to the British government, and placed upon them the responsibility of its final rejection or ratification, and I am sure we should have had the opinion of the world with us under such circumstances." I need add nothing to this branch of the subject. It is clear that I spoke here of a conditional ratification, depending upon the assent to be given by the other party to the declaration concerning the claim of search. There would have been here no room for the diplomatic retort you suggest. There could have been no counter declaration, for then the whole arrangement would have been void. As I said in my letter of December 11th, "Had this course been pursued, the sincerity of the British government would have undergone a practical test, from which there would have been no escape. It would not have been necessary to quote the last despatch of Lord Aberdeen to show what he meant in another, or Lord Palmerston in the first. If such a proposition had been made and accepted, our honor would have been vindicated, our rights secured, and a bright example of sincerity and moderation would have been given to the world by a great nation. If it had been rejected, that would have proved that our co-operation in the suppression of the slave trade was a question of minor importance, to be sacrificed to the preservation of a pretension, intended to introduce an entire change into the maritime police of the world." "Why this very obvious course was not adopted, I am utterly at a loss to conjecture, and that it was not is precisely the objection to which the whole arrangement is liable. Instead of the high ground we should then have occupied, we find ourselves seriously discussing the question whether or not England will enforce this claim."

There was a very uncourteous tone pervading your letter to me of November 14th, 1842; a kind of official loftiness, which, however it may suit other meridians, does not belong to an American functionary writing to an American citizen. My answer to that letter was very hastily written. It was prepared, as you will perceive by the date and by your receipt of it, the very day the postmaster of New York handed me your communication.

I was aware that the subject ought to occupy more time, and that justice was not done to it. But you had intimated pretty distinctly in your

letter, that our correspondence was to be published, and I was apprehensive it might, somehow or other, find its way to the public before I could correct the erroneous impression which your letter was calculated to produce. Under these circumstances, my attention was drawn to the general course of reasoning rather than to the mode in which this was conveyed; and, although there were one or two paragraphs so plainly uncourteous that they could not escape my observation, still I passed them by, having little taste for a war of words; but, in your letter dated December 20th, and received February 23d, these offensive expressions are repeated, and the same process is adopted to prove me guilty of misstatement, which is contained in the preceding letter. I met this attempt at that time without any reference to the language which you used. I shall meet it again; but I shall take leave to precede my defence by reminding you of the comity which an American Secretary of State owes to his countrymen. You say "the President is not a little startled that you should make such totally groundless assumptions of fact, and then leave a discreditable inference to be drawn from them. He directs me not only to repel this inference, as it ought to be repelled, but also to bring to your serious consideration and reflection the propriety of such an assumed narrative of facts as your despatch, in this respect, puts forth."

"The President cannot conceive how you should have been led to adventure upon such a statement as this. *It is but a tissue of mistakes.*" "All these statements, thus by you made, and which are so exceedingly erroneous," &c.

And, in your last letter, you say that, "in attempting to escape from some of the mistakes of this tissue, you have fallen into others," &c.

Following your example, it would have been easy to find a retort for these expressions, which would want neither point nor truth. But my own self-respect, and, still more, my respect for that great tribunal of public opinion which is to judge between us, forbid me from imitating your course upon this occasion. I would remind you that there is nothing in your official position, nothing in your relative situation, which can justify this lofty assumption of superiority. I doubt if a parallel can be found in diplomatic history since Napoleon swayed the destinies of the world. But the use which you make of the President's name, in this undignified language, is even more to be regretted than the epithets themselves. That high functionary should not be invoked when a private citizen is thus assailed. Under different circumstances, such conduct might be imitated by the other party, and a system of criminations and of recriminations introduced into the correspondence of the department, equally injurious to the public interest and incompatible with the public honor. Upon the present occasion no such result will happen. I have too much respect for the Chief Magistracy of my country, and too much regard for the distinguished individual who occupies that high post, to introduce his name unnecessarily into this discussion; and, notwithstanding you have appealed to him, I shall still consider the language as yours, and not as his. Many others would not be as forbearing. I say the "language," for it is that which I censure. I do not question your right, nor the right of any other person, freely to examine and to meet statements and arguments at discretion. But let this be done with the courtesy of a gentleman.

I shall now proceed, as briefly as possible, to examine these charges of *an assumed narrative of facts*; of *groundless assumption*, and of *a tissue*

of mistakes, which you have once and again preferred, against me. But first, let us see what is the grave fault you allege I have committed. I will state it in your own words:

"Before examining the several objections suggested by you, it may be proper to take notice of what you say upon the course of the negotiation. In regard to this, having observed that the national dignity of the United States had not been compromitted down to the time of the President's message, at the last session, you proceed to say: But England then urged the United States to enter into a conventional arrangement, by which we might be pledged to concur with her in measures for the suppression of the slave trade. Until then we had executed our own laws in our own way. But, yielding to the application, and departing from our former principle, of avoiding European combinations upon subjects not American, we stipulated, in a solemn treaty, that we would carry into effect our own laws, and fixed the minimum force we would employ for that purpose."

After this quotation, you thus continue: "The President cannot conceive how you should have been led to adventure upon such a statement as this. It is but a tissue of mistakes. The United States yielded to no application from England; the proposition for abolishing the slave trade, *as it stands in the treaty*, was an American proposition; it originated with the executive government of the United States, which cheerfully assumes all its responsibility. It stands upon its own mode of fulfilling its duties and accomplishing its objects. Nor have the United States departed, in this treaty, in the slightest degree from their former principles, of avoiding European combinations upon subjects not American; because the abolition of the African slave trade is an American subject as emphatically as it is an European subject, and indeed more so, inasmuch as the government of the United States took the first great step in declaring that trade unlawful, and in attempting its extinction. The abolition of this traffic is an object of the highest interest to the American people and the American government; and you seem strangely to have overlooked the important fact, that nearly thirty years ago, by the treaty of Ghent, the United States bound themselves, by a solemn compact with England, to continue 'their efforts for its entire abolition,' both parties pledging themselves, by that treaty, to use their best endeavors to accomplish so desirable an object."

"Again, you speak of an important concession made to the renewed application of England. But the treaty, let it be repeated, makes no concession whatever to England. It complies with no demand, conforms to no request. All these statements, thus by you made, and which are so exceedingly erroneous, seem calculated to hold up the idea that, in this treaty, your government has been acting a subordinate or even a complying part." And then follows the grandiloquent passage I have already quoted, commencing in such a solemn style, that the President was "startled" at all these grievous offences of mine.

Thus stands your charge in the letter of November 11th, 1842. It is renewed in that of December 20th. In my answer to the first I vindicated myself, and I thought successfully, against your complaint, and never supposed it would again rise up in judgment against me. I told you that you had qualified as a tissue of mistakes a paragraph which contained one statement, as a fact, to wit: that England had urged our government to enter into a treaty stipulation for putting an end to the slave trade, to

which we yielded. I told you still further, why I, as well as the world, supposed that the application for this stipulation came from England. She had pursued this object steadily for forty years, and she had sent out a special minister charged to negotiate upon that as well as upon other subjects. We had no interest to form a slave trade convention. You refer to the treaty of Ghent as creating obligations upon this matter, but that treaty makes not the slightest allusion to any further arrangements, and has no more connexion with the treaty of Washington than with the convention respecting armed vessels upon the lakes. It was complete in itself, and neither required nor looked to any other stipulations between the parties. And we had executed it in good faith.

For these reasons, I supposed that Lord Ashburton came out to propose to us to enter into another treaty upon this subject; and I thus stated it as an historical fact. In my answer, I further called to your observation that the rest of the paragraph was matter of inference or deduction, not admitting qualifications applicable, not to inferences, but to assertions. As I shall, by and by, have occasion to refer again to this branch of the subject, I shall not pursue it any further at present.

In your last letter you reiterate, in substance, what you had previously said, and add, that "it would appear from all this, that that which in your first letter appeared as a direct statement of fact, of which you would naturally be presumed to have had knowledge, sinks at last into inference and conjecture." Now, here is a very obvious error, which, by the slightest attention to what I said, would have been avoided; but I will not qualify the mistake as a *tissue* of anything. I did not say that the statement of facts to which you refer was all matter of inference. I said expressly that the statement respecting the desire of England that we should enter into this negotiation was put forward as a well-known fact, but that "all else—I repeat it, all else—to the very least idea, is matter of inference." Let the correctness of this assertion be judged by a reference to the paragraph. You continue: "But in attempting to escape from some of the mistakes of this tissue, you have fallen into others."

You then refer to my statement that England continued to prosecute the matter, and that we consented to its introduction. This, however, it is very clear, is but the same idea before suggested and combatted in your first letter. You say the English "minister no more presented the subject for negotiation than the government of the United States presented it."

You then ask me to "review my series of assertions on this subject, and see whether they can possibly be regarded merely as a statement of your own inferences."

It would be but a waste of time to repeat what I have already said, that I assumed as an historical fact, believed by everybody, that Lord Ashburton came to urge the negotiation of this treaty, and that upon this point we yielded to the desire of England. When you say this is one of the "inferences" to which I refer, you furnish me with language and statements which are not my own.

But, after all, why this strange pertinacity in dwelling upon this point? Why this studied and repeated attempt to prove me guilty *of a tissue of mistakes*, because I believed Lord Ashburton submitted propositions upon this question of the slave trade, and that our government acceded to them? I have already shown that this opinion was a natural one, and held in

common with the country, and I trust I shall show this still more clearly. But even if not so, how does this change the state of things? Does it prove that the negotiator was more sagacious, or the treaty more useful and honorable? The result is the same, and the inquiry is therefore confined to the process. You will please to recollect I objected that we had yielded to the application of England, and made a treaty upon this subject without guarding against a dishonorable pretension she had advanced respecting it.

This is the whole charge which has provoked all this "startling" reproof. To this you answer, as though this answer took away all censure, that the "British minister no more presented the subject for negotiation than the government of the United States presented it;" that is, in other words, *that the matter was jointly conducted and terminated.* And is it possible you can believe that this circumstance takes away the grave responsibility of an improvident arrangement which left us worse than it found us; and, what is sincerely to be deplored by every American, which led the President of the United States, in his annual message to Congress—a document read by the world—to put a construction upon this instrument which the English prime minister has contradicted in the most solemn manner, and in no measured terms? The President, in his message of 1841, says that this claim of "visit and inquiry" was "regarded as the right of search, presented only in a new form, and expressed in different words," and he adds that he had denounced it as inadmissible by the United States. He then proceeds to speak of the recent treaty, and thus continues: "From this it will be seen that the ground assumed in the message (to wit, that the United States would never submit to this new-fangled claim of 'visit and inquiry') has been fully maintained, at the same time that the stipulations of the treaty of Ghent are to be carried out in good faith by the two countries, and *that all pretence is removed for interference with our commerce for any purpose by a foreign government.*"

This construction the English government deny, and boldly avow their adherence to the claim to board and examine our vessels. Now, where can you find one word in the treaty which but intimates that this question respecting "visitation" has been even taken up or touched? Unfortunately, no such word is there; nor is there any principle of sound construction which can supply its place. What I said to you in my letter of October 3d upon this topic may, perhaps, produce more impression now than it did then. It has been marvellously confirmed. I remarked: "In carefully looking at the 7th and 8th articles of the treaty providing for the suppression of this traffic, I do not see that they change in the slightest degree the pre-existing rights claimed by Great Britain to search our ships. That claim, as advanced both by Lord Palmerston and Lord Aberdeen, rests on the assumption that the treaties between England and other European powers upon this subject could not be executed without its exercise, and that the *happy concurrence of these powers not only justified, but rendered it indispensable.* By the recent treaty we are to keep a squadron on the coast of Africa. We have kept one there for years; during the whole time, indeed, of these efforts to put a stop to this most iniquitous commerce. The effect of the treaty, therefore, is to render it obligatory upon us, by a convention, to do what we have long done voluntarily—to place our municipal laws in some measure beyond the

reach of Congress, and to increase the strength of the squadron employed on this duty."

"But if a British cruiser meet a vessel bearing the American flag where there is no American ship-of-war to examine her, it is obvious that it is quite as *indispensable* and *justifiable* that the cruiser should search this vessel to ascertain her nationality since the conclusion of this treaty as it was before. The mutual rights of the parties are in this respect wholly untouched; their pretensions exist in full force, and what they could do prior to this arrangement they may do now; for though they have respectively sanctioned the employment of a force to give effect 'to the laws, rights, and obligations of the two countries,' yet they have not prohibited the use of any other measures which either party may be disposed to adopt."

What was opinion when I wrote has now become fact.

In all this I beg not to be misunderstood. I do not wish again to subject myself to the charge you made against me of favoring the pretensions of England. That is one of the last offences I desire to commit, or, if I know myself, that I am likely to commit. I think the pretension she advances to search our vessels, and to call this search a "visitation," is one of the most injurious and unjustifiable claims of modern days. I would meet the first exercise of it by war. It leads directly to impressment, and subjects our whole commercial marine to the mercy of a jealous rival. It is but another step in her march towards universal domination. I do not believe our government have acknowledged this claim, or ever thought of acknowledging it. I believe the President and all his cabinet are too honorable and too patriotic ever to harbor a thought of their surrendering one of our proudest national rights. But, as I said before, it is an act of omission and not of commission I censure. It is because a treaty has been made embracing the slave trade, and because no security is found there against the exercise of this pretension, which threatened, as the President said in his message, the greatest embarrassment, and was "connected with the African slave trade."

But to return to your charge of my want of good faith in this "tissue of mistakes." In any discussion concerning the origin and nature of the propositions which led to the 7th and 8th articles of the treaty of Washington respecting the slave trade, you have greatly the advantage over any antagonist. It is a remarkable fact, and without precedent, probably, in modern diplomacy, that not one written word is to be found in the documents relating to this treaty, which passed between the negotiators, and which led to this new and important stipulation. I presume these functionaries met often, and conversed upon the various topics pending between them, and that then some protocol of their meeting, or some correspondence, was prepared, embodying their views. One would suppose that this course was necessary as well for themselves as for the information of their governments, and, I may add, in the case of the American negotiator, for the information of the people—equally his sovereign and the sovereign of the government he represented. Was all this omitted, or has it been suppressed? As was said by a Senator from Pennsylvania, in the debate upon the ratification of the treaty, and said with as much truth as beauty, "The tracks of the negotiators were upon sand, and the returning tide has effaced them forever."

In the question relating to impressment there is no such reserve. We

have a letter on that vital subject from each party; and yet this correspondence led to nothing; and when it was prepared, it was known it would lead to nothing. Why it is there, it passes my comprehension to judge. When in conversation with the British negotiator, you found he was not prepared to make any concession upon this subject. Why introduce it at all, and give his government another opportunity to assert its pretension, and to avow its determination to enforce it? What was gained by this? You could hardly expect to shed new light upon a question discussed by Jefferson and Madison; and you could hardly expect that any declaration of resistance to the practice could be more emphatic than the resistance of the last war, and the numerous remonstrances against the doctrine with which our diplomatic history abounds. An important subject is introduced into the treaty without any discussion; and another, still more important, is discussed without introduction, and with the full knowledge that it would not be introduced. Allow me again to spread before you the paragraph you quote, and which contains the "tissue of mistakes," which occupies so conspicuous a place in your letter:

"But England then urged the United States to enter into a conventional arrangement, by which we might be pledged to concur with her in the measures for the suppression of the slave trade. Till then we had executed our own laws in our own way; but, yielding to this application, and departing from our former principle of avoiding European combinations upon subjects not American, we stipulated in a solemn treaty that we would carry into effect our own laws, and fixed the minimum force we would employ for that purpose."

This is the whole charge, as you make it. This is the paragraph in reference to which you say, "the President cannot conceive how you should have been led to adventure upon such a statement as this." Now let us analyze this matter, and see if it is as "startling" as you suppose. How many facts are here stated? and, of these, how many are denied or doubted?

First. England urged us to make a treaty for the suppression of the slave trade.

Second. We yielded to this application.

Third. Before then, we had executed our own laws in our own way.

Fourth. We departed thereby from an old principle of avoiding European combinations upon subjects not American.

Fifth. We stipulated we would carry into effect our own laws.

Sixth. We fixed the minimum force we would employ for that purpose.

Here is the whole indictment. Now for the defence.

I suppose I may pass over the second fact. It depends entirely upon the first, and is, in truth, a part of it. If England urged this treaty upon us, and we thereupon assented to the negotiation of it, we of course yielded to the application. I suppose I may pass over the third fact: no one will dispute its truth. Or, if it is denied, let it be shown when, before now, our laws were enforced by virtue of treaty stipulations. I suppose I may pass over the fourth. It is matter of opinion, as I said in my former letter—of inference. No one can place it in that category of facts, for the truth of which he who advances them is morally responsible. You say that the suppression of the slave trade is interesting to the United States, and that therefore we have not departed, in the formation of the treaty, from the wholesome maxim of non-combination. I say it is

interesting, also, but that our duties can be fully performed without any European combination; and that such a mutual arrangement is injurious, and violates one of the articles of our political faith: and, in proof of the danger of these arrangements, I refer to the "perpetually recurring difficulties which are presenting themselves in the execution of the conventions between France and England upon this subject." I suppose I may pass over the fifth fact, for no one can question that, by the treaty, we do stipulate to carry into effect our own laws. The eighth article expressly declares that the object is to "enforce the laws," &c., of each of the two countries. I suppose, also, I may pass over the sixth fact, for the same eighth article provides that the squadron to be employed in suppressing the slave trade shall "carry in all not less than eighty guns." Here is the minimum. We thus remove five of these condemned facts from the act of accusation. There remains one to support the charge you have made, and to justify the unqualified language you have employed. And what is this solitary proof of my bad faith? Here it is. I said that England had urged our government to enter into stipulations for suppressing the slave trade, to which we had yielded. I am "startled" myself at the importance you attach to my views of this matter, and to the gravity of the reproof these have led to. I have already remarked that all the world supposed Lord Ashburton came here with propositions upon this, as well as upon some other subjects, in dispute between the two governments; and, at the moment I am writing, I find in the papers an extract of a letter from Mr. Everett to you, presented to the House of Representatives by Mr. Cushing, which fully confirms my previous impressions. In that letter Mr. Everett says he was told by Lord Aberdeen, on the 27th of December, 1841, that Lord Ashburton was going to the United States "with full power to settle any point in discussion, imbodying what was called the right of search, which was the most difficult." And another incident comes opportunely to confirm all this. It is the statement of a Senator, who, from his position, ought to know the circumstances, and who, from his high character, is entitled to all credit. Colonel King said, in the Senate, on the 23d ultimo, speaking of this claim to visit our vessels, "It was intolerable. Here, then, was a direct point of collision, and that was what brought Lord Ashburton to this country with the view of adjusting this difficulty."

I may express the surprise I felt when I read the following paragraph in your last letter, urged with as much emphasis as though the merits of the treaty and of our whole controversy turned upon this point. Truly, when such undue importance is given to a topic so little meriting it, when its discussion occupies seven folio pages of your last letter, and three pages of its predecessor, and when the view you present is most elaborately prepared, I may well presume that a substantial defence of your various positions is not easily found. This is the paragraph:

"Suppose your letter to go before the public unanswered and uncontradicted; suppose it to mingle itself with the general political history of the country as an official letter among the archives of the Department of State; would not the general mass of readers understand you as reciting facts, rather than as drawing your own conclusions? as stating history rather than as presenting an argument? It is of an incorrect narration that the President complains; it is that, in your hotel in Paris, you should undertake to write a history of a very delicate part of a negotiation of

ried on at Washington, with which you had nothing to do, and of which you had no authentic information; and which history, as you narrate it, reflects not a little on the independence, wisdom, and public spirit of the administration."

Strange, indeed, that this "history," and "narrative," and "delicate part of a negotiation," &c., &c., &c., are to be charged to a simple suggestion, or assertion if you please, that Lord Ashburton came over to make propositions to the government respecting the slave trade, which were accepted.

But, before quitting this topic, I shall appeal to your own authority. You remarked to me, in your letter of November 14, that "the United States yielded to no application from England. The proposition for abolishing the slave trade, *as it stands in the treaty*, was an American proposition: it originated with the executive government of the United States, which cheerfully assumed its responsibility." You remarked, in your letter of December 20—"Now, the English minister no more presented the subject for negotiation than the government of the United States presented it; nor can it be said that the United States consented to its introduction, in any other sense than it may be said that the British minister consented to it." All this is too diplomatic for me. I can neither clearly comprehend what is meant in the last quotation, nor, so far as I comprehend it, can I reconcile it with the other. Whether either fairly contradicts my suggestion, that the introduction of the slave trade stipulation into the treaty was due to the application of England, I leave to those who are more competent to judge your language than I am to determine. At first, it is a guarded proposition, that the provision, *as it stands in the treaty*, is the work of the American government; and, at last, this provision owes its paternity as much to one government as the other.

But I may well appeal to your own candor to say, if the special pleading in the first quotation meets the issue between us. I said we consented to the introduction of the slave trade stipulation into the treaty upon the application of England, and you do not spare your reproof for this assertion, through ten pages of your letters, because the proposition, *as it stands in the treaty*, was an American proposition.

But, if you mean by all this that Lord Ashburton did not make any proposition to our government upon this subject, but that you pressed it upon him, as you would seem to intimate, in order to repel the suggestion I made, then I must be permitted to say that there is nothing more extraordinary in all our diplomatic history. I shall not enlarge upon this topic, but merely ask, what benefit an American negotiator saw for his country in this arrangement, connecting us with another nation, and exposing us, both in principle and practice, to consequences which human sagacity cannot even conjecture? I will ask, in the words of the President's message, *what adjustment of a difficulty of great magnitude and importance*, in relation to this matter, took place, if it was not this very question? What other "embarrassment (still in the words of the message) was connected with the African slave trade?" Both Lord Palmerston and Lord Aberdeen, in 1841, expressly disavowed the right to search American vessels, with a view to prevent their engaging in the slave trade. They both declared, and Sir Robert Peel repeated the declaration in his late speech, (I quote the words of the last:) "The right of search, connected with American vessels, we entirely disclaim. Nay, more; if we knew that an

American vessel was furnished with all the materials requisite for the slave trade, &c., still we should be bound to let that vessel pass on." And that our government knew these views, is distinctly stated by the President, in his message, who says that Lord Aberdeen "expressly disclaimed all right to detain an American ship on the high seas, even if found with a cargo of slaves on board, and restricted the pretension to a mere claim to *visit and inquire.*" This claim, the President adds, "was regarded as the right of search, presented only in a new form, and expressed in different words, and I therefore feel it my duty to declare, in my annual message to Congress, that no such concession could be made; and that the United States had both the ability and inclination to enforce their own laws," &c. I repeat, then, what other point remained to be *adjusted* upon this general subject, but this very claim of *visitation?* and if this was not adjusted, as it is now clear it was not, what "adjustment" did take place? And why was the stipulation introduced into the treaty, as though we could not keep a squadron on the coast of Africa, and execute our own laws, without binding ourselves in a solemn convention with Great Britain to do so? And all this you intimate, without even a request on her part!

I here close this controversy; and I shall close the correspondence by a few remarks upon the serious position in which our country is now placed. It affords me no pleasure to find that all I foretold respecting the course of the British government, in relation to this pretension to search our ships, has been signally confirmed by the recent declaration of Sir Robert Peel. The accomplishment has soon, too soon, followed the prediction. I said, in my letter to you of February 15, 1842, as I have already stated, that England rarely, if ever, abandoned a pretension, and that in my opinion she would enforce this. And in my letter to you of December 11, 1842, speaking of the probability that she would carry into effect her doctrine, I said: "That she will do so when her interest requires it, I have no more doubt than I have that she has already given abundant proofs that the received code of public law is but a feeble barrier, when it stands in the way of power and ambition. Both Lord Palmerston and Lord Aberdeen tell us she will." And now, a greater than either has said so, and, as the London Times expresses it, he has said it in the most emphatic manner. And what, then, is our position? Sir Robert Peel has declared that the British government never will relinquish this claim to *search* our vessels, calling it a *visitation;* and the London Times, the great exponent of the principles and purposes of the English government and aristocracy, said, on the 31st of last December, a month before this declaration, that "England has not abandoned one tittle of her claim (to search our vessels;) the treaty does not afford the smallest presumption that she has; and the United States would find that the right would continue to be unflinchingly, (aye, that is the word,) unflinchingly exercised." And it adds, that this "essential right of the British navy" would never be relinquished. Sir Robert Peel is a cautious statesman. He does not deal in abstractions. He does not make declarations in the face of the world, to remain inoperative, particularly when such declarations are cheered by both sides of the House, in a manner to show, beyond a doubt, that they are responded to by the public feeling of the country. And the "Times," well informed of the views of the government a month before they were communicated to the nation, would not have said that *the right would be unflinchingly exercised,* if it were to remain a dead letter.

We all know to what this pretension leads, and to what it is intended to lead: that it will virtually subject our whole commercial marine to the English navy. It is an insult to the common sense of the world to talk about a difference, in their effects, between a search for one purpose and a search for another; and to call a search to ascertain the character of a vessel, and to carry her in for condemnation—at the will of a midshipman perhaps, if he believes, or affects to believe, she belongs to one country and claims to belong to another—to that great gulf, always ready to swallow American property, a British court of admiralty—to call, I say, such a search a *visitation*, and, by this change of name, to justify the pretension—all this was reserved for the nineteenth century. For, what is a "visitation?" It is not enough to look at the flag; for any "bunting," as Lord Palmerston calls it, may be hoisted. It is not enough to look at the men, for all marines contain foreigners as well as natives. It is not enough to look at the papers, for these may be simulated. It is not enough to look at the log-book, for that may be false or forged. It is not enough to look at the cargo, for that proves nothing. But it is obvious that all these will be looked at to satisfy the inquisitor and his inquisition.

The London Sun said, last year, very justly, "If the Americans sanction the examination of their ships, for the mere purpose of ascertaining if a vessel bearing the American flag is *bona fide* an American vessel, they sanction a rigid examination of the vessel herself." And it is to be borne in mind, that the right to examine presupposes the right to send in, if the examination is not satisfactory to the officer, and to condemn if not satisfactory to the judge. What follows, let our history from 1793 to 1815 tell.

But this is the least injury sought to be entailed upon us. Heretofore, agreeably to her own doctrine, England could only impress our seamen in time of war; for she claimed the right to board our vessels merely as a belligerant right, which ceased when she was at peace. And she conceded—and so said the Prince Regent, in his celebrated declaration of January 9, 1813, in answer to the manifesto of the American government—that a British cruiser could not board an American ship for the purpose of impressment; but that, having once entered under a legal right, then the boarding officer could seize whoever he pleased, to be transferred to a foreign navy, there to fight against his own country. Now, the British government has devised a plan by which our vessels may be boarded in time of peace, and thus the whole seamen of the United States may be placed at the disposition of England, in peace and war.

We now understand the full value of impressment, and why Lord Ashburton would not relinquish it; and we understand what the London Times means, when it says that "this right of visitation, which is to be 'unflinchingly exercised,' is essential to the British navy."

No pretension, in modern times, has advanced more rapidly than this. It is but a year or two since Lord Stowell, the well-known English admiralty judge, solemnly decided that "no nation can exercise a right of *visitation* (mark that word) and search upon the common and unappropriated part of the ocean, except upon the belligerant claim." And still later, the Duke of Wellington said, in the House of Lords, "that if there was one point more to be avoided than another, it was that relating to the *visitation* of vessels belonging to the (American) Union." The first time we heard of this pretension, as a serious claim, was from Lord Palmerston on the 27th of August, 1841, and the next was from Lord Aberdeen on

the 13th of October following; and it was then put forth as "indispensable and justifiable," in the execution of certain slave trade treaties formed with the "States of Christendom." Now, the British government claim that it has become a settled part of the law of nations. And our ships are to be searched, says Sir Robert Peel, to ascertain if a "grievous wrong has not been done to the American flag." This is really one of the most extraordinary assumptions of modern days. Our flag is to be violated, to see if it has been abused! The whole country knows where the "grievous wrong" would be, if this principle were carried into practice.

There are a thousand reasons, founded upon common ancestry, upon language, upon institutions, and upon interests, why we should earnestly desire peace with the English people; but will their government permit it? This I doubt. England has great power, and she is not slow to exercise it. She has great pride, and she is not slow to indulge it. We are in the way both of her ambition and of her interest; and ambition and interest need never march far in search of pretexts for war.

It becomes every American to ask, if he is prepared to yield this right of search. For myself, I think it is better to defend the outworks, than the citadel; to fight for the first inch of territory rather than for the last; to maintain our honor when attacked, rather than to wait till we have none to be attacked or maintained; and such, I trust and hope, will be the unwavering determination of the government and of the country.

What I anticipated when I commenced this letter has come to pass. The documents called for by Colonel Benton have been sent into the Senate, as I perceive by the last papers. Your recent letter will now go out with the others, and reach the American people. I have no means of clearing myself from the difficulties you have spread round me but by submitting my views, as you have submitted yours, to the decision of the country. I am now a private citizen. Twice, since I became such, you have presented to me, in elaborately prepared documents, your sentiments upon some important topics arising out of the late treaty. These documents now make part of the political history of the country. There are, therefore, no considerations of duty nor of propriety to restrain me from appealing to the same great tribunal to judge between us; from endeavoring to redeem myself from some severe charges you have made against me. I have been written *at*, but the public have been written *to*. I shall, therefore, not hesitate to authorize the immediate publication of this letter, being little disposed to leave it to be buried in the archives of the Department of State.

At the moment of signing my letter, the President's message of February 27, 1843, respecting the treaty of Washington and the right of search, has reached me. I think every American should go with the President in his reprobation of this doctrine. I refer, however, to the message, to say, that had it been in my possession when the body of this letter was prepared, I should have quoted it instead of quoting the other messages, because in this the views are more elaborately prepared than in those, showing that the claim of *visitation* was perfectly comprehended by our government when this treaty was negotiated; that it was denounced as wholly inadmissible, and that the treaty was supposed to have made "a practical settlement of the question."

One or two reflections force themselves upon my mind, which I shall submit to you, even at this late moment.

In the first place, this claim to search our vessels, under the pretence of *visiting them*, though connected in its origin, or rather announced as connected, with the African slave trade, is co-extensive with the ocean. The principles upon which it rests, so far as they rest on any, are of universal application. For, wherever a British cruiser meets a vessel bearing the American flag, such cruiser may wish to know if a "grievous wrong" has been committed, and whether she is truly what she appears to be.

Such are the necessary consequences of this doctrine, and such we now ascertain is the extent to which it is to be pushed. It is distinctly announced by Sir Robert Peel, in his late speech, that this right of visitation is not necessarily connected with the slave trade, and this is confirmed by the "Times," which says, "that this right has obviously no intrinsic or necessary connexion with the slave trade," and "that it is a part of the marine code of nations."

How, then, could a conventional arrangement, obliging us to keep a squadron upon the coast of Africa, guard against its exercise, or "supersede," in the words of the message, "any supposed necessity, or any motive, for such examination or visit?" Again: How could it guard against these effects, even if the operation of the doctrine were limited to search or visitation in slave trade latitudes? England said to us—We have made a treaty with France, by which we have a right to search her ships, and to send them in for condemnation, if they are engaged in the slave trade. If we cannot search your ships, we cannot execute this treaty, because a French vessel, by hoisting an American flag, will place herself beyond the reach of our cruisers; therefore, we shall *visit* your ships.

Now, it is manifest that our squadron upon the coast of Africa will not change in the slightest degree this state of things. A French vessel may still hoist an American flag, and thus protect a cargo of slaves, so far as this protects it, in any part of the great ocean, from the African coast to the coast of Brazil. Is this squadron of 80 guns, or is any vessel of it, to be every where? And where it is not, what will prevent any ship from placing an American flag at its masthead?

I am stating, not defending, the British doctrine, and I do not enter here into those obvious considerations which demonstrate its fallacy and injustice. This I have attempted elsewhere, but with what success it does not become me to judge. I attempted to show, that because any of the "States of Christendom" choose to form treaties for the attainment of objects, military, commercial, or *philanthropic*, such mutual arrangements give them no right to change the established laws of nations, and to stop and search our vessels upon the great highway of the world. It is the slave trade to-day, but it may be the sugar trade to-morrow, and the cotton trade the day after. But, besides, it is obvious that all the cases put by the British political casuists, in support of this new doctrine, are mere questions of identity, where he who does the deed and boards the vessel acts, not upon his right, but upon his responsibility, and, like the sheriff who arrests a person upon a writ, is justified, or not, according to the result.

But it is clear that this claim, as asserted, is not at all inconsistent with our new treaty stipulation; that this stipulation does not render unnecessary the exercise of the claim; and, therefore, that as it does not expressly, so neither does it by fair implication, "make a practical settlement" of the

question; nor does "the eighth article" remove "all possible pretext, on the ground of mere necessity, to visit and detain our ships upon the African coast, because of the alleged abuse of our flag by slave traders of other nations."

Very respectfully, &c.,

LEW. CASS.

Hon. DANIEL WEBSTER,
Secretary of State, Washington.